Tax Compliance Update for AOMC Members

Presented by Darren Williams

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The Basics

Before we get to the detailed tax issues, we need to start with the constitution of the association…

- One key element is the constitution which must place restrictions on the distribution of profit and assets.
- This applies to both the operation of the club and the wind up of the club.

A club does not have to apply for an ABN. However…

- If the association is going to be involved in activities consistent with running a business or has the intention of providing monetary gains to its members, the club is required to register for an ABN.

When an entity registers for an ABN they are automatically allocated a TFN which will be issued with the ABN.

The Basics

An association is required to register for GST once its turnover exceeds $150,000 for the year.

- Turnover generally includes member income, event income, merchandise sales, advertising and potentially some classes of investment income (e.g. commercial rental).

- If your club is close to this level of income it may be worthwhile reviewing the type of income being generated.

An association can calculate its GST on a cash basis or accruals basis with cash basis being the more appropriate method in our view.

The Basics

An association like any other entity will have an income tax obligation unless it qualifies for an income tax exemption.

- Broadly speaking an income tax exemption is available to charities, community service organisations, public hospitals, sporting clubs, etc
- One relevant exemption is for “Sporting clubs”.
- Sporting or game like activities does include “drag racing, go kart racing, motor car racing (circuit, rally) motor cross, motorcycle racing”
- The ATO clearly mentions “car owners clubs and associations” are not regarded as Sporting clubs.

As a result of not being able to apply an income tax exemption the association is required to lodge a tax return.

- Taxable income is determined as Assessable income less Allowable deductions.
- Tax is applied on the taxable income
- In the context of a car club what is defined as income and expense is impacted by the principle of mutuality.

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The Basics

Associations are taxed as follows:

Income tax rates for the 2022-23 income year – other NFP companies

Taxable income	Rate of tax
0 - $416	nil
$417 - $915	55% for every dollar over $416
$916 and above	30% on the whole amount of taxable income NB: 25% Base rate entities (<80% passive income: <$50M Turnover)

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Mutuality Principle

The mutuality principle is a legal principle established by case law.

- It is based on the proposition that an organisation cannot derive income from itself.
- The principle provides that where a number of persons contribute to a common fund created and controlled by them for a common purpose, any surplus arising from the use of that fund for the common purpose is not income.
- The principle does not extend to include income that is derived from sources outside that group.
- These are very important concepts from a tax perspective.

Mutuality Principle

The characteristics of organisations that can access mutuality typically include:

- The organisation is carried on for the benefit of its members collectively, not individually.
- The members of the organisation share a common purpose in which they all participate or are entitled to do so.
- The main purpose for which the organisation was established, and is operated, is the common purpose of the members.
- There is a common fund that gives effect to the common purpose and all the members contribute to it.

Mutuality Principle

The characteristics of organisations that can access mutuality typically include:

- All the contributions to the common fund are applied for the collective benefit of all the members, in line with the common purpose.
- The members have ownership and control of the common fund.
- If an organisation's constituent document prevents it from making any distribution to its members, and this is the only thing that prevents an amount of its income from being a mutual receipt, the organisation is not prevented from accessing mutuality for income tax purposes.

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Mutuality Principle

As a result of the mutuality principle:

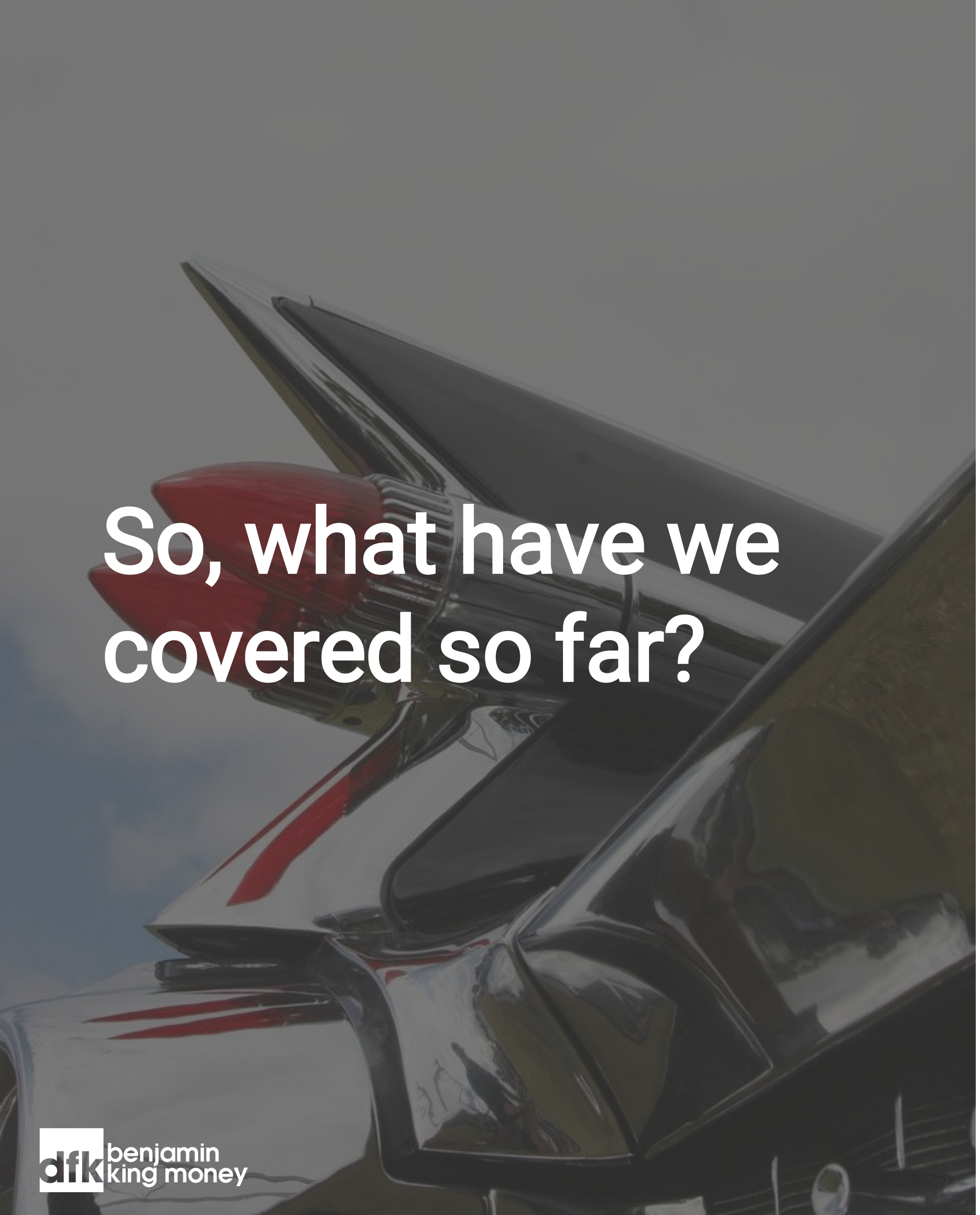
- receipts derived from mutual dealings with members are not assessable income (these are called mutual receipts)
- expenses incurred to get mutual receipts are not deductible. Not all dealings involving members are mutual dealings.

