


TD 93/D198 - Income tax: Offshore Banking Units (OBU) - where a non-resident has an Australian branch and an Australian subsidiary, and the subsidiary is registered as an OBU, does any share capital subscribed in the subsidiary by the parent fall within the definition of 'non-OB money'?

 This cover sheet is provided for information only. It does not form part of *TD 93/D198 - Income tax: Offshore Banking Units (OBU) - where a non-resident has an Australian branch and an Australian subsidiary, and the subsidiary is registered as an OBU, does any share capital subscribed in the subsidiary by the parent fall within the definition of 'non-OB money'?*

This document has been finalised by TD 93/204.

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: Offshore Banking Units (OBU) - where a non-resident has an Australian branch and an Australian subsidiary, and the subsidiary is registered as an OBU, does any share capital subscribed in the subsidiary by the parent fall within the definition of 'non-OB money'?

1. No, unless the share capital is subscribed by the Australian branch.
2. The definition of '**non-OB money**' in section 121C of the *Income Tax Assessment Act 1936* excludes share capital subscribed in the OBU by a non-resident, unless the payment of the subscription moneys occurred in the carrying on of a business in Australia by the non-resident, at or through a permanent establishment (eg a branch) of the non-resident.
3. It is quite clear from the wording of the definition that the only circumstances where share capital subscribed by a non-resident could constitute non-OB money would be where the funds flow directly from the Australian branch.

Commissioner of Taxation
19/8/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

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