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Code of Federal Regulations

26

Parts 500 to 599
Revised as of April 1, 2000

Internal Revenue

Containing a Codification of documents of general applicability and future effect

As of April 1, 2000

With Ancillaries

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Cite this Code: CFR

To cite the regulations in this volume use title, part and section number. Thus, 26 CFR 502.1 *refers to title 26, part 502, section 1.*

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16.....as of January 1
Title 17 through Title 27.....as of April 1
Title 28 through Title 41.....as of July 1
Title 42 through Title 50.....as of October 1

The appropriate revision date is printed on the cover of each volume.

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The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

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The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires Federal agencies to display an OMB control number with their information collection request.

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There are no restrictions on the republication of material appearing in the Code of Federal Regulations.

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RAYMOND A. MOSLEY,
Director,
Office of the Federal Register.

April 1, 2000.

THIS TITLE

Title 26—INTERNAL REVENUE is composed of nineteen volumes. The contents of these volumes represent all current regulations issued by the Internal Revenue Service, Department of the Treasury, as of April 1, 2000. The first twelve volumes comprise part 1 (Subchapter A—Income Tax) and are arranged by sections as follows: §§ 1.0–1–1.60; §§ 1.61–1.169; §§ 1.170–1.300; §§ 1.301–1.400; §§ 1.401–1.440; §§ 1.441–1.500; §§ 1.501–1.640; §§ 1.641–1.850; §§ 1.851–1.907; §§ 1.908–1.1000; §§ 1.1001–1.1400 and § 1.1401 to end. The thirteenth volume containing parts 2–29, includes the remainder of subchapter A and all of Subchapter B—Estate and Gift Taxes. The last six volumes contain parts 30–39 (Subchapter C—Employment Taxes and Collection of Income Tax at Source); parts 40–49; parts 50–299 (Subchapter D—Miscellaneous Excise Taxes); parts 300–499 (Subchapter F—Procedure and Administration); parts 500–599 (Subchapter G—Regulations under Tax Conventions); and part 600 to end (Subchapter H—Internal Revenue Practice).

The OMB control numbers for Title 26 appear in § 602.101 of this chapter. For the convenience of the user, § 602.101 appears in the Finding Aids section of the volumes containing parts 1 to 599.

For this volume, Bonnie J. Fritts was Chief Editor. The Code of Federal Regulations publication program is under the direction of Frances D. McDonald, assisted by Alomha S. Morris.

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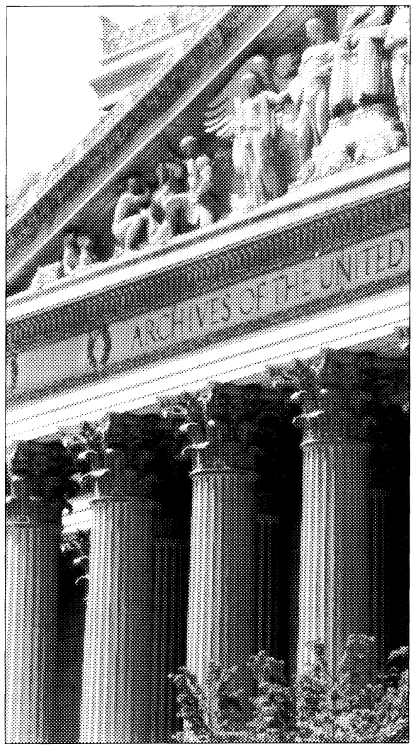

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Title 26—Internal Revenue

(This book contains Parts 500 to 599)

Part

CHAPTER I—Internal Revenue Service, Department of the Treasury (Continued) 502

CHAPTER 1—INTERNAL REVENUE SERVICE DEPARTMENT OF THE TREASURY (Continued)

EDITORIAL NOTE: IRS published a document at 45 FR 6088, Jan. 25, 1980, deleting statutory sections from their regulations. In Chapter I cross references to the deleted material have been changed to the corresponding sections of the IRS Code of 1954 or to the appropriate regulations sections. When either such change produced a redundancy, the cross reference has been deleted. For further explanation, see 45 FR 20795, Mar. 31, 1980.

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SUBCHAPTER G—REGULATIONS UNDER TAX CONVENTIONS

PARTS 500–501 [RESERVED]

PART 502—GREECE

Subpart—Withholding of Tax

Sec.

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502.10 Refund of excess tax withheld during 1953.

AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

SOURCE: Treasury Decision 6109, 19 FR 6694, Oct. 19, 1954, as amended at 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, part 502 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

Subpart—Withholding of Tax

§ 502.1 Introductory.

(a) The income tax convention and protocol between the United States and Greece, signed February 20, 1950, and April 20, 1953, respectively, and proclaimed by the President of the United States on January 15, 1954, referred to in this part as the convention, provides in part as follows effective January 1, 1953:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the case of the United States of America: the Federal income tax, including surtaxes (hereinafter referred to as United States tax).

(b) In the case of the Kingdom of Greece: the income tax, including the schedular or analytical tax, the complementary tax and the professional or business tax (hereinafter referred to as Greek tax).

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires—

(a) The term ''United States'' means the United States of America and when used in a geographical sense means the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term ''Greece'' means the territories of the Kingdom of Greece.

(c) The term ''United States Corporation'' means a corporation, association or other like entity created or organized in or under the laws of the United States.

(d) The term ''Greek Corporation'' means a legal entity established under the laws of Greece.

(e) The terms ''corporations of one Contracting State'' and ''corporation of the other Contracting State'' mean a United States corporation or a Greek corporation, as the context requires.

(f) The term ''United States enterprise'' means an industrial or commercial enterprise or undertaking carried on in the United States by a citizen or resident of the United States or by a United States corporation.

(g) The term ''Greek Enterprise'' means an industrial or commercial enterprise or undertaking carried on in Greece by a subject or resident of Greece or by a Greek corporation.

(h) The terms ''enterprise of one of the Contracting States'' and ''enterprise of the other Contracting State'' mean a United States enterprise or a Greek enterprise, as the context requires.

(i) The term ''permanent establishment'', when used with respect to an enterprise of one of the Contracting States, means a branch, factory or other fixed place of business, but does not include an agency unless that agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on behalf of such enterprise. An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business dealings in such other Contracting State through a bona fide commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that

an enterprise of one of the Contracting States maintains in the other Contracting State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. When a corporation of one Contracting State has a subsidiary corporation which is a corporation of the other Contracting State or which is engaged in trade or business in such other Contracting State, such subsidiary corporation shall not, merely because of that fact, be deemed to be a permanent establishment of its parent corporation.

