

**UK/Japan Double Taxation Convention (SI 2006 No. 1924): Article 11(3)
Claim to EXEMPTION from United Kingdom income tax on INTEREST paid
on or after 1 January 2007**

Only use this form if the claimant is one of the entities that is identified in Article 11(3) of the Double Taxation Convention. If the claimant is not one of the specified persons (and is not an individual) use form Japan-2-DT.

Please

- use the **Japan-3-DT Notes** to help you fill in this form
- give all the details asked for in the form
- sign the **declaration** in **Part F** and say what is your status in the claimant entity
- send the form to the National Tax Agency office in the district in Japan in which the head or main office of the entity is situated. See note 3 in the Japan-3-DT Notes.

If you need help or more information, contact **HM Revenue & Customs, LBS DT Treaty Team, Barkley House, Castle Meadow Road, Nottingham, England NG2 1BA.**

Our telephone number is: + 44 115 974 0897 if calling from outside the UK, or 0115 974 0897 if calling from the UK.

Part A Details of the entity and tax adviser (if any)

<p>Full name of the entity receiving the income</p> <hr/> <p>Full address (do not use 'care of' address)</p> <hr/> <hr/> <p>Telephone number _____</p> <p>Fax number _____</p> <p>Reference (if any) or contact name</p>	<p>If the entity has a tax adviser, please give details. See note 5 in the Japan-3-DT Notes.</p> <p>Adviser's name</p> <hr/> <p>Adviser's address</p> <hr/> <hr/> <p>Telephone number _____</p> <p>Fax number _____</p> <p>Reference (if any) or contact name</p>
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Please give

- the entity's tax reference in Japan
- the address of the National Tax Agency office in Japan where the entity's latest tax return was sent, *and*
- the date on which it was sent.

For use by the National Tax Agency office in Japan

Please complete the statement below then sign and affix your official stamp. You may wish to take a copy of this form for your records.

I certify that _____
is a resident of Japan within the meaning of Article 4 of the 2006 UK/Japan Double Taxation Convention.

Official Stamp

Signature _____ Date _____

Part B Questions about the entity in Japan receiving the income and claiming exemption from UK tax

Please:

- Answer the questions in Part B2 if the entity is a bank, insurance company, securities dealer 'other enterprise' or the claim is for interest arising on a sale on credit of merchandise or equipment. See *Article 11(3) of the Double Taxation Convention*.
- Answer the questions in Part B3 (on the next page) if the entity is a pension fund or pension scheme established under the laws of Japan – including a mutual fund where membership is limited solely to tax exempt pension funds. See *Article 11(3)(d) and Article 4(1)(b) of the Double Taxation Convention*.

Please answer the following questions about the claimant company in Japan receiving the income.

