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# FISCAL GUIDE FOR US MARKET

March 2018

# 1. CONTENTS

Monte Titoli offers fiscal service support on United States securities, in terms of relief at source and withholding tax rate adjustment, either on equity and bond proceeds.

This tax guide provides details on tax processing (relief at source and adjustments), with reference to US securities held via Monte Titoli through its local depositories.

Information about the new tax framework (FATCA) are also reported.

<b>Securities</b>	<b>Relief at source</b>	<b>Quick Refund</b>	<b>Standard refund</b>	<b>Withholding tax rate adjustment</b>
Bonds	Available	Not Available	Not Available	Available
Equities	Available	Not Available	Not Available	Available
Securities under 871(m) regulation	Not Available	Not Available	Not Available	Not Available

## Important notice:

Due to company policy, Monte Titoli cannot manage holdings held by non FATCA compliant / nonparticipating FFI clients.

Monte Titoli does not allow its clients to send instructions to apply tax rate for US undisclosed beneficial owners; only instructions for US documented holders, to be paid gross, are accepted.

This guide is for informational purposes only and it is not aimed to provide any legal advice on any tax issue; participants of the service should not take any action without seeking appropriate legal or professional advice.

For a complete and comprehensive description of US legal framework for taxation, as well as to retrieve forms and instructions, please refer to the Internal Revenue Service (IRS) website ([www.irs.gov](http://www.irs.gov)).

Securities	Procedure	Eligible Subjects	Required documents <sup>1</sup>	Deadline	Appendix	Note
Equities and Bonds	Relief at source	<ul style="list-style-type: none"> <li>resident in a country that has concluded a DTA with USA (Appendix A);</li> <li>resident in US</li> </ul>	QI with primary responsibility: <ul style="list-style-type: none"> <li>Form W-8IMY for each securities account</li> </ul>	<ul style="list-style-type: none"> <li>W-8IMY: at the opening of securities account in the system of centralized management;</li> <li>W-8xxx / W9: before the first payment of the proceeds</li> <li>All quoted forms must be submitted to Monte Titoli using the latest version released by the U.S.</li> </ul>		
			QI with NRA withholding responsibility and without the assumption of primary Form 1099 reporting and backup withholding responsibility: <ul style="list-style-type: none"> <li>Form W-8IMY for each securities account;</li> <li>Form W-9 for each US recipient</li> </ul>			
			QI with the assumption of primary backup withholding responsibility (US residents) and without the assumption of primary Form 1099 reporting and backup withholding responsibility: <ul style="list-style-type: none"> <li>Form W-8IMY for each securities account;</li> <li>Form W-8 BEN-E for each non US recipient</li> </ul>			

<sup>1</sup> Variable depending on the QI status and the level or responsibility assumed by the Monte Titoli participant

			NON QUALIFIED INTERMEDIARY (NQI): <ul style="list-style-type: none"> <li>• Form W-8IMY or W8 BEN-E for each securities account;</li> <li>• Form W-8BEN-E/ECI/EXP for each NRA recipient;</li> <li>• Form W-9 for each US recipient</li> </ul>	Internal Revenue Service ( <a href="http://www.irs.gov">www.irs.gov</a> )		
			<ul style="list-style-type: none"> <li>• US – MT550</li> </ul>		1	INSTRUCTIONS: Monte Titoli requires instructions before each cash proceeds by RNI 704 msg for dividends and by US – MT550 for bonds.
	Withholding tax rate adjustment	MT's participant that have not send instruction in the correct tax rate	<ul style="list-style-type: none"> <li>• US - MT551</li> </ul>	the last working day of the year in which occurred the payment of the proceeds, unless otherwise indicated by Monte Titoli	2	

## 2. ROLE OF MONTE TITOLI

Monte Titoli was granted the status of QI with primary NRA and primary back-up withholding and 1099 reporting responsibility (sometimes referred to as a 'primary QI'). with IRS since 2000 and it is registered as FATCA deemed compliant entity, under IGA 1 model, with the following GIIN:

**4FK4AX.00008.ME.380**

In its role of QI and depending on the QI status of its underlying clients, Monte Titoli provides to:

- identify the owners of the accounts where US securities are held;
- act as withholding agent for taxation (only if the underlying client did not assume such responsibility);
- declare payments to IRS;
- report payments to US and non-US investors (only if the underlying client did not assume such responsibility).