(j) The term ''competent authority'' or ''competent authorities'' means, in the case of the United States, the Commissioner of Internal Revenue or his duly authorized representative; in the case of Greece, the General Director of Direct Taxes, or his duly authorized representative.

(2) In the application of the provisions of the present Convention by either of the Contracting States, any term which is not defined in the present Convention shall, unless the context otherwise requires, have the meaning which that term has under the laws of such Contracting State relating to the taxes which are the subject of the present Convention.

* * * * *

ARTICLE VI

(1) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) received from sources within the United States by a resident or corporation of Greece not engaged in trade or business in the United States through a permanent establishment therein, shall be exempt from United States tax; but such exemption shall not apply to such interest paid by a United States corporation to a Greek corporation controlling, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation.

(2) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) received from sources within Greece by a resident or corporation of the United States not engaged in trade or business in Greece through a permanent establishment therein, shall be exempt from Greek tax but only to the extent that such interest does not exceed 9 percent per annum; but such exemption shall not apply to such interest paid by a Greek corporation to a United States corporation controlling, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation.

ARTICLE VII

Royalties for the right to use copyrights, patents, designs, secret processes and formulae, trade marks and other analogous property, and royalties (including rentals), (other than those in respect of motion picture films) for the use of industrial, commercial or scientific equipment, derived from sources within one of the Contracting States by a resident or corporation of the other Contracting State not engaged in trade or business in the former State through a permanent establishment therein, shall be exempt from tax by the former State.

ARTICLE VIII

A resident or corporation of one of the Contracting States, deriving from sources within the other Contracting State royalties in respect to the operation of mines, quarries, or other natural resources, or rentals from real property, may elect for any taxable year to be subject to the tax of such other Contracting State on the basis of net income as determined under the laws of such other Contracting State during such taxable year.

ARTICLE IX

Dividends and interest paid by a Greek corporation shall be exempt from United States tax except where the recipient is a citizen, resident or corporation of the United States.

* * * * *

ARTICLE XI

* * * * *

(2) Private pensions and life annuities derived from within one of the Contracting States by an individual who is a resident of the other Contracting State shall be exempt from taxation by the former Contracting State.

(3) The term ''pensions'' as used in this Article means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term ''life annuities'' as used in this Article means a stated sum payable periodically at stated times during life, or during life, an obligation to make the payments in return for adequate and full consideration in money or money's worth.

* * * * *

ARTICLE XV

(1) The authorities of each of the Contracting States, in accordance with the practices of that State, may prescribe regulations necessary to carry out the provisions of the present Convention.

(2) With respect to the provisions of the present Convention relating to exchange of information and mutual assistance in the

collection of taxes, the Contracting States may, in accordance with their respective practices, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, minimum amounts subject to collection, and related matters.

ARTICLE XVI

(1) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance accorded by the laws of one of the Contracting States in the determination of the taxes imposed by such State.

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, the competent authorities of the Contracting States shall undertake to settle the question by mutual agreement.

(3) The citizens or subjects of one of the Contracting States shall not, while resident in the other Contracting State, be subjected therein to other or more burdensome taxes than are the citizens or subjects of such other Contracting State residing in its territory. The term ''citizens'' or ''subjects'', as used in this Article, includes all legal persons, partnerships and associations deriving their status from, or created or organized under, the laws in force in, the respective Contracting States. In this Article the word ''taxes'' means taxes of every kind or description whether national, federal, state, provincial or municipal.

* * * * *

ARTICLE XVIII

The competent authorities of the Contracting States shall exchange such information (being information which such authorities have at their disposal) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment, and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose a technical secret, or process relating to trade, industry, business, or a profession.

* * * * *

ARTICLE XX

(1) In no case shall the provisions of Article XVIII and XIX be construed so as to impose upon either of the Contracting States the obligation:

(a) To carry out administrative measures at variance with the regulations and practice of either Contracting State, or

(b) To supply information which is not procurable under its own legislation or that of the State making application.

(2) The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it. Nevertheless, such State may refuse to comply with the request for reasons of public policy or if compliance would involve disclosure of a technical secret or process relating to trade, industry, business, or a profession. In such case it shall inform, as soon as possible, the State making the application.

ARTICLE XXI

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Athens as soon as possible.

(2) The present Convention shall become effective on the first day of January of the year in which the exchange of the instruments of ratification takes place. It shall continue effective for a period of five years beginning with that date and indefinitely after that period, but may be terminated by either of the Contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given, the termination to become effective on the first day of January following the expiration of the six-month period.

* * * * *

(b) As used in this part, any term defined in the convention shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws.

§ 502.2 Dividends.

(a) Dividends paid on or after January 1, 1953, by a Greek corporation are exempt from United States tax under the provisions of Article IX of the convention if the recipient is not a citizen, resident, or corporation of the United States. Such dividends are, therefore, not subject to the withholding of United States tax at source.

(b) The convention does not change the rate of United States tax imposed pursuant to sections 871, 881, and 882 of the Internal Revenue Code of 1954 upon dividends paid by a corporation other

than a Greek corporation. The withholding of United States tax with respect to such dividends derived from sources within the United States by nonresident aliens who are residents of Greece, or by Greek corporations, is not changed by the convention.

§ 502.3 Interest.

(a) *General.* (1) Interest paid on or after January 1, 1953, by a Greek corporation is exempt from United States tax under the provisions of Article IX of the convention if the recipient is not a citizen, resident, or corporation of the United States. Interest paid to such recipients is, therefore, not subject to the withholding of United States tax at source.

(2) Interest (other than interest falling within the scope of paragraph (b) of this section) on bonds, securities, notes, debentures, or on any other form of indebtedness, including interest on obligations of the United States, obligations of instrumentalities of the United States, and mortgages and bonds secured by real property, which is paid by a person other than a Greek corporation and which is received from sources within the United States on or after January 1, 1953, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Greece, or by a Greek corporation, is exempt from United States tax under the provisions of Article VI (1) of the convention if such alien or corporation at no time during the taxable year in which such interest is received has engaged in trade or business within the United States through a permanent establishment situated therein. Such interest is, therefore, not subject to the withholding of United States tax at source. As to what constitutes a permanent establishment, see Article II (1)(i) of the convention.

