

Legislation Changes

Club Gaming Device Duty

Club 'gaming duty rates' will be changed from 2004-2005, with reductions in some tax rates and increases in others.

Details of the new tax rates are as follows:

	Annual Profit (\$)				
	Up to 200,000	200,001 to 1,000,000	1,000,001 to 5,000,000	5,000,001 to 10,000,000	Above 10,000,001
Current marginal rates (%)	0.00	10.91	17.16	17.16	17.16
Rates from 1 September (%)					
2004	0.0	10.8	18.3	19.7	20.4
2005	0.0	10.7	19.4	22.3	23.7
2006	0.0	10.5	20.5	24.8	26.9
2007	0.0	10.4	21.6	27.4	30.2
2008	0.0	10.3	22.8	29.9	33.5
2009	0.0	10.1	23.9	32.5	36.7
2010	0.0	10.0	25.0	35.0	40.0

Concise Financial Reports

The Advantages

For several years now clubs have had the choice of reporting to members by way of either:

- A full financial report; or
- A concise financial report.

While the preparation of full reports is still common practice, many clubs are now giving consideration to concise financial reporting for the following reasons:

- Reduced volume of information required to be disclosed **significantly reduces postage and printing costs.**
- Some boards prefer **not to provide full details to members** at the Annual General Meeting. One example of this is the requirement to disclose the remuneration of Executive Officers where this exceeds \$100,000. Such a disclosure is required to be made in the full financial report but it is **not** required to be made in the concise financial report.

A concise financial report comprises of:

1. A **concise financial report** drawn up in accordance with Accounting Standard AASB 1039: Concise Financial Reports.
2. A **directors report.**
3. A **statement by the auditor** to the effect that:
 - a. a full financial report has been audited; and
 - b. the concise financial report complies with AASB 1039.
4. A copy of any **qualification or emphasis of matter** contained in the auditors report on the full financial report.
5. A **statement that the report is a concise financial report** and that a full financial report will be sent free of charge to a member if requested.
6. Discussion and analysis of principal factors affecting performance.



Distribution of Annual Reports

Cut Down Mailing Costs

Annual reports must be sent to members at least **21 days prior** to the date scheduled for the clubs Annual General Meeting.

It is **not sufficient** to simply have a copy of the annual report available for collection at the premises of the club. Nor is it sufficient that notice of the date of the Annual General Meeting be placed on the clubs noticeboard or that it be advertised within a newspaper. Rather the **Corporations Act requires** that notice be **sent** to the member, together with a copy of the annual report.

This can be a costly process in terms of

printing, postage and other costs. To minimise such expenses consider having each member advise the club if he or she requires a copy of the annual report sent to them. Annual subscription renewal notices can be used to ask this question of members. If they answer 'yes' then a copy of the annual report must be sent to them. If the answer is 'no' or they do not respond at all to the question then a copy of the annual report **need not** be sent.

The response should be recorded in the members' database to facilitate the production of a list of those members who have requested that the annual report be sent to them.

Directors' Liability for Insolvent Trading

Much has been reported in the media about the shortfalls in corporate governance that have contributed to losses incurred by creditors and shareholders when companies have collapsed.

The truth is, **directors may be held to be personally liable for debts incurred at a time when a company (including a club) continues to trade after the company has become insolvent.**

Critical issues in determining the exposure of directors to personal liability for insolvent trading include:

- When can a director show that he or she had reasonable grounds to expect that the club was solvent at the time a debt was incurred?

- Under what circumstances can a director claim that he or she has relied on information as to the clubs solvency that has been provided by a competent and reliable person?

- At what time can a club be said to be insolvent? Whilst the Companies Act 2001 states that a company is insolvent if it can not pay its debts as and when they become due and payable, the courts will generally consider both 'the industry test' and 'the economy test'.

If you have concerns in relation to exposure of directors for insolvent trading please contact our Registered Clubs Division.

Did You Know

- Workers Compensation Legislation Amendment Act 2002 has seen recent changes, including:
 - Definition of wages has been expanded to align with payroll tax definition.
 - Obligations have been introduced where principals must check the workers compensation cover of sub-contractors.
 - The introduction of grouping of employers.

These changes are effective from 1 July 2003.

- ClubsNSW does not recommend that clubs bring to account poker machine entitlements as an asset based upon advice received from KPMG.
- When union fees are being remitted to the relevant authorities, calculation of commissions should be based upon the net amount exclusive of GST.
- A new version of the Responsible Gambling Affidavit for Clubs came into effect from 24 March 2003.

For further information on topics covered in this newsletter contact Ian Neale, Nick Nancarrow or Natalie Dobinson of Cutcher & Neale's Registered Clubs Division.