For all securities that are subject to US tax, Monte Titoli: receives gross income payments from foreign Central Depositories.

Details of the service provided based on the role of MT participants is reported in the following paragraphs.

### 3. QI status of MT participants

Participants in Monte Titoli system may assume a differentiated level of responsibility for US taxation, depending on the QI agreement they signed with IRS.

In this section details on different QI statuses and responsibilities are provided, in terms of:

- Primary responsibility: QI which is responsible to act as withholding agent and assumes primary responsibility either for US and non US final investors;
- NRA responsibility: QI which is responsible to act as withholding agent and assumes responsibility only for non US final investors;
- US residents responsibility: QI which is responsible to act as withholding agent and assumes responsibility only for US final investors;

- NQI: entity which did not sign any QI agreement with IRS and therefore needs to disclose details to identify its underlying clients if they want a reduced rate of tax under the relevant Double Taxation Agreement;
- US bank or branch of a US bank: such entities are obliged for direct reporting to IRS therefore they assume by default full responsibility.

The role assumed by Monte Titoli, in terms of duties and activities, is different depending on the QI status of its participants as below detailed.

### 3.1 QI with primary responsibility

A Monte Titoli participant which is QI with primary responsibility needs to provide pdf copy via email to the Monte Titoli Fiscal Office of the relevant IRS forms to identify its accounts and prove its QI status, with reference to accounts where US securities are held, as below detailed:

- W8 BEN-E for property account;
- W8 IMY for third party and each segregated accounts.

A single W8 IMY can be provided for more than one account, provided that all accounts have the same QI level.

The Withholding Statement should not be provided.

In such scenario Monte Titoli does not provide any tax service as all responsibility to withhold taxation and report is passed through the QI which is responsible either for NRAs and US residents.

## 3.2 QI with NRA responsibility

In such scenario the participant has assumed NRA withholding responsibility and 1042-S reporting responsibility with respect to all U.S. securities held in the account(s). US securities can be held in the same account (omnibus account) with Monte Titoli and no Allocation Information is required.

For each account where US securities are held the participant should provide:

- A form W-8IMY (and/or W8 BEN-E) confirming the customer is a QI with NRA withholding responsibility and 1042-S reporting responsibility.

The Withholding Statement; In case of dividend the withholding statement shall be provided by means of instruction (msg. 704 via RNI o MT-X). A single W8 IMY can be provided for more than one account, provided that all accounts have the same QI level.

As this QI is responsible only for non US residents, it is required to send to Monte Titoli all forms to register its US clients in the relevant account(s) to allow for identification; the QI should send for each US underlying client:

- PDF copy of the form W9 (the hard copy is held by the QI);
- Specification of the account held at MT where the US resident has to be registered.

According to this account setup, Monte Titoli will provide to pay its client on a gross basis for the amount held by NRAs (as the client is a QI responsible to report and withhold the tax for NRAs).

For the US underlying clients, the MT participant will send the instructions to be paid gross. In case of undisclosed US residents Monte Titoli will apply the maximum withholding tax rate (30%).

MT will provide reporting for US residents via form 1099 as the participant does not assume reporting responsibility for US residents; reporting is provided only for US residents who are not exempt by default (individuals).

### 3.3 QI with US residents responsibility

In such scenario the participant has assumed backup withholding responsibility and 1099 reporting responsibility with respect to all U.S. securities held in the account(s) on behalf of US residents beneficial owners. US securities can be held in the same account (omnibus account) with Monte Titoli and no Allocation Information is required.

For each account where US securities are held the participant should provide:

- A form W-8IMY (and/or W8 BEN-E) confirming the customer is a QI with backup withholding responsibility and 1099 reporting responsibility;
- The Withholding Statement: in case of dividend the withholding statement shall be provided by means of instruction (msg. 704 via RNI o MT-X).

A single W8 IMY can be provided for more than one account, provided that all accounts have the same QI level.

According to this account setup and based on the instructions sent by the participants, Monte Titoli will pay its client on a gross basis for the amount held by US residents (as the client is a QI responsible to report and withhold the tax for US residents) and applying the DTA rate for the amount held by non US residents.

MT will provide reporting via form 1042-S as the participant does not assume reporting responsibility for non US residents.



## 3.4 NQI

In such scenario the participant has not assumed any withholding or reporting responsibility with respect to all U.S. securities held in the account(s). US securities can be held in the same account (omnibus account) with Monte Titoli and no Allocation Information is required.