(b) *Exemption not applicable to interest paid by subsidiary corporation to its parent corporation.* Under the exception contained in Article VI (1) of the convention any interest received from sources within the United States and paid by a domestic corporation to a Greek corporation is not exempt from United States tax if such Greek corporation controls, directly or indirectly, at the time the interest is paid more than 50 percent of the entire voting power of all classes of stock of such domestic corporation. The exemption from United States tax provided by Article VI (1) of the convention does not, therefore, apply to such interest paid by such domestic corporation.

(c) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of coupon bond interest to which paragraph (a)(2) of this section is applicable, the nonresident alien who is a resident of Greece, or the Greek corporation, shall for each issue of bonds file Form 1001–G in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor, the name and address of the owner of the interest, and the amount of the interest. It shall contain a statement (i) that the owner is a resident of Greece, or is a Greek corporation, (ii) that the owner is not engaged in trade or business within the United States through a permanent establishment situated therein, and, in the case of interest paid by a domestic corporation to a Greek corporation, (iii) that the owner does not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the United States domestic corporation.

(2) The exemption from United States tax contemplated by Article VI (1) of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of the interest. The person presenting the coupon or on whose behalf it is presented shall, for the purpose of the exemption from tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon or on whose behalf it is presented is not the owner of the bond, Form 1001, and not Form 1001–G, shall be executed.

(3) The original and duplicate of Form 1001–G shall be forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore

2, Maryland, with the quarterly return on Form 1012. Form 1001–G need not be listed on Form 1012.

(4) To avoid withholding of United States tax at source in the case of interest, other than coupon bond interest, to which paragraph (a)(2) of this section is applicable, the nonresident alien who is a resident of Greece, or the Greek corporation, shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VI (1) of the convention. The letter of notification shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor and the name and address of the owner of the interest. It shall contain a statement (i) that the owner is neither a citizen nor a resident of the United States but is a resident of Greece, or, in the case of a corporation, that the owner is a Greek corporation, (ii) that the owner has at no time during the current taxable year engaged in trade or business within the United States through a permanent establishment situated therein, and, in the case of interest paid by a domestic corporation to a Greek corporation, (iii) that the owner does not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the United States domestic corporation.

(5) This letter of notification, which shall constitute authorization for the payment of such interest without withholding of United States tax at source, shall be filed with the withholding agent for each successive three-calendar-year period during which such income is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which such income is first paid on or after January 1, 1954. Each such letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment.

(6) If such letter is also to be used as authorization for the release, pursuant to §502.7, of excess tax withheld from interest, other than coupon bond interest, it shall also contain a statement (i) that, at the time when the interest was received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Greece, or, in the case of a corporation, the owner was a Greek corporation, (ii) that the owner at no time during the taxable year in which such interest was received was engaged in trade or business within the United States through a permanent establishment situated therein, and, in the case of interest paid by a domestic corporation to a Greek corporation, (iii) that the owner did not control, directly or indirectly, at the time when such interest was paid, more than 50 percent of the entire voting power of all classes of stock of the United States domestic corporation.

(7) Once a letter has been filed in respect of any three-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by the convention in respect to such interest, such taxpayer shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(8) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

(d) *Interest paid by domestic corporation to Greek corporation where degree of stock ownership uncertain.* (1) In any case in which a Greek corporation anticipates the receipt of interest from a domestic corporation and the relationship existing between the Greek corporation and the domestic corporation is such as to render uncertain whether,

by reason of the exception contained in Article VI (1) of the convention, the exemption will apply to such interest, the Greek corporation shall not undertake to file any Form 1001–G or letter of notification prescribed by paragraph (c) of this section unless it has, prior to such filing, applied for and received from the Commissioner of Internal Revenue, Washington 25, D.C., a determination that such Greek corporation does not control, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation. The application to the Commissioner shall contain a full statement of all the facts pertinent to a determination of the question.

(2) As soon as practicable after the application has been filed, the Commissioner of Internal Revenue will determine whether the Greek corporation has such control of the domestic corporation as to render the exemption provided by Article VI (1) of the convention inapplicable to interest paid by such domestic corporation to such Greek corporation and shall notify the Greek corporation of his determination. The Greek corporation shall forthwith file with the domestic corporation a copy of the Commissioner's letter of notification.

(3) If the Commissioner's determination is that the Greek corporation does not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the domestic corporation, the Greek corporation may thereafter avoid withholding at the source with respect to subsequent payments of such interest by complying with the provisions of paragraph (c) of this section, that is, by submitting Form 1001–G in the case of coupon bond interest, or the letter of notification for each three-calendar-year period in the case of interest other than interest payable by means of coupons.

(4) A determination of the Commissioner that the Greek corporation does not have such control of the domestic corporation as to render the exemption provided by Article VI (1) of the convention inapplicable will apply until such time as the stock ownership of the domestic corporation has changed to the extent that interest to be received from the domestic corporation by the Greek corporation is no longer exempt from United States tax under Article VI (1) of the convention. If such change in stock ownership occurs, the Greek corporation shall promptly notify both the Commissioner of Internal Revenue and the domestic corporation of the then existing facts with respect to such stock ownership.

(5) In any case in which a Greek corporation has received on or after January 1, 1954, interest from a domestic corporation and the relationship existing between the Greek corporation and the domestic corporation was at the time the interest was paid such as to render uncertain whether, by reason of the exception contained in Article VI (1) of the convention, such interest was exempt from United States tax, the Greek corporation shall apply to the Commissioner of Internal Revenue for a similar determination as to the degree of control at the time the interest was paid. If the Commissioner's determination is that at such time the degree of control was such as to permit the application of the exemption provided by Article VI (1) of the convention, his letter of notification may, subject to the provisions of §502.7(b), authorize the release of excess tax withheld with respect to such exempt interest.

§ 502.4 Natural resource royalties and real property rentals.

The convention does not change the rate of United States tax imposed pursuant to sections 871, 881, and 882 of the Internal Revenue Code of 1954 upon natural resource royalties and real property rentals. The withholding of United States tax with respect to such items derived from sources within the United States by nonresident aliens who are residents of Greece, or by Greek corporations, is not changed by the convention.

§ 502.5 Patent and copyright royalties.

(a) *General.* (1) Royalties for the right to use copyrights, patents, designs, secret processes and formulae, trade marks, and other analogous property, and royalties and rentals for the use of industrial, commercial, or scientific equipment, which are derived from

sources within the United States on or after January 1, 1953, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Greece, or by a Greek corporation, are exempt from United States tax under the provisions of Article VII of the convention if such alien or corporation at no time during the taxable year in which such income is derived has engaged in trade or business within the United States through a permanent establishment situated therein. Such royalties are, therefore, not subject to the withholding of United States tax at source. As to what constitutes a permanent establishment, see Article II(1)(i) of the convention.

