


TD 93/211A1 - Addendum - Income tax: Offshore Banking Units (OBU) - where an OBU provides the services of its employees to a non-resident subsidiary to assist the subsidiary in advising offshore clients on offshore financial matters, can fees charged by the OBU to the subsidiary qualify as assessable OB income?

 This cover sheet is provided for information only. It does not form part of *TD 93/211A1 - Addendum - Income tax: Offshore Banking Units (OBU) - where an OBU provides the services of its employees to a non-resident subsidiary to assist the subsidiary in advising offshore clients on offshore financial matters, can fees charged by the OBU to the subsidiary qualify as assessable OB income?*

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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: 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 memorandum 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

28/10/93