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RÉPUBLIQUE FRANÇAISE

5000NOT-EN

EXPLANATORY NOTICE

GUIDANCE FOR THE RECIPIENT

The tax return comprises three identical forms: two in a foreign language (English, German, Spanish, French, Italian, chinese or Dutch), and the third in French. The information in all three forms is identical. For details on how to use these forms, see Item 4.

1- Income from French securities paid to individuals and legal entities that do not have their actual residence or registered office in France is subject to withholding tax in France. Withholding tax rates are usually 30% for dividends, 15% for certain interests, and 33% for royalties. Under the provisions of international tax treaties signed by France, these tax rates may be reduced or even zero-rated.

2- Three sets of forms are available:
- Form 5000: affidavit of residence,
- Form 5001: calculation of withholding tax on dividends – repayment of equalisation tax and tax credits,
- Form 5002: calculation and repayment of withholding tax on interest,
-Form 5003: reduction of tax on royalties. These forms can be downloaded from *www.impots.gouv.fr.*

3- You must file a separate Form 5000 for each category of income (dividends, interest and royalties) and each paying institution. Where appropriate, you can file a certified copy of an affidavit of residence that you have already sent to another paying institution.

4- Using these forms

- If you have opted for the simplified procedure for dividends (see ❷), you need only provide Form 5000 (certificate of residence).

After filling in Boxes I, II, III and VII, send the form to the tax office to which you report in your home country (or, where applicable, the US financial institution) for certification purposes (Box IV). This tax office will keep one foreign-language copy of the affidavit and give you back the two other copies after having certified them. Keep the second foreign-language copy for your records.

Send the French-language copy before the dividend payment date to the institution in France or abroad that manages your account. If have accounts with more than one institution, you will need an affidavit for each institution. Where applicable, you can provide a certified copy of the original affidavit of residence issued by your home-country authorities.

NB: Remember to keep a copy of the French-language affidavit for your future use.

- If you are reclaiming dividend withholding tax or if you want to take advantage of tax treaty provisions on interest and royalties, you must enclose either Form 5001 (dividends), or Form 5002 (interest) or Form 5003 (royalties) along with Form 5000 (affidavit of residence).

After filling in Boxes I, II, III and VII, send Form 5000, together with Form 5001, 5002 or 5003, to the tax office to which you report in your home country (or, where applicable, the US financial institution) for certification purposes. This tax office will keep one foreign-language copy of the affidavit and the attached forms and will give you back the other two copies after having certified them. Keep the foreign-language copy for your records.

Send the French-language copy of Form 5000, along with Form 5001, 5002 or 5003 in French to the French or foreign paying institution that pays your income. If have accounts with more than one institution, you will need an affidavit of residence for each institution and type of income. Where applicable, you can provide a certified copy of the affidavit of residence issued by your home-country authorities.

NB: Please remember to sign all copies of the forms in the box provided and to make a copy of the French-language affidavit for your future use.

5- Deadline for claims

Unless otherwise stipulated in the tax treaty, French law stipulates that, in order to be valid, claims must be received by the French authorities by 31 December of the second year following the year in which the income was paid.

GUIDANCE FOR THE PAYING INSTITUTION

6- Filing treaty forms for passive income sent by non-residents

The treaty forms used to claim a treaty rate for withholding tax or repayment of withholding tax must be filed as documentary proof to support the 2777 or 2460 return accompanying your payment of withholding tax to the French Treasury. However, if these forms have been sent by more than 100 different recipients, then they do not need to be filed: the tax authorities will ask to see them if necessary.

7- Direct application of treaty rates for withholding tax on dividends, interest and royalties

Regarding dividends, if the affidavit of residence reaches you or the account keeping institution before the dividend payment date and if you can meet the BOFIP stipulations (BOI-INT-DG-20-20-20-20 dated 12 September 2012), you may pay the dividends and withhold the tax at the rate stipulated in the applicable treaty. The same rule applies to interest and royalties if the affidavit of residence and Form 5002 are received before the payments are made.

If you are using the simplified procedure for dividends, you are not required to fill in Box V on Form 5000. The only requirements are information about the beneficiary (Boxes I, II, III and VII) and certification by the foreign tax authorities or the US financial institution (Boxes IV or VI).

8- Repayment of withholding tax

If the recipient does not provide the necessary forms in time, the paying institution shall make the payments and withhold the tax at the rates stipulated in domestic legislation. In this case, the benefits of the treaty are granted:

- <u>either by means of tax repayments from the paying institution (in the case of interest and dividends only).</u>

In this case, you are entitled to reclaim the amount paid by deducting an equivalent amount from the payments made to the Non-residents Tax Collection Office (*recette des non-résidents – 10, rue du Centre, TSA , 93160 Noisy le Grand, France*) in respect of withholding tax on dividends or withholding tax on interest. The treaty forms used to claim a treaty rate for withholding tax or repayment of withholding tax must be filed as documentary proof to support the 2777 or 2494 return accompanying your payment of withholding tax to the French Treasury.

- <u>or by means of a tax repayment from the tax authorities.</u>

If the paying institution is not able to repay withholding tax on dividends and interest, or if tax is deducted from royalties, then the tax authorities will make a repayment directly to the recipient of the income or to the recipient's duly designated representative.