(2) The provisions of this section shall have no application to rentals or royalties in respect of motion picture films.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of the income to which paragraph (a) of this section is applicable, the nonresident alien who is a resident of Greece, or the Greek corporation, shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VII of the convention. The provisions of § 502.3(c) (other than those pertaining to the degree of control of voting power) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest, including its use for the release of excess tax withheld, are equally applicable with respect to the income falling within the scope of this section.

(2) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 502.6 Private pensions and life annuities.

(a) *General.* Private pensions and life annuities, as defined in Article XI (3) and (4) of the convention, derived from sources within the United States on or after January 1, 1953, by a nonresident alien individual who is a resident of Greece are exempt from United States tax under the provisions of Article XI(2) of the convention. Such items of income are, therefore, not subject to the withholding of United States tax at source.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of the items of income to which paragraph (a) of this section is applicable, the nonresident alien individual who is a resident of Greece shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article XI of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Greece.

(2) If such letter is also to be used as authorization for the release, pursuant to § 502.7(a), of excess tax withheld from such items of income, it shall also contain a statement that the owner was, at the time when the income was derived from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of Greece.

(3) This letter shall constitute authorization for the payment of such items of income without withholding of United States tax at source unless the Commissioner of Internal Revenue subsequently notifies the withholding agent that the tax shall be withheld with respect to payments of such items of income made after receipt of such notice. If, after filing a letter of notification, the owner of the income ceases to be eligible for the exemption from United States tax granted by the convention in respect to such income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of such income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 502.7 Release of excess tax withheld at source.

(a) *General.* (1) In order to give the convention effective application at the earliest practicable date, the exemptions from withholding of United States tax at source granted by this part are hereby made effective beginning January 1, 1954, contingent upon compliance with the applicable provisions of §§ 502.2 through 502.6.

(2) In the case of dividends and interest paid by a Greek corporation to a recipient other than a citizen, resident, or corporation of the United States, if United States tax at the stautory rate has been withheld on or after January 1, 1954, there shall be released by the withholding agent and paid over to the person from whom it was withheld, an amount equal to the tax so withheld from such items.

(3) In the case of every taxpayer whose address at the time of payment was in Greece and who furnishes to the withholding agent the letter of notification prescribed in §§ 502.3(c), 502.5(b), and 502.6(b) as authorization for the release of excess tax withheld, if United States tax at the statutory rate (30 percent as of the date of approval of this part) has been withheld on or after January 1, 1954, from interest (other than coupon bond interest), copyright royalties and other items to which § 502.5(a) is applicable, and from private pensions and life annuities as defined in Article XI, there shall be released (except as provided in paragraph (b) of this section) by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld from such items.

(4) In the case of every taxpayer whose address at the time of payment was in Greece and who furnishes to the withholding agent Form 1001–G clearly marked ''Substitute'' and executed in accordance with § 502.3(c), if United States tax at the statutory rate has been withheld from coupon bond interest on or after January 1, 1954, there shall be released (except as provided in paragraph (b) of this section) by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld from such interest. One such substitute form shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released.

(5) The original and duplicate of substitute Form 1001–G shall be forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland, with the quarterly return on Form 1012. Substitute Form 1001–G need not be listed on Form 1012.

(6) The provisions of this section (other than paragraph (c) of this section) shall have no application to excess tax withheld at source which has been paid by the witholding agent to the district director of internal revenue.

(b) *Interest paid where degree of stock ownership is determined.* If United States tax at the rate of 28 percent or 30 percent, as the case may be, has been withheld on or after January 1, 1954, from interest paid by a domestic corporation to a Greek corporation whose address at the time of payment was in Greece, and if the relationship existing between the Greek corporation and the domestic corporation, was, at the time the interest was paid, such as to render uncertain whether, by reason of the exception contained in Article VI (1) of the convention, such interest was exempt from United States tax, the withholding agent shall release and pay over to the Greek corporation an amount equal to the tax so withheld only if the Greek corporation (1) furnishes to the domestic corporation a copy of the Commissioner's authorization of release prescribed in § 502.3 (d) and (2) files the letter of notification prescribed in § 502.3(c), or the substitute Form 1001–G prescribed in paragraph (a) of this section, whichever is applicable.

(c) *Amounts withheld during 1953.* For provisions respecting the refund of excess tax withheld during the calendar year 1953, see § 502.10.

§ 502.8 Information to be furnished in ordinary course.

(a) *General.* In compliance with the provisions of Article XVIII of the convention the Commissioner of Internal Revenue will transmit to the Greek General Director of Direct Taxes, as soon as practicable after the close of the calendar year 1954 and of each subsequent calendar year during which the convention is in effect, the following information relating to such preceding calendar year:

(1) The duplicate copy of each available Form 1042 Supplement filed pursuant to paragraph (b) of this section; and

(2) The duplicate copy of each available ownership certificate, Form 1001–G, filed pursuant to § 502.3(c), and substitute Form 1001–G, filed pursuant to § 502.7 (a) and (b), in connection with coupon bond interest.

(b) *Information return.* (1) To facilitate compliance with Article XVIII of the convention, every United States withholding agent shall make and file in duplicate with the district director of internal revenue for the district in which the withholding agent is located an information return on Form 1042 Supplement, with respect to Greek addressees, which shall be filed for the calendar year 1954 and subsequent calendar years. This return shall be filed simultaneously with Form 1042.

(2) There shall be reported on such Form 1042 Supplement all items of fixed or determinable annual or periodical income (and, for 1955 and subsequent years, amounts described in section 402(a)(2), section 631 (b) and (c), and section 1235 of the Internal Revenue Code of 1954, which are considered to be gains from the sale or exchange of capital assets) derived from sources within the United States and paid to nonresident aliens (including nonresident alien individuals, fiduciaries, and partnerships) and to nonresident foreign corporations, whose addresses at the time of payment were in Greece, including such items of income upon which, in accordance with this part, no withholding of United States tax is required; except that any of such items which constitute interest in respect of which Form 1001–G or substitute Form 1001–G has been filed in duplicate with the withholding agent are not required to be reported on such Form 1042 Supplement.

§ 502.9 Beneficiaries of a domestic estate or trust.