The principle of mutuality does not apply to dealings between an organisation and member that go beyond a mutual arrangement and are in the nature of trade.

In this situation, the fact the organisation is dealing with a member is not relevant.

Common examples of this would include lease of club rooms, events that are widely attended by the public, investment income, advertising income, etc.

There are calculations and allocations required where there is both mutual and non-mutual income however, we do not propose to cover this in this presentation.



So, what have we covered so far?

- ✓ An association will typically require an ABN
- ✓ An association will be required to register for GST where the income is over $150,000
- ✓ An association may be exempt from income tax where it can be established it is conducting a sporting activity in the name of “drag racing, go kart racing, motor car racing (circuit, rally) motor cross, motorcycle racing”.
- ✓ If the association is not conducting a sporting activity, then it will have a taxation obligation.
- ✓ That taxation obligation may be impacted by the mutuality principle which has the effect of excluding mutual income and mutual expenses from the calculation of taxable income.

Summary of recent ATO announcements

By way of background there have been tax cases involving large sporting clubs and whether their activities are indeed eligible for the income tax exemption.

These clubs are typically sporting clubs (e.g., rugby clubs) where over time their operations evolved into major business (e.g., pokies, venues, facilities, etc). What gets tested in these cases is whether they are still a "sporting club" or is the "sporting club" activity a smaller part of their operations.

With the above in mind the ATO came out last year with two announcements:

- Straight from the Source – August 2022 (QC70192)
- Straight from the Source – October 2022 (QC70491)

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Summary of recent ATO announcements

These announcements are asking clubs to review their eligibility by lodging an annual form.

The new reporting requirements come into effect on 1 July 2023 with first lodgements expected to occur from 1 July 2024.

