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HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

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18 February 2011

Dear Ms Swain

Thank you for your letter of 3 September about tax allowances for Continuing Professional Development (CPD) costs. I apologise for the delay in replying to you, due to ongoing consultations mentioned below.

The Court of Appeal Judgement in Revenue and Customs Commissioners vs Banerjee is under consideration by HM Revenue & Customs (HMRC) and has also been the subject of consultation with representative bodies. New guidance on the scope of 'Banerjee' will be published soon. HMRC do not accept that all training expenses incurred by the employee will now qualify for tax relief.

Following the Court of Appeal decision, HMRC accept that the expenses must be incurred exclusively as an intrinsic part of the performance of duties. This will happen where the employee is engaged on a training contract and the practical and theoretical aspects of the duties of the employment are performed with a view to obtaining a qualification without which the employee will not be able to continue in a particular profession.

Where training is undertaken that is not a part of the duties of the employment, tax relief will still not be available for the expenses incurred by the employee. On the basis of the information provided in the briefing note with the Association's letter, the CPD training referred to does not have the characteristics mentioned above. Therefore the guidance at EIM32530 will still apply:

No deduction is due for the costs of continuing professional education (CPE). That is so even if participation in such activities is compulsory, and failure to do so may lead to the employee losing his or her professional qualifications, and/or their job. CPE is not a duty of the employment for the purpose of Section 336. The Special Commissioners confirmed this point in Consultant Psychiatrist v CIR (SpC557), which was about CPE expenses incurred by a consultant employed by a NHS Trust. Note that Special Commissioners' decisions do not set a binding precedent, but they do indicate the approach that a tribunal properly directed in the relevant law is likely to take to the point at issue. Another case in the same line is Parikh v Sleeman (63TC75), which concerned a doctor who attended seminars. Once again, a deduction was refused.