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NENQ 159/99/ADB

23 March 2000

BY FAX ONLY

Dear [REDACTED]

Abolition of Stamp Duty on Documents Relating to Intellectual Property

Thank you for your two letters dated 22 March. I note you agree we no longer need to meet.

You asked me, when you telephoned, how the abolition has statutory effect from 28 March even though the Finance Act is still not law. The measure has statutory effect by virtue of a Commons Resolution and under the provisions of Section 50 of the Finance Act 1973. I attach, for your information, a copy of Section 50 and a copy of the part of the Resolution relating to this abolition.

Turning now to your draft Notice, I have a few suggestions for you to consider. In the first line can I suggest you say "...will no longer be levied on documents effecting transactions in intellectual property."

Please see sub-paragraph (13) of the attached Resolution which sets out the definition of "intellectual property" so far as this exemption is concerned. There is no doubt that the proposed exemption is very wide ranging and the majority of documents your office deals with will no longer be liable to stamp duty. But there may still be a few which are dutiable. You will be able to say, certainly with more specialist knowledge than I, which categories of property fall outside the definition of IP in the Resolution.

I think it is therefore important to include the definition of IP covered by the exemption as the second sentence of your Notice, so that patent agents are not under the impression that this is an absolute blanket exemption.

You will also know from the Press Release that hybrid documents may still be liable to stamp duty in respect of non-IP and in fact I mentioned this in my letter of 21 March to you. Again, you will know better than I whether the majority of documents you register relate exclusively to IP or whether they cover other property too. More

astute practitioners should quickly appreciate that preparing separate documents relating to the IP will ensure they can be registered without any stamp duty problems.

I feel a line or two in the Notice, reminding them that documents which do not relate exclusively to IP may need to be stamped in respect of other elements of the transaction, would help to clarify the position.

I hope these observations help.

Yours sincerely

[REDACTED]
[REDACTED]

59. Stamp duty (intellectual property)

That the following provisions shall have effect for the period beginning 28th March 2000 and ending 31 days after the earliest of the dates mentioned in section 58(2) of the Finance Act 1993—

(1) No stamp duty is chargeable on an instrument for the sale, transfer or other disposition of intellectual property.

(2) Where stamp duty under Part I of Schedule 13 to the Finance Act 1999 is chargeable on an instrument and part of the property concerned consists of intellectual property—

(a) the consideration in respect of which duty would otherwise be charged shall be apportioned, on such basis as is just and reasonable, as between the part of the property which consists of intellectual property and the part which does not, and

(b) the instrument shall be charged only in respect of the consideration attributed to each of the property as is not intellectual property.

(3) Where part of the property referred to in section 58(1) of the Stamp Act 1891 consists of intellectual property, that provision shall have effect as if "the parties think fit" read "is just and reasonable".

(4) Where—

(a) part of the property referred to in section 58(2) of the Stamp Act 1891 consists of intellectual property, and

(b) both or (as the case may be) all the relevant persons are contracted with one another,

this provision shall have effect as if the words from "for distinct parts of the consideration" to the end of the subsection read "the consideration is to be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance is to be charged with ad valorem duty in respect of such distinct consideration."

(5) In a case where paragraph (3) or (4) applies and the consideration is apportioned in