Part B2	<i>✓ where appropriate</i>	
<p>B2.1 Is the company</p> <p style="padding-left: 20px;">a) managed in Japan? (a) Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p style="padding-left: 20px;">b) incorporated in Japan? (b) Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>(See Article 4(1) of the Double Taxation Convention)</p>		
<p>B2.2 Is the company liable to tax in Japan in respect only of income from sources in Japan? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'No', go to question B2.3.</p> <p>If 'Yes', the company will fall outside the definition of 'resident of a Contracting State' in Article 4(1) of the Double Taxation Convention. Please see the Japan-2-DT Notes about Part B of the form and say on a separate sheet why you believe that the claimant is entitled to relief from UK tax, notwithstanding that it is not to be considered as a resident of Japan.</p>		
<p>B2.3 Does the company carry on business from a permanent establishment situated in the United Kingdom? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'Yes', Is the debt-claim, or right or property, in respect of which the income included in this form is paid, effectively connected with the permanent establishment? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If you answer 'Yes', please say on a separate sheet why the company believes that it is entitled to relief from UK tax. (See Article 11(6) and Article 12(3) of the Double Taxation Convention.)</p>		
<p>B2.4 Is there any relationship between the company and the UK payer of the income, other than that of payee and payer? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'Yes', give full details on a separate sheet.</p>		
<p>B2.5 Is the claimant a bank? (<i>Article 11(3)(c)(i) of the Double Taxation Convention.</i>) Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'Yes', go to question B2.10</p> <p>If 'No', go to question B2.6</p>		
<p>B2.6 Is the claimant an insurance company? (<i>Article 11(3)(c)(ii)</i>) Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'Yes', go to question B2.10</p> <p>If 'No', go to question B2.7</p>		
<p>B2.7 Is the claimant a securities dealer? (<i>Article 11(3)(c)(iii)</i>) Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'Yes', go to question B2.10</p> <p>If 'No', go to question B2.8</p>		
<p>B2.8 Is the claimant "any other enterprise" within the definition at Article 11(3)(c)(iv)? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'No', go to question B2.9.</p> <p>If 'Yes', answer the following questions</p> <p>a) In the claimant's three taxable years preceding the taxable year in which the interest is paid, did the claimant derive more than 50% of its liabilities from either issuing bonds in the financial markets or from taking deposits at interest? If 'No' go to question B2.9. Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>b) If 'Yes' to (a) above, are more than 50% of the assets of the claimant debt claims against persons in which the claimant does not participate directly or indirectly in the management, control or capital? If 'Yes' go to question B2.10. Yes <input type="checkbox"/> No <input type="checkbox"/></p>		
<p>B2.9 Is the interest that is the subject of this claim paid as part of a sale on credit of equipment or merchandise? (<i>Article 11(3)(e)</i>) Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If 'Yes', go to question B2.10</p> <p>If 'No', explain the circumstances in which the claimant qualifies for full relief from UK tax on interest paid from the UK.</p>		

Part B2 (continued)

B2.10 Is the principal class of shares of the company listed or admitted to dealings on a recognised stock exchange in either the UK or Japan? <i>(See Article 22(2)(c) of the Double Taxation Convention)</i> If 'Yes', go to question B2.11 If 'No', go to question B2.12	Yes <input type="checkbox"/>	No <input type="checkbox"/>
B2.11 Are those shares regularly traded on a recognised stock exchange? <i>(See Article 22(2)(c) of the Double Taxation Convention)</i> If 'No', go to question B2.12	Yes <input type="checkbox"/>	No <input type="checkbox"/>
B2.12 Are shares representing at least 50% of the voting power of the company owned directly or indirectly by persons who are qualified persons as defined in Article 22(2)(a),(b), (c),(d) or (e)? <i>(See Article 22(2)(f) of the Double Taxation Convention)</i> If 'Yes', give on a separate sheet: a) the full names and registered or residential addresses of all the direct and intermediate shareholders. b) a statement that each of those shareholders has, for the twelve-month period preceding the first payment date that is identified at Part C and/or Part D of this claim form, satisfied the conditions that are described in Article 22(2)(f). <i>(See Article 22(4)(a) of the Double Taxation Convention)</i> If 'No', go to question B2.13.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
B2.13 Are shares representing at least 75% of the voting power of the company owned directly or indirectly by seven or fewer persons who are equivalent beneficiaries? <i>(See Article 22(3) of the Double Taxation Convention)</i> If 'Yes', give on a separate sheet: a) the full names and registered or residential addresses of all the direct and intermediate shareholders. b) a statement that each of those shareholders has, for the twelve-month period preceding the first payment date that is identified at Part C and/or Part D of this claim form, satisfied the conditions that are described in Article 22(3) c) Please also state under which part of Article 22(7)(e) the shareholder is an 'equivalent beneficiary'. If 'No', and the company considers itself to be a 'qualified person' under the terms of Article 22(5) of the Double Taxation Convention, say why on a separate sheet.	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Remember that you should answer the questions in **Part B3** below if the entity in Japan is a pension fund or pension scheme established under the laws of Japan – including a mutual fund where membership is limited solely to tax exempt pension funds.

