Foreign dividends received by Italian-resident individuals: foreign withholding tax, tax credit and refunds

By Pietro Cumpostu, Chartered Accountant (Dottore Commercialista) Updated 1 November 2026

IN SHORT

Foreign dividends received by an individual resident in Italy, outside a business activity, bear 26% Italian tax: either as a final withholding tax applied by the Italian bank on the dividend net of the foreign withholding, or as a substitute tax paid in the tax return. Under domestic law, and according to the Italian Revenue Agency, no credit is available for the foreign tax (Article 165 TUIR). The Supreme Court has, however, allowed the credit for US dividends, because the Italy–United States tax treaty denies it only where the Italian withholding applies "at the request" of the recipient; according to the Court, treaties that use the wording "also at the request" exclude it. The first step is, as a rule, to reduce the foreign withholding to the treaty rate; beyond that, a refund claim in Italy may be considered.

How foreign dividends are taxed (Article 18 TUIR and Article 27 of Presidential Decree 600/1973)

Profits distributed by non-resident companies to resident individuals, in respect of qualifying and non-qualifying shareholdings not held in the course of a business, are taxed

on a schedular basis and do not form part of total taxable income:

- **collection through an Italian intermediary** (bank, investment firm, fiduciary company): the intermediary involved in the collection applies a final withholding tax (Article 27(4) of Presidential Decree 600/1973) at 26% (Article 3(1) of Decree-Law 66/2014). The withholding is calculated **net of the tax withheld by the foreign State** (Article 27(4-bis)), i.e. on the so-called "netto frontiera";
- **direct collection abroad**, without a resident intermediary (for example, into an account with a foreign bank): the taxpayer pays the substitute tax in the return at the same rate as the withholding tax (Article 18(1) TUIR), in section RM. According to the instructions to the 2026 individual tax return (Redditi Persone fisiche 2026, line RM31, column 3), the income is reported **gross of the tax withheld abroad**. The basis therefore differs from the net amount used by the bank; the Supreme Court has not ruled on the point, which should be assessed prudently.

Article 18 generally allows the taxpayer to waive the substitute tax and opt for ordinary taxation with the foreign tax credit, but the same provision excludes this option for the profit distributions covered by Article 27(4). For dividends, the substitute taxation is therefore **mandatory**: this is the point on which the Supreme Court has ruled.

Different rules apply to profits from States or territories with a preferential tax regime (Article 47-bis TUIR) in respect of securities not traded on regulated markets: the withholding is applied as a payment on account on the full amount (Article 27(4)(b)), unless the conditions of Article 47-bis are shown to be met, and the dividend forms part of total taxable income. These cases are not covered by this guide.

The cost of double taxation: an example

Consider a gross dividend of 100 paid by a US company to an individual resident in Italy who has documented their residence, with the US withholding limited to 15% by the treaty (Article 10(2)(b)):

- **collection through an Italian bank**: US withholding 15; Italian withholding of 26% on 85 = 22.10; total tax 37.10;

- **direct collection abroad**: US withholding 15; substitute tax of 26% on 100, according to the line RM31 instructions = 26; total tax 41.

If the source State applies a withholding above the treaty rate, the difference adds to the total until the foreign State refunds it. The choice between collection through an Italian intermediary and direct collection abroad therefore affects the overall tax burden as well as the compliance obligations.

The foreign tax credit (Article 165 TUIR) and the Revenue Agency's position

The credit for foreign taxes is available "if income produced abroad forms part of total income" (Article 165(1) TUIR), for foreign taxes paid **on a final basis** and up to the share of Italian tax attributable to that income. No credit is due if the return is not filed or the foreign income is not reported in it (paragraph 8).

The Italian Revenue Agency draws a clear conclusion: the credit "is therefore not applicable to income subject to final withholding tax, substitute tax or substitute taxation" under Article 18 TUIR (Circular 9/E of 5 March 2015, para. 2.2). In principle statement (principio di diritto) No. 15 of 29 May 2019, concerning the Italy–United States treaty, the Agency also took the view that the treaty requirement that foreign income be "included" in the Italian tax base coincides with the requirement under Article 165 that it form part of total income.

