



HM Revenue
& Customs

Stamp Duty and Stamp Duty Reserve Tax: Deep In The Money Options

Technical consultation document

Publication date: 9 December 2015

Closing date for comments: 3 February 2016

Consultation description

This technical consultation will be of interest to businesses or individuals who enter into option contracts over UK securities or are involved with the business of issuing depositary receipts or providing clearance services.

These clauses amend the provisions of FA 1986, sections 67 and 70 about Stamp Duty and sections 93 and 96 about Stamp Duty Reserve Tax (SDRT).

The changes address avoidance arising on the transfer of shares using 'Deep in the money' options (DITMOs). Deep in the money 'call' options are equity options where the strike price is far below the market value of the shares but the premium payable for the option is high. HM Revenue and Customs (HMRC) are aware of an increasing amount of avoidance in which DITMOs are created in order to transfer shares to depositary receipts issuers and clearance services with tax only payable on the very low strike price rather than the full value that is effectively paid for the shares.

The changes will affect all cases where shares are transferred to a depositary receipt issuer or clearance service following the physical exercise of an option. The shares will now be chargeable at the 1.5% higher rate of Stamp Duty or SDRT based on the higher of their market value or the option strike price at the date the instrument is executed (if the charge is to Stamp Duty) or the date of the transfer (if the charge is to SDRT).

HMRC has published draft legislation, together with a Tax Information and Impact Note, for a period of technical consultation which will close on 3 February 2016.

We would be interested to hear your views on the following points:

- 1. The ability of the draft clauses to prevent unfair advantages in terms of Stamp Duty and SDRT through the creation of DITMOs which are exercised in order to transfer shares to depositary receipts issuers and clearance services.**
- 2. Any potentially adverse impacts of the legislation to the writing and trading of options over UK equities.**

Please send any comments/responses by email to:
stamptaxes.budget&financebill@hmrc.gsi.gov.uk

Or write to: Stephen Roberts or Simon English, HMRC Stamp Taxes , Room 3C/20
100 Parliament Street, London SW1A 2BQ

Enquiries about the consultation should be sent to Stephen Roberts or Simon English at the above email address or telephone 03000 585 455 (Stephen Roberts) or 03000 585 446 (Simon English). From a text phone prefix these numbers with 18001

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