

## EXPLANATORY NOTICE

5000 NOT-EN

### GUIDANCE FOR THE RECIPIENT

Three copies of the forms must be completed, two in a foreign language (the forms are available in German, English, Spanish, Italian, Chinese, Portuguese and Dutch), and the third in French. The information in all three copies is identical. For details on how to use these forms, see Item 4 below.

**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 in line with the rates provided for by domestic legislation** (Article 187-1 of the General Tax Code for dividends, Article 125-0-A II for interest and Article 182 B II for royalties).

Under the provisions of international tax treaties signed by France, these tax rates may be reduced or even zero-rated.

**2- Four types of form are available:**

- Form 5000: affidavit of residence
- Appendix 5001: calculation and refund of withholding tax on dividends
- Appendix 5002: calculation and refund of withholding tax on interest
- Appendix 5003: calculation and refund of withholding tax on royalties (i.e. copyright, patents or trademarks subject to applicable treaty provisions)

The various forms can be downloaded from the [www.impots.gouv.fr](http://www.impots.gouv.fr) website.

**3- You must file Form 5000 for each category of income** (dividends, interest and royalties) and each paying institution. Where appropriate, you can file a copy of Form 5000 that you have already sent to another paying institution in respect of the same calendar year.

**4- Using these forms.**

- If you have opted for the simplified procedure for dividends (see ②), you need only provide Form 5000.

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 Form 5000 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 you have accounts with more than one institution, you will need a Form 5000 for each institution. Where applicable, you can provide a copy of the affidavit of residence issued by your home-country authorities.

Box IV certification remains the principle. However, if a paper or electronic certificate of residence is issued, you can dispense with filling in this Box IV. Form 5000 will then simply have to be accompanied by this paper or electronic certificate.

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

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

After filling in Boxes I, II, III and VII, send Form 5000, together with Appendices 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 Form 5000 and the appendix forms and will give you back the other two copies after having certified them. Keep the foreign-language copy for your records.

Box IV certification remains the principle. However, if a paper or electronic certificate of residence is issued, you can dispense with filling in this Box IV. Form 5000 and Appendices 5001, 5002 or 5003 must then simply be accompanied by this paper or electronic certificate.

Send the French-language copy of Form 5000, along with Appendices 5001, 5002 or 5003 in French to the French or foreign paying institution that pays your income. If you have accounts with more than one institution, you will need a Form 5000 for each institution and type of income. Where applicable, you can provide a 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 administration 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 dividends, interests and royalties with the administration.**

The treaty forms used to claim a treaty rate for withholding tax or repayment of withholding tax must be kept available for the administration as documentary proof to support your return 2777 or 2494.

The French administration may request any document attesting to the fact that the recipient of the income is subject to taxation owing to their status or activity, in their country of residence, without being exempted, when this condition is required to benefit from the advantages provided by a treaty. It may also request any document providing proof of a minimum holding period of an interest in a company as provided for by a tax treaty and the conditions of such holding. The effective tax treaties can be consulted on the [impots.gouv.fr](http://impots.gouv.fr) website.

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

Regarding dividends, if Form 5000 reaches you or the account keeping institution before the dividend payment date and if you meet the stipulations of the Official Public Finances Bulletin (BOI-INT-DG-20-20-20-20), you may pay the dividends and withhold the tax at the rate stipulated in the applicable treaty, except for Singapore. The same rule applies to interest and royalties if Form 5000 and Appendix 5002 or 5003 are filed 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:

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

In this case, you are entitled to reclaim the amount paid by deducting an equivalent amount from the payments that you are called on to make to the business tax department to which you report in respect of withholding tax on dividends or withholding tax on interest. The treaty forms on the basis of which you have refunded tax withheld at source must be kept available for the administration as supporting documents for your return 2777.

- *or by means of a tax repayment from the administration.*

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.

It is recalled that, for dividends and interest, requests for reimbursement must be filed with the Pôle de Restitutions des retenues à la source (PRRAS) – RCM, 10, rue du Centre, TSA 30012, 93160 Noisy-le-Grand Cedex and, for royalties, with the Pôle de Restitutions des retenues à la source – TSBNC, 10, rue du Centre, TSA 60024, 93465 Noisy-le-Grand Cedex, independently of the business tax department to which the withholding tax was originally paid.

In this case, the treaty forms and any document attesting to the fact that the recipient of the income is subject to taxation owing to their status or activity, in their country of residence, without being exempted, when this condition is required to benefit from the advantages provided by a treaty must be sent to the administration. When a tax treaty provides for a minimum holding period of an interest in a company and the conditions of such holding, any document providing proof of this period and the conditions of such holding must also be sent to the administration.

## NOTES

① You must indicate the types of income received. A Form 5000 for each category of income (dividends, interest and royalties) and each paying institution must be sent or kept available for the administration accordingly. Where appropriate, you can file a copy of Form 5000 that you have already sent to another paying institution in respect of the same calendar year.

② **Dividends:** the simplified procedure provided for in BOI-INT-DG-20-20-20 enables you to benefit from the lower withholding tax rate stipulated in the applicable treaty as from the payment date (except for Singapore). In order for you to claim the lower tax rate, your bank or the French institution paying the dividends must receive Form 5000 before the income is paid. If not, you must complete Appendix 5001, in addition to Form 5000, in order to reclaim the withholding tax.

**Interest and royalties:** In all cases, attach Appendix 5002 or 5003, along with Form 5000.

③ If you are a resident of the United States, you need to provide your social security number or your employer number.

④ 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 2022, this is true for treaties between France and Belgium, Benin, Bulgaria, Burkina Faso, Cameroon, the Central African Republic, Ivory Coast, Kuwait, Malaysia, Malawi, Mali, Mauritania, Morocco, Niger, Qatar, Senegal, South Africa, Togo, United Arab Emirates and Zambia.

In addition, non-profit organisations in the United States that are covered by section 501(c) (3) of the Internal Revenue Code (IRC) 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.

**NB:** Please check the applicable conditions with respect to the treaty that concerns you.

⑤ Only tax treaties between France and Austria, Canada, Chile, Germany, Japan, Quebec, Switzerland and the United Kingdom 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.

In the United States, only pension funds covered by sections 401(a), 401(b), 403(b) and 457 of the Internal Revenue Code (IRC) are eligible for the reduced treaty rate.

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).

⑥ Tax treaties between France and Andorra, Austria, Canada, China, Germany, Israel, Japan, Luxembourg, Namibia, the Netherlands, Panama, Quebec, Saint-Martin, South Africa, Spain, Sweden, Switzerland, Taiwan, Trinidad and Tobago, Ukraine, the United Kingdom, the United States and Uzbekistan grant tax advantages to undertakings for collective investment in transferable securities (UCITS), investment funds or firms. In these cases, it is not necessary to check that the UCITS, investment funds or firms are indeed liable for tax in the country in which they are established.

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

For investment funds or firms 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 set out in the treaty. Box VII of Form 5000-EN should not be filled in.

For Canadian 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.

⑦ 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.

⑧ If you need more room for the table you may attach a separate sheet using the same format.

⑨ 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.

⑩ 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.

In principle, this rate is:

- 15% for dividends paid to certain European non-profit organisations
- 12.8% for dividends paid to individuals
- that provided for in Article 219(I) of the French General Tax Code for dividends paid to legal entities