



Explanatory leaflet

GENERAL POINTS

Under Article 1672 (3) of the French General Tax Code (CGI), the withholding tax referred to in Article 119 *bis* (2) of the same code and relating to certain income distributed by French companies (hereinafter “withholding tax”) can be paid by the legal entity established outside France receiving this income, if it meets all the following conditions:

- It is established in a Member State of the European Community or in another State party to the Agreement on the European Economic Area (EEA) that has signed a tax treaty with France containing a clause relating to administrative assistance for combating tax avoidance and tax evasion;
- It has signed with the French tax authority an agreement on the model issued by the latter, which regulates the procedures for declaring and paying withholding tax and provides for the forwarding to this authority of all vouchers relating to these tax returns and payments;
- It has been authorised by the entity established in France and legally liable for payment of the withholding tax to declare and pay the withholding tax for it and on its behalf.

All these provisions are explained in a civil-service directive.

RETURN FORMS

Return Form No. 2779 is available on the www.impots.gouv.fr website.

It must be completed on paper.

WHEN AND WHERE TO SEND YOUR RETURN AND PAY YOUR WITHHOLDING TAX

The return, accompanied by payment of the amount of withholding tax due (bank transfer payment only), must be submitted in the first fifteen days of the month following that during which the income was paid to the declarant, to the following address:

Recette Principale des Non-Résidents – 10, rue du Centre – TSA 50014 – 93465 NOISY-LE-GRAND CEDEX – France.

RULES FOR ROUNDING OFF

The return must be completed in euros.

NB: Do not enter euro cents. Figures must be rounded off to the nearest euro: fractions of a euro under 0.50 are rounded down while those above or equal to 0.50 are rounded up.

“DECLARANT” BOX (page 1 of return)

The declarant responsible for completing this return is the legal entity which:

- has signed with the French tax authority an agreement on the model issued by the latter, which regulates the procedures for declaring and paying withholding tax and provides for the forwarding to this authority of all vouchers relating to these tax returns and payments;
- has been authorised by the entity established in France and legally liable for payment of the withholding tax to declare and pay the withholding tax for it and on its behalf.

The declarant must be established in a Member State of the European Community or in another State party to the European Economic Area (EEA), except for Liechtenstein.

In this box, give:

- the declarant's company name and full address, which must be that appearing in the agreement signed with the French tax authority;
- the identification number allocated to it by the French tax authority when the agreement was signed and which appears in Annex 1 of this agreement.

“PAYMENT” BOX (page 1 of return)

Payment of withholding tax and transfer charges must be made in euros by credit transfer to the Banque de France.

When completing the transfer order, the declarant must provide the bank with the following details:

Transfer order headings	How to complete
INSTRUCTING PARTY	1. Declarant's company name: 24 characters maximum (address not required)
PAYEE	2. Abbreviated name of tax collection office: RINR
PAYEE'S ACCOUNT DETAILS	3. IBAN of Non-Residents Tax Centre: FR 76 / 30001 / 00064 / 00000095620 / 09 / PARIS BANQUE CENTRALE SWIFT/Bank Identifier Code (BIC) : BDFEPRPPXXX
PURPOSE OF TRANSACTION	4. Return form number : 2779 (4 characters mandatory) 5. Period covered by return : Four figures, MMY Y (M: month; Y: year) Example: 0208 for February 2008 (return submitted by 15 March 2008 for distributed income paid in February 2008) 6. Declarant's identification number : 18 figures mandatory Number allocated by French tax authority when agreement was signed (see Annex 1 of agreement)

Only if these instructions are observed can payment be debited from the declarant's account by the tax collection officer and application of penalties for late payment be avoided.

“APPLICATION FOR REFUND” BOX (page 1 of return)

An application for refund of overpaid withholding tax can be made if your Return Form No. 2779 shows an overall credit.

A credit balance for Return Form No. 2779 may arise out of:

- the amount of deductible credits declared in Box 2 being greater than the amount shown in Box 1, line HI; or
- the deductible credits declared in Box 2 alone;

In either case, the total for line OP is negative.

The withholding tax credit thus recorded may:

- either be deducted from the amount of withholding tax due on the next Return Form No. 2779 submitted by the declarant, in which case the amount will be entered on line JK of Box 2 of the return to be deducted,
- or be refunded to the declarant, upon an application made on the Return Form No. 2779 covering the period for which the credit has been recorded. The amount of the withholding tax credit covered by the refund application shall not therefore be deducted from the withholding tax due on the next Return Form No. 2779.

This refund application constitutes a claim which must be submitted by the declarant or the declarant's representative.

