



Use these Notes to help you complete Form US-Company. If you need more information, please contact HM Revenue and Customs, Large Business - DTT Team. Our contact details are at Note 7.

## 1. Purpose of Form US-Company

Form US-Company allows:

- a US company
- an unincorporated concern such as a mutual fund, pension scheme, charitable organisation or trust in the United States receiving interest and/or royalties arising in the United Kingdom to apply for relief at source from UK Income Tax under the United Kingdom/United States Double Taxation Convention (SI 2002 Number 2848). The form may be used to claim relief for any other income qualifying under Article 22 of the Convention - the 'Other Income' article. It also provides for a claim to repayment of UK Income Tax in cases where payments of the income have been made with UK tax taken off.

## 2. Tax vouchers

There is no need to send tax vouchers with the completed Form US-Company, but you should keep them in case they are needed later to support it. You can send the vouchers if you think they will help us deal with the claim.

## 3. Beneficial ownership

The UK/USA Double Taxation Convention provides for relief to be available to the beneficial owner of the income.

Where a claimant is required to pass on the income for which the claim is made it may not be the beneficial owner of the income for the purposes of the Double Taxation Convention. Please see the HM Revenue and Customs (HMRC) guidance published in our International Manual (INTM). Go to [www.gov.uk](http://www.gov.uk) and search for INTM332040.

Where the company or concern does not satisfy the 'international fiscal meaning' of beneficial ownership but believes that because of the policy statements that are made in the guidance it is still able to obtain treaty benefits, you should:

- tick box 2(b) in the declaration in Part F of the form
- include with the claim a note giving the information mentioned at INTM332070, under the heading 'Applications to HMRC' - reproduced below for ease of reference

'Where structures are within the ambit of the Indofood decision, that is to say the structure has the accessing of treaty benefits as one of its effects, it is possible that applications to HM Revenue and Customs for benefits under a Double Taxation Convention (DTC) will fall at the first hurdle unless the applicant can demonstrate beneficial ownership. The application might simply be regarded as invalid and never reach the stage where it can be considered in terms of the object and purpose of the particular DTC under which the application is made.

However, where the claimant Special Purpose Vehicle (SPV) does not satisfy the 'international fiscal meaning' of beneficial ownership but believes that it is still able to obtain treaty benefits because of the policy confirmed in this guidance, it should make its claim and include a note to that effect. To ease consideration of the claim, the note should include full details as to

- a full structure diagram and explanation of the capital and interest flows
- why the SPV is considered to be the beneficial owner within the 'international fiscal meaning'
- demonstrate that the structure does not abuse the DTC under which the claim is made either relating the structure to the examples at INTM332080 or otherwise'

Where a claim or application for relief from UK tax is made by a partnership or other concern that is not a taxable person or is otherwise 'transparent for tax purposes' under the law of the United States, you should tick box 2(b) in the declaration in Part F of the Form US-Company and provide additional information as outlined in the HMRC guidance at INTM335500.

#### **4. Claims on behalf of partnerships and limited liability companies (LLCs)**

US partnerships and LLCs should complete the Form US-Company as follows:

- Parts A and B1 in full
- Part C in full, as appropriate
- Part D if repayment of UK tax is claimed
- Part E if appropriate
- Part F in full, with the general or managing partner/member signing the declaration

The following additional information is also needed:

1. Where the partnership or LLC is established in the United States and all of the partners/members are resident for tax purposes in the United States, attach to the claim a list of the names and addresses of the partners/members. The list should show residential addresses for individuals and registered addresses where the partners/members are companies.
2. Where any partner/member is resident for tax purposes in a country other than the United States, attach the list described above. The list must also include for each member/partner their respective percentage share of the income that is the subject of the claim. Any partner/member resident for tax purposes outside the United States should make a separate claim to relief from UK tax under the terms of any relevant DTC. The Digest of Double Taxation Treaties lists all of the UK's comprehensive DTCs. To read the DT Digest online go to [www.gov.uk](http://www.gov.uk) and search for DT Digest.

#### **5. Residence in United States and where to send the completed form**

It is a condition of relief from UK Income Tax under the terms of the Double Taxation Convention that the beneficial owner of the income is resident in the United States. In making this claim, which needs the certification of the US Internal Revenue Service, you are consenting to the transmission of a US Form 6166 for the applicant/claimant to HM Revenue and Customs in the UK.

Send the completed claim form with the US Form 8802, 'Application for United States Residency Certification', and the applicable user fee to:

Internal Revenue Service  
PO Box 71052  
Philadelphia, PA 19176-6052

The Application for US Residency Certification and its instructions are available at [www.irs.gov](http://www.irs.gov).

