TD 93/216 - Income tax: Offshore Banking Units (OBU) - is an OBU entitled to concessional tax treatment for income derived on a success only basis from offshore banking (OB) advisory activities which were entered into prior to the entity being registered as an OBU?

This cover sheet is provided for information only. It does not form part of *TD 93/216 - Income tax: Offshore Banking Units (OBU) - is an OBU entitled to concessional tax treatment for income derived on a success only basis from offshore banking (OB) advisory activities which were entered into prior to the entity being registered as an OBU?*

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

Generated on: 27 November 2026, 04:59:42 AM

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) - is an OBU entitled to concessional tax treatment for income derived on a success only basis from offshore banking (OB) advisory activities which were entered into prior to the entity being registered as an OBU?

1. Yes, where the fee income is derived after the entity has been registered as an OBU.[1]

2. When an entity earns fee income for completing an assignment on a success only basis, the OB income is derived on the date that the assignment was completed and the entity becomes entitled to its fee. Accordingly, income derived after the date of registration of the OBU upon successful completion of an assignment that otherwise qualifies as an OB activity will constitute OB income. This is the case notwithstanding that some work may have been done prior to registration provided that this work itself did not give rise to an entitlement to income.

3. This situation is different to that described in TD 93/133. The difference between the two cases is in the timing of the derivation of income. A success only basis means that the income is derived upon successful completion of the project - in this case, after the entity is registered as an OBU; whereas, the income derived in TD 93/133 accrues to the entity prior to registration as an OBU.

Commissioner of Taxation
28/10/93

FOI INDEX DETAIL: Reference No. I 1216513 Previously issued as Draft TD 93/D214

Related Determinations: TD 93/131 OB activities entered into by an OBU prior to 1 July 1992
TD 93/133 OB activities entered into by an OBU prior to registration as an OBU

Related Rulings:

[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.

Legislative Ref: ITAA Pt III Div 9A
Case Ref:
ATO Ref: NAT 93/3707-5

ISSN 1038 - 8982