


TD 93/D283 - Income tax: an advertising agency makes a payment of salary or wages to a model through a modelling agency. Is the advertising agency required to make a tax instalment deduction from this payment under subsection 221C(1A) of the Income Tax Assessment Act 1936?

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Draft Taxation Determination

Income tax: an advertising agency makes a payment of salary or wages to a model through a modelling agency. Is the advertising agency required to make a tax instalment deduction from this payment under subsection 221C(1A) of the *Income Tax Assessment Act 1936*?

1. Yes. The advertising agency is required to make the tax instalment deduction from the payment of salary or wages.
2. The fact that the payment passes through the modelling agency does not change this. The modelling agency is merely an 'employment agency' as defined in Taxation Ruling IT 2576.

Examples:

A. Asterisk Advertising Agency engages Robin, a model, through Marvellous Modelling Agency. Asterisk pays Marvellous. Marvellous pays Robin. Asterisk is required to make the deduction.

B. Asterisk engages Robin through Marvellous. Marvellous pays Robin. Marvellous invoices Asterisk for Robin's services. Asterisk pays Marvellous the invoiced amount. Asterisk is required to make the deduction.

C. Asterisk engages Robin through Marvellous. Asterisk makes a payment direct to Robin. Asterisk is required to make the deduction.

Commissioner of Taxation

9/12/93

FOI INDEX DETAIL: Reference No.

Related Determinations: TD 92/191

Related Rulings: IT 2121; IT 2129; IT 2576; IT 2639

Subject Ref: PAYE; salary or wages; contracts for labour; tax instalment deductions

Legislative Ref: ITAA 221A(1); ITAA 221A(2); ITAA 221C(1A)

ATO Ref: CHA Case 222

ISSN 1038 - 8982