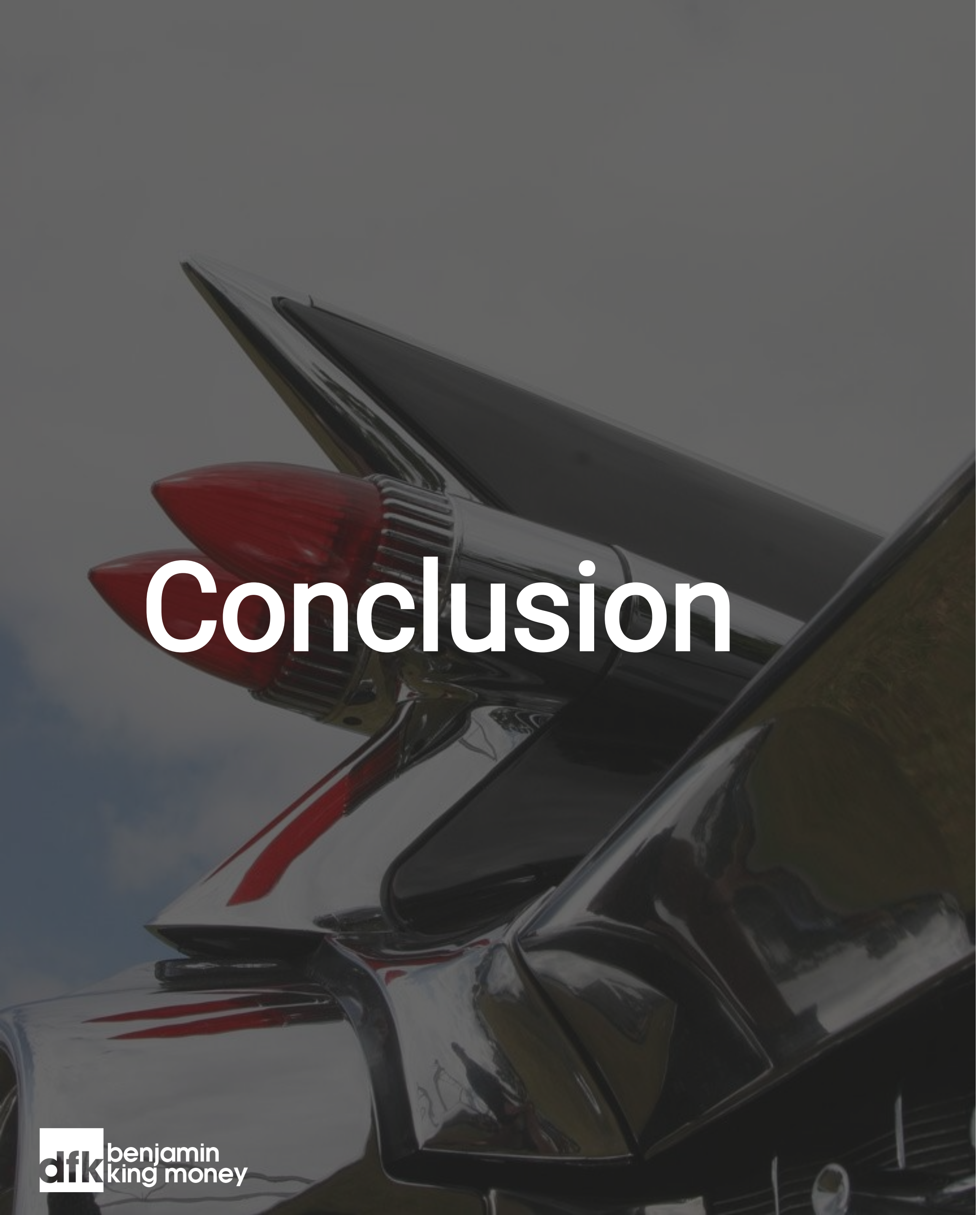
There are two forms available:

- One form is to be completed by a sporting club (NAT 73773-02.2017) – This form requires detailed disclosures of regarding sporting and non-sporting activities.
- The other form is to be completed by other clubs (NAT 7414-11.2019)

We have intentionally included the QC and NAT references to assist with searching the documents.

The forms themselves are easy to follow with good descriptions and guidance. They are not hard to complete.

They do require sign off with approval of the committee



Conclusion

We suggest the following should be put in place now:

✓ Consider the “income tax exemption” as it applies to your association. You may be exempt from tax.

✓ Consider the “mutuality principle” as it applies to your association. You are more likely to have this apply.

✓ If your association has income derived from non-members or from non-member activity the tax impact of this will need to be explored further.

✓ Have the above reviewed as part of the associations year end compliance function. Ask for this to be scoped and quoted as part of year end compliance.

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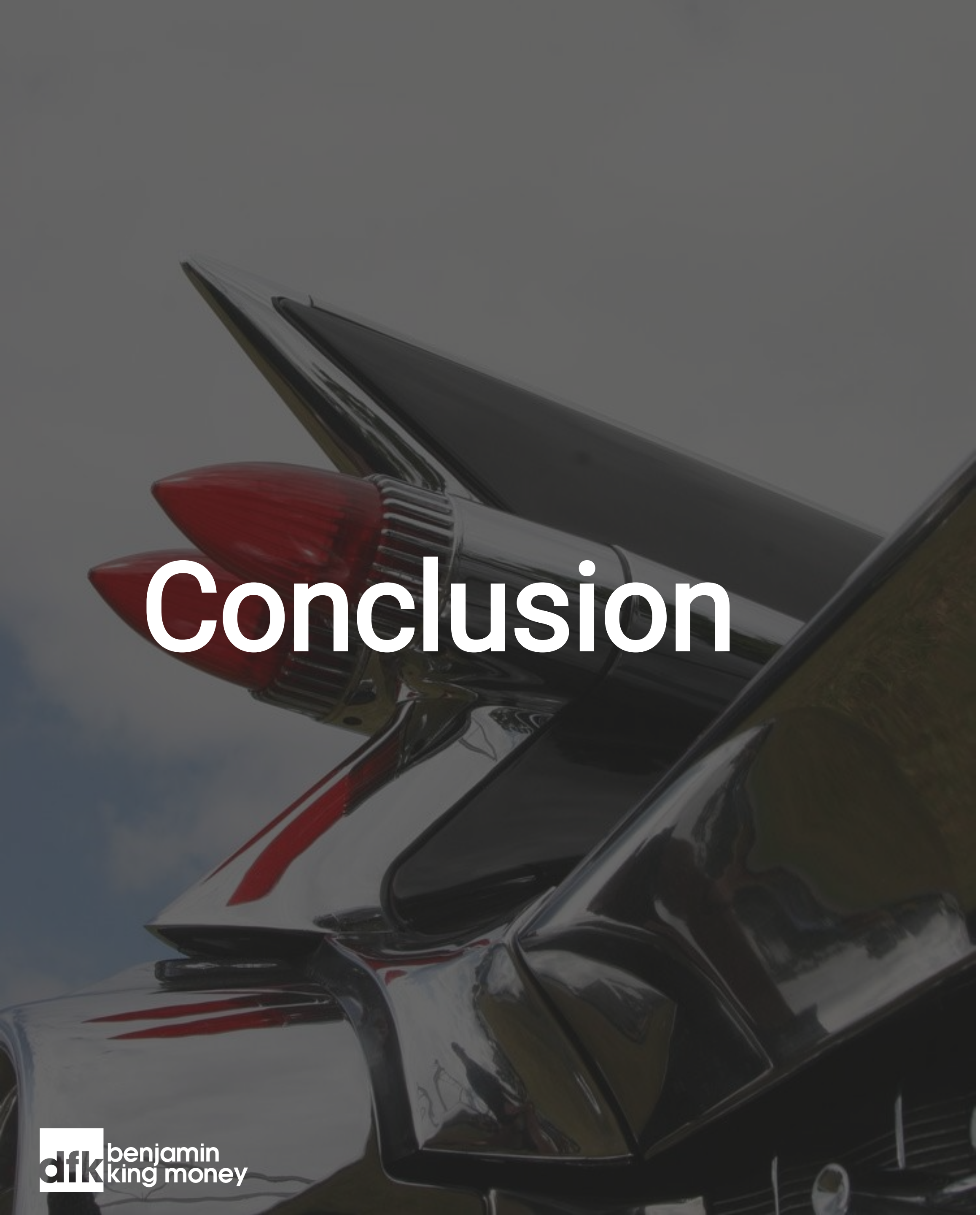

