


***TD 93/D196 - Income tax: Offshore Banking Units (OBU) - can an OBU use offshore banking (OB) money (ie money that is not non-OB money) for purposes other than OB activities and replace those funds at a later date?***

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This document has been finalised by TD 93/202.

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.

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## Draft Taxation Determination

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### **Income tax: Offshore Banking Units (OBU) - can an OBU use offshore banking (OB) money (ie money that is not non-OB money) for purposes other than OB activities and replace those funds at a later date?**

1. No. Although an OBU can use OB money in any way it likes, for example, to pay expenses, dividends etc, it cannot 'loan' or distribute those funds to the domestic part of the bank, and have the domestic part, at a later date, repay the funds and then claim that the repayment constitutes OB money.
2. A financial institution that is registered as an OBU may need funding to meet operating expenses, tax payments, and the like. The OBU is free to use any part of its OB money, say retained OB profits, to meet these expenses. However, once those funds have been expended they can only be replaced by funds that meet the requirement of the definition of 'non-OB money' in subsection 121C of the *Income Tax Assessment Act 1936*.

**Commissioner of Taxation**

19/8/93

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: non-OB money; offshore banking

Legislative Ref: ITAA 121C

Case Ref:

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