Circular 9/E also sets out two rules that remain relevant in every case:

- where the credit is due, it is calculated **within the treaty withholding rate**: if the foreign State has withheld more, the difference cannot be credited in Italy and must be reclaimed from the foreign State (para. 2.4);
- taxpayers must keep evidence that the foreign tax has been paid on a final basis: a country-by-country schedule, receipts or certificates, any foreign tax return and any foreign refund claim (para. 2.4).

The Supreme Court: "at the request" and "also at the request" treaties (judgments 25698/2022 and 10204/2024)

Tax treaties prevail over domestic law, which applies in derogation from them only where it is more favourable to the taxpayer (Article 169 TUIR). The 1999 Italy–United States treaty (ratified by Law 20 of 3 March 2009) requires Italy to deduct the tax paid in the United States, but adds: "However, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax **at the request** of the recipient of the said income in accordance with Italian law" (Article 23(3); unofficial translation of the Italian text).

Two judgments of the Tax Division rest on this wording:

- **Supreme Court, 1 September 2022, No. 25698**: for US investment income received directly by an individual holding a non-qualifying interest in a partnership and subject to the Article 18 TUIR substitute tax (at the time under the 1984 treaty), the Court laid down the principle that, where the Italian substitute tax or withholding applies not "at the request of the recipient" but **mandatorily**, the tax paid in the United States "must be regarded as deductible". The judgment nevertheless set aside the appeal decision and referred the case back on the **evidence of final payment** of the foreign tax, which remains the taxpayer's burden;
- **Supreme Court, 16 April 2024, No. 10204**: on a refund claim concerning profits from US partnerships and dividends from non-qualifying shareholdings, reported with the substitute tax for three tax years and rejected by tacit refusal, the Court confirmed the principle under the 1999 treaty and dismissed the Agency's appeal. It held that Article 23 of the treaty neither refers to Article 165 TUIR nor requires the income to form part of total income, departing from principle statement No. 15/2019. It left open, as outside the scope of the appeal, the question of how the credit is to be **calculated**.

Both judgments contrast the US wording with that of other agreements, which deny relief where the income is subject to substitute tax or final withholding tax "**also at the request**" of the taxpayer (in the Protocol with Saudi Arabia, of the recipient): the Court cites the treaties with Cyprus, Malta and Singapore, the Protocol to the treaty with Saudi Arabia and the tax information exchange agreement with the Principality of Monaco, which is not a

double tax treaty. For Cyprus, Malta and Singapore the "also at the request" wording was introduced by the amending Protocols of 2009 (Cyprus and Malta) and 2011 (Singapore); the original texts used "at the request". In these cases the credit remains excluded even where the substitute taxation is mandatory.

Some caution follows:

- the outcome depends on the **wording of each treaty** and must be checked country by country: the judgments concern the United States, and the wording must be read in the version of each treaty currently in force;
- the Revenue Agency has not changed the position taken in Circular 9/E: in 2025 it reaffirmed, in a case concerning a company, that the inclusion of the foreign income in total income is a necessary condition for the credit (ruling No. 101 of 15 April 2025). The Supreme Court, by contrast, has allowed the credit in the cases it decided (judgments 25698/2022 and 10204/2024). In summary, the conflict between practice and case law remains open: obtaining the credit normally requires a refund claim and may require litigation;
- lower-court case law is not uniform. Several decisions allow the credit, including on appeal and under treaties other than the US one: for example, the Second-instance Tax Court of Tuscany, Section I, judgment No. 48 of 20 January 2026 (Germany), and the Second-instance Tax Court of Lombardy, Section IX, judgment No. 1013 of 11 May 2026 (Switzerland). Others deny it: the First-instance Tax Court of Siena, Section II, judgment No. 176 of 17 October 2025 (United States), and the First-instance Tax Court of Padua, Section I, judgment No. 594 of 17 December 2025 (Poland);
- neither the amount of the credit (calculation base and the cap set by Italian tax) nor the base of the substitute tax has been defined by the Court, and both should be determined prudently.