Conclusion

We suggest the following should be put in place now:

- ✓ Download and review the forms from now to get a feel for what information is required and what records you need to capture from now.
- ✓ Both financial and non-financial records should be maintained in a manner where member and non-member transactions are clearly identified.
- ✓ The above may include the adoption of improved accounting systems.
- ✓ Review the constitution for annual review or audit requirements. Be aware of your filing obligations.
- ✓ Seek professional guidance if you are not sure.

Thank you

Questions & Queries

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Case Studies
Mutuality and taxable income for not-for-profits

- This presentation was accompanied by examples documented by the ATO to help understand the concept of mutuality and how it affects the income tax reporting of NFPs
- The original ATO document can be downloaded from

https://www.ato.gov.au/misc/downloads/pdf/qc23099.pdf

however, some pages of particular interest at included below

Case study 1: Alizarin Society

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=34
- Last modified: 04 Dec 2018
- QC 23099

Facts

The Alizarin Society is a not-for-profit company with the following revenue and expenses for the year ended 30 June. It is not registered for GST and not required to be registered.

Revenue	$	Expenses	$
Membership subscriptions	$3,000	Postage (see note 2)	$100
Term deposit interest	$800	Photocopying (see note 2)	$100
Christmas dinner (see note 1)	$5,000	Christmas dinner (see note 1)	$4,000
Lamington sale to public	$2,500	Cost of lamingtons	$1,800
		Term deposit charges	$50
Total	$11,300		$6,050

Note 1 The Christmas dinner was attended by 70 members and 30 non-members who paid $50 each. It cost $40 per person to cater for the dinner.

Note 2 From an examination of the society's records, 10% of its communication during the year was with non-members.

Steps for calculating taxable income

Step 1: Classify revenue

Revenue	Non-assessable	Assessable	Apportionable	Total
Membership subscriptions	$3,000	-	-	$3,000
Term deposit	-	$800	-	$800

interest				
Sale of lamingtons	-	$2,500	-	$2,500
Christmas dinner	-	-	$5,000	$5,000
Total	$3,000	$3,300	$5,000	$11,300

Step 2: Classify expenses

Expenses	Non-deductible	Deductible	Apportionable	Total
Postage	-	-	$100	$100
Photocopying	-	-	$100	$100
Christmas dinner	-	-	$4,000	$4,000
Cost of lamingtons	-	$1,800	-	$1,800
Term deposit charges	-	$50	-	$50
Total	-	$1,850	$4,200	$6,050

Step 3: Separate the apportionable items

Revenue	Non-assessable	Assessable	Total
Christmas dinner (see note 3)	$3,500	$1,500	$5,000

Note 3 Revenue from the Christmas dinner is apportioned on the basis that it was attended by 70 members and 30 non-members who paid $50 each.

Expenses	Non-deductible	Deductible	Total
Christmas dinner (see note 4)	$2,800	$1,200	$4,000
Postage (see note 5)	$90	$10	$100
Photocopying (see note 5)	$90	$10	$100
Total	$2,980	$1,220	$4,200

Note 4 Expenses for the Christmas dinner are apportioned on the basis that it was

attended by 70 members and 30 non-members and it cost $40 per person to cater for the dinner.

Note 5 Expenses for postage and photocopying are apportioned on the basis that 10% of Alizarin Society's communication during the year was with non-members.

Step 4: Calculate the taxable income

Assessable income ($3,300 + $1,500)	$4,800
Less: deductible expenses ($1,850 + $1,220)	$3,070
Taxable income	$1,730

As its taxable income is more than the taxable threshold, the Alizarin Society will need to lodge a company tax return. For information on how to complete the company tax return, see Guide to company tax return for not-for-profit organisations.

Case study 2: Celadon Club

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=35
- Last modified: 04 Dec 2018
- QC 23099

Facts

The Celadon Club provides licensed facilities to its members and the general public. It also provides assistance to community and sporting organisations by way of donations.

