

HMRC DT Treaty Passport Scheme Terms and Conditions

1. Introduction and general purpose of scheme

The scheme is known as The DT Treaty Passport Scheme (or DTTP). Its purpose is to provide a swifter and more efficient method of providing for double taxation treaty relief on UK loan interest payments made by a UK corporate borrower to those overseas corporate lenders who have gone through a process of being recognised by HMRC as residents of countries with which the UK has double taxation arrangements able to claim relief under those arrangements. Proof of their recognition will be the granting to an overseas lender of the status of being a 'treaty passport holder', subject to the terms and conditions that follow.

2. Who administers it?

The DT Treaty Passport Scheme is administered by **HM Revenue & Customs, LBS DT Treaty Team, Barkley House, Castle Meadow Road, Nottingham, NG2 1BA.**

3. Who is eligible?

Any overseas corporate entity – or concern treated by its country of residence as a corporation for tax purposes – may apply for recognition as a DT treaty passport holder. Eligibility is restricted to independent foreign corporate entities and business forms treated in their country of residence as such, possessing full corporate personality characteristics that allow HMRC to consider them wholly responsible and accountable for their actions.

4. Applying for a treaty passport

An applicant for passport holder status will be required to apply in such a manner, and in conformity with such procedures, as HMRC establishes and publishes from time to time: section 18 below explains in more detail the approach which will be adopted towards the timing and patterning of the first applications under the scheme.

5. Discretion of HMRC to accept a passport application

The consideration and acceptance of an applicant's request for passport holder status shall be entirely at the discretion of HM Revenue and Customs.

6. How to apply, and turn-round time

An application for passport holder status shall be made on a form DTTP1, available for download from the HMRC website. Go to www.hmrc.gov.uk and enter **DTTP1** in the *Search* facility. HMRC undertakes to deal with any application within 30 working days of it being made.

7. Formal acceptance procedure and online Register of Passport Holders

A register of recognised passport holders is kept by HMRC, and is made available to the general public as an aid to verifying a passport holder's status. Each passport holder will have a unique identifying reference number to be used in all its DTTP dealings.

8. DTTP Register data confidentiality waivers

In participating in the DT Treaty Passport scheme, passport holders agree that HMRC may publish their names and DTTP identification details in the manner specified in the previous paragraph.

9. Entering into a passported loan

Once in possession of a treaty passport, a passport holder then has the potential to enter into a loan relationship that can be dealt with under the DTTP scheme. The passport holder should in that case provide the borrower with its DTTP reference number (verifiable by reference to the online Register of Passport Holders), and specify to it the rate of relief applicable under the relevant double taxation arrangements then in force, so that the UK borrower (or foreign corporate borrower with UK-source interest payments) can enter these details into the DTTP2 notification to HMRC.

10. UK borrower obliged to make a passport loan notification to HMRC

A passport holder should make any borrower aware that within **30 working days** of entering into a 'passport loan' with a passport holder, a UK borrower should notify HMRC on a form **DTTP2** containing details of its main features and terms. It will be important that the information given in the form is both accurate and complete, not the least because the information it contains will be used by HMRC as the basis for the subsequent Direction under SI 1970/488 that will exempt the payments: any flaws, errors or misrepresentations in the borrower's notification may call into question – if not vitiate – the legal effect of this Direction. On receipt of the notification, HMRC will as soon thereafter as is practicable issue the UK borrower with the Direction.

11. Consequences of a failure by a UK borrower to make notification

If such a notification is not made to HMRC by the borrower within the specified time, then the DT Treaty Passport scheme will not apply to the loan. The withholding tax obligations of Section 874 Income Tax Act 2007 will be regarded as applicable in full to all payments made by the UK borrower from the commencement of the loan, and until such time as a full certified claim for relief is made by the passport holder in respect of the loan which results in the issue of a Direction in the normal way.

12. Repayments

The DTTP shall apply only to claims for relief at source: any claim for a repayment of tax shall be by a full certified claim only.

13. Use of DTTP only where all conditions for relief are present

A passport holder will enter into a loan making use of the DTTP **only** where (to its certain knowledge and belief) all conditions for relief under the relevant double taxation arrangements are present.

This will include (but not be restricted to) factors such as:

- where being subject to tax in the passport holder's country of residence is required
- where relief is restricted only to the amount of income remitted to that country of residence (where it is not intended to remit the entirety, then the DTTP will not be available or used)

- where the passport holder cannot reasonably demonstrate that it is the beneficial owner of the interest (in the international fiscal meaning of that term), and where this is a requirement for relief.

14. Discretion of HMRC as regards a particular loan

HMRC reserves the right not to apply the DT Treaty Passport scheme facility to a particular loan, in which eventuality it will notify both lender and borrower as early as possible.

15. Discretion of HMRC as regards a particular borrower

HMRC reserves the right not to apply the DT Treaty Passport scheme facility in respect of any loan arrangements entered into by a particular borrower, in which eventuality it will notify that borrower of its decision.

16. Material changes affecting a passport holder

A passport holder will be obliged to notify HMRC if there are any material changes to its form or circumstances – such as a change in its business form or country of residence. Failure to do this in a timely manner may result in the revocation of passport holder status.

17. Consequences for breach of Terms and Conditions

A passport holder found to be in breach of the DTTP Terms and Conditions may, depending on the gravity of any breach:

- receive a formal warning
- have their passport holder status suspended for a fixed period (3 months, 6 months, and so on)
- have their passport holder status removed.

18. Grant and renewal of passport holder status

HMRC will seek to make the initial granting of treaty passport status as far as possible an orderly and staggered procedure, to avoid a flood of applications vying with each other for processing and approval. HMRC would also like to avoid similar strains on the DTTP system at renewal time, and seeks by such an approach to ensure a more evenly spread pattern of occurrences at both inception and renewal stages.

More details will be published nearer the time on HMRC's website www.hmrc.gov.uk.

When granted, a DT treaty passport will be good for 5 calendar years. It may be renewed on application to HMRC by letter, preferably not less than 4 months before that date.

19. HMRC's right periodically to review how a passport holder is using its passport holder status

In applying for – and accepting – the status of a passport holder, that passport holder undertakes to co-operate with HMRC should it choose to review how it is using its status, and agrees promptly to provide HMRC with any and all information needed in connection with such a review.

20. Reporting passported loans made by a passport holder

That co-operation shall extend to providing HMRC, when asked, with copies of loan documentation, responses to specific requests for information about any loans entered into using a treaty passport. The passport holder specifically agrees to provide – on request by HMRC – a schedule of 'passported' loans contracted by it within a specified period; that schedule identifying the UK borrowers, dates of loans and amounts lent.

Further information about HMRC's DT Treaty Passport scheme may be found online by going to www.hmrc.gov.uk and entering **DT Treaty Passport** in the *Search* facility.

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