HMRC - STSM065010 - Bearer Instruments: Introduction

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

Until such time as, and when, the provisions of Schedule 15 Finance Act 1999 are amended, HMRC do not seek to collect the 1.5 per cent stamp duty charge under FA99/SCH15/PARA4 or 0.2 per cent stamp duty charge under FA99/SCH15/PARA5 on the issue of a bearer instrument.

A UK bearer instrument is still required under Paragraph 21 or 23 of Schedule 15, however, to be sent to HM Revenue & Customs, Stamp Taxes, Stamp Duty (Bearers), 9th Floor, City Centre House, 30 Union Street, Birmingham B2 4AR before it is issued. The instrument will be deemed duly stamped if, and only if, it has been impressed with the bearer instrument denoting stamp.

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