To be admissible:

- the application must be signed by the declarant;
- the following documents must be attached:
 - The originals of Forms 5000 and 5001 (Box 2, line KY);
 - Vouchers for the other adjustments (Box 2, line NP);
 - Full details of the declarant's bank account to which the transfer for the withholding tax credit refund is to be made.

Save as otherwise provided in international tax treaties specifying their own time-limits, the time-limit for a refund application expires on 31 December of the second year after conclusion of the event justifying it (Book of Tax Procedures, Article R196-1). The operative date here is the date on which the French tax authority receives the claim.

BOX 1 - WITHHOLDING TAX ON INCOME DISTRIBUTED TO NON-RESIDENTS (page 2 of return)

In this box the declarant must, for each individual withholding tax rate, state the amount of income distributed to non-resident beneficiaries subject to withholding tax, together with the amount of this tax.

The revenue concerned is that for which the declarant is able to pay the withholding tax under Article 1672 (3) of the French General Tax Code, i.e. when the declarant has signed an agreement with the French tax authority.

The distributed income on which withholding tax is levied is defined in paragraph 1.3.2 of the agreement. It includes share income, membership shares and similar revenue (dividends, including interim dividends, exceptional distribution of reserves, etc.).

The **tax base** consists of the gross amount paid out by the distributing company.

Note: When foreign tax credits (see Box 2, Section C) can be deducted from the withholding tax due on the dividends concerned, the amount of these tax credits must be added to the gross amount of distributed income for the purpose of payment of the withholding tax.

Under French domestic law the statutory **rate** of withholding tax applicable to the aforesaid distributed income paid to non-residents is:

- 18% for income distributed paid as of 1 January 2008 and arising out of a lawful decision by the competent bodies which is paid to shareholders who are natural persons resident, for tax purposes, outside France in a State party to the Agreement on the European Economic Area (except for Liechtenstein) ; to apply this domestic rate, the beneficial owner must have provided his account holder conventional form justifying its tax residence in one of the above States, at the date of the payment of income distribution :
- 25% for all other income.

However, the form includes additional lines to take account of the various reduced rates applicable under international tax treaties. It is up to the declarant to show the tax-treaty rates applicable separately on the lines available. The total is entered on line HI.

NB: Reduced rates under tax treaties are available only under the simplified procedure, namely when the beneficial owner of the distributed income has, prior to the date of payment of the distributed income, provided his depositary with a residence certificate certified by the authorities of his home State.

Note: If there is not enough room in Box 1, the declarant should attach a statement on the same pattern.

BOX 2 - DEDUCTIBLE CREDITS (page 2 of return)

Section A: Credit from previous Return Form No. 2779

If the return submitted for the previous period shows an overall overpayment of withholding tax, the declarant may deduct this overpayment from the withholding tax due on the current return. The declarant should enter on line JK the amount of the deductible overpayment.

Note: This line must not be completed if an application has been made for refund of this overpaid withholding tax.

Section B: Credits from Forms 5000 and 5001 (tax residence)

This section should be completed if the declarant is applying reduced tax-treaty rates retrospectively under the standard procedure and pursuant to international tax treaties,.

Column 1: Enter the Return Form No. 2779 month for which the withholding tax was originally paid (page 1 of that return form).

Column 2: Show the amount of overpaid withholding tax deductible, which will be the difference between:

- on the one hand, the amount of withholding tax originally paid (Box 1 of original Return Form No. 2779), after deducting the amount of foreign tax credits where appropriate, (Box 2, line NP, of original Return Form No. 2779) ;

- and, on the other, the amount of withholding tax calculated using a reduced tax-treaty rate, after deducting the amount of foreign tax credits where appropriate (Box 2, line NP, of original Return Form No. 2779).

The originals of Forms 5000 and 5001 must be attached.

If there is not enough room in Section B, the declarant should attach a statement on the same pattern.

Section C: Other credits (line NP)

This section is used for deductible credits not covered by Sections A and B.

On this line the declarant should show the total amount of foreign tax credits deductible from the amount of withholding tax due. These include foreign tax credits attaching to the revenue of foreign subsidiaries if this revenue is redistributed during one of the five financial years following that in which the said revenue was received by the parent company.

The foreign tax credits which must be entered on this line are those deductible from the withholding tax originally due, either at the statutory domestic rate or at the reduced tax-treaty rate (under the simplified procedure), depending on the circumstances.

Supporting vouchers for these credits must be attached to Return Form No. 2779.

Bottom line: Total credits deductible

The declarant should enter the total credits deductible from the amount of withholding tax due (total of lines JK, KY and NP).

BOX 3 - AMOUNT PAYABLE (page 2 of return)

On line OP of Box 3 the declarant should enter the net amount of withholding tax due (if the result is positive or nil) or the amount of overpaid withholding tax (if the result is negative).

