

Dorsey London Tax Update

1 October 2009

ECJ finds 1.5% Stamp Duty Reserve Tax (SDRT) charge unlawful

The ECJ's decision in *HSBC Holdings plc, Vidacos Nominees Ltd v HM Revenue & Customs* was handed down this morning finding in favour of the taxpayer.

The ECJ has held that the imposition of a 1.5% charge to SDRT when securities were issued through clearance services where no charge would otherwise be imposed was a breach of the Capital Duties Directive.

For those of you that have made secondary listings involving a clearance service in EU Countries or non-EU Countries (e.g. US depositary receipt systems), you should consider making a claim for the repayment of the 1.5% SDRT charge including Compound Interest.

This is a better result than anticipated from the AG's opinion as it seems to permit the recovery of the whole 1.5% charge and not just the excess over the 0.5% charge levied on a transfer.

We have already begun the process of issuing claims for several of our clients. If you have yet to indicate your interest and would like to discuss this further please contact kanagasabay.savina@dorsey.com or any members of the team.

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Dorsey wins the **ECJ Award for 2008** and **Editor's Award for 2006** by International Tax Review

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Paul Farmer named **Tax Lawyer of the Year 2006** by Lexis Nexis

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