A nonresident alien who is a resident of Greece and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from United States tax granted by Articles VI, VII, and IX of the convention with respect to dividends, interest, and copyright royalties and the like, to the extent such item or items are included in that portion of the income of such estate or trust which is (or would, but for such exemption, be) includible in the gross income of the beneficiary, provided that he otherwise satisfies the requirements of these respective articles. In order to be entitled in such instance to the exemption from withholding of United States Tax such beneficiary must otherwise satisfy such requirements and shall, where applicable, execute and submit to the fiduciary of such estate or trust in the United States the appropriate letter of notification prescribed in §§ 502.3(c) and 502.5(b).

§ 502.10 Refund of excess tax withheld during 1953.

(a) If United States tax withheld at the source during the year 1953 from dividends, interest, copyright royalties and the like, pensions, or life annuities is in excess of the tax imposed under the internal revenue laws, as modified by the convention, a claim by the taxpayer for the refund of any overpayment resulting therefrom shall be made under subchapter B of chapter 66 of the Internal Revenue Code of 1954 by filing Form 843 together with Form 1040NB, Form 1040NB–a, Form 1040B, Form 1120, or Form 1120NB, whichever is applicable, or with an amended return.

(b) The taxpayer's total gross income from sources within the United States, including every item of capital gain subject to tax under the provisions of

section 211(a)(1)(B) or 211(c) of the Internal Revenue Code of 1939, shall be disclosed on the return. In the event that securities are held in the name of a person other than the actual or beneficial owner, the name and address of such person shall be furnished with the claim. In the case of a claim involving an overpayment of tax upon dividends or interest paid by a Greek corporation, a statement that the dividends or interest were paid by such a corporation shall be included in the claim. If the claim relates to other interest, copyright royalties and the like, pensions, or life annuities, there shall also be included in such claim:

(1) A statement that, at the time when such item or items of income were derived from which the excess tax was withheld, (i) the taxpayer was neither a citizen nor a resident of the United States but was a resident of Greece, or, in the case of a corporation, (ii) the taxpayer was a Greek corporation;

(2) A statement that the taxpayer at no time during the taxable year in which such income was derived was engaged in trade or business within the United States through a permanent establishment situated therein; and

(3) In the case of a claim involving an overpayment of tax upon interest paid by a domestic corporation to a Greek corporation, a statement that the Greek corporation, at the time when the interest was paid, did not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the United States domestic corporation. If the relationship existing between the Greek corporation and the domestic corporation at the time when such interest was paid was such as to render uncertain whether the exemption granted by Article VI (1) of the convention is applicable to such interest, there shall be furnished a full statement of all the facts pertinent to a determination of the question.

(c) If, however, the taxpayer is an individual who during the taxable year derived from sources within the United States income which consists exclusively of pensions or life annuities entitled to the benefit of Article XI of the convention, the statement specified in paragraph (b)(2) of this section shall not be required.

PART 503—GERMANY

Subpart—Withholding of Tax

Sec.

503.1 Introductory.
503.2 Dividends.
503.3 Interest.
503.4 Patent and copyright royalties and film rentals.
503.5 Private pensions and private life annuities.
503.6 Release of excess tax withheld at source.
503.7 Information to be furnished in ordinary course.
503.8 Beneficiaries of a domestic estate or trust.
503.9 Land Berlin.

AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

SOURCE: Treasury Decision 6122, 20 FR 682, Feb. 1, 1955, as amended at 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, part 503 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

Subpart—Withholding of Tax

§ 503.1 Introductory.

(a) The income tax convention between the United States and the Federal Republic of Germany, signed on July 22, 1954, and proclaimed by the President of the United States on December 24, 1954, referred to in this part as the convention, provides in part as follows, effective for taxable years beginning on or after January 1, 1954:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income taxes, including surtaxes and excess profits taxes;

(b) In the case of the Federal Republic: The income tax, the corporation tax and the Berlin emergency contribution (Notopfer).

(2) The present Convention shall also apply to any other income or profits tax of a substantially similar character which may be imposed by one of the contracting States

after the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term ''United States'' means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and Hawaii, and the District of Columbia;

(b) The term ''Federal Republic'' means the Federal Republic of Germany and when used in a geographical sense means the territory over which the Basic Law for the Federal Republic of Germany is in effect;

(c) The term ''permanent establishment'' means a branch, office, factory, workshop, warehouse, mine, stone quarry or other place of exploitation of the ground or soil, permanent display and sales office, or a construction or assembly project or the like the duration of which exceeds or will likely exceed twelve months, or other fixed place of business; but does not include the casual and temporary use of mere storage facilities, nor does it include an agent or employee unless the agent or employee has full power for the negotiation and concluding of contracts on behalf of the enterprise and also habitually exercises this power, or has a stock of merchandise from which he regularly fills orders on behalf of the enterprise. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a commission agent, broker, custodian or other independent agent, acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods and merchandise shall not of itself constitute such fixed place of business a permanent establishment of the enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation. The maintenance within the territory of one of the contracting States by an enterprise of the other contracting State of a warehouse for convenience of delivery and not for purposes of display shall not of itself constitute a permanent establishment within that territory;

(d) The term ''enterprise of one of the contracting States'' means, as the case may be, ''United States enterprise'' or ''German enterprise'';

(e) The term ''United States enterprise'' means an industrial or commercial enterprise or undertaking carried on in the United States by a resident (including an individual in his individual capacity or as a member of a partnership) or a fiduciary of the United States or by a United States corporation or other entity; the term ''United States corporation or other entity'' means a corporation or other entity created or organized under the law of the United States or of any State or Territory of the United States;

(f) The term ''German enterprise'' means an industrial or commercial enterprise or undertaking carried on in the Federal Republic by a natural person (including an individual in his individual capacity or as a member of a partnership) resident in the Federal Republic or by a German company; the term ''German company'' means juridical persons together with entities treated as juridical persons for tax purposes under the laws of the Federal Republic; and

(g) The term ''competent authorities'' means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of the Federal Republic, the Federal Ministry of Finance.

(2) In the application of the provisions of this Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which the term has under its own applicable laws. For the purposes of this Convention ''residence'' in the Federal Republic shall include the customary place of abode therein.

* * * * *

ARTICLE VI

(1) The rate of tax imposed by the United States shall not exceed 15 percent in the case of dividends from sources within the United States derived by a German company not having a permanent establishment in the United States and owning at least 10 percent of the voting stock of the corporation paying such dividend.

* * * * *

(3) If, subsequent to the date of signature of this Convention, the percentage of stock ownership provided in section 131(f)(1) of the Internal Revenue Code [of 1939] is reduced, the percentage of stock ownership provided in paragraphs 1 and * * * of this Article shall likewise be deemed to be simultaneously reduced.

