

TD 93/D209 - Income tax: Offshore Banking Units (OBU)- must an OBU enter details of expenditure that it intends to claim as allowable offshore banking (OB) deductions or allowable non-OB deductions in its relevant books of account at the time of incurring that expenditure?

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This document has been finalised by TD 93/214.

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.

Draft Taxation Determination

Income tax: Offshore Banking Units (OBU)- must an OBU enter details of expenditure that it intends to claim as allowable offshore banking (OB) deductions or allowable non-OB deductions in its relevant books of account at the time of incurring that expenditure?

1. Yes, where the expenditure is to be claimed as either an exclusive OB deduction or an exclusive non-OB deduction.
2. However, where the expenditure relates to both OB and non-OB activities it will constitute either a general OB deduction or an apportionable OB deduction. The expenditure must, therefore, be apportioned between OB and non-OB activities using the formulas set out in subsection 121EF(4) and(5) of the *Income Tax Assessment Act 1936* which are based on the OBU's assessable income for the year of income.
3. As the assessable income of the OBU will not be known till the end of the year of income the OBU will be unable to enter details of general or apportionable expenditure until balance date. All expenditure of this type should, therefore, be separately identified and recorded as potential general and apportionable OB deductions until the OBU's adjusted assessable OB income and adjusted total assessable income are determined. It will then be possible to enter details of the correct amounts in the relevant books of account.

Example

An OBU derives a fee of \$100 000 for providing advice to an offshore person in accordance with subsection 121D(7). It incurred exclusive OB expenditure of \$30 000 and general expenditure of \$10 000.

The fee and exclusive OB expenditure should be entered in the separate OB books of account at the time the moneys were derived and incurred respectively. The general expenditure should be recorded separately, perhaps in a special register kept for this purpose, until sufficient information is available to determine the correct amount to be recorded in the OB books of account.

Commissioner of Taxation

19/8/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Offshore banking units; OBU; Allowable OB deductions; Exclusive OB deductions; General OB deductions

Legislative Ref: ITAA Pt III ; ITAA 121EF

Case Ref:

ATO Ref: 93/3707-5

ISSN 1038 - 8982