Part B3*'✓' where appropriate*

B3.1 Is the claimant a pension fund or pension scheme that is established under the laws of Japan? <i>(See Article 3(1)(m) of the Double Taxation Convention)</i> If 'Yes', go to question B3.2 If 'No', go to question B3.3	Yes <input type="checkbox"/>	No <input type="checkbox"/>
B3.2 Is the claimant a plan, scheme, fund, trust, company or other arrangement operated principally to administer or provide pensions or other retirement benefits? <i>(See Article 3(1)(m)(ii))</i> If 'Yes', go to question B3.5 If 'No', go to question B3.3	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Part B3 (continued)

✓ where appropriate

B3.3 Is the claimant operated to earn income for the benefit of one or more plan, scheme, fund, trust, company or other arrangement operated principally to administer or provide pensions or other retirement benefits? Yes No

(See Article 3(1)(m)(ii))

If 'Yes', go to question B3.5

If 'No', go to question B3.4

B3.4 Is the claimant an investment fund or trust where all of the interest of the fund or trust is held exclusively by pension funds or pension schemes? Yes No

(See Part 3, Exchange of Notes, paragraph 1)

If 'Yes', go to question B3.5

If 'No', say on a separate sheet why the claimant is able to qualify for full relief from UK tax under the terms of Article 11(3)(d) then go to question B3.6

B3.5 Is the plan, scheme, fund, trust, company or other arrangement exempt from income taxation in Japan on the income that is the subject of this claim? Yes No

(See Article 3(1)(m)(iii))

If 'Yes', go to question B3.6

If 'No', say on a separate sheet why the claimant is able to qualify for full relief from UK tax under the terms of Article 11(3)(d) then go to question B3.6.

B3.6 At the end of the claimant's taxable year before the date of payment of the income that is the subject of this claim were more than 50% of the beneficiaries, members or participants of the pension scheme or plan, individuals who are residents of either the UK or Japan? (See Article 22(2)(e)) Yes No

If 'No', say on a separate sheet why the claimant is able to qualify for full relief from UK tax under the terms of Article 11(3)(d).

Part C Application for relief at source from UK income tax

- Complete Part **C1** or **C2** as appropriate, to apply on behalf of the entity in Japan for relief at source from UK income tax.
- If the entity has already received payments of the interest with **UK income tax taken off**, please also complete **Part D** to claim repayment of the tax.

C1 Interest from loans See the Japan-3-DT Notes for help with this part

- Complete the columns below.
- Attach a **copy of the loan agreement for each loan**. See below about syndicated loans.

Name and address of the UK payer of the interest	Date of the loan agreement	Amount of the loan	Payable date(s) of the interest

Syndicated loans - additional information

If the debt right is part of a syndicated loan, please '✓' here and give the following additional details:

- the amount of your participation

- the total loan facility

- the date of the original loan agreement.

If you are aware that a copy of the loan agreement has already been sent to HM Revenue Customs, there is no need to attach another copy.

C2 Interest from UK securities *Important - see the Japan-3-DT Notes before completing this part.*

Complete the columns below, giving the information requested.

Amount and full title of security	Name and address in which security is registered	Registrar's account number or reference	Payable date(s)

Part D Claim for repayment *(where appropriate)*

- If the entity has received interest with UK tax taken off, give details below to claim repayment of the tax.
- If no payments of the interest have yet been made, go direct to the Declaration in **Part F**.

Source of interest <i>For example 'Loan interest paid by [name of payer]'</i>	Date of payment of interest	Amount of interest before UK tax £	Amount of UK tax deducted £

Totals

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Part E Repayment instructions

Complete this part if you want us to make the repayment to a **bank** or **other nominee**. If you leave this part empty, the repayment will be made direct to the entity at the address you have shown in **Part A** of this form.

I,
(Enter your full name)

as
(Enter status - for example, secretary, treasurer, or authorised agent)

of
(Enter name of the claimant entity)

authorise the **bank** or **other nominee** below to receive the amount due on the entity's behalf.