#### **6. Text of the UK/USA Double Taxation Convention**

To read the full text of the Convention (SI 2002 Number 2848), go to [www.gov.uk](http://www.gov.uk) and search for 'USA tax treaties'. Open the PDF document '2001 USA-UK Double Taxation Convention'.

#### **7. Help or more information**

If, after using these Notes you need help or more information, please:

- go to our website, [www.gov.uk](http://www.gov.uk) and search for international tax for businesses
- phone Large Business - DTT Team on +44 (0)3000 547 584 if calling from outside the UK, or 03000 547 584 if calling from the UK
- write to Large Business - DTT Team, HM Revenue and Customs, BX9 1QR

Please quote our reference number (for example '13/A/123456') whenever you contact us.

## 8. Completing the Form US-Company

### Part A: Details of the company or concern and tax adviser

Please give all the details asked for. If the company or concern has a tax adviser, include the tax adviser's details. All the information that you provide to HMRC is confidential. We can therefore only discuss the tax affairs of the company or concern with:

- an officer of the company
- any tax adviser or agent who is nominated by the company or concern

We cannot disclose to the UK payer of the income or their tax adviser any information relating to the claimant company or concern.

### Part B: About the company

When filling in the form:

- for all claimants - please answer the questions in Part B1
- if you answered 'Yes' to either B1.2(a) or B1.2 (b), go to Part B2
- if you answered 'No' to B1.2(a) and B1.2(b), go to
  - Part B3 for a Mutual Fund
  - Part B4 for a Pension Scheme etc
  - Part B5 for a charitable organisation
  - Part B6 for a Trust

#### Part B2, question B2.2

This note applies only if you answer 'Yes' to question B2.2.

Relief from UK tax is available under the Double Taxation Convention only to residents of the United States.

If you answer 'Yes' to question B2.2, you are saying that the claimant company or concern is liable to United States tax only for income from sources in the United States or profits attributable to a permanent establishment in the United States, and this will mean that the company does not meet the definition of 'resident of a Contracting State' found at Article 4(1) of the Double Taxation Convention (most typically, where the claimant is a branch of a non-US enterprise).

If answering 'Yes', give details on a separate sheet of why you believe that the claimant is entitled to relief from UK tax, even though it is not considered as a resident of the United States.

#### Article 23 of the Double Taxation Convention and the questions in Part B of the form

To be able to benefit from the Double Taxation Convention the claimant is required to be a 'qualified person', (as defined in Article 23 of the Double Taxation Convention) or if not a 'qualified person', then fulfil certain other tests for an item of income whose source is in the UK. The questions in Part B of the form seek to establish whether the claimant is a qualified person or otherwise entitled to the benefits of the Double Taxation Convention.

If you are claiming that relief from UK tax should be allowed under the terms of Article 23(6) of the DTC you should complete this claim form and send it in the normal way to the United States Internal Revenue Service (See Note 5). At the same time, you should write to HM Revenue and Customs, Business International Tax Treaty Team, 100 Parliament Street, Westminster, London, England SW1A 2BQ. Your letter should clearly state that you are asking the 'competent authority' of the United Kingdom to deal with your claim under the terms of Article 23(6) of this treaty. A copy of your letter to the competent authority should be attached to the claim Form US-Company.

#### 'Conduit arrangement'

Question B1.3 on Form US-Company asks if any income to which the claim refers is paid under a 'conduit arrangement'.

The definition in Article 3(1)(n) of the Double Taxation Convention is as follows

'(n) the term 'conduit arrangement' means a transaction or series of transactions:

(i) which is structured in such a way that a resident of a Contracting State entitled to the benefits of this Convention receives an item of income arising in the other Contracting State but that resident pays, directly or indirectly, all or substantially all of that income (at any time or in any form) to another person who is not a resident of either Contracting State and who, if it received that item of income direct from the other Contracting State, would not be entitled under a convention for the avoidance of double taxation between the state in which that other person is resident and the Contracting State in which the income arises, or otherwise, to benefits with respect to that item of income which are equivalent to, or more favourable than, those available under this Convention to a resident of a Contracting State; and

(ii) which has as its main purpose, or one of its main purposes, obtaining such increased benefits as are available under this Convention.'

## **Part C: Application for relief at source from UK Income Tax**

Relief at source from UK Income Tax on future payments of income may be available in cases where HMRC is able to exercise its discretion to issue a notice (under Statutory Instrument 1970 Number 488, as amended). We deal with each application on its merits. Where we cannot agree to allow relief at source or cannot arrange it, you can claim repayment of part or all of the UK tax taken off, as appropriate. The declaration in Part F of Form US-Company includes an undertaking to tell HMRC if there is any change to the information that you have given on the form.

