MT 2032 - Fringe benefits tax : sporting clubs

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[Note: This is a consolidated version of this document. Refer to the Tax Office Legal Database (http://law.ato.gov.au) to check its currency and to view the details of all changes.]

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TAXATION RULING NO. MT 2032

FRINGE BENEFITS TAX : SPORTING CLUBS

F.O.I. EMBARGO: May be released

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I 1209111	FRINGE BENEFITS TAX	FRINGE BENEFITS TAX ASSESSMENT ACT : SS.66, 136

PREAMBLE Fringe Benefits Tax ("FBT") is payable in respect of certain benefits provided to employees after 30 June 1986. This office has been asked in which circumstances FBT would be payable by sporting clubs, such as football clubs, on the value of such things as end-of-season trips provided to players and the treatment of best player awards and similar prizes.

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2. It is only where a benefit is provided in respect of, or by virtue of, the employment of an employee that a taxable fringe benefit arises. This is because, before it will be subject to fringe benefits tax, a benefit must be a "fringe benefit" as defined in sub-section 136(1) of the Fringe Benefits Tax Assessment Act 1986 ("the Act"). That definition requires, amongst other things, that the benefit must be provided to an employee (or associate) in respect of the employment of the employee.

3. It follows that a taxable fringe benefit will only arise in relation to benefits given to players if the players are "employees" of the club.

4. There is a range of situations to be considered. At one end there are the professional clubs of the major football competitions in each State. The players in these typically are under contract, are well remunerated, and there is a clear employer-employee relationship for FBT purposes. If such a club provides an overseas trip or similar reward to its players there is clearly a taxable fringe benefit.

5. Rewards obtained by players in this class of competition which are funded independently by supporters, sponsors and others and are not provided pursuant to an arrangement with the club would not attract FBT. Rather, such benefits would be liable to income tax in the players' hands.

6. It is equally clear that at the other end of the spectrum an employer-employee relationship does not exist in the case of minor competitions where the players do not receive match payments from the club. Even where such teams contain one or two players who may be paid substantial amounts to play, it would generally be concluded that benefits such as end-of-season trips are not provided under any employment

relationship between the players and the club.

7. In between these two general categories of cases, the line can be more difficult to draw in practice and the purpose of this Ruling is to provide guidelines as to the circumstances in which players are to be treated as employees for FBT purposes.

8. Where the level of payments to players is such as to do little more than offset the training and travelling expenses of the players this tends towards a conclusion that the players are not employees for FBT purposes. In the case of teams in minor competitions the funds that go towards paying for the end-of-season trip are often an amalgam of the players' own contributions, the results of fund-raising by supporters, and club profits. Such a trip away can be seen as a co-operative social event rather than as a reward for services provided by an employer.

RULING

9. As a practical guide it will be generally accepted that if players participating in a trip away provided by a club, as described in paragraph 8 above, were being paid, on average no more than $50 per competition match over the season, this would indicate an absence of the employment relationship required for FBT to apply. Where higher levels of payments are made, a club financed end-of season, etc., trip would be taken to be a taxable fringe benefit but any player contribution to the cost would reduce the taxable value.

10. The above basis of distinction would also be applied to the treatment of best player awards and similar prizes awarded by a club (or an associate). This means that prizes given to players of teams paying an average of no more than $50 per match will be accepted as being outside the scope of FBT. It follows that the value of such prizes would not be taken to have an income character in the hands of such players. Rather it will be accepted that such players are engaged in an activity which is purely of a social or sporting character.

11. For awards to players in the better paid teams a distinction may be drawn between medals, plaques and other trophies given to formally recognise achievements, but not having functional utility, and prizes in the form of valuable and useful goods such as cars, TVs, etc.

12. The latter are properly subject to tax - either to FBT if provided by the employer club (or associates) or, as is the well established position, to income tax in the players' hands if awarded by an independent source such as a newspaper award.

13. Awards in trophy form such as medals, plaques, cups, etc., are subject to neither FBT nor income tax. They do not represent any intrinsic form of remuneration. Their essential function is to recognise and record the particular achievement of the recipient.

COMMISSIONER OF TAXATION
30 September 1986