HMRC - STSM057080 - Exemptions/ Reliefs: United Kingdom Sterling Denominated Bearer Instruments

Following the decisions by the European Court of Justice (ECJ) in October 2009 in the case of HSBC Holdings PLC and Vidacos Nominees Ltd v Commissioners for HM Revenue & Customs(C569/07), and the First-Tier Tribunal (Tax Chamber) in March 2012 in the case of HSBC Holdings PLC and the Bank of New York Mellon Corporation v Commissioners for HM Revenue & Customs (TC/2009/16584), HM Revenue & Customs (HMRC) accepts that the charging of 1.5 per cent Stamp Duty Reserve Tax (SDRT) on United Kingdom (UK) incorporated company share issues is incompatible with European Union law.

In these circumstances, and notwithstanding the provisions of FA86/S93 (4)(a) and FA86/S96 (2)(a), HMRC does not seek to collect 1.5 per cent SDRT on UK company shares that are issued to a depositary receipt issuer or to a clearance service located anywhere in the world.

HMRC also accepts that these decisions extend to sterling denominated bearer securities issued by a company incorporated in the UK or/& to bearer instruments issued outside the United Kingdom by, or on behalf of a United Kingdom company. This means that notwithstanding the provisions of part 1 of FA99/SCH15, HMRC does not seek to collect 1.5 per cent stamp duty on the issue of a bearer instrument.

Moreover, the issue and immediate depositing of a sterling denominated bearer security to a depositary receipt issuer or clearance service located anywhere in the world is not regarded by HMRC to be chargeable to 1.5 per cent under FA86/S93 and FA86/S96.

See STSM055110 for further information on Bearer securities.

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