First step: the treaty rate and refunds from the foreign State

Many States apply a domestic withholding tax on outbound dividends above the treaty rate. Reduction to the treaty rate (for the United States, 15% for individuals: Article 10(2)(b) of the treaty) is obtained, under the rules of the source State:

- **at source**, by submitting before payment the documentation required by the foreign State, usually through the custodian bank; or
- **by refund**, through a claim to the foreign tax authority within the time limits set by that State.

In both cases a **certificate of tax residence** issued by the Italian Revenue Agency is normally required; it is requested from any local office using the dedicated form, stating the foreign State and the type of income (dividends). Any excess over the treaty withholding can be recovered only from the foreign State: it is never creditable in Italy (Circular 9/E, para. 2.4). Procedures and time limits vary from State to State and should be checked before the dividend is collected.

Second step: the refund claim in Italy (Article 38 of Presidential Decree 602/1973)

To claim the treaty credit in line with the Supreme Court's approach, the route followed in the cases decided is a **refund claim** to the Revenue Agency. The 2026 individual tax return has no line for this credit: section CE covers foreign income that forms part of total income (instructions, booklet 3, pp. 90-92), and line RM31 has no field for the foreign tax (booklet 2, p. 21). In the absence of a dedicated line, a refund claim appears to be the more prudent route. The claim must be filed within **48 months** (Article 38 of Presidential Decree 602/1973):

- from the date of **payment**, for substitute tax paid with the return;
- from the date on which the **tax was withheld**, for withholding applied by the Italian bank (claim by the recipient).

The time limit runs from the Italian payment or withholding (Article 38(1) and (2)), not from payment of the foreign tax.

The claim should be supported by evidence of final payment of the foreign tax at the treaty rate, the certificate of residence and the calculation of the credit claimed; judgment 25698/2022 shows that the evidence is decisive. If the claim is rejected or not answered, the remedy lies before the tax courts, as in the case decided by judgment 10204/2024. The

outcome cannot be predicted in general terms and must be assessed for each case and each treaty.

Foreign dividends received by companies

For an Italian-resident company, foreign dividends not originating from preferential-regime States are taxable, under the conditions of Article 89(3) TUIR, on only 5% of their amount, because 95% is excluded (Article 89(2)). The foreign income therefore forms part of total income only in part, and the creditable foreign tax must be reduced accordingly (Article 165(10) TUIR): according to Circular 9/E (para. 5), foreign taxes paid on dividends are taken into account, for the credit calculation, at 5% of their amount. The issue considered by the Supreme Court concerns instead individuals, for whom the substitute taxation is mandatory.

New residents under the substitute tax regime (Article 24-bis TUIR)

For individuals who have opted for the lump-sum substitute tax for new residents, described in the dedicated guide, foreign dividends are covered by the lump-sum tax and give no right to a credit for foreign withholding. The taxpayer may, however, exclude from the option income produced in one or more States: "only in that case, income produced in those foreign States or territories is subject to the ordinary regime and the credit for income produced abroad is due" (Article 24-bis(5) TUIR).

For dividends, however, the "ordinary regime" is precisely the 26% substitute taxation described above. Circular 17/E of 23 May 2017 (para. 4.1) states that the ordinary rules apply to excluded States, with the credit "where due", and that, where a treaty exists, the credit is granted only if provided for by the treaty and in accordance with Article 165 TUIR; in any event the credit cannot be set against the lump-sum tax. For dividends from excluded States the issue considered by the Supreme Court therefore arises again: excluding a State from the option is worthwhile only after comparing the Italian tax due with the credit actually obtainable.

From 1 January 2027: new article numbers

In the Consolidated Income Tax Act (Legislative Decree 117 of 19 June 2026), applicable from 1 January 2027, the provisions are carried over without substantive change:

- Article 18 becomes Article 20 (now referring to Article 55(6) of the Consolidated Act on payments and collection);
- Article 165 becomes Article 185;
- Article 169 becomes Article 187(1);
- Article 89 becomes Article 98;
- Article 24-bis becomes Article 246 (the exclusion of individual States remains in paragraph 5).

