



Use these Notes to help you complete form Japan-2-DT. If you need further information, please contact HM Revenue and Customs (HMRC). Our address and telephone numbers are in note 6 'Help or further information'.

### 1. Purpose of the form Japan-2-DT

Form Japan-2-DT enables a company in Japan that receives interest or royalties arising in the UK to claim relief from UK income tax under the 2006 UK/Japan Double Taxation Convention (SI 2006 No.1924). If interest or royalty payments have been made with UK income tax deducted, form Japan-2-DT may be used to claim repayment of the UK tax deducted from income paid on or after 1 January 2007. For income paid before that date, use form Japan/Company.

Do not use form Japan-2-DT to claim full relief from UK tax under the terms of Article 11(3) of the Double Taxation Convention. Instead, qualifying residents of Japan should use form Japan-3-DT.

The forms mentioned in this note are available from [www.gov.uk/government/collections/international-tax-forms](http://www.gov.uk/government/collections/international-tax-forms) or the address in note 6 'Help or further information'.

### 2. Tax vouchers

There is no need to send tax vouchers with the completed form Japan-2-DT, 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. Certification of the form by the taxation authorities of Japan

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 Japan.

Please send:

- 1 The completed form to the National Tax Agency office in the district in Japan in which the head or main office of the company is situated. That office will certify that the company is a resident of Japan within the meaning of the 2006 UK/Japan Double Taxation Convention and return the form to you.
- 2 The certified form to  
Large Business – DTT Team  
HM Revenue and Customs  
England  
BX9 1QR

### 4. Beneficial ownership

The UK/Japan 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 in respect of which the claim is made it may not be the beneficial owner of the income for the purposes of the Double Taxation Convention. Please read the HMRC guidance published in our International Manual (INTM). To find the guidance online, go to 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 – reproduced here 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/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 its country of residence, you should tick box 2(b) in the declaration in part F of the form Japan-2-DT and provide additional information as outlined in the HM Revenue and Customs (HMRC) guidance at INTM335500.

## 5. Claims on behalf of partnerships

The UK/Japan Double Taxation Convention does not give the right to claim relief to partnerships and LLCs where these are tax-transparent. Instead, in those cases where the income of the concern is taxable in the hands of its partners or members (rather than at the level of the concern itself) each of those should in strictness make a separate claim to treaty relief.

HMRC recognises that adopting this strict approach may impose an unreasonable administrative burden on claimants which is not needed in many cases to give effect to the intent and purpose of the treaty.

In such cases, and without prejudice to our right to require individual claims, we will normally be prepared to accept a single (composite) claim in the name of the partnership or LLC. This must include the following features, in addition to the normal information that is required by the form Japan-2-DT:

- 1 In all cases the general or managing partner/member should sign the declaration in Part F of form Japan-2-DT.
- 2 Where the partnership or LLC is established in Japan and all of the partners/members are resident for tax purposes in Japan, 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.
- 3 Where any partner/member is resident for tax purposes in a country other than Japan, 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 Japan will also need to make a separate claim to relief from UK tax under the terms of any relevant Double Taxation Convention. The 'Digest of Double Taxation Treaties' lists all the UK's comprehensive Double Taxation Conventions. To read the 'Digest of Double Taxation Treaties' online go to GOV.UK and search for 'How Double Taxation Treaties affect non-UK residents with UK income'.

## 6. Help or further information

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

- phone HM Revenue and Customs Large Business DT Treaty Team  
+ 44 3000 547584 if calling from outside the UK, or 03000 547584 if calling from the UK
- write to Large Business – DTT Team, HM Revenue and Customs, England BX9 1QR

Please quote the HMRC reference number (for example '43/A/123456') whenever you contact us.

## 7. Completing the form Japan-2-DT

When filling in the form, please:

- include in the form only the income on which the company claims relief from UK tax under the provisions of the UK/Japan Double Taxation Convention
- give all the information requested and attach any supporting documents that are asked for
- attach a separate sheet if you need more room.

