

Australian Taxation Office Updates Definition of Financial Institutions and Treatment of Interest Income for Treaty Benefit Entitlement

23 May 2023

Report from our correspondent Tom Toryanik, Singapore

The Australian Taxation Office has [amended](#) Taxation Ruling TR 2005/5 which deals with ascertaining Australia's right to tax interest income of foreign financial institutions.

The amendment clarifies the meaning of the term "financial institution" in Article 11(3)(b) of the treaties with the United Kingdom and the United States. Specifically, the amendment adds a discussion on the definition of "spread activities". It also notes that financial advisory services, share trading, or purchase of receivables would not normally result in the entity being classified as a financial institution, as there would be no provision of finance. It also updates a discussion on the indicia of carrying on a business by a company.

The amendment also extends the application of the Ruling to residents of another country with which Australia has a tax treaty that includes a financial institution interest withholding tax rate exemption or reduction on identical terms as the US or UK treaties, and are classified as financial institutions for the purposes of that treaty.

A consultation on the above was carried out in October 2022 (see [Australian Taxation Office Consults on Updates to Definition of Financial Institutions for Treaty Benefit Entitlement \(25 October 2022\)](#)).