

Ministero dell'Economia e delle Finanze ITA ENG



## Note in Inglese

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#### INTRODUCTION

1. This application form must be used to request the exemption from the substitute tax (as provided for by article 7, paragraph 2, letter a), of the legislative decree no. 239/1996) in respect of interest, premiums and similar proceeds on bonds and similar securities, both public and private. The application form can be downloaded from [www.agenziaentrate.it](http://www.agenziaentrate.it) and [www.tesoro.it/publicdebt](http://www.tesoro.it/publicdebt).
2. The application form must be used by persons, including foreign institutional investors not subject to income tax or to other similar taxes, which are resident in countries allowing an adequate exchange of information and which are not included among the States, territories or subjects listed in the ministerial decrees issued in accordance with article 76, paragraph 7-bis, of the Income Tax Code (decree of the President of the Republic no. 917 of 22 December 1986, "T.U.I.R.").
3. The present list of the countries allowing an adequate exchange of information is that contained in the ministerial decree of 4 September 1996 and subsequent amendments and supplements (to be found by visiting: [www.agenziaentrate.it](http://www.agenziaentrate.it) and [www.tesoro.it/publicdebt](http://www.tesoro.it/publicdebt)). In order to identify countries, territories or subjects with a privileged tax regime, until the decrees are issued in accordance with article 76, paragraph 7-bis, of the T.U.I.R., reference must be made to those listed in the ministerial decree dated 24 April 1992 (ref.: [www.agenziaentrate.it](http://www.agenziaentrate.it) and [www.tesoro.it/publicdebt](http://www.tesoro.it/publicdebt)). In case the above mentioned decree refers to particular categories of subjects, the aforesaid tax exemption does not apply to those categories.
4. For the purposes of the above mentioned exemption, the term "institutional investors" refers to those entities which, regardless of their legal or tax status in their country of residence, have as their principal activity that of managing investments on their own account or on behalf of third parties, such as insurance companies, investment companies, investment funds, SICAV (Open-end investment companies) and pension funds.
5. The application form can be submitted in order to certify the existence of prerequisites for the following tax reliefs:

5.1 the exemption from tax on income listed in article 81, paragraph 1, letters c-bis to c-quinquies, of the T.U.I.R., as regulated by article 5, paragraph 5, of the legislative decree dated 21 November 1997, no. 461;

5.2 the 15% tax refund on income distributed to qualifying non-resident shareholders of Italian collective investment undertakings (organismi di investimento collettivo del risparmio italiani), as per art. 9, paragraph 1 to 3, of the legislative decree dated 21 November 1997, no. 461;

5.3 the exemption from the “investment fund substitute tax” to the benefit of Italian collective investment undertakings reserved for non-residents, as per art. 9, paragraph 4, of the legislative decree dated 21 November 1997, no. 461.

6. The application form must be submitted in order to certify the prerequisites for the exemption from withholding tax on interest, premiums and other proceeds (redditi di capitale) as provided for by art. 26-bis of Presidential Decree dated 29 September 1973, no. 600;

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## USE OF THE APPLICATION FORM

7. Completion and submission of the application form is necessary in order to obtain exemption from tax on the following income and gains:

7.1 Interest, premiums and similar proceeds deriving from:

7.1.1 bonds and similar securities issued by banks;

7.1.2 bonds and similar securities issued by joint-stock companies whose shares are negotiated in an Italian regulated market, as well as other securities treated as such, for example securities issued in accordance with article 5 of the Law dated 30 April 1999, no. 130;

7.1.3 bonds and other securities detailed in article 31 of Presidential Decree of 29 September 1973, no. 601, which are issued in Italy, as well as other securities treated as such which are issued in Italy. For example: Government bonds, securities issued by State autonomous organisations or agencies, local authorities, public service monopolies, international organisations established in accordance with international agreements ratified in Italy (such as, EBRD, EIB, ECSC, IBRD, EURATOM);

7.1.4 bonds and similar securities issued by former public entities which have been transformed into joint-stock companies in accordance with a specific provision of the law;

7.1.5 securities issued in Italy by local authorities (such as BOC);

7.2 Interest on deposits and current accounts other than deposits and current accounts with banks and post offices.

7.3 Perpetual annuities as provided for by articles 1861 and 1869 of the civil code.

7.4 Compensation for sureties and similar forms of guarantee.

7.5 Income from repurchase agreements or buy and sell back agreements (pronti contro termine e riporti) on securities and currencies (with the exclusion of manufactured dividends paid during the life of the agreement, if any).

7.6 Income from securities lending transactions (with the exclusion of manufactured dividends paid during the life of the agreement, if any).

