HMRC - STSM063020 - Sd On Bearer Instruments: Payment Of Stamp Duty On 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] (FTT) 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 where shares in a United Kingdom (UK) incorporated company are issued, the imposition of a 1.5 per cent stamp charge is incompatible with European Union law.

HMRC accepts that the ECJ and FTT decisions also apply to prohibit the charging of ad valorem stamp duty such as that imposed by FA99/SCH15/PARA1:

on the issue of a bearer instrument in the UK; and

on the issue of a bearer instrument outside the UK by or on behalf of a UK company, and

In these circumstances and until such time as, and when, the provisions of Schedule 15 are amended, HMRC will not seek to collect 1.5 per cent stamp duty on the issue of a bearer instrument under FA99/SCH15/PARA1. The bearer instrument will, however, be regarded as being duly stamped if, and only if, it is stamped with the bearer instrument denoting Stamp (FA99/SCH15/PARA21).

Stamp duty is, however, chargeable (at the rate of 1.5 per cent) by virtue of FA99/SCH15/PARA2 on the transfer in the UK of the stock constituted by or transferable by means of a bearer instrument, if stamp duty was not chargeable on issue of the above mentioned bearer instrument under FA99/SCH15/PARA1

In the case of a deposit certificate in respect of a single non-UK company, or an instrument issued by a non-UK company that is a bearer instrument by usage (and is not otherwise within the definition of ‘bearer instrument as described in FA99/SCH15/PARA3 ), the duty is 0.2 per cent of the market value of the stock constituted by or transferable by means of the instrument.

An instrument representing the transfer of stock constituted by or transferable by means of a bearer instrument which is chargeable to 1.5 per cent (or 0.2 per cent) stamp duty, must, before it is issued, be forwarded to HM Revenue & Customs, Stamp Taxes, 9th Floor, City Centre House, 30 Union Street, Birmingham B2 4AR with a completed Stamps BI.1 (HMRCwebsite) form.

Advice on the Stamp Taxes procedures in denoting and stamping bearer instruments is described in STSM065000 .

Previous page

Next page