



TD 93/206 - Income tax: Offshore Banking Units (OBU) - if an OBU carries on a business of trading in shares or debt instruments, such that the trading is an offshore banking (OB) activity for the purposes of subsection 121D(1), are dividends and interest derived from holding the shares or debt instruments assessable OB income?

 This cover sheet is provided for information only. It does not form part of *TD 93/206 - Income tax: Offshore Banking Units (OBU) - if an OBU carries on a business of trading in shares or debt instruments, such that the trading is an offshore banking (OB) activity for the purposes of subsection 121D(1), are dividends and interest derived from holding the shares or debt instruments assessable OB income?*

 This document has changed over time. This is a consolidated version of the ruling which was published on *13 October 2021*

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).

[*Note: This is a consolidated version of this document. Refer to the Legal Database (www.ato.gov.au/Law) to check its currency and to view the details of all changes.*]

Taxation Determination

Income tax: Offshore Banking Units (OBU) - if an OBU carries on a business of trading in shares or debt instruments, such that the trading is an offshore banking (OB) activity for the purposes of subsection 121D(1), are dividends and interest derived from holding the shares or debt instruments assessable OB income?

1. Yes. Subsection 121EE(2) of the *Income Tax Assessment Act 1936* defines the assessable OB income of an OBU¹ as so much of the OBU's assessable income as is derived from OB activities, or included in assessable income because of such activities.
2. Dividends and interest accruing from instruments held in an OBU's trading portfolio clearly fall under the second limb of subsection 121EE(2) and, therefore, qualify as assessable OB income.

Commissioner of Taxation

28/10/93

FOI INDEX DETAIL: Reference No. I 1216400

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Related Determinations:

Related Rulings:

Legislative Ref: ITAA 121D(1); ITAA 121EE(2)

Case Ref:

ATO Ref: NAT 93/3707-5

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¹ The OBU regime is closed to new entrants from 14 September 2021. The concessional tax treatment for existing OBUs in respect of offshore activities will be removed effective from the 2023-24 income year. Interest payments paid on or after 1 January 2024 on offshore borrowings by OBUs will no longer be exempt from withholding tax.