

TD 93/74 - Income tax: can a payment made to a cleaning contractor by someone not associated with the industry be a 'prescribed payment' for the purposes of the prescribed payments system?

⚠ This cover sheet is provided for information only. It does not form part of *TD 93/74 - Income tax: can a payment made to a cleaning contractor by someone not associated with the industry be a 'prescribed payment' for the purposes of the prescribed payments system?*

⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *29 April 1993*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: can a payment made to a cleaning contractor by someone not associated with the industry be a 'prescribed payment' for the purposes of the prescribed payments system?

1. Yes. A person who is not within the prescribed industry can be a 'prescribed person' under the definition of that term in subregulation 126(4) of the Income Tax Regulations (Reg). A person who acts as an agent for another by providing services of a contractor to perform any of the activities listed in subregulations 126(2) and 126(3) satisfies the agency test. Cleaning activities are listed in paragraph (h) of subregulation 126(3).

Note 1: 'Person' is not restricted to an individual.

Note 2: A more complete description of the operation of the agency test is given in Taxation Rulings IT 2056 and IT 2058.

Example:

A customer pays a retail store to clean carpets in a house. The store contracts the cleaning to an independent contractor.

The retail store has effectively placed itself within the cleaning industry so the payment to the cleaning contractor is a prescribed payment [Reg 126(3)(h) and Reg 126(4)(j)(ii)].

Commissioner of Taxation

29/04/93

FOI INDEX DETAIL: Reference No. I 1214766

Previously issued as Draft TD 92/D137

Related Rulings: IT 2056; IT 2058

Subject Ref: prescribed payments system; agency; prescribed person; prescribed service; cleaning service; subcontractor

Legislative Ref: Income Tax Regulations Reg 126; Reg 126(2); Reg 126(3)(h); Reg126(4)(j)(ii)

ATO Ref: TOW16

ISSN 1038 - 8982