

FINANCE ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Section 54: Stamp Duty Reserve Tax: Depository Receipt Systems and Clearance Services Systems

Background Note

9. SDRT is payable upon agreements to transfer chargeable securities at the rate of 0.5 per cent of the consideration for the securities. A higher rate of 1.5 per cent applies where securities are issued or transferred to a clearance service or depository receipt issuer. The 1.5 per cent charge acts as a “season ticket” with subsequent transfers within the 1.5 per cent system being exempt from ordinary 0.5 per cent charges. Where securities that have been subject to a 1.5 per cent entry charge are subsequently transferred to another 1.5 per cent regime, relief is available to ensure that there is no double charge.
10. On October 1 2009, the European Court of Justice (ECJ) held that the higher rate charge on issues of chargeable securities to clearance services in the EU is incompatible with EU law. As a result, it became possible, from that date, for shares intended for non-EU markets to be issued initially to an EU clearance service or depository receipt issuer, and then transferred to a non-EU clearance service or depository receipt issuer, under cover of the existing exemptions for transfers between such systems, thereby avoiding all SDRT charges.
11. This section prevents this by removing the exemptions that would otherwise apply to transfers of chargeable securities from an EU 1.5 per cent system to a non-EU 1.5 per cent system where arrangements have been entered into under which 1.5 per cent SDRT would not otherwise be payable. The section has effect from 1 October 2009, the date of the ECJ decision.