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**THE PARLIAMENT OF THE COMMONWEALTH OF
AUSTRALIA**

SENATE

TAXATION LAWS AMENDMENT BILL (NO.4) 1992

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by the authority of the Treasurer,
the Hon John Dawkins, M.P.)



General outline and financial impact

The amendments will amend Taxation Laws Amendment Bill (No.4) 1992 to:

ensure that a resident owner of an entity that is gazetted as an Offshore Banking Unit (OBU) does not have an amount of interest included in its assessable income where it has subscribed paid up capital in the subsidiary and that money is or will be used in activities other than offshore banking activities.

Revenue impact: None.

Explanation of the proposed amendments

Deemed interest on 90% of certain OBU resident-owner money

In broad terms, the Bill currently provides in proposed section 121EK, that where "OBU resident owner-money" is made available to an OBU by way of share subscription, 90% of the money provided is to be regarded as a loan. Notional interest is then included in the assessable income of the owner to offset the likelihood that the owner would have obtained tax deductions for interest expense on most of the money provided to the OBU.

A situation could arise, however, where an Australian holding company was interposed between a non-resident owner and an OBU subsidiary which conducted both offshore banking and domestic banking activities. In such a case 90% of any money made available to the subsidiary by the Australian holding company (a resident owner) by way of share subscription would be regarded as a loan and notional interest charged even though the funds provided may have been used for both concessional tax OB activities and normally taxed activities.

The amendment provides, therefore, that the only amount of notional interest to be included in the assessable income of a resident owner is the amount calculated by reference to the amount of OBU resident-owner money actually used or held ready for use in carrying on OB activities [*Amendment 1*].

Commencement date

The provisions that relate to deemed interest on "OBU resident-owner money" apply to deemed interest for any period beginning after 30 June 1992 irrespective of when the money was made available. A minor technical amendment will make it clear that the commencement date of 1 July 1992 will apply to money paid, used or held ready for use. The amendment is necessary to ensure that the application provision accords with the language used in the new deemed interest provision discussed earlier [*Amendment 2*].