### **Parts C1 and C2: UK Interest**

#### **Interest from loans**

Where the interest is payable on a loan to a UK resident company or individual, please attach a copy of the loan agreement to the Form US-Company.

If the debt right is part of a syndicated loan, please:

- give the additional information asked for in Part C1 of the form
- attach a copy of the loan agreement, unless you are aware that a copy has already been sent to HMRC - if so, there is no need to attach another copy

#### **Interest from securities**

UK tax is taken off from interest on loan stocks issued by:

- companies which are not quoted on the Stock Exchange
- local authorities

that is paid to persons who are outside the UK. As explained above we may be able to arrange for interest on these stocks to be paid with no UK tax taken off.

Interest from the following UK sources is paid with no UK tax taken off, so there is no need to apply for relief from UK tax at source. Please do not enter in Part C2 of Form US-Company:

- interest from company loan stocks quoted on the Stock Exchange (paid automatically without UK tax taken off)
- interest from UK government securities (paid automatically without UK tax taken off)

### **Part C3: Royalties**

The Double Taxation Convention allows relief only to the beneficial owner of the royalties. The beneficial owner is normally the originator of the work or product.

#### **Copyright royalties for literary, dramatic, musical or artistic works**

If your company or concern is not the originator but has acquired the rights, please attach to the Form US-Company a copy of the licence, contract or assignment under which the UK rights have been acquired. This will help HMRC to check that the beneficial ownership condition in the Double Taxation Convention is satisfied. If your company or concern is in the publishing or music business and uses a standard form of contract with all its authors or composers, attach a copy of the standard contract. You need do this only the first time a Form US-Company is completed.

#### **Other royalties**

Where your company or concern is the originator of a process or design etc, please attach to the Form US-Company a copy of the licence agreement between yourselves and the UK payer of the royalties. If your company or concern is not the originator of the product giving rise to the royalties but has acquired the rights, please also attach a copy of the licence, contract or assignment under which the UK rights have been acquired.

## Part D: Claim for repayment

Repayment of UK Income Tax taken off from interest on:

- a loan arrangement within the provisions of Article 11(5)(a) of the Double Taxation Convention where
- payments of interest have already been made

Where a loan arrangement falls within the provisions of Article 11(5)(a) of the Double Taxation Convention and Article 11(5)(b) does not apply, UK tax is retained at the rate of 15% of the gross amount of the interest, as provided for in Article 10(2)(b). The remaining balance of UK Income Tax is repayable.

If you are claiming repayment of UK Income Tax taken off from interest on a loan that is within the provisions of Article 11(5)(a), please use the boxes below to work out the amount of the repayment. If you do not wish to work out the repayment and do not enter an amount at Part F 4(a) of the Form US-Company, HMRC will work out any repayment due.

You may use these boxes to work out the amount of any repayment.

Enter in box 1 the gross amount of interest (that is before any tax is taken off) and in box 2 the full amount of UK tax taken off.

Gross interest										UK tax													
1	£									•	0	0	2	£							•	0	0

Calculate 15% of the gross amount of interest (in box 1) and enter it in box 3.

3	£									•	0	0
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Take off the amount in box 3 from the amount in box 2 and enter the result in box 4.

4	£									•	0	0
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Finally, take the amount you have shown in box 4 and enter it at Part F 4(a) of Form US-Company. This is the amount repayable.

## Part E: Repayment instructions

Complete this part if you want us to make the repayment to a bank or other nominee. If you leave this part empty, the repayment will be made direct to the company or concern at the address you have shown in Part A of this form.

Please note that HMRC can only issue repayments denominated in Sterling. Make it clear what currency is being shown on the repayment application.

HMRC is no longer able to issue cheques to banks for payment to a particular account. All repayments below £100k will be sent by post as cheques payable to the claimant or their nominee. Repayments of more than £100k can be considered for CHAPS electronic transfer so long as full bank details are provided for the destination account. If the claimant cannot receive and process a cheque payment, regardless of the amount, you will need to make this clear on the application in a covering letter.

## Part F: Declaration

The declaration in Part F should be completed and signed after reading Note 3 'Beneficial ownership' in these Notes.

Who may sign:

- for a company or fund, a responsible officer of the company or fund may sign - an agent (tax adviser), 'custodian' or other duly authorised person acting with the authority of the company may also sign on the company's behalf
- for a partnership, the senior, general or managing partner (as appropriate) may sign in the name of the partnership - see Note 4 for further information

These notes are for guidance only and reflect the UK tax position at the time of writing. They do not affect any rights of appeal.