



# Client Alert

## Update: Process for refund of stamp duty paid in the ACT

Clients were previously informed of the opportunity for a refund of stamp duty paid to the ACT Revenue Office on general insurance effected **prior to 17 May 2006** with unauthorised foreign insurers and Lloyd's underwriters<sup>1</sup>, following the outcome of the NSW Supreme Court decision of *Qantas Airways Ltd v Chief Commissioner of State Revenue* [2008] NSWSC 1049.

This alert provides a brief overview of the refund process eligible clients should follow in order to obtain their refund.

Marsh refers you to our earlier client alerts available on the Marsh website at [www.marsh.com.au/stampdutyrefund.php](http://www.marsh.com.au/stampdutyrefund.php) for additional information on the stamp duty refund opportunity, including details of the assistance Marsh is currently providing to clients in relation to their refund applications to the NSW Office of State Revenue. All correspondence between Marsh and the various offices of state revenue can also be found here.

### Refund process

The ACT Revenue Office has agreed to refund all relevant policyholders who have paid stamp duty on general insurance effected during the period between 1 March 1999 to 17 May 2006 with unauthorised foreign insurers and Lloyd's underwriters.

Please note that the ACT Revenue Office refund procedure assumes that it is the responsibility of the relevant policyholder to make the refund application and that the role of the insurance broker is simply to assist the client to do so.

### Application form

Eligible policyholders can use the ACT Revenue Officer's application form ***Special Application for the refund of ACT duty paid on insurance policies provided by non-registered/unauthorised insurers*** which is available for download at [www.revenue.act.gov.au/duties/insurance](http://www.revenue.act.gov.au/duties/insurance). The form can be lodged with the Commissioner of ACT Revenue, ACT Revenue Office PO Box 293 Civic Square ACT 2608 and marked to the attention of Joseph Tonna, Assistant Manager- Compliance. Any enquiries can be made by calling 02 6207 0104.

<sup>1</sup> An insurer that was not registered or authorised under the *Insurance Act 1973 (Cth)* for the purposes of the relevant ACT stamp duties legislation.

Part B of the application form requires claimants to provide details of the insurance policies for which a refund is being requested. Alternatively, the ACT Revenue Office has agreed to accept a form, providing the same information, from insurance intermediaries in lieu of completion of Part B. It is the responsibility of the relevant policyholder to carry out the refund application, however, Marsh can assist clients by providing (where possible) the required documentation for our clients to lodge with the ACT Revenue Office. In order to cover our costs, a document charge will apply on a per policy basis.

***Clients must contact their Marsh advisor if they wish to use this alternative documentation method.***

In situations where our client has changed brokers after the original duty was paid, Marsh may be able to obtain the relevant information in the required format from the previous broker and pass it on to the policyholder.

## Refund opportunity in other jurisdictions

While this refund opportunity applies only to stamp duty paid to the ACT Revenue Office, the case may also have implications for insurance duty paid in other states and territories. As notified in our client alert on 6 February 2009, Marsh has also sought to reserve our clients' reassessment rights in Tasmania and Queensland. The responsibility rests with individual clients to obtain legal advice and consider whether any further steps are required.

To date, Queensland has only provided an interim reply indicating that an appropriate response will be provided in due course. NIBA has been in contact with the relevant Queensland officials in order to press them for a reply.

The Tasmanian Department of Treasury and Finance has previously stated that, in its opinion, there is no entitlement to a refund of the duty paid by policyholders on general insurance placed with offshore insurers.

This alert does not constitute legal advice and should not be relied upon as such. You should obtain your own legal advice to determine if and how the Qantas case affects your organisation, and to consider whether you should take any further action.

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