Name of bank or other nominee

Address of bank or other nominee
Postal code

Account number UK bank sort code (if appropriate)

Nominee's reference number (if there is one) for the entity.

Signature _____ (Now also complete and sign the **Declaration** in **Part F** below)

Part F Declaration

IMPORTANT: Please read note 4 in the Japan-3-DT Notes before completing the declaration.

✓ as appropriate

1. The information I have given on this claim/application is, to the best of my knowledge and belief, correct and complete
2. I have considered the guidance on beneficial ownership published at **INTM332040** by HM Revenue & Customs and have concluded that

(a) the company or unincorporated concern is beneficially entitled to the income from the source(s) included in this form or otherwise meets the conditions for relief in the Double Taxation Convention between the UK and Japan

or

(b) the company or concern is not the beneficial owner of the income but is entitled to relief from UK tax under the Double Taxation Convention for the reason(s) I have given in the attached note.

On behalf of the entity

✓ as appropriate

3. I apply for relief at source from UK income tax and undertake to tell HM Revenue & Customs if there is any change to the information that I have given in this form. (See the Japan-3-DT Notes about Part C.)

4. I claim repayment of

£

*Signature _____

Date _____

Please print your name below and enter your status.

*Who may sign:

For a company or fund, a responsible officer of the company or fund may sign. An agent (tax adviser), 'custodian' or other duly authorised person acting with the authority of the company may also sign on the company's behalf.

For a partnership, the senior, general or managing partner (as appropriate) may sign in the name of the partnership. Please see **note 5** and attach to the form a list giving the names and residential addresses (or registered business addresses if companies) of all the partners, and each partner's percentage share in the partnership.

For official use by HM Revenue & Customs

Examined _____

Amount repaid £ _____ :

Authorised _____

HMRC date stamp



Japan-3-DT Notes

Use these Notes to help you complete form Japan-3-DT. If you need further information, please contact HM Revenue & Customs. Our address, telephone and fax numbers are in Note 6.

1. Purpose of the form Japan-3-DT

Form **Japan-3-DT** is for use by an entity that is within one of the categories of residents of Japan specified in **Article 11(3)** of the 2006 UK/Japan Double Taxation Convention (SI 2006 No.1924), to claim **exemption from UK income tax on interest payments**. If interest or royalty payments have been made with UK income tax deducted, form **Japan-3-DT** may be used to claim repayment of the UK tax deducted from income paid **on or after 1 January 2007**. For income paid before that date, use form **Japan/Company**.

Do not use form Japan-3-DT for

- a claim to relief from UK income tax on royalties, or
- a claim to relief from UK income tax on interest where the resident of Japan is **not** one of the specified persons in **Article 11(3)** of the 2006 UK/Japan Double Taxation Convention.

Instead, use form **Japan-2-DT**.

The forms mentioned in this note are available from www.hmrc.gov.uk or the address in note 6.

2. Tax vouchers

There is no need to send tax vouchers with the completed form Japan-3-DT, but you should keep them in case they are needed later to support it. You can send the vouchers if you think they will help us deal with the claim.

3. Certification of the form by the taxation authorities of Japan

It is a condition of relief from UK income tax under the terms of the Double Taxation Convention that the beneficial owner of the income is resident in Japan.

Please

- send the completed form to the **National Tax Agency** office in the district in Japan in which the head or main office of the entity is situated. That office will certify that the company is a resident of Japan within the meaning of the 2006 UK/Japan Double Taxation Convention and return the form to you.
- send the certified form to
HM Revenue & Customs
LBS DT Treaty Team
Barkley House
Castle Meadow Road
Nottingham
England
NG2 1BA

4. Beneficial ownership

Most of the UK's Double Taxation Conventions provide for relief to be available to the beneficial owner of the income. Where a claimant is required to pass on the income in respect of which the claim is made it may not be the beneficial owner of the income for the purposes of the Double Taxation Convention. Please see the HM Revenue & Customs guidance published in our International Manual (INTM). To read the guidance online go to www.hmrc.gov.uk and look for **INTM332040** in the search facility.

