Form US-Company UK-REIT

HM Revenue & Customs

United Kingdom/United States of America Double Taxation Convention (SI 2002 Number 2848)

Claim to repayment of United Kingdom (UK) Income Tax deducted from property income dividends paid by UK Real Estate Investment Trusts ('UK-REITs').

This form is for use by a United States (US) Company, Mutual Fund, Pension Scheme, Charitable Organisation or Trust.

How to fill in this form:

- give all the information requested in this form and attach supporting documents where necessary
- use the US-Company UK-REIT Notes at the end of this form to help you - if you need more space, attach a separate sheet
- remember to sign the declaration in Part F, giving details of the capacity in which you sign
- see note 5 in the US-Company UK-REIT Notes about residency certification by the US Internal Revenue Service

If you need help or more information about claiming relief from UK tax on property income dividends under a double taxation treaty:

- go to www.gov.uk and search for 'international tax for businesses'
- or write to HM Revenue and Customs, Trusts, BX9 1EL, United Kingdom

Part A Details of the US claimant and tax adviser (if any)

Full name of the US company

Full registered address – do not use 'care of' address

Phone number – this may help us deal with your form quickly

Reference – if any

If the US company has a tax adviser or other authorised person HM Revenue and Customs (HMRC) can contact, give their details below

Name

Address

Phone number

Reference or contact name – if any

Your US Employer's Identification Number

Location of the Service Center where the latest tax return was filed

Date it was filed DD MM YYYY

If you file a consolidated tax return in the US:

Name of the parent company

Parent company's Employer's Identification Number

For use by the US Internal Revenue Service

Add your official stamp and attach form 6166. Then send this form to:

HMRC, Trusts, BX9 1EL, United Kingdom.

You may want to take a copy of this form for your records.

Please put 'X' in this box to confirm form 6166 is attached

Official Stamp

Part B questions

Answer all of the questions in Part B1 then follow the instructions below. Some questions relate to Article 23 of the Double Taxation Convention.

Part B1

B1.1 **Is this the claimant's first claim of this kind?** No ☐ Yes ☐

If No, enter the reference number used for correspondence 13/

B1.2 **Is the claimant either:**

a) a corporate body No ☐ Yes ☐

b) an entity that is treated as a body corporate for US tax purposes? No ☐ Yes ☐

B1.3 **Is any of the income in this claim paid under, or as part of, a 'conduit arrangement' as defined in Article 3(1)(n) of this Double Taxation Convention?**
See note 8, Article 10(9) No ☐ Yes ☐

Instructions

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
- Part B5 for a Charitable Organisation
- Part B6 for a Trust

Part B2 Claimant is a US company

B2.1 **Is the company**

a) managed in the US? No ☐ Yes ☐

b) incorporated in the US? No ☐ Yes ☐

B2.2 **Is the company liable to tax in the US for income from sources in the US? See Article 4(1) of the Double Taxation Convention** No ☐ Yes ☐

B2.3 **Does the company carry on business through a permanent establishment situated in the UK?** No ☐ Yes ☐

If Yes, is the income that is included in this form attributable to the permanent establishment? If you answer Yes, please say on a separate sheet why the company believes it's entitled to relief from UK tax. See Article 11(3) and Article 12(3) of the Double Taxation Convention No ☐ Yes ☐

B2.4 **Is the principal class of shares of the company listed or admitted to dealings on a recognised stock exchange in either the UK or the US? See Article 23(2)(c)(i) of the Double Taxation Convention**

No ☐ If No, go to question B2.6 Yes ☐ If Yes, go to question B2.5

B2.5 **Are those shares regularly traded on a recognised stock exchange? See Article 23(2)(c)(i) of the Double Taxation Convention**

No ☐ If No, go to question B2.6 Yes ☐

B2.6 Only answer this question if you have answered No to either question B2.4 or B2.5

Are shares representing at least 50% of the aggregate voting power and value of the company owned directly or indirectly by 5 or fewer companies whose shares are quoted on a recognised stock exchange in either the UK or the US? See Article 23(2)(c)(ii) and Article 23(7)(a)(i) and (ii) of the Double Taxation Convention

No ☐ If No, go to question B2.7

Yes ☐ If Yes, on a separate sheet give the full names and registered addresses of all the direct and intermediate shareholders, stating the name of the stock exchange on which the shares are quoted.