The club is incorporated in the Australian Capital Territory under the *Associations Incorporation Act 1991*. Its constitution contains clauses prohibiting it from making any distribution, whether in money, property or otherwise, to its members.

The club's facilities include a bar, restaurant and function room. It also has poker machines (which it owns), Keno and TAB.

The club contracts with an external catering company to undertake the operation of the restaurant. Under the contract, the club receives lease payments and the caterer is responsible for all catering, including kitchen and waiting staff.

The club hires out its function room to the public. It also uses the function room for its own events such as Valentine's Day and Melbourne Cup luncheons.

The club has 5,000 members. A register is kept at the door which records member and non-member attendance. During the income year ended 30 June, 50,000 visitors entered the premises, including 43,000 guests who were signed in by members. The club traded for a total of 360 days during the year, and on average 250 members attended the club every trading day.

The club is registered for GST. Its revenue and expenses are shown net of GST, except where the amount of GST incurred is not recoverable from the ATO.

The club's financial statements for the year ended 30 June show the following revenue and expenses:

Revenue	$
Bar sales	827,695
Bingo and raffle income	23,496
Club luncheons – ticket sales	22,500
Function room hire	6,000
Interest received	54,322
Keno commissions	46,152
Lease income – restaurant	10,000
Member subscriptions	51,800
Poker machine revenue – gross net of payouts	1,598,247
TAB commissions	18,421
Vending machine commissions	21,467
Total	$2,680,100
Expenses	$
Accounting – general	7,000
Accounting – management of tax affairs	3,000
Audit	5,000
Advertising	18,461
Bank charges	1,927
Bar expenses:	

• Cost of goods sold	392,576
• Decline in value (depreciating assets)	13,592
• Maintenance and supplies	29,764
Bingo expenses	4,533
Cleaning	45,000
Club luncheons – catering expenses	13,500
Club luncheons – entertainer expenses	3,000
Computer expenses	9,664
Decline in value (depreciating assets)	121,498
Directors expenses and honoraria	19,712
Donations to deductible gift recipients	12,869
Electricity	82,478
Insurance	48,192
Gaming machine expenses:	
• Gaming machine tax	210,969
• Payments to community organisations	13,786
• Repairs and maintenance	36,438
• Decline in value (depreciating assets)	262,481
• Central monitoring service charges	26,183

Keno expenses	2,157
Members magazine	8,000
Membership cards	2,000
Payroll tax	9,586
Printing, stationery and postage	22,544
Raffle expenses	24,851
Rates and land taxes	19,688
Repairs and maintenance	86,563
Salaries and wages	728,547
Pay TV	21,665
Subscription expenses	9,226
Superannuation	66,499
TAB expenses	3,661
Telephone	15,297
Total	$2,401,907
Net profit	$278,193

Steps for calculating taxable income

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=36
- Last modified: 04 Dec 2018
- QC 23099

Follow the four steps below to calculate the taxable income for Case study 2: the Celadon Club:

- Step 1: Classify revenue
- Step 2: Classify expenses
- Step 3: Separate the apportionable items
- Step 4: Calculate the taxable income

Step 1: Classify revenue

Revenue	Non-assessable income	Assessable income	Apportionable revenue	Total
Bar sales			827,695	827,695
Bingo and raffle income			23,496	23,496
Club luncheons – ticket sales			22,500	22,500
Function room hire		6,000		6,000
Interest received		54,322		54,322
Keno commissions		46,152		46,152
Lease income – restaurant		10,000		10,000
Member subscriptions	51,800			51,800
Poker machine revenue			1,598,247	1,598,247
TAB commissions		18,421		18,421
Vending machine commissions		21,467		21,467
Total	$51,800	$156,362	$2,471,938	$2,680,100

Step 2: Classify expenses

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=37
- Last modified: 04 Dec 2018
- QC 23099

Expenses	Non-deductible expenses	Deductible expenses	Apportionable expenses	Total
Accounting – general			7,000	7,000
Accounting – management of tax affairs		3,000		3,000
Audit			5,000	5,000
Advertising			18,461	18,461
Bank charges			1,927	1,927
Bar expenses:				
• Cost of goods sold			392,576	392,576
• Decline in value (depreciating assets)			13,592	13,592
• Maintenance and supplies			29,764	29,764
Bingo expenses			4,533	4,533
Cleaning			45,000	45,000
Club luncheons – catering expenses			13,500	13,500
Club luncheons – entertainer expenses			3,000	3,000
Computer expenses			9,664	9,664
Decline in value			121,498	121,498

(depreciating assets)				
Directors expenses and honoraria			19,712	19,712
Donations to deductible gift recipients		12,869		12,869
Electricity			82,478	82,478
Insurance			48,192	48,192
Gaming machine expenses:				
• Gaming machine tax			210,969	210,969
• Payments to community organisations			13,786	13,786
• Repairs and maintenance			36,438	36,438
• Decline in value (depreciating assets)			262,481	262,481
• Central monitoring service charges			26,183	26,183
Keno expenses		2,157		2,157
Members magazine	8,000			8,000
Membership cards	2,000			2,000
Payroll tax			9,586	9,586

Printing, stationery and postage			22,544	22,544
Raffle expenses			24,851	24,851
Rates and land taxes		19,688		19,688
Repairs and maintenance			86,563	86,563
Salaries and wages			728,547	728,547
Pay TV			21,665	21,665
Subscription expenses	9,226			9,226
Superannuation		66,499		66,499
TAB expenses		3,661		3,661
Telephone			15,297	15,297
Total	$19,226	$107,874	$2,274,807	$2,401,907