Where the company or concern does **not** satisfy the ‘international fiscal meaning’ of beneficial ownership but believes that because of the policy statements that are made in the guidance it is still able to obtain treaty benefits, you should

- tick box **2(b)** in the declaration in **part F** of the form
- include with the claim a note giving the information mentioned at INTM332070 – reproduced below for ease of reference.

“Where structures are within the ambit of the Indofood decision, that is to say the structure has the accessing of treaty benefits as one of its effects, it is possible that applications to HM Revenue & Customs for benefits under a Double Taxation Convention (DTC) will fall at the first hurdle unless the applicant can demonstrate beneficial ownership. The application might simply be regarded as invalid and never reach the stage where it can be considered in terms of the object and purpose of the particular DTC under which the application is made.

However, where the claimant Special Purpose Vehicle (SPV) does not satisfy the “international fiscal meaning” of beneficial ownership but believes that it is still able to obtain treaty benefits because of the policy confirmed in this guidance, it should make its claim and include a note to that effect. To ease consideration of the claim, the note should include full details as to

- A full structure diagram and explanation of the capital and interest flows;
- why the SPV is considered to be the beneficial owner within the “international fiscal meaning”; or
- demonstrate that the structure does not abuse the DTC under which the claim is made either relating the structure to the examples at **INTM332080** or otherwise.”

Where a claim/application for relief from UK tax is made by a partnership or other concern that is not a taxable person or is otherwise ‘transparent for tax purposes’ under the law of its country of residence, you should tick box **2(b)** in the declaration in **part F** of the form and provide additional information as outlined in the HM Revenue & Customs guidance at INTM335500.

If the condition for relief from UK tax in the Double Taxation Convention is not ‘beneficial ownership’ and instead it is that the income must be subject to tax in the hands of the claimant you should tick box **2(a)** in the declaration in **Part F** of the form. See the **Digest of Double Taxation Treaties** for information about the whether the treaty has a ‘subject to tax’ condition.

5. Claims on behalf of partnerships

The UK/Japan Double Taxation Convention does not give the right to claim relief to partnerships and LLCs where these are tax-transparent. Instead, in those cases where the income of the concern is taxable in the hands of its partners or members (rather than at the level of the concern itself) each of those should in strictness make a separate claim to treaty relief.

HM Revenue & Customs recognises that adopting this strict approach may impose an unreasonable administrative burden on claimants which is not needed in many cases to give effect to the intent and purpose of the treaty.

In such cases, and without prejudice to our right to require individual claims, we will normally be prepared to accept a single (composite) claim in the name of the partnership or LLC. This must include the following features, in addition to the normal information that is required by the form Japan-3-DT:

- In all cases the general or managing partner/member should sign the declaration in Part F of form Japan-3-DT.
- Where the partnership or LLC is established in Japan and all of the partners/members are resident for tax purposes in Japan, attach to the claim a list of the names and addresses of the partners/members. The list should show residential addresses for individuals and registered addresses where the partners/members are companies.
- Where any partner/member is resident for tax purposes in a country other than Japan, attach the list described above. The list must also include for each member/partner their respective percentage share of the income that is the subject of the claim.

Any partner/member resident for tax purposes outside Japan will also need to make a separate claim to relief from UK tax under the terms of any relevant DTC. The Digest of Double Taxation Treaties lists all of the UK’s comprehensive DTCs. To read the DT Digest online go to **www.hmrc.gov.uk** and look for *DT Digest* in the *Search* facility.