Refund requests for interest and dividends must be sent to the Non-residents Tax Collection Office (*recette des non-résidents – 10, rue du Centre, TSA , 93160 Noisy le Grand, France*). Refund request for royalties must be sent to the Individual Tax Department for Non-Residents (*service des impôts des particuliers non-résidents 10, rue du Centre, TSA , 93160 Noisy le Grand, France*). This applies regardless of the Business Tax Department (*service des impost des enterprises*) to which the withholding tax was originally paid.

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NOTES

❶ You must indicate the types of income received. You must file a separate Form 5000 for each category of income (dividends, interest and royalties) and each paying institution. Where appropriate, you can file a certified copy of an affidavit of residence that you have already sent to another paying institution.

❷ Dividends: the simplified procedure provided for in Administrative Instruction BOI-INT-DG-20-20-20-20 enables you to benefit from the lower withholding tax rate stipulated in the applicable treaty simply by providing an affidavit of residence, i.e. Form 5000, which replaces Annexes I and II referred to in that Instruction. In order for you to claim the lower tax rate, your bank or the French institution paying the dividends must receive the affidavit of residence before the income is paid. If not, you must complete Form 5001, in addition to Form 5000, in order to reclaim the withholding tax.
Interest and royalties: In all cases, you need to include Form 5002 or 5003, along with the affidavit of residence (Form 5000).

❸ If you are a resident of the United States, you need to provide your social security number or your employer number.

❹ Indicate the name of the country of residence.

Certain tax treaties with France do not specify the condition of tax liability to determine the residence of an individual or legal entity under the treaty. In these situations, it is not necessary to check that pension funds, companies and investment funds are indeed liable for tax in the country in which they are established.

As at 1 January 2017, this is true for treaties between France and Australia, Belgium, Benin, Bulgaria, Burkina Faso, Cameroon, the Central African Republic, Côte d'Ivoire, Kuwait, Luxembourg, Malaysia, Malawi, Mali, Morocco, Mauritania, Niger, Qatar, Senegal, South Africa, Togo, United Arab Emirates and Zambia.

In addition, non-profit organisations in the United States are considered to be residents under the terms of the tax treaty between France and the US. Some non-profit organisations in Switzerland may also be considered to be residents as agreed upon between the two parties. In these cases, it is not necessary to check that these organisations are indeed liable for tax in the country in which they are established.

Note: please check the applicable conditions with respect to the treaty that concerns you.

❺ Only tax treaties between France and Austria, Canada, Chile, Germany, Japan, Quebec, Switzerland, the United Kingdom and the United States due to a specific measure having to do with pension funds, do not require that these entities are indeed liable for tax in the country in which they are established.

Furthermore, pension funds based in the Netherlands are also eligible for the lower 15% withholding tax rate.

Lastly, the treaty provisions with regard to Canadian pension funds are set out in BOI-INT-CAN-20-20150812 (paragraphs 30 to 80).

❻ Tax treaties between France and Austria, Andorra, Canada, China, Germany, Israel, Japan, Namibia, Panama, the Netherlands, Quebec, South Africa, Spain, Sweden, Switzerland, Taiwan, Trinidad and Tobago, Ukraine, the United Kingdom, the United States, Uzbekistan and Saint-Martin grant tax advantages to investment firms. In these cases, it is not necessary to check that pension funds, companies and investment funds are indeed liable for tax in the country in which they are established.

The collective entitlement of such companies and funds to treaty benefits is limited in principle to the proportion of their unitholders and shareholders who are residents of their home country. These data, as well as data pertaining to the number of unitholders and shareholders, are determined at the fund's last financial year-end and must be entered in Box VII.

For companies and investment funds in the US and in Trinidad and Tobago covered by treaties with France, treaty tax benefits are granted for all earned income of French origin, subject to certain conditions. Box VII of Form 5000-EN should not be filled out.

For Canadian undertakings for collective investment in transferable securities (UCITS), the rules for applying the treaty are set out in BOI-INT-CAN-20-20150812 (paragraphs 90 to 140).

For German UCITS that have an administrative authorisation, even though it is no longer mandatory, you may continue to include the authorisation numbers and dates in box VII.

Note: please check the applicable conditions with respect to the treaty that concerns you.

MINISTÈRE DE L'ACTION
ET DES COMPTES PUBLICS

❼ For United States residents only: if your account is managed by a US financial institution, the affidavit issued by this institution relieves you of the obligation to have Form 5000 certified by your tax authorities.

❽ If you need more room for the table you may attach a separate sheet using the same format.

❾ Swiss residents that meet the conditions of the agreement signed on 26 October 2004 between the European Union and Switzerland are entitled to the same benefits in terms of interest and royalties as are residents of European Union member states.

❿ Pursuant to the provisions of Article 119 bis(2) of the French General Tax Code, the withholding tax rate for French-source income paid out to non-residents is set by Article 187 of said Code.
The rate is:

- 15% for dividends distributed to certain European non-profit organisations
- 21% for dividends similar in nature to those eligible for the 40% allowance for individuals having their tax domicile outside France in an EU Member State or in another State which is party to the agreement on the European Economic Area and which has signed an administrative assistance treaty with France
- 30% for other dividends