In the Consolidated Act on payments and collection (Legislative Decree 33 of 24 March 2025), applicable from 1 January 2027, Article 27(4) and (4-bis) of Presidential Decree 600/1973 become Article 55(6) and (7), which states the 26% rate expressly; Article 38 of Presidential Decree 602/1973 becomes Article 76, with the same 48-month time limit.

What to do in practice: managing foreign dividends

1. **Map the portfolio**: State of the issuing company, withholding applied, treaty rate and treaty wording ("at the request" or "also at the request").
2. **Reduce the foreign withholding**: certificate of tax residence and documentation for the treaty rate at source; otherwise a refund claim to the foreign State within its time limits.
3. **Choose how to collect**: through an Italian intermediary (26% on the net amount, with no need to report the dividends in the return) or directly (substitute tax in the return on the gross amount, according to the instructions).
4. **Document the foreign tax**: evidence of final payment, country by country and year by year.
5. **Consider a refund claim in Italy** for treaties with the "at the request" wording, within 48 months of payment or withholding.

6. **New residents**: decide whether to exclude a State from the option only after a numerical comparison.

Key risks in the taxation of foreign dividends

- **The Revenue Agency's position.** Administrative guidance still denies the credit on dividends taxed by substitute tax (Circular 9/E, para. 2.2; principle statement No. 15/2019; ruling No. 101/2025): a refund claim may be rejected and require litigation.
- **Applicable treaty.** The Supreme Court case law concerns the Italy–United States treaty, and lower-court decisions are not uniform; under treaties using the "also at the request" wording the credit remains excluded (judgments 25698/2022 and 10204/2024).
- **Evidence and final nature of the foreign tax.** Without evidence of final payment no credit is due; any excess over the treaty withholding is not creditable in Italy (Circular 9/E, para. 2.4).
- **Time limits.** The refund claim is time-barred 48 months after payment or withholding (Article 38 of Presidential Decree 602/1973); foreign refunds have their own time limits.
- **Calculation of the credit.** The base and cap of the credit, like the base of the substitute tax in the return, have not been defined by the Supreme Court (judgment 10204/2024).

Legal sources

- Article 18 TUIR – Normattiva
- Article 27 of Presidential Decree 600 of 29 September 1973 – Normattiva
- Article 3 of Decree-Law 66 of 24 April 2014 – Normattiva
- Article 165 TUIR – Normattiva
- Article 169 TUIR – Normattiva
- Article 89 TUIR – Normattiva
- Article 24-bis TUIR – Normattiva
- Article 38 of Presidential Decree 602 of 29 September 1973 – Normattiva

- Italy–United States tax treaty of 25 August 1999, Article 10 (Dividends) – Gazzetta Ufficiale
- Italy–United States tax treaty of 25 August 1999, Article 23 (Elimination of double taxation) – Gazzetta Ufficiale
- Circular 9/E of 5 March 2015 (paras 2.2, 2.4 and 5) – Italian Revenue Agency
- Principle statement No. 15 of 29 May 2019 – Italian Revenue Agency
- Ruling No. 101 of 15 April 2025 – Italian Revenue Agency
- Circular 17/E of 23 May 2017 (para. 4.1) – Italian Revenue Agency
- Instructions to the Redditi Persone fisiche 2026 return, booklet 2 (line RM31, p. 21) – Italian Revenue Agency
- Instructions to the Redditi Persone fisiche 2026 return, booklet 3 (section CE, pp. 90-92) – Italian Revenue Agency
- Protocol of 4 June 2009 amending the Italy–Cyprus treaty (Law 70 of 3 May 2010) – Ministry of Economy and Finance
- Protocol of 13 March 2009 amending the Italy–Malta treaty (Law 77 of 30 April 2010) – Ministry of Economy and Finance
- Protocol of 24 May 2011 amending the Italy–Singapore treaty (Law 157 of 31 August 2012) – Ministry of Economy and Finance
- Italy–Saudi Arabia treaty and Protocol of 13 January 2007 (Law 159 of 23 October 2009), Protocol point 11 – Ministry of Economy and Finance
- Italy–Monaco tax information exchange agreement of 2 March 2015 (Law 231 of 1 December 2016), Article 12 – Gazzetta Ufficiale
- Certificate of tax residence for tax treaty purposes – Italian Revenue Agency
- Supreme Court, Tax Division, judgment No. 25698 of 1 September 2022 – ItalgiureWeb
- Supreme Court, Tax Division, judgment No. 10204 of 16 April 2024 – ItalgiureWeb
- Second-instance Tax Court of Tuscany, Section I, judgment No. 48 of 20 January 2026 – Tax case-law database (Ministry of Economy and Finance)
- Second-instance Tax Court of Lombardy, Section IX, judgment No. 1013 of 11 May 2026 – Tax case-law database (Ministry of Economy and Finance)

