


***TD 93/D274 - Income tax: Offshore banking units - if an OBU sells down or disposes of its interest in a loan which originally qualified as an OB activity, does any fee receivable constitute assessable OB income?***

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This document has been finalised by TD 93/241.

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 - if an OBU sells down or disposes of its interest in a loan which originally qualified as an OB activity, does any fee receivable constitute assessable OB income?**

1. Yes. Subsection 121EE(2) of the ITAA defines assessable OB income as:
  - (a) income derived from OB activities, or
  - (b) income which is included in assessable income because of such activities.

Fee income received from selling down a security will be included in assessable OB income under paragraph (b); that is, it is income derived because of OB activities.

Example:

An OBU makes a loan to a New Zealand resident in US dollars. This activity satisfies the definition of borrowing or lending activity in subsection 121D(2). The OBU decides to sell down the loan to another party. The fee income derived from this sale is assessable OB income because it is assessable income as a result of an OB activity.

**Commissioner of Taxation**

4/11/93

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: offshore banking units; assessable OB income; security

Legislative Ref: ITAA 121EE(2)

Case Ref:

ATO Ref: NAT 93/5604-5

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