


TD 93/D35 - Income Tax: Offshore Banking Units - can transactions which come within the definition of OB activities be entered into by the part of a bank which handles the domestic (as opposed to offshore) activities and be accounted for in the domestic books?

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This document has been finalised by TD 93/135.

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Draft Taxation Determination

Income Tax: Offshore Banking Units - can transactions which come within the definition of OB activities be entered into by the part of a bank which handles the domestic (as opposed to offshore) activities and be accounted for in the domestic books?

1. Yes, as long as the transaction is recorded in the domestic book at the time of making the transaction. For example, the domestic part of a bank may wish to swap one foreign currency for another in order to hedge its position.
2. In this case any income from the activity in question will not be taxed at the concessional rate since it arises in carrying on the business of the domestic part.
3. Where this is done, the income will not be considered as attributable to non-OB activities for purposes of the 10% of gross income test for the OBU (the 'purity test'). Under that test where more than 10% of the assessable income from OB activities was derived by using non-OB money, the tax concession will not be available.

Example 1:

An OBU borrows money offshore. Although, on the face of it, this constitutes an OB activity the OBU enters the transaction in the domestic book at the time of the borrowing as it intends to on-lend the funds to Australian residents. Any income from this activity will be taxed at the normal rate of tax and will not be taken into account for purposes of the 10% 'purity test'.

Example 2:

An OBU borrows money offshore which it enters into its OB books. It later decides to transfer it to its domestic books. Any income from this activity will be taxed at the normal rate of tax and the income will be taken into account for purposes of the 10% 'purity test'.

Commissioner of Taxation

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