



TD 93/134 - Income tax: Offshore Banking Units - can a sub-subsidiary of a bank be registered as an OBU?

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

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 - can a sub-subsidiary of a bank be registered as an OBU?

1. Yes, but only where the subsidiary and sub-subsidiary are wholly owned by a bank which is registered as an offshore banking unit (OBU).¹
2. Section 128AE of the *Income Tax Assessment Act 1936* lists the entities which may be registered as OBUs:
 - savings and trading banks
 - State banks
 - financial institutions authorised to deal in foreign exchange
 - wholly owned subsidiaries of banks registered as OBUs
3. It is not necessary for the interposed entity to be a bank or an OBU so long as all of the shares are ultimately beneficially owned by a bank registered as an OBU.

Commissioner of Taxation
8/7/93

FOI INDEX DETAIL: Reference No.

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Related Determinations:

Related Rulings:

Legislative Ref: ITAA 128AE

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.

Case Ref:

ATO Ref: NO 92/9494-5

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