ARTICLE VII

Interest on bonds, notes, debentures, securities or on any other form of indebtedness (exclusive of interest on debts secured by mortgages on farms, timberlands or real property used wholly or partly for housing purposes) derived, bona fide as interest.

(A) by a natural person resident in the Federal Republic, or by a German company, not having a permanent establishment in the United States, shall be exempt from tax by the United States; or

* * * * *

ARTICLE VIII

Royalties and other amounts derived as bona fide consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trade-marks and other like property and rights (including rentals and like payments in respect to motion picture films or for the use of industrial, commercial or scientific equipment), derived

(A) by a natural person resident in the Federal Republic, or by a German company, not having a permanent establishment in the United States, shall be exempt from tax by the United States; or

* * * * *

ARTICLE IX

(1) Income from real property situated in one of the contracting States (including gains derived from the sale or exchange of such property and interest on debts secured by mortgages on farms, timberlands, or real property used wholly or partly for housing purposes) and royalties in respect of the operation of mines, stone quarries or other natural resources derived by a resident or corporation or other entity or company of the other contracting State, shall be taxable only by the former State.

(2)(a) A natural person resident in the Federal Republic or a German company deriving from sources within the United States any item of income coming within the scope of paragraph (1) of this Article, may, for any taxable year, elect to be subject to tax by the United States on a net income basis as if such resident or company were engaged in trade or business within the United States through a permanent establishment therein.

* * * * *

ARTICLE XI

(1)(a) Wages, salaries and similar compensation and pensions paid by the United States or by its states, territories or political subdivisions, to an individual (other than a German citizen) shall be exempt from tax by the Federal Republic.

(b) Wages, salaries and similar compensation and pensions paid by the Federal Republic, Laender or municipalities, or by a public pension fund, to an individual (other than a citizen of the United States and other than an individual who has been admitted to the United States for permanent residence therein) shall be exempt from tax by the United States.

(c) For the purposes of this paragraph the term ''pensions'' shall be deemed to include annuities paid to a retired civilian government employee.

(2) Private pensions and private life annuities which are from sources within one of the contracting States and are paid to individuals residing in the other contracting State shall be exempt from taxation by the former State.

(3) The term ''pensions'', as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term ''life annuities'', as used in this Article, means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

* * * * *

ARTICLE XIV

(1) Dividends and interest paid by a German company (other than a United States corporation) shall be exempt from United States tax where the recipient is a nonresident alien or a foreign corporation.

* * * * *

ARTICLE XVI

(1) The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the like in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

(2) Each of the contracting States may collect such taxes imposed by the other contracting State as though such taxes were the taxes of the former State as will ensure that any exemption or reduced rate of tax granted under the present Convention by such other State shall not be enjoyed by persons not entitled to such benefits.

(3) In no case shall the provisions of this Article be construed so as to impose upon either of the contracting States the obligation

to carry out administrative measures at variance with the regulations and practice of either contracting State or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the State making application.

ARTICLE XVII

* * * * *

(2) For the settlement of difficulties or doubts in the interpretation or application of the present Convention or in respect of its relation to Conventions of the contracting States with third States the competent authorities of the contracting States shall reach a mutual agreement as quickly as possible.

ARTICLE XVIII

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded, by the laws of one of the contracting States in the determination of the tax imposed by such State, or by any other agreement between the contracting States.

* * * * *

ARTICLE XIX

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

ARTICLE XX

(1) The present Convention shall also apply from the date specified in paragraph (1) of Article XXI to Land Berlin which for the purposes of this Convention comprises those areas over which the Berlin Senate exercises jurisdiction.

(2) It is a condition to the application of this Convention to Berlin in accordance with the preceding paragraph that the Government of the Federal Republic shall previously have furnished to the Government of the United States of America a notification that all legal procedures in Berlin necessary for the application of this Convention therein have been complied with.

(3) After application of this Convention to Land Berlin in accordance with paragraphs (1) and (2) of this Article, references in this Convention to the Federal Republic shall also be considered references to Land Berlin.

ARTICLE XXI

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Bonn as soon as possible. It shall have effect for the taxable years beginning on or after the first day of January of the year in which such exchange takes place.

(2) The present Convention shall continue effective for a period of five years beginning with the calendar year in which the exchange of the instruments of ratification takes place and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

* * * * *

(b) As used in this part, any term defined in the convention shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws.

§ 503.2 Dividends.

(a) *General.* (1) Dividends paid by a German company (other than a United States corporation) and received in taxable years beginning on or after January 1, 1954, by a nonresident alien or a foreign corporation are exempt from United States tax under the provisions of Article XIV of the convention. Such dividends are, therefore, not subject to the withholding of United States tax at source.

(2) The rate of United States tax imposed by the Internal Revenue Code upon dividends (other than dividends falling within the scope of subparagraph (1) of this paragraph) derived from sources within the United States in taxable years beginning on or after January 1, 1954, by a German company (other than a United States corporation) shall not exceed 15 percent under

the provisions of Article VI of the convention if (i) such company at no time during the taxable year in which such dividends are derived has a permanent establishment in the United States and (ii) such company owns, at the time the dividends are paid, 10 percent or more of the voting stock of the paying corporation.

(b) *Application of reduced rate of withholding.* (1) To secure withholding of United States tax at the rate of 15 percent at source in the case of dividends to which paragraph (a)(2) of this section is applicable, the German company shall notify the withholding agent by letter in duplicate that such income is subject to the reduced rate of United States tax under the provisions of Article VI of the convention. The letter of notification shall be signed by an officer of the company and shall show the name and address of the corporation paying the dividend, the name and address of the German company receiving the dividend, and the official title of the officer signing the letter. It shall contain a statement (i) that the owner of the dividend is a German company (other than a United States corporation), (ii) that the owner at no time during the current taxable year had a permanent establishment in the United States, and (iii) that the German company owns 10 percent or more of the voting stock of the corporation paying such dividend.

(2) This letter of notification, which shall constitute authorization for application of the reduced rate of withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which such income is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which such income is first paid on or after January 1, 1954. Each such letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment.

(3) If such letter is also to be used as authorization for the release, pursuant to §503.6(a)(3), of excess tax withheld from dividends, it shall also contain a statement (i) that, at the time when the dividends were derived from which the excess tax was withheld, the owner was a German company (other than a United States corporation), (ii) that the owner at no time during the taxable year in which such dividends were derived had a permanent establishment in the United States and (iii) that the German company owned, at the time when such dividends were paid, 10 percent or more of the voting stock of the corporation paying such dividends.

