

# ***TD 93/D148 - Income tax: how should a licensed club apportion expenses when calculating its taxable income?***

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This document has been finalised by TD 93/194.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

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## Draft Taxation Determination

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### **Income tax: how should a licensed club apportion expenses when calculating its taxable income?**

1. A licensed club is only assessable on trading income which relates to non-members and on income received from sources outside its general trading activities. This is due to the principle of mutuality that recognises that any surplus arising from contributions to a common fund created and controlled by people for a common purpose is not income. (*Bohemians Club v Acting FCT* (1918) 24 CLR 334; *Sydney Water Board Employees Credit Union v FCT* (1973) 73 ATC 4129; (1973) 4 ATR 157; (1968) 18 TBRD Case T55.)

2. Subsection 51(1) of the *Income Tax Assessment Act* provides that expenditure incurred for income producing purposes is allowable as a deduction, except to the extent to which it relates to gaining exempt income (or is of a capital, private or domestic nature). Accordingly, expenses incurred by a licensed club can be classified for income tax purposes as follows:

- (a) Non allowable : expenses relating specifically to members (e.g. members badges, members' functions);
- (b) Wholly allowable : expenses relating specifically to non-members (e.g. non member only promotions), expenses relating to wholly assessable income (e.g. investment expenses) and non-apportionable deductions including contributions to staff superannuation, rates and taxes and donations to approved funds ; and
- (c) Partly allowable : expenses which cannot be identified as either member or non-member. The allowable proportion is determined by applying the non-member ratio to the expenses incurred. The formula for providing clubs and their advisors with a basis for calculating the non-member ratio is as follows:

$$\frac{(B \times 75\%) + C}{([R \times S] \times T) + A}$$

Where

A= total visitors for the year of income

B= members' guests, that is those visitors who are accompanied to the club by a member and signed into the club by that member

C= A-B

R= the average number of subscribed members in the year of income

S= the average daily percentage of member attendance at the club

T= the number of trading days in the year of income

3. Clubs may, for the purposes of calculating taxable income, adopt an alternative measurement technique where there is a reasonable basis to do so (e.g. better recording system of member/non-member spending) and provided it reasonably and accurately reflects the club's income for the year in question.

4. A full discussion of these issues is contained in the Guidelines for registered and licensed clubs published by the Australian Taxation Office in May 1992.

Example:

The club's activities for the year resulted in trading income of \$100,000 and investment income of \$5,000. The non-member ratio for the year was 25%. Total expenses for the year was \$60,000, which was broken up as follows:

- (a) \$52,000 being expenses which cannot be identified as either member or non-member (includes expenses for rates and taxes and staff superannuation amounting to \$2,000);
- (b) \$5,000 member only expenses;
- (c) \$2,000 non-member only expenses; and
- (d) \$1,000 being expenses in relation to investment income.

Answer:

|                                      |              |
|--------------------------------------|--------------|
| Gross income (from trading accounts) | 105,000      |
| <u>less</u> investment income        | <u>5,000</u> |
|                                      | 100,000      |

|  |               |
|--|---------------|
| Gross expenditure (from trading accounts)      | 60,000        |
| <u>less</u>                                    |               |
| member only expenditure                        | 5,000         |
| rates and taxes and superannuation             | 2,000         |
| expenses in relation to investment expenditure | 1,000         |
| non-member only expenditure                    | <u>2,000</u>  |
|  | <u>10,000</u> |
|  | <u>50,000</u> |
|  | 50,000        |

|                                  |              |
|----------------------------------|--------------|
| Non-member ratio (25% of 50,000) | 12,500       |
| <u>add</u> investment income     | <u>5,000</u> |
|                                  | 17,500       |

|   |              |
|---|--------------|
| <u>less</u>                               |              |
| rates and taxes and superannuation        | 2,000        |
| expenses in relation to investment income | 1,000        |
| non-member only expenditure               | <u>2,000</u> |
|   | <u>5,000</u> |

|                |               |
|----------------|---------------|
| Taxable income | <u>12,500</u> |
|----------------|---------------|

## Commissioner of Taxation

10/6/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Clubs; allowable deductions

Legislative Ref: ITAA 51(1)

Case Ref: *Bohemians Club v Acting FCT* (1918) 24 CLR 334; *Sydney Water Board Employees Credit Union v FCT* (1973) 73 ATC 4129; (1973) 4 ATR 157; (1968) 18 TBRD Case T55

ATO Ref: CHA51

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