

MARSH



MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

Wayne Vergano
Chief Financial Officer - Pacific

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30 January 2009

Attention: Commissioner for Australian Capital Territory Revenue
Australian Capital Territory Revenue Office
PO Box 293
Civic Square
ACT 2608

Fax: 6207 0090

Dear Commissioner

Stamp Duty refund/reassessment application for all clients on behalf of whom Marsh paid stamp duty to the ACT Revenue Office.

It has come to our attention that the NSW Supreme Court recently held in the case of *Qantas Airways Ltd v Chief Commissioner of State Revenue* [2008] NSWSC 1049 (Qantas case) that stamp duty was not payable under the *Duties Act 1997 (NSW)* on insurance premiums paid to insurers not registered as general insurers under the *Insurance Act 1973 (Cth)*.

It is our understanding that the reasoning in the Qantas case should also apply to stamp duty paid on general insurance to your office and therefore, our clients are entitled to a refund of stamp duty paid on insurance policies **during the period commencing on 30 January 2004 (being five years prior to today's date) and ending on 18 May 2006** (the Relevant Period) that are placed with offshore insurers.

We note that we are an approved person under section 42 of the *Taxation Administration Act 1999 (ACT) (the TAA)* in relation to insurance duty. As such we are a "taxpayer" as defined in the Dictionary of the TAA. Our client ID number is [REDACTED]

We will make every effort to pass on any refund received by us from you to the relevant clients. We have informed them of the Qantas Case and of our intention to send this letter and will keep them informed of developments. We are happy to discuss with you the arrangements we will make in that regard.

We attach a spreadsheet setting out the names of clients and the amounts we identified have been paid by these clients.

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In addition we ask that you make an in-principle decision to issue refunds/assessments/reassessments for stamp duty paid by us on behalf of our clients in the period from 1 March 1999 to 30 January 2004 on general insurance policies placed with off-shore insurers or insurers not registered as general insurers under the *Insurance Act 1973 (Cth)* as defined in the *Duties Act 1999 (ACT)*. We can provide the relevant details of the clients and the duty paid at this stage if you so wish.

By this letter and its attachments, we hereby seek to:

1. reserve all our rights, and all rights our affected clients and former clients may have individually or collectively, to seek a refund of insurance duty as a consequence of the Qantas case, whether such rights exist at law or under statute;
2. obtain the acknowledgement of the Commissioner that such rights will not be prejudiced by the failure of our clients or former clients to take legal, administrative or other action prior to the final outcome of the Qantas case which has been appealed by the NSW Chief Commissioner of State Revenue;
3. apply for a refund/assessment/reassessment of stamp duty paid by us on behalf of our clients and former clients during the Relevant Period on general insurance policies placed with off-shore insurers or insurers not registered as general insurers under the *Insurance Act 1973 (Cth)* as defined in the *Duties Act 1999 (ACT)* prior to its amendment on 18 May 2006.

We await your earliest advices. Please contact the writer should you require any additional information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Wayne Vergano', written over a horizontal line.

Wayne Vergano
Finance Director