(4) Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the reduction in rate of United States tax granted by the convention in respect to such dividends, such taxpayer shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the stock as recorded on the books of the payer the reduction in the rate of withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(5) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

(c) *Dividends paid to German company where degree of stock ownership uncertain.* (1) In any case in which a German company (other than a United States corporation) anticipates the receipt of dividends described in paragraph (a)(2) of this section and the relationship existing between the German company and the paying corporation is such as to render uncertain whether, by reason of the requirement as to stock ownership, the reduction in rate of United States tax granted by Article VI of the convention will apply to such dividends, the German company shall not undertake to file the letter of notification prescribed by paragraph (b)(1) of

this section unless it has, prior to such filing, applied for and received from the Commissioner of Internal Revenue, Washington 25, D.C., a determination that such German company owns 10 percent or more of the voting stock of the paying corporation. The application to the Commissioner shall contain a full statement of all the facts pertinent to a determination of the question.

(2) As soon as practicable after the application has been filed, the Commissioner of Internal Revenue will determine whether the German company owns sufficient voting stock of the paying corporation to permit it to claim the benefit of Article VI of the convention in the case of such dividends and shall notify the German company of his determination. The German company shall forthwith file with the paying corporation a copy of the Commissioner's letter of notification.

(3) If the Commissioner's determination is that the German company does own 10 percent or more of the voting stock of the paying corporation, the German company may thereafter, if otherwise qualified, secure the reduced rate of withholding at the source with respect to subsequent payments of such dividends, by filing the letter of notification in accordance with paragraph (b) of this section.

(4) A determination by the Commissioner that the German company does own sufficient voting stock of the paying corporation to permit it to claim the benefit of Article VI of the convention will apply until such time as the stock ownership of the paying corporation has changed to the extent that, because of such change, dividends to be received from the paying corporation by the German company no longer qualify for the reduced rate of United States tax under Article VI of the convention. If such change in stock ownership occurs, the German company shall promptly notify both the Commissioner of Internal Revenue and the paying corporation of the then existing facts with respect to such stock ownership.

(5) In any case in which a German company (other than a United States corporation) has received on or after January 1, 1954, dividends described in paragraph (a)(2) of this section and the relationship existing between the German company and the paying corporation was, at the time the dividends were paid, such as to render uncertain whether, by reason of the requirement contained in Article VI of the convention as to stock ownership, such dividends qualified for the reduced rate of United States tax, the German company shall apply to the Commissioner of Internal Revenue for a similar determination as to the degree of stock ownership at the time the dividends were paid. If the Commissioner's determination is that at such time the degree of stock ownership was such as to permit the application of the reduced rate of United States tax granted by Article VI of the convention, his letter of notification may, subject to the provisions of § 503.6(b), authorize the release of excess tax withheld with respect to such dividends.

§ 503.3 Interest.

(a) *General.* (1) Interest paid by a German company (other than a United States corporation) and received in taxable years beginning on or after January 1, 1954, by a nonresident alien or a foreign corporation is exempt from United States tax under the provisions of Article XIV of the convention. Such interest is, therefore, not subject to the withholding of United States tax at source.

(2) Interest (other than interest falling within the scope of subparagraph (1) of this paragraph) on bonds, notes, debentures, securities, or on any other form of indebtedness, including interest on obligations of the United States and of instrumentalities of the United States, which is derived, bona fide as interest, in taxable years beginning on or after January 1, 1954, by a natural person (other than a citizen or resident of the United States) resident in the Federal Republic of Germany, or by a German company (other than a United States corporation), is exempt from United States tax under the provisions of Article VII of the convention if such person or company at no time during the taxable year in which such interest is derived has a permanent establishment in the United States. Such interest is, therefore, not subject to the

withholding of United States tax at source.

(3) The provisions of subparagraph (2) of this paragraph shall have no application to interest on debts secured by mortgages on farms, timberlands, or real property used wholly or partly for housing purposes.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of coupon bond interest to which paragraph (a)(2) of this section is applicable, the resident of the Federal Republic of Germany or the Germany company shall, for each issue of bonds, file Form 1001–GER in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor, the name and address of the owner of the interest, and the amount of the interest. It shall contain a statement (i) that the owner is neither a citizen nor a resident of the United States but is a resident of the Federal Republic of Germany, or, in the case of a company, the owner is a German company (other than a United States corporation), and (ii) that the owner has no permanent establishment in the United States.

(2) The exemption from United States tax contemplated by Article VII of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of the interest. The person presenting the coupon or on whose behalf it is presented shall, for the purpose of the exemption from tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon or on whose behalf it is presented is not the owner of the bond, Form 1001, and not Form 1001–GER, shall be executed.

(3) The original and duplicate of Form 1001–GER shall be forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland, with the quarterly return on Form 1012. Form 1001–GER need not be listed on Form 1012.

(4) To avoid withholding of United States tax at source in the case of interest, other than coupon bond interest, to which paragraph (a)(2) of this section is applicable, the resident of the Federal Republic of Germany or the German company shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VII of the convention. The letter of notification shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor and the name and address of the owner of the interest. It shall contain a statement (i) that the owner is neither a citizen nor a resident of the United States but is a resident of the Federal Republic of Germany, or, in the case of a company, the owner is a German company (other than a United States corporation), and (ii) that the owner has at no time during the current taxable year had a permanent establishment in the United States.

(5) This letter of notification, which shall constitute authorization for the payment of such interest without withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which such income is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which such income is first paid on or after January 1, 1954. Each such letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment.

(6) If such letter is also to be used as authorization for the release, pursuant to §503.6(a)(3), of excess tax withheld from interest, other than coupon bond interest, it shall also contain a statement (i) that, at the time when the interest was derived from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of the Federal Republic of Germany, or, in the case of a company, the owner was a German company (other than a

United States corporation), and (ii) that the owner at no time during the taxable year in which such interest was derived had a permanent establishment in the United States.

(7) Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by the convention in respect to such interest, such taxpayer shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(8) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 503.4 Patent and copyright royalties and film rentals.

(a) *General.* (1) Royalties and other amounts derived in taxable years beginning on or after January 1, 1954, by a natural person (other than a citizen or resident of the United States) resident in the Federal Republic of Germany, or by a German company (other than a United States corporation), as bona fide consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trade-marks, and other like property and rights, are exempt from United States tax under the provisions of Article VIII of the convention if such person or company at no time during the taxable year in which such income is derived has a permanent establishment in the United States. Such items of income, are, therefore, not subject to the withholding of United States tax at source.