6. Help or further information

If, after using these Notes you need help or more information, please

- phone HM Revenue & Customs:
+44 115 974 0897 if calling from outside the UK, or 0115 974 0897 if calling from the UK
- or write to **HM Revenue & Customs, LBS DT Treaty Team, Barkley House, Castle Meadow Road, Nottingham, England NG2 1BA.**

Our fax number is +44 115 974 0666 from outside the UK, or 0115 974 0666 from inside the UK.

Please quote the HM Revenue & Customs reference number (for example '43/A/123456') whenever you contact us.

7. Completing the form Japan-3-DT

Please

- include in the form only the income on which the entity claims relief from UK tax under the provisions of the UK/Japan Double Taxation Convention
- give all the information requested and attach any supporting documents that are asked for
- attach a separate sheet if you need more room.

Part A: Details of the entity and tax adviser

Please give all the details asked for. If the entity has a tax adviser, please include the tax adviser's details.

All the information that you provide to us is confidential. We can therefore only discuss the tax affairs of the entity with

- an officer of the entity
and/or
- any agent (tax adviser) who is nominated by the entity.

Part B: Questions about the entity

Tick the boxes that apply and give any additional information asked for.

This note applies only if you answer 'Yes' to question B2.2

Relief from UK tax is available under the Double Taxation Convention only to residents of Japan. If you answer 'Yes' to question B2.2, you are saying that the claimant company or concern is liable to tax in Japan in respect **only** of income from sources in Japan, and this will mean that the company does not meet the definition of 'resident of a Contracting State' found at Article 4(1) of the Double Taxation Convention (most typically, where the claimant is a branch of an enterprise that is not resident in Japan).

If answering "Yes" please therefore detail on a separate sheet why you believe that the claimant is entitled to relief from UK tax, notwithstanding that it is not to be considered as a resident of Japan.

Part C: Application for relief at source from UK income tax

Relief at source from UK income tax on future payments of interest may be available in cases where HM Revenue & Customs is able to exercise its discretion to issue a notice (under Statutory Instrument 1970 Number 488, as amended). We deal with each application on its merits. Where we cannot agree to allow relief at source or cannot arrange it, you can claim **repayment** of part or all of the UK tax taken off, as appropriate.

If relief at source is granted, please tell HM Revenue & Customs at the address in Note 6, without delay, if there is any subsequent change to the information you have given on the form Japan-3-DT.

C1 Interest from loans

Where the interest is payable on a loan to a UK resident company or individual, **please attach a copy of the loan agreement** to the form Japan-3-DT.

C2 Interest from UK securities

Enter in Part C2 of the form UK interest with UK tax taken off. This may include interest from

- loan stocks that are **not quoted** on the Stock Exchange
- loan stocks issued by UK local authorities.

We may be able to arrange for relief from UK tax at source on interest on these stocks.

There is no need to show in Part C2 of the form any interest from

- loan stocks that are **quoted** on the Stock Exchange (a quoted Eurobond)
- UK government securities ('gilts')

as these are paid without UK tax taken off.

Part D: Claim for repayment of UK income tax

If the entity has received interest payments with UK tax taken off, you can claim repayment of the UK tax by showing in Part D details of the interest received and tax taken off.

Part E: Repayment instructions

You should only complete **Part E** if you want HM Revenue & Customs to make any repayment to a bank, tax adviser or other person on the entity's or concern's behalf.

If you want repayment to be made to the entity's tax adviser, please give the reference number (if any) that the tax adviser uses. You must also sign the declaration at **Part F** if you sign the authorisation in **Part E**.

Part F: Declaration

Who may sign:

For a company or fund, a responsible officer of the company or fund may sign. An agent (tax adviser), 'custodian' or other duly authorised person acting with the authority of the company may also sign on the company's behalf.

For a partnership, the senior, general or managing partner (as appropriate) may sign in the name of the partnership. Please see **note 5** and attach to the form a list giving the names and residential addresses (or registered business addresses if companies) of all the partners, and each partner's percentage share in the partnership.

These notes are for guidance only and reflect the UK tax position at the time of writing. They do not affect any rights of appeal.