Step 3: Separate the apportionable items

Revenue	Non-assessable	Assessable	Total
Bar sales	595,609	232,086	827,695
Bingo and raffle income	16,908	6,588	23,496
Club luncheons – ticket sales	18,000	4,500	22,500
Poker machine revenue	1,150,099	448,148	1,598,247
Total	$1,780,616	$691,322	$2,471,938

Club luncheons

The club held three special event luncheons during the year (Valentine's Day, Melbourne Cup and Christmas Day). The ticket price to attend each event was $50. The club apportions the revenue from the luncheons on the basis that a total of 450 tickets were sold to the events – 360 tickets to members and 90 tickets to non-members. The non-member percentage to apply using this method is 90/450 = 20%.

Other revenue items

The club regularly attracts members of the public, making it difficult to identify and separate its other revenue items. The club apportions these items using the Waratahs formula as follows:

The percentage of members who attend on a daily basis is 5%, or 250 members on average who attend on a daily basis divided by 5,000 memberships. The total number of visitors for the year was 50,000, which included 43,000 members' guests – that is, visitors signed in by members.

After putting in the figures, the non-member percentage to apply using the Waratahs formula is 28.04%.

(B x 75%) + C = (43,000 x 0.75) + 7,000 = 0.2803571(R x S x T) + A 5,000 x 0.05 x 360) + 50,000 or 28.03571%

Expenses	Non-deductible	Deductible	Total
Accounting – general	5,037	1,963	7,000
Audit	3,598	1,402	5,000
Advertising	13,285	5,176	18,461
Bank charges	1,387	540	1,927
Bar expenses:			
• Cost of goods sold	282,498	110,078	392,576
• Decline in value (depreciating assets)	9,781	3,811	13,592
• Maintenance and supplies	21,418	8,346	29,764
Bingo expenses	3,262	1,271	4,533
Cleaning	32,382	12,618	45,000
Club luncheons – catering	10,800	2,700	13,500

expenses			
Club luncheons – entertainer expenses	2,400	600	3,000
Computer expenses	6,954	2,710	9,664
Decline in value (depreciating assets)	87,430	34,068	121,498
Directors expenses and honoraria	14,185	5,527	19,712
Electricity	59,351	23,127	82,478
Insurance	34,679	13,513	48,192
Gaming machine expenses:			
• Gaming machine tax	151,813	59,156	210,969
• Payments to community organisations*	9,920	3,866	13,786
• Repairs and maintenance	26,221	10,217	36,438
• Decline in value (depreciating assets)	188,881	73,600	262,481
• Central monitoring service charges	18,841	7,342	26,183
Payroll tax	6,898	2,688	9,586
Printing, stationery and postage	16,223	6,321	22,544
Raffle expenses	17,883	6,968	24,851
Repairs and maintenance	62,291	24,272	86,563
Salaries and wages	524,262	204,285	728,547
Pay TV	15,590	6,075	21,665

Telephone	11,008	4,289	15,297
Total	$1,638,278	$636,529	$2,274,807

* These payments are required under a state law. The law requires clubs holding gaming machine licenses to make payments from their gaming machine revenue to community organisations at a rate prescribed by the state. For this year, the club made cash payments that met, but did not exceed, the prescribed rate.

Club luncheons

The club held three special event luncheons during the year (Valentine's Day, Melbourne Cup and Christmas Day). Catering was through the club's contract caterer at a cost of $30 a head. The club apportions the cost of the luncheons on the basis that a total of 450 tickets were sold to the events – 360 tickets to members and 90 tickets to non-members. The percentage to apply using this method is 90/450 = 20%. This percentage would also apply to other costs associated with the club luncheons – that is, the entertainer expenses.

Other expense items

The club regularly attracts members of the public, making it difficult to identify and separate its other expense items. The club apportions its other expense items using the Waratahs formula. The percentage to apply using the Waratahs formula is 28.04% (as calculated in Other revenue items).

Step 4: Calculate the taxable income

Assessable income ($156,362 + $691,322)	$847,684
Less: deductible expenses ($107,874 + $636,529)	$744,403
Taxable income	$103,281

As its taxable income is more than the taxable threshold, the Celadon Club will need to lodge a company tax return.

For information on how to complete the company tax return, including a worked example that uses the figures from Case study 2, see Guide to company tax return for not-for-profit organisations.

Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

external party arrangement (that is, an agreement between the OSR and Clubs NSW).

Hotels, motels, gyms, squash courts, swimming pools

Taxable NFP organisations may have hotels, motels, gyms, squash courts, swimming pools or other such facilities.

Where an organisation leases out a facility it owns to an external operator, the lease revenue is fully assessable regardless of who uses the facility.

Example: Assessable motel lease payments

A NFP club owns a motel and leases it out to a motel operator. The lease revenue received by the club is assessable, even though guests at the motel may include club members.

Similarly, where an organisation owns a facility and operates it purely as a commercial investment to generate income and the facility does not form part of the organisation's facilities for its members, the revenue from the facility is fully assessable income.

Example: Assessable income from hotel owned by club

A NFP sporting club owns and operates a hotel purely as an investment to earn income. The hotel is not used in pursuing the club's purposes for which it was established. The income the club receives from the hotel is assessable, even though guests at the hotel may include club members.

