HMRC - STSM067020 - Bearer Instruments-SDRT: Ssue Of A Sterling Denominated Bearer Security By A United Kingdom Company

While a bearer security issued by or on behalf of a United Kingdom (UK) company, or stock constituted by or transferable by means of a bearer instrument, is a ‘chargeable security’ for SDRT purposes, the issue of a sterling denominated bearer security is generally outside the scope of a SDRT charge. The reason for no charge is because the issue of a sterling denominated bearer security is chargeable to bearer instrument stamp duty by virtue of FA99/SCH15 \*\*.

Furthermore, the effect of FA86/S99 (5) is, broadly, to disapply a charge to SDRT at the rate of 0.5 per cent on securities, which includes bearer securities, the transfer of which would be exempt from all stamp duties. This will include stock which is itself exempt from all stamp duties, such as loan capital within the meaning of FA86/S79 (2), and the issue or transfer of a UK bearer instrument which relates to stock expressed in a currency other than in sterling.

Similarly, no SDRT charge at the rate of 1.5 per cent will normally arise on the issue, transfer or appropriation of a sterling denominated UK bearer security that is deposited with a depositary receipt issuer or clearance service by virtue of FA86/S95 (2) and FA86/S97 (3).

\*\* 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 and, by extension, bearer instruments/shares in a UK incorporated company are issued, the imposition of a 1.5 per cent stamp charge is incompatible with European Union law.

In these circumstances and until such time as the provisions of FA99/SCH15/PARA1 are amended, HMRC will not seek to collect 1.5 per cent stamp duty on the issue of a bearer instrument.

For the meaning of ‘chargeable securities’ for SDRT purposes, see STSM031090

For advice on stamp duty applying to the issue of a United Kingdom bearer, see STSM062000.

Previous page

Next page