For each account where US securities are held the participant should provide:

- A form W-8IMY (and/or W8 BEN-E) confirming the customer is a NQI;
- A Withholding Statement confirming the customer's responsibilities.

A single W8 IMY can be provided for more than one account, provided that all accounts have the same QI level; in the same way a single Withholding Statement can be provided for more than one account if the declaration has the same content level.

As this QI is not responsible either for US and non US residents, it is required to send to Monte Titoli all forms to identify its underlying clients (US or non US) in the relevant account(s), if they want a reduced rate of tax under the relevant Double Taxation Agreement; the QI should send for each underlying client:

- Copy of the form W8 BEN-E or W9 (the hard copy is held by the QI);
- Specification of the account held at MT where the US or non US resident has to be registered.

According to this account setup, Monte Titoli will provide to pay its client based on the instructions (gross for documented US and DTA rate for non US, maximum withholding rate for undisclosed US and non US).

MT will provide either reporting for US residents via form 1099 and reporting for non US (1042-S) as the participant does not assume any reporting responsibility; for US residents reporting is provided only for those who are not exempt by default (individuals).

### 3.5 US Bank or legal branch of a US bank

A Monte Titoli participant which is a US (or legal branch of a US) bank is assumed to be a QI with full responsibility, according to the US law; the participant should send the hard copy of the W9 form as identification.

The Withholding Statement should not be provided.

In such a scenario Monte Titoli does not provide any tax service as all responsibility to withhold taxation and report is passed through the QI which is responsible either for NRAs and US residents.

## 4. Withholding tax on bonds

The maximum rate of U.S. withholding tax on interest is 30%. An exemption at source from withholding tax based on U.S. domestic law is available on proceeds paid to:

- Foreign governments and international organizations recognized as tax exempt;
- Foreign person whose income is effectively connected with a trade or business conducted in the U.S.A.;
- U.S. persons. Relief at source or exemption at source is available only if the appropriate documentation is submitted to Monte Titoli. As we reported on the matrix. Claims for refund of withholding tax and backup withholding tax from the IRS are not available through Monte Titoli;

- All the customers that are eligible for an exemption at source under the relevant Double Taxation Agreement and have provided a proper form W-8IMY (and/or W8 BEN-E) and the form MT550.

## 5. Withholding tax on dividends

The maximum rate of U.S. withholding tax on dividends is 30%.

An exemption at source from withholding tax is available to eligible recipient on certain dividend payments of equities, based on U.S. domestic law.

- Relief at source is available for certain dividend payments on equities, if the recipient qualifies for the benefit of a reduced rate of withholding tax in accordance with a Double Taxation Treaty (DTT) between its country of residence and U.S.A, and have provided a proper form W-8IMY (and/or W8 BEN-E), and have instructed MT via RNI 704.

## 6. Special rules for exemption

Exemption at source from withholding tax and backup withholding tax is available to the following beneficial owners that are recognized as tax exempt under U.S. law:

- Foreign governments;
- International organizations;
- Foreign central bank of issue (not wholly owned by the foreign sovereign);
- Foreign tax-exempt organizations, including foreign private foundations;
- Governments of U.S. possessions. Claims for refund of withholding tax and backup withholding tax from the IRS are not available through Monte Titoli to claim an exception of withholding tax, the eligible recipients must submit a Certificate of Foreign

- Government or other Foreign Organization for U.S. Tax Withholding (Form W-8EXP) applicable with respect to U.S. debt securities.

## 7. Section 871(m) of the Internal Revenue Code

### **Background**

Internal Revenue Code (IRC) Section 871(m) imposes taxation rules applicable to certain financial products providing for payments that are contingent upon or determined by reference to U.S. source dividend payment, defined as “Dividend Equivalent Payment” (DEP).

