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?*

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Australian Taxation Office

Taxation Determination TD 93/216

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).

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.

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:

Subject Ref: Offshore banking, OBUs, advisory activity

Legislative Ref: ITAA Pt III Div 9A

Case Ref:

ATO Ref: NAT 93/3707-5

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