### Part A: Details of the company 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: Questions about the company**

Tick the boxes that apply and give any additional information asked for.

### **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 Japan. If you answer 'Yes' to question B2.2, you are saying that the claimant company or concern is liable to tax in Japan in respect only of income from sources in Japan, 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 an enterprise that is not resident in Japan).

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

## **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 HM Revenue and Customs (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.

If relief at source is granted, please tell HMRC at the address in Note 6, without delay, if there is any subsequent change to the information you have given on the form Japan-2-DT.

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

Under the provisions of the Double Taxation Convention, UK interest is taxable in the UK at a rate of 10% of the gross amount of the interest. An exception to this is where the beneficial owner of the interest is in one of the categories of persons specified in Article 11(3) of the Convention.

If you want to claim exemption from UK tax under the terms of Article 11(3) do not use this form Japan-2-DT. Instead you should use form Japan-3-DT.

#### **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 Japan-2-DT.

#### **Interest from UK securities**

Enter in Part C2 of the form UK interest with UK tax taken off. This may include interest from loan stocks that are not quoted on the Stock Exchange. We may be able to arrange for relief from UK tax at source from interest on these stocks.

There is no need to show in Part C2 of the form any interest from loan stocks that are quoted on the Stock Exchange (a quoted Eurobond) as these are paid without UK tax taken off.

If the company has already received interest with UK tax taken off, enter the details in Part D of the form to claim repayment of the UK tax in excess of 10%.

## **Part C3: UK Royalties**

Under the provisions of the Double Taxation Convention, UK royalties can be paid with no UK tax withheld. 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**

If your company is not the originator but has acquired the rights, please attach to the form Japan-2-DT a copy of the licence, contract or assignment under which the UK rights have been acquired. 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, please attach a copy of the standard contract. You need do this only the first time a form Japan-2-DT is completed.

### **Other royalties**

Please attach to the form Japan-2-DT a copy of the licence agreement between the company and the UK payer of the royalties. If the company 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 it has acquired the UK rights.

## Part D: Claim for repayment of UK income tax

For UK royalties, the full amount of UK tax taken off is repayable. For UK interest, as explained in these Notes, the 2006 UK/Japan Double Taxation Convention provides for UK income tax to be withheld at the reduced rate of 10% from interest paid to a resident of Japan. If the company or concern has received interest payments with UK tax taken off, it can claim repayment of the amount of UK tax in excess of 10%. Please read the instructions below.

Read the instructions below to work out the amount of tax repayable to the company or concern.

### Instructions

You may use the boxes below to work out the amount of a repayment of tax on UK interest payments.

	Income before tax	UK income tax
<b>Step 1:</b> Enter in box 1 the amount of interest before deduction of UK tax and in box 2 the amount of UK tax taken off (take these figures from the totals boxes in Part D of the form Japan-2-DTI).	<b>1</b> £ <input type="text"/>	<b>2</b> £ <input type="text"/>
<b>Step 2:</b> Calculate 10% of the total amount of interest (in box 1) and enter the result in box 3.		<b>3</b> £ <input type="text"/>
<b>Step 3:</b> Deduct the amount in box 3 from the amount in box 2 and enter the result in box 4.		<b>4</b> £ <input type="text"/>
<b>Step 4:</b> Take the amount you have shown in box 4 and enter it on the form Japan -2-DT at Part F4(a) This is the amount of UK tax repayable to the company		

If the company is also claiming repayment of UK tax deducted from royalties, add the amount at box 4 above to the amount of UK tax on the royalties that you have included in Part D of the form. Then enter at Part F4(a) the total of the 2 amounts.

## Part E: Repayment instructions

You should only complete Part E if you want HM Revenue and Customs to make any repayment to a bank, tax adviser or other person on the company's or concern's behalf.

If you want repayment to be made to the company's tax adviser, please give the reference number (if any) that the tax adviser uses.

You must also sign the declaration at Part F if you sign the authorisation in Part E.

## Part F: Declaration

The declaration in Part F should be completed and signed after reading note 4 '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. Please go to note 5 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.

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