Part B2 continued

B2.7 Only answer this question if you have answered No to question B2.6

On at least half the days of the taxable period, was at least 50% of the voting power and value of the shares owned by persons who separately qualify for benefits under the Double Taxation Convention? See Article 23(2)(c)(ii) and Article 23(2)(f)(i) of the Double Taxation Convention

No ☐ If No, and the company considers itself to be a 'qualified person' for the purposes of Article 23 (3) or (4) of the Double Taxation Convention, say why on a separate sheet.

Yes ☐ If Yes, on a separate sheet give the full names and registered or residential addresses of those 'qualified persons' and answer question B2.8.

B2.8 **For the company's gross income for that taxable period, put 'X' in one of the boxes below to indicate which of the following statements is true:**

Less than 50% of the company's gross income was paid or accrued directly or indirectly to persons who are not residents of either the UK or the US ☐

50% or more of the company's gross income was paid or accrued directly or indirectly to persons who are not residents of either the UK or the US ☐

For more information see Article 23(2)(f)(ii) of the Double Taxation Convention.

Part B3 Claimant is a US Mutual Fund

See Article 23(2)(d) of the Double Taxation Convention.

B3.1 **Is the principal class of units in the mutual fund listed or admitted to dealings on a recognized stock exchange in either the UK or the US?**

No ☐ If No, go to question B3.3 Yes ☐ If Yes, go to question B3.2

B3.2 **Are those units regularly traded on a recognised stock exchange?**

No ☐ If No, go to question B3.3 Yes ☐

B3.3 **Are the direct or indirect owners of at least 50% of the beneficial interests in the mutual fund qualified persons by reason of Article 23(2)(c)(i) or 23(2)(d)(i)?**

No ☐ Yes ☐

If No, say on a separate sheet why the mutual fund is a 'qualified person' for the purposes of Article 23(2) or is otherwise entitled to benefit under the terms of this Double Taxation Convention. See note 7.

Part B4 Claimant is a US pension scheme

As defined at Article 3(1)(o) of the Double Taxation Convention.

B4.1 **Is the claimant a pension scheme?**
See article 4(3)(a)

No ☐ If No, go to question B4.2 Yes ☐ If Yes, go to question B4.5

B4.2 **Is the claimant a plan, scheme, fund, trust, company or other arrangement established in the US?**
See Article 4(3)(b))

No ☐ Yes ☐

If No, say on a separate sheet why the claimant is a 'qualified person' for the purposes of Article 23(2) or is otherwise entitled to benefit under the terms of this Double Taxation Convention.

Part B4 continued

B4.3 **Is the plan, scheme, fund, trust, company or other arrangement operated exclusively to administer or provide employee benefits?** See Article 4(3)(b)

No ☐ Yes ☐

If No, say on a separate sheet why the claimant is a 'qualified person' for the purposes of Article 23(2) or is otherwise entitled to benefit under the terms of this Double Taxation Convention.

B4.4 **Is the plan, scheme, fund, trust, company or other arrangement exempt from income taxation in the US?** See Article 4(3)(b)

No ☐ If No, give details on a separate sheet Yes ☐

B4.5 **Are more than 50% of the beneficiaries, members or participants of the pension scheme or plan, individuals who are residents of either the UK or the US?** See Article 23(2)(e)

No ☐ If No, give details on a separate sheet Yes ☐

Part B5 Claimant is a US charitable organisation

See Article 23(2)(e) and Article 4(3)(c) of the Double Taxation Convention.