8 The application form can be used by non-resident subjects mentioned at paragraph 2 for the tax exemption on the following income and gains:

8.1 capital gains from the disposal of shares of companies resident in Italy (article 81, paragraph 1, letter c-bis T.U.I.R.);

8.2 capital gains from the disposal of securities other than shareholdings (article 81, paragraph 1, letter c-ter T.U.I.R.);

8.3 income deriving from the right or obligation to sell forward or buy forward financial instruments, currencies, precious metals or goods, or to receive or make one or more

forward payments in relation to interest rates, prices or the value of financial instruments, foreign currencies, precious metals or goods or any other financial parameter (article 81, paragraph 1, letter c-quater T.U.I.R.);

8.4 capital gains and other proceeds, other than those previously indicated in 8.3, from the sale or redemption of debt-claims, financial instruments and other similar contracts including those producing either a positive or a negative differential in relation to an uncertain event (article 81, paragraph 1, letter c-quinquies T.U.I.R.).

9 Section II of the application form must be completed only in respect to income referred to sub paragraph 7.1.

10 The application form can be submitted by non resident (as indicated in previous paragraph 2) investors in Italian collective investment vehicles also to certify the right to obtain the refund of 15% of income obtained on such investment, as provided for by art. 9, paragraphs from 1 to 3 of the legislative decree dated 21 November 1997, no. 461.

11 The application form can also be used to apply for the exemption from the substitute tax on the net asset value increase of Italian collective investment vehicles, as provided for by article 9, paragraph 4, of the legislative decree dated 21 November 1997, no. 461 to the benefit of Italian collective investment vehicles whose shares or parts have been exclusively underwritten by qualifying non-resident persons as per article 6, paragraph 1, of the legislative decree dated 1 April 1996, no. 239. Each participant in the above-mentioned collective investment vehicles must submit a separate application form, or another similar application or certificate.

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## **COMPLETION OF THE APPLICATION FORM**

12 In order to be valid, the application form must include all fields (1) to (25). However, fields (4) to (6) must be filled in only if the beneficial owner is an individual.

13 Section I must be completed in all its parts. However:

13.1 the identification code of the beneficial owner (field 7), or of the legal representative or representative agent (field 18) must be indicated only if it has been assigned by the competent foreign tax or other administrative authority, in compliance with the applicable foreign laws and regulations;

13.2 fields from (14) to (24) must be filled in only if the application form is undersigned by the legal representative or representative agent;

13.3 by ticking the appropriate box in the section "Declaration of the beneficial owner or the legal representative or the representative agent" the person signing the application form must state that the person indicated in field 2 of the form is:

13.3.1 the beneficial owner of the proceeds eligible for exemption

or

13.3.2 a foreign institutional investor not subject to tax;

13.4 the person signing the application form must state that the beneficial owner is resident or is incorporated in the Country indicated in field (12) of the application form and that he is neither resident nor incorporated in Italy pursuant to articles 2 and 87 of T.U.I.R..

13.5 by ticking the appropriate box, the person signing the application form must declare:

13.5.1 not to be resident or incorporated in one of the countries or territories listed in the decrees issued in accordance with article 76, paragraph 7-bis, of the T.U.I.R. approved by D.P.R. of 22 December 1986, no. 917.

or

13.5.2 not to be a person identified by the decrees issued in accordance with article 76, paragraph 7-bis, of the T.U.I.R. approved by D.P.R. of 22 December 1986, no. 917 for

the purposes of the application of the above mentioned paragraph 7-bis.

14 The application form can take a free format, however, it must include all the fields and information specified in the previous paragraphs 12 and 13, in addition to the date and the applicant's signature. Empty fields may be omitted.

15 If the application form is used to apply for the exemption from the substitute tax on interest, premiums and other similar proceeds on bonds and similar securities, both public and private – in accordance with legislative decree dated 1 April 1996, no. 239 - it must also contain the statements included in section II (statements issued by the first level bank).

16 The application form must be submitted – duly dated and signed – to the following institutions:

16.1 to the first level bank (at least two counterparts), when used to claim the exemption from the substitute tax on interest, premiums and other similar proceeds on bonds and similar securities, both public and private, in accordance with the ministerial decree dated 4 December 1996, no. 632;

16.2 to the persons that are obliged to submit communications in accordance with article 10 of the legislative decree dated 21 November 1997, no.461, for the exemption from the substitute tax on capital gains and other types of financial income in accordance with article 5, paragraph 5, of the legislative decree dated 21 November 1997, no. 461;

16.3 to withholding agents, when used to claim the exemption from withholding tax in accordance with art. 26-bis of D.P.R. of 29 September 1973, no. 600;

16.4 to investment fund management company, to SICAV or to the person in charge of placing shares and securities (in accordance with article 8, paragraph 4, of the legislative decree dated 21 November 1997, no.461), when used to claim the refund of an amount equal to 15% of the income received by qualifying non-resident investors in Italian collective investment undertakings, in accordance with article 9, paragraphs from 1 to 3, of the legislative decree dated 21 November 1997, no. 461;

16.5 to the fund management company or to the SICAV, in order to certify the participants' prerequisites for the exemption from the substitute tax on the net assets value for the Italian collective investment undertakings whose shares or parts have been exclusively underwritten by qualifying non resident persons, in accordance with art. 9, paragraph 4, of the legislative decree dated 21 November 1997, no. 461.