Where an organisation sets up a facility for the benefit of its members but allows non-members to use it, the revenue needs to be apportioned.

In the case where an organisation operates a facility for its members only, the revenue, if any, is classified as mutual receipts.

Revenue specified as assessable under tax law

Revenue specified under income tax law as assessable income includes:

- interest on any overpayment of federal tax
- amounts received from a lessee or former lessee for failing to comply with a lease obligation to make repairs to the premises you leased to them to run a business.

Example: Assessable amount for failing to comply with lease

The Viridian Club leases part of its premises for two years to an individual to operate a gym. The lease contract includes an obligation for the gym operator to repair and maintain the leased premises.

After one year, the leased premises needed some repair work. When the lease ended, the club charged the gym operator an amount agreed under the contract for failing to comply with his obligation to carry out the repairs.

The agreed amount the club received from the gym operator is assessable income.

Find out about:

- [Apportionable revenue]
- [Classification of common revenue]

Apportionable revenue

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=14
- Last modified: 04 Dec 2018
- QC 23099

Apportionable revenue is revenue that comprises both assessable and non-assessable income.

This revenue needs to be separated using a practical and suitable method.

Revenue that may need to be apportioned includes:

- drinks sold at the bar to members and non-members
- meals sold to members and non-members at an organisation's restaurant/bistro
- fees from members and non-members using the organisation's facilities, such as gyms, pools and squash courts
- amounts members and non-members pay to attend dinners, parties, dances or social functions arranged by the organisation
- amounts members and non-members pay to attend a talk, workshop or presentation arranged by the organisation
- member and non-member proceeds from a raffle
- gaming income derived by an organisation from members and non-members where the organisation owns and operates the gaming machines.

Find out about:

- [Classification of common revenue]
- [Separating apportionable items]

Classification of common revenue

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=15
- Last modified: 04 Dec 2018
- QC 23099

The table below provides general guidance only.

The classification of your organisation's revenue will depend on its particular facts and circumstances.

Example: Bar sales

Bar sales are shown as apportionable on the basis the bar is available to both members and non-members. If, however, the bar is only available to:

- non-members – the sales are fully assessable
- members – the sales are non-assessable.

Description	Non-assessable	Assessable	Apportionable
Accommodation takings (motel, hotel)			X
Admission fees			X
Advertising income		X	
Amusement machine commissions		X	
Amusement machine income (owned)			X
Bar sales			X
Competition fees	X		
Donations	X		
Employee contributions that reduce FBT liability		X	
Entertainment income			X
Gaming machine commissions		X	

Gaming machine income (owned or leased)			X
Gaming machine tax rebate (ClubGRANTS scheme) – NSW		X	
Government industry payments		X	
Grants		X	
GST rebate payment – NSW		X	
Gym fees			X
Hire of equipment/videos			X
Hire of facilities for functions			X
Insurance commissions		X	
Investment income – dividends		X	
Investment income – interest		X	
Investment income – other description		X	
Investment income – rental income		X	
Investment income – trust distributions		X	
Keno commissions		X	
Member access to facilities	X		
Membership levies	X		
Membership subscriptions	X		
Non-cash benefits received (annual total of $300 or less)	X		
Non-cash benefits received (annual total of more than $300)		X	
Payphone commissions or agreed amount		X	

Payphone income (owned or rented)			X
Pool tables (owned)			X
Profit on sale of asset (as capital gain)		X	
Raffles and bingo			X
Rebates from private organisations		X	
Rental income from members		X	
Restaurant/bistro sales			X
Revenue from visitors and members' guests		X	
Sale of merchandise			X
Scratch lotteries		X	
Sponsorship income		X	
TAB commissions		X	
Tips (non-voluntary) from customers			X
Tips (voluntary) from customers (if all paid to employees)	X		
Vending machine commissions		X	

Find out about:

- Classifying expenses
- Calculating taxable income for examples of classifying revenue

See also:

- Record keeping for what records to keep for revenue items

Classifying expenses

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=16
- Last modified: 04 Dec 2018
- QC 23099

To calculate taxable income, an organisation will need to classify its expenses as non-deductible, deductible or apportionable.

Find out about:

- Non-deductible expenses
- Deductible expenses
- Apportionable expenses
- Classification of common expenses

Non-deductible expenses

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=17
- Last modified: 04 Dec 2018
- QC 23099

The following expenses are not deductible for tax purposes:

- expenses used to get mutual receipts
- expenses classified under income tax law as non-deductible.

Expenses used to get mutual receipts

Generally, where an organisation has non-assessable income, the expenses it incurs to get that revenue will not be deductible.

Mutual receipts are not assessable income. Therefore, costs incurred to get mutual receipts are not deductible. Also, under the mutuality principle, where other expenses are incurred when dealing with members, these costs cannot be claimed as deductions.

Expenses used to get mutual receipts include the costs of:

- collecting membership subscriptions
- increasing membership
- member loyalty schemes
- running member-only facilities such as gyms, pools and squash courts
- drinks sold at the bar to members
- food and beverages sold to members
- running member-only functions (for example, dinners, parties, dances, presentations and workshops).

Other expenses incurred when dealing with members include the costs of:

- running an annual general meeting
- producing a member-only magazine
- scholarships and awards for members
- members' discounts
- members' badges
- members' birthdays
- wreaths, flowers and hospital visits to members.