B5.1 **Is the organisation established exclusively for religious, charitable, scientific, artistic, cultural or educational purposes?** See Article 4(3)(c)

No ☐ If No, give details on a separate sheet Yes ☐

B5.2 **Is the organisation resident in the US according to its laws?** See Article 4(3)(c)

No ☐ If No, give details on a separate sheet Yes ☐

B5.3 **Is the organisation exempt from tax on its income under the laws of the US?** See Article 4(3)(c)

No ☐ If No, give details on a separate sheet Yes ☐

Part B6: Claimant is a US Trust

See Article 23(2)(g) of the Double Taxation Convention

B6.1 **Is at least 50% of the beneficial interest in the trust held by persons who are 'qualified persons' by reason of Article 23(2) (a), (b), (c)(i), (d)(i), or (e) of the Double Taxation Convention?**

No ☐ If No, go to question B6.2

Yes ☐ If Yes:

- on a separate sheet give the full names and residential addresses of the beneficiaries (or registered addresses if not individuals) and the nature and extent of their interest in the trust
- go to question B6.3

B6.2 **Is at least 50% of the beneficial interest in the trust held by persons who are 'equivalent beneficiaries' as defined at Article 23(7)(d) of the Double Taxation Convention?**

No ☐

Yes ☐ If Yes:

- on a separate sheet give the full names and residential addresses of the beneficiaries (or registered addresses if not individuals) and the nature and extent of their interest in the trust
- go to question B6.3

If the answers to questions B6.1 and B6.2 are both No, say on a separate sheet why the trust qualifies for benefits under the terms of this Double Taxation Convention. Then go to question B6.3.

B6.3 **Was less than 50% of the gross income arising to the trust in the taxable periods covering the income shown on this form paid or accrued, directly or indirectly, to persons who are not residents of either the UK or the US?**

No ☐ If No, say on a separate sheet why the trust qualifies for benefits under the terms of this Double Taxation Convention.

Yes ☐

Part C Details of property income dividends from UK Real Estate Investment Trusts

Include only property income dividends paid by UK companies that are Real Estate Investment Trusts.
For information about UK-REITs, see note 2 in the US Company UK-REIT Notes.

To fill in the details below use the information on the tax vouchers. See the notes about Part C.

Do not include in the claim:

- ordinary dividends paid by the UK-REIT, or dividends paid by any member of a group UK-REIT other than the principal company of the group
- any other dividends or other sources of income

For each property income dividend give: • the full name of the UK Real Estate Investment Trust • the number of shares owned by the claimant	Dates of payment of property income dividends DD MM YYYY	Amounts of property income dividends before UK Income Tax £	Amounts of UK Income Tax taken off £
	Totals		

Part D Authority to make the repayment to a nominee

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.

I (enter your full name)

as (enter status – for example, company secretary, treasurer or authorised agent)

of (enter name of the claimant company or concern)

authorise the bank or other nominee below to receive the amount due on the company's or concern's behalf.

Name of bank or other nominee

Address of bank or other nominee

Postcode

Account number

UK sort code – if appropriate

Nominee's reference number – if there is one for the company

Signature

Now also complete and sign the declaration in Part E below

Part E Declaration

Important: Read note 3 in the US -Company UK-REIT Notes before completing the declaration

1. The information I have given in this claim/application is correct and complete to the best of my knowledge and belief.
2. I have considered the guidance on beneficial ownership published at INTM332040 by HMRC and have concluded that:

Tick one box

☐ The company or unincorporated concern is beneficially entitled to the property income dividends included in this form, or otherwise meets the conditions for relief in the Double Taxation Convention between the UK and the United States

☐ The company or concern is not the beneficial owner of the property income dividends but is entitled to relief from UK tax under the Double Taxation Convention for the reasons I have given in the attached note

On behalf of the company or incorporated concern:

Tick the boxes that apply, choose either box a) or box b)

☐ I claim repayment of UK Income Tax and

☐ a) I have worked out the amount payable to the company or concern is £

OR

☐ b) I want HMRC to work out the amount payable to the company or concern

Sign and date the form on the next page.

Signature

Date DD MM YYYY

Full name (in capitals)

Status

For official use by HMRC

Examined ____

Authorised ______________________________________

Amount repaid £ ________________________ : ____

HMRC date stamp

The US-Company UK-REIT Notes start on the next page.

