


TD 93/D181 - Income tax: is a person working as an escort through an escort agency an employee for Pay-As-You-Earn (PAYE) tax purposes?

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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: is a person working as an escort through an escort agency an employee for Pay-As-You-Earn (PAYE) tax purposes?

1. Generally yes. Whether or not a person is an employee for PAYE purposes, under section 221A of the *Income Tax Assessment Act 1936*, is a question of fact that must be determined according to the circumstances of the particular case. However, the assumption by the escort agency of responsibility for a number of the following activities would point strongly to the escort being an employee for PAYE purposes:

- (a) advertising;
- (b) receiving incoming client calls;
- (c) arranging contact between client and escort;
- (d) setting prices for services;
- (e) credit card facilities.

Note: This is not intended to limit the factors determining whether someone is an employee. A more complete description of "employee" is contained in Taxation Ruling IT 2129.

Commissioner of Taxation

22/7/93

FOI INDEX DETAIL: Reference No.

Related Rulings: IT 2129

Subject Ref: escorts; employees; agency; PAYE

Legislative Ref: ITAA 221A

ATO Ref: TOW 17

ISSN 1038 - 8982