### **Impact on customers**

With respect to obligations arising from Section 871(m), please note that:

- Monte Titoli does not qualify as a responsible party pursuant to Section 1.871-15T (p) of the IRC. Therefore the Issuer remains responsible for fulfilling the obligations arising from its role as responsible party;
- With reference to financial instruments subject to US tax regulations indicated in section 871 (m) IRC, the issuer is required to declare at the time of the application for admission whether the instrument is relevant for the purposes of the said tax regulations and enclose the form attached to this communication (also available in the documents section of the MT-X platform) together with the MT265 form. Monte Titoli will not allow the admission of securities subject to Section 871 (m) IRC, with the exception of financial instruments for which Monte Titoli does not manage the payment of proceeds, such as for example covered warrants and certificates;
- In the event that Section 871 (m) of the Internal Revenue Code becomes applicable to a financial instrument after its admission to the Centralized Administration System, the issuer is required to notify Monte Titoli within 10 days from the date of assessment,

using the form available on MTX section documentation, and sending it in electronic format (PDF) to the address [871m@lseg.com](mailto:871m@lseg.com); payments of proceeds following such communication will be processed outside the Monte Titoli centralized administration system.

## 8. FATCA

This part of the guide is aimed to provide general information on the FATCA framework; for more details and explanation refer to the IRS web site ([www.irs.gov](http://www.irs.gov)).

### 8.1 Introduction

FATCA is the Foreign Account Tax Compliance Act and it is a set of rules applicable to non US

A dedicated chapter to the Internal Revenue Code (Chapter 4) has been added to include the fulfilments deriving from FATCA system.

The purpose of such rules is to prevent tax abuse by U.S. persons through the use of offshore accounts held with FFIs.

The new rules require foreign financial institutions (FFI's) to disclose to the Internal Revenue Service (IRS) information on U.S. investors and payments on US securities occurred outside USA.

To facilitate the implementation of FATCA rules, many countries (including Italy) signed an IGA (Inter Government Agreement) with US.

## 8.2 When will FATCA system start?

FATCA withholding is in force for fixed or determinable annual or periodical (FDAP) payments made since 1 January 2014.

FATCA withholding for FDAP and gross proceeds will begin 1 January 1, 2015.

Payments pass-through along the chain of intermediation will become subject to FATCA withholding no earlier than 1 January 2015.

## 8.3 Who is impacted by FATCA?

Any entity making a payment of U.S. source income should consider whether it is subject to FATCA.

FATCA may apply to both financial and non-financial entities.

According to such scenario, FATCA may virtually impacts on all non-U.S. entities, directly or indirectly.

## 8.4 FFI

An FFI is a non US Foreign Financial Institution, which:

- Accepts ordinary deposits as a bank or similar business;
- As a relevant part of its business holds financial assets on behalf of underlying clients, or
- Is engaged primarily in the business of investing, reinvesting, or trading in securities, partnership interests, commodities, or any interest in such securities, partnership interests, or commodities.

Generally non-U.S. entities such as banks, broker/dealers, insurance companies, hedge funds, SPVs, and private equity funds are considered FFIs and required to be FATCA compliant.

## 8.5.FFI Agreement

An FFI is required to enter into an agreement (referred to as “FFI Agreement”) to avoid the application of a FATCA withholding tax on payments it receives, by becoming a participating FFI.

Normally an FFI Agreement requires to identify of which accounts are classified as “United States accounts” (a defined term), with verification and due diligence procedures, annual reporting to the U.S. Treasury (see below), compliance with additional IRS reporting requests, and withholding 30% where applicable (e.g., recalcitrant account holders, nonparticipating FFIs, electing FFIs, etc.).

FFI’s that enter into an FFI agreement with the IRS will need to report the following information on their U.S. accounts:

- The name, address, and Taxpayer Identification Number (TIN) of each account holder which is a specified United States person and, in the case of any account holder which is a United States owned foreign entity, the name, address, and TIN of each substantial United;
- State of residence of such entity;
- The account number;
- The account balance or value at year end;
- Gross dividends, interest and other income paid or credited to the account (timing will be determined in the FFI agreement).

Alternatively, an FFI may make an election to provide full IRS Form 1099 reporting on each account holder that is a specified United States person or United States owned foreign entity as if the holder of the account were a natural person and citizen of the United States.

Reporting of gross receipts and withdrawals or payments from U.S. accounts will not be required for the first year of reporting (2013). However, an FFI will be required to report as a recalcitrant account holder any US Account holder identified by June 30, 2014 for which the FFI is not able to report the information required under Section 1471(c)(1) (for instance due to failure to obtain a waiver from the account holder).

If the country signed an IGA (Inter Government Agreement) with USA, the FFI should comply with the relevant guidelines issued in the country.

## 8.6.FATCA registration

Registration is done via the FATCA portal; after the registration the FFI obtains an ID, which is defined GIIN.