US-Company UK-REIT Notes

Use these notes to help you complete form US-Company UK-REIT. If you need help or further information, see note 7.

1. Property income dividends paid by UK real estate investment trusts ('UK-REITs')
A 'UK-REIT' is a company which has a property business. It must be resident in the UK and be listed on a recognised Stock Exchange. A UK-REIT can also be a group of companies. In this case, the principal (parent) company of the group must be UK resident and stock exchange listed. Under the UK-REIT regime, the UK-REIT pays no tax on its qualifying property income, but the company (principal company for a Group REIT) will withhold UK Income Tax at the basic rate when making a distribution out of its qualifying property income, a 'property income dividend'. It is obliged to distribute most of its profits as property income dividends.

UK dividends from which no Income Tax is withheld
The company (principal company of a Group REIT) may also pay ordinary company dividends from which no Income Tax is withheld. Other members of a Group REIT may also pay dividends. These will always be ordinary company dividends from which no Income Tax is withheld. UK company dividends from which no Income Tax is withheld have an additional amount attached to them (but not paid to the shareholder) called a tax credit.

It is not possible for a claim to be made under the terms of the UK/USA Double Taxation Convention for payment of the tax credit.

2. Purpose of form US-Company UK-REIT
Form US-Company UK-REIT allows you to claim repayment of some or all of the Income Tax deducted from property income dividends that are paid by real estate investment trusts after 1 January 2007.

Please do not include in your claim any other sources of UK income, such as dividends paid by UK companies that are not property income dividends of a UK real estate investment trust. Claim forms for DT treaty relief from UK Income Tax on UK interest and royalties are available from www.gov.uk or from the address in note 7.

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 the claim made, it may not be the beneficial owner of the income for the purposes of the Double Taxation Convention. Please see the HMRC guidance published in our International Manual (INTM). To read the guidance online go to www.gov.uk/hmrc-internal-manuals/international-manual/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:

- put 'X' in box 2(b) in the declaration in Part E of the form
- include a note with the claim giving the information mentioned at INTM332070, under the heading 'Applications to HM Revenue and Customs' – 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 HMRC 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"; or
- 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 to repayment of 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 US, you should put 'X' in box 2(b) in the declaration in Part E of the form US-Company UK-REIT and provide additional information as outlined in the HMRC guidance at INTM335500.

4. Claims on behalf of partnerships and LLCs

US partnerships and LLCs should complete the form US-Company UK-REIT as follows:

- Parts A and B1 in full
- Part C
- Part D if appropriate
- Part E in full, with the general or managing partner/member signing the declaration

The following additional information is also needed:

- where the partnership or LLC is established in the US and all of the partners/members are resident for tax purposes in the US, 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
- where any partner/member is resident for tax purposes in a country other than the US, attach the list described above
  – the list must also include for each member/partner their percentage share of the income that is the subject of the claim
  – any partner/member resident for tax purposes outside the US 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 and search for 'Double Taxation Treaties: non UK resident with UK income'

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.

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
P.O. Box 71052
Philadelphia, PA 19176-6052

The Application for U.S. Residency Certification and its instructions are available at www.irs.gov

In making this claim, you are consenting to the transmission of a US Form 6166 for the applicant/claimant to HMRC in the UK.

6. Text of the UK/USA Double Taxation Convention

To read the full text of the Convention (SI 2002 Number 2848) online, go to www.gov.uk/government/publications/usa-tax-treaties and read the pdf '2001 USA-UK Double Taxation Convention as amended by the 2002 protocol - in force'

7. Help or more information

If you need more help or information:

- go to www.gov.uk and search for international tax for businesses
- write to HMRC, Trusts, BX9 1EL, United Kingdom

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

8. Completing the form US-Company UK-REIT

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

Give all the details asked for. If the company or concern has a tax adviser, include the tax adviser's details. We will need a letter of authority from the company, confirming a person acting can sign can receive the relief on their behalf.

