

TD 93/D204 - Income tax: Offshore Banking Units - does the definition of advisory activity in subsection 121D(7) encompass: advising offshore parties on offshore infrastructure financing; and advising lessors or lessees on leasing transactions, where both lessor and lessee are offshore persons and the leased asset is not located in Australia?

 This cover sheet is provided for information only. It does not form part of *TD 93/D204 - Income tax: Offshore Banking Units - does the definition of advisory activity in subsection 121D(7) encompass: advising offshore parties on offshore infrastructure financing; and advising lessors or lessees on leasing transactions, where both lessor and lessee are offshore persons and the leased asset is not located in Australia?*

This document has been finalised by TD 93/209.

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 - does the definition of advisory activity in subsection 121D(7) encompass:

- **advising offshore parties on offshore infrastructure financing; and**
- **advising lessors or lessees on leasing transactions, where both lessor and lessee are offshore persons and the leased asset is not located in Australia?**

1. Yes. The definition of advisory activity in subsection 121D(7) of the *Income Tax Assessment Act 1936* has been drafted widely, and the supplementary explanatory to *Taxation Laws Amendment Bill (No.4)* makes it clear that the definition is intended to apply to fee income in relation to financial advice generally, provided there is no connection with Australia.

2. Rendering advice on leasing transactions or infrastructure financing to an offshore person, where all of the parties to the transaction are offshore persons, and none of the property that is subject to the transaction is located in Australia, quite clearly falls within the definition.

Commissioner of Taxation

19/8/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Offshore banking; OBUs; advisory activity

Legislative Ref: ITAA 121D(7)

Case Ref:

ATO Ref: 93/3707-5

ISSN 1038 - 8982