Not all dealings involving members are mutual dealings.

Where an organisation and a member enter into a transaction that is in the nature of trade, the expenses incurred by the organisation in relation to the transaction may be deductible.

Example: Deductible – expenses related to lease payments from member

A NFP club leases part of its premises to a member so the member can operate a gym business.

Expenses the club incurs in relation to the lease income may be deductible.

See also:

- Nature of trade

Expenses classified as non-deductible under tax law

Income tax law classifies what expenses are non-deductible.

These expenses are losses or outgoings that are either:

- not incurred in earning assessable income
- incurred in earning non-assessable income
- capital or of a capital nature
- of a private or domestic nature
- incurred in earning exempt income or non-assessable, non-exempt income
- specified under income tax law as non-deductible.

Example: Non-deductible – expenses related to benefit for members

A NFP association has paid various awards and scholarships for the benefit of its members. The funds to pay these amounts have been derived from interest earned from the investment of bequests from members. The interest earned is part of the association's assessable income.

The scholarship and award expenses are not deductible, as they are incurred when dealing with members. This does not change even when the expenses are paid out of the association's assessable income. The costs of the scholarships and awards are not necessary in directly earning the interest income from the investment of moneys bequeathed by members.

Expenses specified under income tax law as non-deductible include:

- fines and penalties imposed under an Australian or foreign law, or ordered by the courts
- borrowing expenses related to a loan that was taken out to pay a federal tax liability
- fees for advice on the operation of a federal tax law (except where the advice is given by a registered tax agent or legal practitioner)
- provisions for employees' long service leave, annual leave, sick leave or other leave (except where the organisation actually paid these amounts to an employee).

Find out about:

- Deductible expenses
- Apportionable expenses
- Classification of common expenses

Deductible expenses

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=18
- Last modified: 04 Dec 2018
- QC 23099

Generally, deductions are operating expenses that are incurred in earning an organisation's assessable income. Expenses that are deductible include:

- costs of running a function solely for non-members
- costs of running a purely commercial trading activity, including employees' salary and wages
- expenses for advertising trading activities to non-members
- fees for earning bank interest, dividends or investment income
- costs of fundraising drives to the public (for example, buying promotional buttons sold to the public)
- expenses related to gaming income derived by an organisation from non-members where the organisation owns or leases, and operates, the gaming machines
- expenses related to gaming income derived by an organisation under arrangements entered into with an external gaming or Keno operator.

Find out about:

See also:

- Income and deductions for business

Tips paid to employees

- https://www.ato.gov.au/Non-profit/Your-organisation/In-detail/Income-tax/Mutuality-and-taxable-income-for-not-for-profits/?page=19
- Last modified: 04 Dec 2018
- QC 23099

If your organisation receives non-voluntary tips from customers (for example, for a pre-set amount, a surcharge or a service charge) and pays these tips to its employees or contractors, it can usually claim a deduction for the amount it paid.

The mutuality principle applies to the amount paid to employees or contractors where the customers are at a trading activity or function for members only (non-deductible expenses), or for both members and non-members (apportionable expenses). If the trading activity or function is for non-members only, the amount paid is fully deductible to the organisation.

However, if your organisation receives voluntary tips and pays all the tips to its employees or contractors, it cannot claim a deduction for the amount it paid because the tips are not assessable income to the organisation.

Bad debts

A NFP organisation can deduct a debt, or part of a debt, that it writes off as bad in an income year if the amount was included in the assessable income of the organisation for that year or for an earlier year.

Where the bad debt, or part of the debt, is related to mutual receipts, it is not deductible.

Sponsorship costs

If your organisation receives a payment for providing such things as advertising space, signage or naming rights, the costs incurred in earning this income may be deductible in full.

Your organisation's costs to sponsor others or promote itself may need to be apportioned to the extent that the sponsorship or promotion is incurred in earning its assessable income.

Advertising to attract membership is not deductible. Sponsorship of a member's interests will generally not be deductible.

Gaming expenses

If your organisation enters into arrangements with external parties under which the external party conducts or provides particular operations on your organisation's premises – including the operation of gaming machines, Keno and TAB facilities – the income from the external operators is fully assessable. The expenses your organisation incurs in earning this income are fully deductible, including gaming tax.

However, under the principle of mutuality, apportionment of gaming expenses will be necessary if gaming machines are:

- owned or leased by the organisation
- operated by the organisation
- played by members and non-members.

For example, state tax (including 'tax shortfalls') on a club's gaming machine revenue is apportioned so that only that part of the tax (or shortfall) that relates to the non-member revenue is deductible.

Some state and territory gaming laws require organisations with gaming machines to make or record contributions to community purposes, such as:

- paying a community or gambling levy
- preparing community contribution statements
- making community contributions up to a required minimum.

Related expenditure is apportioned where the principle of mutuality applies. An exception is where the expenditure on community contributions is required to claim a rebate of gaming machine tax. As the rebate is fully assessable to the organisation, the expenditure is not subject to mutuality.

Regardless of whether mutuality applies, a deduction for expenditure on community contributions cannot include:

- notional amounts claimed for providing rooms or volunteers to other community groups – only actual costs may be deductible
- claims for capital expenditure
- amounts already claimed as a tax deduction.

A contribution to a deductible gift recipient (DGR) made to meet an organisation's