All the information you give to HMRC is confidential. We can 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. For more information, go to www.gov.uk/guidance/authorising-an-agent-to-deal-with-your-tax-affairs#how-to-authorise-an-agent

Part B: Questions

For all claimants answer the questions in Part B1

If you answered:

- Yes, to either B1.2(a) or B1.2 (b), go to Part B2
- No to B1.2(a) and B1.2(b), go to
  - Part B3 for a Mutual Fund
  - Part B4 for a Pension Scheme
  - 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 US.

If you answer Yes to question B2.2, you are saying that the claimant company or concern is liable to US tax only for income from sources in the US or profits attributable to a permanent establishment in the US. 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 you answer Yes give details on a separate sheet about why you believe that the claimant is entitled to repayment of UK tax, notwithstanding that it is not to be considered as a resident of the US.

Article 23 of the Double Taxation Convention and the questions in Part B of the form
In order to benefit from the Double Taxation Convention the claimant must 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 are 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 repayment of 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 US Internal Revenue Service (see note 5).
At the same time, you should write to:

HMRC
Frontiers & International Tax Treaty Team,
100 Parliament Street
London
United Kingdom
SW1A 2BQ

Your letter should clearly state that you are asking the 'competent authority' of the UK 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 UK-REIT.

'Conduit arrangement'
Question B1.3 on form US-Company UK-REIT asks whether 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: Details of property income dividends from UK Real Estate Investment Trusts

Tax vouchers
Before you fill in Part C, the claimant company or concern must have documentary proof of the deduction of UK Income Tax from its property income dividends. Usually this proof is provided by the tax deduction certificates issued by the payers of the property income dividends.

You do not need to send tax certificates (vouchers) with the completed form US-Company UK-REIT, but you should keep them safe in case we ask you to send them to us in support of the claim. If you have any doubt about how you have completed Part C you can send vouchers with the claim if you think it will help us.

Remember that you should only include property income dividends paid by UK real estate investment trusts ('UK-REITs').

Part D: Repayment instructions
You should only complete Part D if you want HMRC 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 E if you sign the authorisation in Part D.

Part E: Declaration
The declaration in Part E 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
  - we will need a letter of authority from the company or fund confirming a person acting can sign and receive the relief on their behalf, for more information go to www.gov.uk/guidance/authorising-an-agent-to-deal-with-your-tax-affairs#how-to-authorise-an-agent
- for a partnership, the senior, general or managing partner (as appropriate) may sign in the name of the partnership
  - please also attach a list to the form giving the names and residential addresses (or registered business addresses if companies) of all the partners, and each partner’s percentage share in the partnership

See note 4 for more information.

How to work out the amount of UK Income Tax repayable to the company or concern
Follow Steps 1 and 2 and if appropriate, Steps 3 to 5 below.

If you do not want to work out the repayment and do not enter an amount in Part E (a) of the form US-Company UK-REIT, HMRC will work out any repayment that is due.

Step 1:
Enter in box 1 the total amount of property income dividends before UK tax and in box 2 the amount of UK tax taken off. Take these figures from the totals boxes in Part C of the form US-Company UK-REIT.

Income before tax	UK Income Tax
1 £	**2** £

Step 2:
If this claim is being made by a US pension fund that has answered the questions at Part B.4 of the claim form US-Company UK-REIT and is entitled to claim full relief from UK tax, enter the total amount of tax on the form US-Company UK-REIT at Part E (a).

In all other cases the double taxation treaty provides for UK tax of 15% to be retained. Follow Steps Three and Four to work out the amount repayable.

Step 3:
Calculate the appropriate percentage rate of the total amount of property income dividends (in box 1) and enter the result in box 3.

3 £

For example, the box 1 figure is £100.00 and the rate shown in the Digest of Double Taxation Treaties is 15%. So, 15% of £100.00 = £15.00 in box 3.

Step 4:
Deduct the amount in box 3 from the amount in box 2 and enter the result in box 4.

4 £

Step 5:
Finally, take the amount you have shown in box 4 and enter it on the form US-Company UK-REIT at Part E (a). This is the amount of UK Income Tax repayable to the company.

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.