


TD 93/D187 - Income tax: a person makes tax instalment deductions from salary and wages on behalf of an employer. Does the employer's obligation to make deductions transfer to the person?

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Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: a person makes tax instalment deductions from salary and wages on behalf of an employer. Does the employer's obligation to make deductions transfer to the person?

1. No. Subsection 221C(1A) of the Income Tax Assessment Act 1936 is specific in stating that it is the employer's obligation to make tax instalment deductions. "Employer" is defined in subsection 221A(1).

2. Paragraph 10 of the Income Tax Ruling IT 2576 recognises that in many instances arrangements exist for a person to make tax instalment deductions on behalf of an employer. However, it is the employer, and not the person, who is obliged to make the deductions.

Example:

ABC Advertising Co (ABC) engages the services of a model from XYZ Modelling Agency (XYZ). ABC has a contract with XYZ where ABC agrees to pay the gross salary or wages of the talent to XYZ and XYZ agrees to make tax instalment deductions from these payments on behalf of ABC.

The obligation to make deductions remains with ABC as it is the employer.

Commissioner of Taxation

29/7/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 2576

Subject Ref: salary or wages; employer's obligation; tax instalment deductions

Legislative Ref: ITAA 221A(1); ITAA 221C(1A)

Case Ref:

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