

***TD 93/D31 - Income tax: Offshore Banking Units: does the OBU concessional tax regime apply to assessable income derived after 30 June 1992 where the OB activities were entered into by an OBU prior to 1 July 1992?***

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This document has been finalised by TD 93/131.

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: does the OBU concessional tax regime apply to assessable income derived after 30 June 1992 where the OB activities were entered into by an OBU prior to 1 July 1992?**

1. Yes, provided other requirements of Division 9A are complied with and the OB activities were entered into by an entity registered as an OBU at the time the activities were entered into.
2. Division 9A of the Income Tax Assessment Act provides for concessional taxation of offshore banking (OB) income of an offshore banking unit (OBU) at an effective rate of 10%. OB income is derived from 'OB activities' which are defined in section 121D; for example, where an OBU borrows from non-residents and lends to non-residents.
3. The tax concessions for OB activities apply to assessable income derived and allowable deductions incurred after 30 June 1992. Section 121EG provides that only 10/39ths of the OB income is included in assessable income and only 10/39ths of the OB deduction is an allowable deduction. Even if the activity is entered into by an OBU prior to 1 July 1992, the concessional tax regime applies where the income is derived and the deduction is incurred after 30 June 1992.

#### **Example**

*A registered OBU borrowed funds offshore on 15 June 1992. The funds were subsequently on-lent to a non-resident. The transaction was correctly entered in the OBU's separate records which were maintained for OB borrowing and lending.*

*Any assessable income derived after 30 June 1992 would qualify for concessional tax treatment.*

**Commissioner of Taxation**

18/2/93

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FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Offshore Banking Units

Legislative Ref: ITAA Pt III Div 9A

Case Ref:

ATO Ref: 92/9494-5

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