

Prizes & Gambling

Gambling

- The winnings of gamblers will be a windfall gain unless the gambler is in the business of gambling *Babka v FCT*
- It follows that the winnings of a bookmaker are income (skill), and the winnings of a casual punter will be a windfall gain (chance)

Case studies:

○ **Babka v FCT**

- On retiring TP commenced spending large amounts on gambling
- Had no employees, no office
- Comm said he was in the business of gambling because he had no other income and that he also kept detailed records and was organised like a business
- **HELD: Not OI, was a windfall gain**
 - Not in the business of gambling
 - Just because he devoted large amount of time and was organised does not make it income from business

Prizes

- Winnings of a casual participants in a television show are not usually OI as 'chance and luck' generally greater than skill
- Chance & luck Vs. Skill

Case studies:

○ **Kelly v FCT (important)**

- TP played football at high level
- Paid fixed amount for each match
- There was upcoming award for BnF
- Prior to award being announced a local TV station said they would pay \$20k to winner
- TP won the award and received \$20k
- **HELD: Classified as OI**
 - Directly related to his employment as footballer
 - Even though unexpected & once off
 - Did not matter paid by 3rd party
 - Only eligible because he was a member of club and awarded prize because of skills