If line OP shows a credit (negative result), the declarant may :

- either claim a refund of the amount, in which case the declarant must complete the application for refund on page 1 of Return Form No. 2779 ;
- or deduct the amount of the overpaid withholding tax on the next return on Form No. 2779 (see Box 2, line JK).

EXAMPLES

Example 1

On 28 May 2008 the declarant receives €100,000 of dividends from a French company. The beneficial owners of these dividends are all non-residents. This distribution is in part a redistribution of revenue from foreign subsidiaries, to which foreign tax credits of €10,000 attach.

On the date of payment of the aforesaid dividends, the declarant possesses information regarding the tax residence of the beneficial owners and uses the simplified procedure to settle the withholding tax (the tax rate is 15% for all the beneficial owners).

→ On Return Form No. 2779 for May 2008, submitted by 15 June at the latest, the declarant enters:

- In Box 1, on the line "Dividends and other distributed income (statutory rate in France)":

- In Column 1 ("Tax base"): €110,000 (€100,000 + €10,000);
- In Column 2 ("Rate"): 15%;
- In Column 3 ("Tax"): €16,500 (€110,000 x 15%).

- In Box 2, line NP ("Any other adjustments"): €18,000, corresponding to the amount of foreign tax credits deductible,.

- In Box 3, line OP ("Amount payable"): €6,500 (€16,500 - €10,000).

The declarant must produce the vouchers for the foreign tax credits to support this return on Form No. 2779.

Example 2

On 20 April 2008 the declarant receives €20,000 of dividends from a French company. The beneficial owners of these dividends are all non-residents.

On the date of payment of the aforesaid dividends, the declarant possesses no information regarding the tax residence of the beneficial owners.

→ On Return Form No. 2779 for April 2008, submitted by 15 May 2008 at the latest, the declarant enters:

- In Box 1, on the line "Dividends and other distributed income (statutory rate in France)":

- In Column 1 ("Tax base"): €20,000;
- In Column 2 ("Rate"): 25%;
- In Column 3 ("Tax"): €5,000 (€20,000 x 25%).

- In Box 3, line OP ("Amount payable"): €5,000 (€20,000 x 25%);

→ On Return Form No. 2779 for July 2008, submitted by 15 August 2008, the declarant, having obtained residence certificates from the beneficial owners, wishes to make an adjustment for application of the reduced treaty rate of 15% (under the standard procedure). To this end, the declarant must enter in Box 2, Section B:

- In Column 1 ("Month covered by Return Form"): 04/08 (month and year of Return Form No. 2779 on which the withholding tax was paid at the legal domestic rate) ;

- In Column 2 ("Amount of withholding tax deductible") €2,000, i.e. €5,000 - (€20,000 x 15%).

The declarant must produce the originals of Forms 5000 and 5001 to support the return on Form No. 2779 for July 2008.

Example 3

On 5 June 2008 the declarant receives €30,000 of dividends from a French company. The beneficial owners of these dividends are all non-residents. This distribution is in part a redistribution of revenue from foreign subsidiaries, to which foreign tax credits of €2,000 attach.

On the date of payment of the aforesaid dividends, the declarant possesses no information regarding the tax residence of the beneficial owners.

→ On Return Form No. 2779 for June 2008, submitted by 15 July 2008 at the latest, the declarant enters:

- In Box 1, on the line "Dividends and other distributed income (statutory rate in France)":

- In Column 1 ("Tax base"): €32,000 (€30,000 + €2,000);
- In Column 2 ("Rate"): 25%;
- In Column 3 ("Tax"): €8,000 (€32,000 x 25%).

- In Box 2, line NP ("Any other adjustments"): €2,000, corresponding to the amount of foreign tax credits deductible.

- In Box 3, line OP ("Amount payable"): €6,000 (€8,000 - €2,000).

The declarant must produce the vouchers for the foreign tax credits deductible to support the return on Form No. 2779 for June 2008.

→ On Return Form No. 2779 for september 2008, submitted by 15 october 2008, the declarant, having obtained residence certificates from the beneficial owners, wishes to make an adjustment for application of the reduced treaty rate of 15% (under the standard procedure). To this end, the declarant must enter in Box 2, Section B:

- In Column 1 ("Month covered by Return Form"): 06/08 (month and year of Return Form No. 2779 on which the withholding tax was paid at the legal domestic rate) ;

- In Column 2 ("Amount of withholding tax deductible") €3,200, i.e. €6,000 - [(€32,000 x 15%) - €2,000].

The declarant must produce the originals of Forms 5000 and 5001 to support the return on Form No. 2779 for September 2008.