- First-instance Tax Court of Siena, Section II, judgment No. 176 of 17 October 2025 – Tax case-law database (Ministry of Economy and Finance)
- First-instance Tax Court of Padua, Section I, judgment No. 594 of 17 December 2025 – Tax case-law database (Ministry of Economy and Finance)
- Legislative Decree 117 of 19 June 2026 – Normattiva
- Article 20 of Legislative Decree 117 of 19 June 2026 – Normattiva
- Article 185 of Legislative Decree 117 of 19 June 2026 – Normattiva
- Article 246 of Legislative Decree 117 of 19 June 2026 – Normattiva
- Article 55 of the Consolidated Act on payments and collection (Legislative Decree 33 of 24 March 2025) – Normattiva
- Article 76 of the Consolidated Act on payments and collection (Legislative Decree 33 of 24 March 2025) – Normattiva

Frequently asked questions

Does an Italian resident receiving foreign dividends pay tax twice?

In part, yes. The company's State applies its own withholding tax, usually reduced by the treaty (for example 15% on US dividends), and Italy applies 26%: the Italian bank calculates it on the dividend net of the foreign withholding; on direct collection, according to the return instructions, the substitute tax is calculated on the gross amount.

Is a tax credit available for foreign withholding tax on dividends?

Under domestic law and according to the Italian Revenue Agency, no, because dividends subject to final withholding tax or substitute tax do not form part of total income (Article 165 TUIR; Circular 9/E of 2015). The Supreme Court (judgments 25698/2022 and 10204/2024) has, however, allowed it for US dividends, because the Italy–United States treaty denies it only where the substitute taxation applies "at the request" of the recipient.

Under which treaties does the credit remain excluded?

Under those that deny relief where the income is taxed by substitute tax or final withholding tax "also at the request" of the taxpayer. The Supreme Court cites the treaties with Cyprus, Malta and Singapore, the Protocol with Saudi Arabia and the tax information exchange agreement with the Principality of Monaco. The text of each treaty should in any case be checked.

How is excess foreign withholding tax reclaimed?

From the tax authority of the foreign State, under its rules and within its time limits, normally with a certificate of tax residence issued by the Italian Revenue Agency. The part of the withholding exceeding the treaty rate is never creditable in Italy.

What is the deadline for a refund claim in Italy?

48 months from payment of the substitute tax or, for withholding applied by the Italian bank, from the date on which it was withheld (Article 38 of Presidential Decree 602/1973). Given the Revenue Agency's position, the claim may be rejected and litigation may be needed.

Are new residents under the flat tax entitled to a credit on foreign dividends?

Not for dividends covered by the lump-sum tax. Income from States excluded from the option is subject to the ordinary regime with the credit "where due" (Article 24-bis(5) TUIR; Circular 17/E of 2017): for dividends, the issue considered by the Supreme Court therefore arises again.

More answers on the topics of this guide are on the FAQ.

Related questions

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Contact

Outcomes and obligations depend on the facts of each case and on the applicable treaty: for an analysis of the specific case, see the contact page.

Contact form

Legislation cited with the article numbering in force until 31 December 2026. For information only; it does not replace advice on a specific case.