

INSTRUCTIONS FOR FILLING IN FORM F CONCERNING THE APPLICATION OF THE INTEREST AND ROYALTY REGIME, DIRECTIVE 2003/49/EC

Form F is organised in 2 copies:

- one for the Italian withholding agent or, in the case of refund requests, for the Centro Operativo di Pescara (competent Italian Office for refunds requested by non-residents);
- one for the beneficiary of the income.

WHAT IS IT FOR: Form F can be used to obtain

1. **exemption** from Italian tax on interest or royalties paid by Italian residents or permanent establishment located in Italy to a resident company or permanent establishment located in another EU Member State, according to the Directive 2003/49/EC of the Council of the European Union of 3 June 2003 implemented in Italy by the Legislative Decree of 30 May 2005, no. 143;
2. the **refund** of the Italian tax withheld if the exemption regime has not been directly applied.

The Council Directive does not apply to some kind of interest shown in Article 26 quater, par. 3, lett. c) of D.P.R. 29 September 1973 no. 600 (Article inserted by above mentioned Legislative Decree)

1. EXEMPTION

Conditions for exemption: for the enforcement of above mentioned Article 26-quarter, Par. 3, lett. c) of D.P.R. 29 September 1973 no. 600, it is essential the existence of companies group relations of the same group, i.e. when direct and uninterrupted holding of at least 25% of voting rights exists between companies for a period of at least one year.

Three cases exist that give entitlement to exemption:

- the paying company/entity holds 25% or more of voting rights in the receiving company/body;
- the receiving company/entity holds 25% or more of voting rights in the paying company/body;
- a third company/entity resident in a EU Member State holds 25% or more of voting rights in both the paying company/entity and the receiving company/entity.

It is also required that:

- the receiving company is the beneficial owner of the interest and royalty payments;
- the parties concerned have a legal status as specified in Attachment A of D.P.R. 29 September 1973 no. 600;
- the parties concerned are liable, without being exempt, to one of the taxes indicated in the Article 3, (a), (iii) of Directive, included in Attachment B of the above mentioned D.P.R. no. 600, or to a tax which is identical or substantially similar and which is imposed after the date of entry into force of the Directive in addition to, or in place of, those existing taxes;
- the interest and royalty payments are actually taxed in the State of the beneficial owner.

In case the debtor or the beneficial owner of interest and royalty payments is a permanent establishment, the conditions relating to the legal form, to the existence of companies group relations and to the liability to tax are referred to the company/entity to which the permanent establishment belongs. Moreover, when the permanent establishment is the beneficial owner, interest and royalty payments have to represent income in respect of which the permanent establishment is liable to one of the taxes included in the Attachment B or, in case the permanent establishment is situated in Belgium, to the “Impôt des non-résidents/belasting der niet-verblijfhouders” and, in case it is situated in Spain, to the “Impuesto sobre la Renta de no Residentes”.

The form is valid for one year from the date of the tax-residence statement issued by the Tax Authority, provided that during this period all the conditions for entitlement remain met.

In case the beneficiary receives both interest and royalty payments from the same debtor, it may submit only one form for exemption purposes.

Foreign tax authority statement and documentation for the exemption: the form shall be completed with the statement of fiscal authority issued by the Tax Authority of the beneficial owner’s Country of residence or, in case the beneficial owner is a permanent establishment issued by the Tax Authority of the State in which the permanent establishment is located. All documentation shall be kept at disposal of the Tax administration until the period in which the income is paid falls within the statute of limitation for the tax assessment purposes or until the relative assessments have been concluded.

1. REFUND

The Form F can be used also to claim for the refund of the tax applied within the 48 months deadline starting from the payment date of the withholding tax pursuant to Article 38, Paragraphs 1 and 2 of D.P.R. (Presidential Decree) no. 602, dated 29 September 1973.

Who receives the refund claim: the form must be filled in and sent to Agenzia delle Entrate, Centro Operativo di Pescara – via Rio Sparto, 21 65129 Pescara – Italia (fax 085/52145 - email: cop.pescara.rimborsinonresidenti@agenziaentrate.it).

Deadline to claim a refund: within 48 months from the date in which the tax was withheld at source or paid pursuant to Article 38, Paragraphs 1 and 2 of the Presidential Decree no. 602, dated 29 September 1973.

Documentation: documentation showing the entitlement to refund is required (e.g., contract relating to interest/royalties, documents relating to the fulfilment of the holding requirement, the actual payment of interest/royalties, the application of withholding tax at source).

Treatment of private data according to Article 13 of the Legislative Decree no. 196/2003

1. Aim and modalities of private data treatment

The present form contains private data (i.e., personal data and information about bank account) that Agenzia delle Entrate obtains for processing the refunds.

The requested data shall be provided by the taxpayer in order to process the refund.

The data shall be used exclusively by authorised persons, through computerized methods and with measures aimed at privacy safeguard and avoidance of illegal use by non-authorized persons.

2. Persons in charge of data processing

According to the Legislative Decree no. 196/2003, Agenzia delle Entrate is the entity in charge of processing the private data when these become available to it and under its direct control.

Agenzia delle Entrate avails itself of So.ge.i. Spa (Società Generale d'informatica). So.ge.i. is an external partner of Agenzia delle Entrate, which it is in charge of the data processing under its quality of technological partner managing the Tax Register.

3. Rights of taxpayer

According to Article 7 of Legislative Decree no. 196/2003, the taxpayer may have access to his own private data for controlling their use, up-dating them or rectifying them, as the case may be. The taxpayer may delete the data or contest their treatment, if this is carried on in violation of the provisions established by the above Legislative Decree .

These rights may be exercised upon request addressed to:

Agenzia delle Entrate – Via Cristoforo Colombo, 426 c/d – 00145 Roma