

• TAXATION OF MUTUAL CONCERN

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Mutuality Principle:

No person can trade with himself and cannot earn income out of himself. This is fundamental principle which provides that surplus arising in a mutual association shall be outside the purview of income tax where certain people engage themselves in mutual activities and excess of receipt over expenses is leftover, such excess shall not be taxable as it has no revenue quality.

A mutual association arises when a group of person associate together with common objective, other than profit, and contribute monies for achieving that objectives and divide the surplus amongst themselves.

OBJECTIVES

behind such activities

- A - Social security
- B - entertainment
- C - Professional development

The following objectives

(2)

## FORMS OF MUTUAL CONCERNS

Mutual concerns may be:

- (i) Sport clubs
- (ii) Bar Association
- (iii) Resident Welfare Association
- (iv) Social clubs.
- (v) Shop owner associations
- (vi) FICCI or Bombay CA's society

## Mutual Receipt

- ① General Receipt
- ② Membership fee.
- ③ Subsidy
- ④ Receipt for sale of ~~Asset~~ or miscellaneous

The principle of mutual association requires total & complete identity of character between the persons who contribute to the common fund ~~for achieving that obj~~ and those who participate in the surplus.

In other words, the persons must participate in the surplus in the same capacity in which they contribute to it.

The manner of incorporation of a mutual association is not relevant so long as the association is, in essence, a mutual association and it remains true to

its objective without a taint of commerciality.

The principle of mutuality is applicable to all types of income irrespective of the head of income or nature of income. As long as the condition of the mutuality is satisfied, even the notional or deemed income shall be exempt, notional annual value of property owned by a club or mutual association will not be chargeable to tax.

The mere presence of transaction with non-members will not disturb the mutuality of an association. The income of the mutual concern shall remain exempt as far as it is derived from activities of mutual nature that is income received from members is exempt but income received from non-members is taxable.

### Exception to the Principle of Mutuality

Two exceptions have been provided in the act, where the surplus of mutual concern have been made taxable by

Including them in the definition of Income  
u/s 2(24) under sub-clause (v) & (vii)

(a) Trade or Professional Association.

Income derived by a Trade, Professional or similar association from specific service performed for its Members is chargeable to tax [Sec 2(24)(v) and read with 28(iii)]

(b) Mutual Insurance Association:

Income of Insurance business, life or general, (non-life), carried ~~on~~ by a company or a co-operative society is taxable in all case (even if it is a Mutual concern) and is to be computed in accordance with rules in the First Schedule [Sec 2(24)(vii)]

Mutual Concern's Income:

Taxable in the following cases

- (a) Where the mutual concern is a trade, professional or similar association, the income derived from specific ~~service~~ services performed for its member is taxable u/s 28 as PGBP.

- ⑥ Income received from Non-member by any types of club or mutual concern.

### TREATMENT OF DEFICIT AS PER SEC 49 A for trade & Professional Association

Applicable only to that trade, professional or similar association, the income of which which is not distributed to its members.

▷ General receipt from Member	X
LESS: General Exp on behalf of member	X
* ▷ Surplus will be fully exempt	" Surplus X
* ▷ Deficiency will be allowed as deduction	" IF Deficit

- 2) Before setting off the deficiency, all other deductions under this act and brought forward losses shall be allowed as deduction.
- 3) The total deficiency which can be set off shall not exceed 50% of the total income.
- 4) The remaining deficiency shall not be carried forward and shall have no other treatment.

## Tax rate

The Tax rate applicable to a mutual concern shall be the same as applicable to an individual

But

where the mutual concern is incorporated as a company, the tax rate will be of a company.

## Practical Question

ABC Sport club furnishes you the following data, compute the Total Income of the club.

Receipts by way of entrance fee <del>estimated</del> 40000	
member fee (annual)	₹ 60000
Subsidy	50,000
Expenditure (Rent + Expenditure on sport)	100,000

Solution

$$\begin{array}{r}
 \text{Total receipts (40000 + 50000 + 60000)} = 150,000 \\
 \text{(-) Expenditure} \quad \quad \quad 100,000 \\
 \hline
 \text{Surplus:} \quad \quad \quad \underline{50,000}
 \end{array}$$