17 With regards to the signature of the application form, an institutional investor (as specified by paragraph 4 of these notes), which is subject to income tax or to other similar taxes in its country of residence, is considered to be the beneficial owner exclusively with respect to income and gains derived from financial instruments in its proprietary books and not from those of its clients. These institutional investors are subject to the rules generally applicable to non-resident investors.

18 Foreign institutional investors that are not subject to income tax or to other similar taxes in their country of residence or establishment– as specified in the next paragraph 19 – are considered to be the beneficial owners of income and gains received, and the statements indicated in section I should be made by the relevant management body or the relevant legal representative or representative agent.

19 For the purposes of the rules referred to under paragraphs from 1 to 6 above, foreign institutional investors are not considered to be subject to income tax or to other similar taxes when excluded or exempt from income tax or other similar taxes in the State in which they are established (as is the case, for instance, of pension funds and investment funds).

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## **SPECIAL RULES FOR THE EXEMPTION FROM THE SUBSTITUTE TAX ON INTEREST, PREMIUMS AND OTHER**

## **INTEREST ON BONDS AND SIMILAR SECURITIES, BOTH PUBLIC AND PRIVATE**

20 The first level bank (see under paragraph 21 below) shall check that the application form has been filled in all its parts and complete the form with the required declaration. The “first level bank” files a copy of the form together with the necessary documentation. A second copy must be sent to the second level bank (see under paragraph 22 below) within 15 days from the date of receipt by the first level bank, together with the affidavit, as provided for by the ministerial decree dated 4 December 1996, no. 632. All necessary information concerning the exemption from withholding tax must also be submitted to the second level bank.

21 The first level bank must be a credit or a financial institution (other than a bank or similar financial institution having direct relations with the Ministry of Economy and Finance), acting as intermediary for the depositing of securities held by the second level bank.

22 The second level bank must be an Italian bank or a resident brokerage company (SIM), or a permanent establishment in Italy of a bank or of a non resident brokerage company (SIM), holding direct telematic relations with the Ministry of Economy and Finance – Income Agency – where securities are directly or indirectly deposited. Non resident entities and companies, participating in a centralised management system of securities, and holding direct relations with the Ministry of Economy and Finance – Income Agency, are considered to be equivalent to banks and other abovementioned companies. The second level bank is not liable for the content of the application form or for the enclosed documentation.

23 If the securities are deposited directly with the second level bank, the application form must be submitted to this bank, which - after the necessary checks- files the bank’s copy. In this case, section II must not be filled in.

24 In accordance with article 8, paragraph 3-bis and 3-ter, of the legislative decree dated 1 April 1996, no. 239, the procedure indicated in the these explanatory notes is not applicable to income received by the following institutions:

24.1 EIB, BERS, BIRS, BIS, ECSC, EURATOM, European Council, North Atlantic Treaty Organisation, as well as other international bodies and organisations established in accordance with international agreements ratified in Italy;

24.2 Central Banks, even if investing State reserves, that are eligible for the exemption from the substitute tax as provided for by article 6 of the legislative decree dated 1 April, no. 239.

25 The procedure is not applicable to interest and other proceeds on securities deposited, directly or indirectly, by Central Banks, which are members of the European System of Central Banks (ESCB), or by the European Central Bank with subjects, specified by the ECB in the list of the securities settlement systems, eligible for ESCB transactions (article 8, paragraph 3-bis, of the legislative decree dated 1 April 1996, no.239).

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## **VALIDITY**

26 The application form is valid until withdrawn or revoked, and must not be submitted in the case that a certificate, declaration or other similar document meant for equivalent or other uses was previously submitted to the same financial intermediary. For entities, which have already submitted an application form 116/IMP which was valid on 31 December 2001 and in compliance with the previous rules, this application form already filed and all included attachments shall remain valid until withdrawn or revoked and no further application form or certificate is required.

27 Any change to information included in section I notified with the application form, or with previously forwarded certificates or other similar documentation, requires the submission of a new application form. However, changes of address or the identification code of the legal representative or of the representative agent, do not require submission of a new application form, but must be notified to the subject to whom the form was previously forwarded.

28 Separate application forms must be completed and submitted in the case of securities deposited with different financial institutions. This procedure will be valid until an adequate system of communication has been established which permits banks to avoid requesting submission of the form already submitted to another intermediary.

29 All application forms must be attached with a copy of a document evidencing who is the legal representative or the representative agent of the beneficiary of interests or other proceeds (such as a general or special attorney). With regard to institutional investors which are not subject to tax and which are not incorporated entities (such as may be the case of certain investment funds and pension funds) and whose investments are managed by a management company, the form should be submitted attaching a copy of a deed providing the following information:

29.1 identification of the management company (company name, address, etc.);

29.2 details of the legal representative of the afore-said company;

30 For institutional investors which are not subject to tax but with a representative body, either incorporated – for example, SICAVs – or not incorporated – such as pension funds - the form should be submitted attaching only a copy of the deed providing the identification data of either the legal representative or the representative agent.

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