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- **Changes to entitlements**

→ *Bennett v FCT* *(capital in nature – give up control of company)*

- The taxpayer was reappointed as the director at the price of giving up the absolute control of the company and got a payment for that.
- Capital in nature for the removal of those rights that the taxpayer possessed under the original agreement.

- **Receipts for entering a restrictive covenant**

- ***General rule –*** whether the payment is ***connected with the current employment agreement*** or whether it is a ***separate agreement to give up valuable rights***.

→ *Higgs v FCT* *(capital in nature – give up the right to earn income)*

- Actor (the taxpayer) signed a contract not to appear in any film for a period of time.
- The amount received was not for performing in the film, but for giving up the right to earn income.

→ *Hepples v FCT* *(capital in nature – payment made at the end of a service contract)*

- Taxpayer was paid not to reveal the secrets of the employer at then end of the service contract.
- Capital in nature.

→ *Reuter v FCT* *(ordinary income – restrict covenant)*

- The amount was related to the service provided by the taxpayer and therefore ordinary income.

→ *FCT v Woite* *(capital in nature –restrict covenant for sportsperson)*

- Taxpayer received an amount for not play football with any other club.
- Capital in nature since it was not a payment for service, but a capital payment to give up the right to play for another club.

- **Sign-on fees**

→ *Jarrold v Boustead* *(capital in nature – give up right to play as amateur)*

- The taxpayer was paid an amount to give up his amateur status and turn professional.
- ***It was a payment for giving up the right to play amateur football.***

→ *Pickford v FCT* *(ordinary income – give up share options)*

- Taxpayer was offered a salary package to take up employment with another firm which includes a payment as a compensation for giving up share options in an employee share scheme with his current employer.
- ***Ordinary income – it was an incident of the taxpayer's income-earning activities and employment.***

❖ S15-2: Statutory income from services and employment

- S 15-2(3)(d) – ***contrary intention*** – if a gain is ordinary income under s 6-5, it will not be covered by s15-2.
- S 15-2 <u>*generally applies to gains from employment or the provision of services*</u>, also includes services provided by engineering or accounting services.

- **Three requirements**

- There is an "allowance, gratuity, compensation, benefit, bonus or premium". May or may not be cash convertible
- The allowance, benefit etc is "provided to you".