(2) The provisions of this section shall apply to rentals and like payments in respect to motion picture films or for the use of industrial, commercial, or scientific equipment.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of the income to which this section is applicable, the resident of the Federal Republic of Germany or the German company shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VIII of the convention. The provisions of § 503.3(b) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest, including its use for the release of excess tax withheld, are equally applicable with respect to the income falling within the scope of this section.

(2) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 503.5 Private pensions and private life annuities.

(a) *General.* Private pensions and private life annuities, as defined in Article XI (3) and (4) of the convention, which are received from sources within the United States in taxable years beginning on or after January 1, 1954, by a nonresident alien individual who is a resident of the Federal Republic of Germany are exempt from United States tax under the provisions of Article XI(2) of the convention. Such items of income are, therefore, not subject to the withholding of United States tax at source.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of the items of income to which paragraph (a) of this section is applicable, the nonresident alien individual who is a resident of the Federal Republic of Germany shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article XI of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and

address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of the Federal Republic of Germany.

(2) If such letter is also to be used as authorization for the release, pursuant to § 503.6(a)(3), of excess tax withheld from such items of income, it shall also contain a statement that the owner was, at the time when the income was received from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of the Federal Republic of Germany.

(3) This letter shall constitute authorization for the payment of such items of income without withholding of United States tax at source unless the Commissioner of Internal Revenue subsequently notifies the withholding agent that the tax shall be withheld with respect to payments of such items of income made after receipt of such notice. If, after filing a letter of notification, the owner of the income ceases to be eligible for the exemption from United States tax granted by the convention in respect to such income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of such income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 503.6 Release of excess tax withheld at source.

(a) *General.* (1) In order to give the convention effective application at the earliest practicable date, the exemptions from, and reduction in the rate of, withholding of United States tax at source granted by this Treasury decision are hereby made effective beginning January 1, 1954, contingent upon compliance with the applicable provisions of §§ 503.2 through 503.5.

(2) In the case of dividends and interest paid by a German company (other than a United States corporation) to a nonresident alien or to a foreign corporation, if United States tax at the statutory rate has been withheld on or after January 1, 1954, there shall be released by the withholding agent and paid over to the person from whom it was withheld, an amount equal to the tax so withheld from such items.

(3) In the case of every taxpayer whose address at the time of payment was in the Federal Republic of Germany and who furnishes to the withholding agent the letter of notification prescribed in §§ 503.2(b), 503.3(b), 503.4(b), and 503.5(b) as authorization for the release of excess tax withheld, if United States tax at the statutory rate has been withheld on or after January 1, 1954, from the items of income in respect of which such letter is prescribed in such sections, there shall be released (except as provided in paragraph (b) of this section) by the withholding agent and paid over to the person from whom it was withheld:

(i) In the case of dividends, the difference between the tax so withheld and the tax required to be withheld pursuant to § 503.2(b); and

(ii) In the case of interest (other than coupon bond interest), copyright royalties and other items to which § 503.4 is applicable, and private pensions and private life annuities as defined in Article XI of the convention, an amount equal to the tax so withheld from such items.

(4) In the case of every taxpayer whose address at the time of payment was in the Federal Republic of Germany and who furnishes to the withholding agent Form 1001–GER clearly marked ''Substitute'' and executed in accordance with § 503.3(b), if United States tax at the statutory rate has been withheld from coupon bond interest on or after January 1, 1954, there shall be released by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld from such interest. One such substitute form shall be filed in duplicate with respect to each

issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released.

(5) The original and duplicate of substitute Form 1001–GER shall be forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland, with the quarterly return on Form 1012. Substitute Form 1001–GER need not be listed on Form 1012.

(b) *Interest paid where degree of stock ownership is determined.* If United States tax at the statutory rate has been withheld on or after January 1, 1954, from dividends described in § 503.2(a)(2) and paid to a German company (other than a United States corporation), and if the relationship existing between the German company and the paying corporation was, at the time the dividends were paid, such as to render uncertain whether, by reason of the requirement contained in Article VI of the convention as to stock ownership, such dividends qualified for the reduced rate of United States tax, the withholding agent shall release and pay over to the German company the difference between the tax so withheld and the tax required to be withheld pursuant to § 503.2(b), only if the German company (1) furnishes to the withholding agent a copy of the Commissioner's authorization of release prescribed in § 503.2(c)(5), and (2) files the letter of notification prescribed in § 503.2(b)(1).

§ 503.7 Information to be furnished in ordinary course.

(a) *General.* In compliance with the provisions of Article XVI of the convention the Commissioner of Internal Revenue will transmit to the Federal Ministry of Finance, as soon as practicable after the close of the calendar year 1955 and of each subsequent calendar year during which the convention is in effect, the following information relating to such preceding calendar year:

(1) The duplicate copy of each available Form 1042 Supplement filed pursuant to paragraph (b) of this section; and

(2) The duplicate copy of each available ownership certificate, Form 1001–GER, filed pursuant to § 503.3(b), and substitute Form 1001–GER, filed pursuant to § 503.6(a), in connection with coupon bond interest.

(b) *Information return.* (1) To facilitate compliance with Article XVI of the convention, every United States withholding agent shall make and file in duplicate with the District Director of Internal Revenue, Baltimore 2, Maryland, an information return on Form 1042 Supplement, with respect to persons having addresses in the Federal Republic of Germany, which shall be filed for the calendar year 1955 and subsequent calendar years. This return shall be filed simultaneously with Form 1042.

(2) There shall be reported on such Form 1042 Supplement all items of fixed or determinable annual or periodical income (and amounts described in section 402(a)(2), section 631 (b) and (c), and section 1235 of the Internal Revenue Code of 1954, which are considered to be gains from the sale or exchange of capital assets) derived from sources within the United States and paid to nonresident aliens and to nonresident foreign corporations, whose addresses at the time of payment were in the Federal Republic of Germany, including such items of income upon which, in accordance with this part, no withholding of United States tax is required; except that any of such items which constitute interest in respect of which Form 1001–GER or substitute Form 1001–GER has been filed in duplicate with the withholding agent are not required to be reported on such Form 1042 Supplement.

§ 503.8 Beneficiaries of a domestic estate or trust.

A nonresident alien who is a resident of the Federal Republic of Germany and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from United States tax granted by Articles VII, VIII, and XIV of the convention with respect to dividends, interest, and copyright royalties and the like, to the extent such item or items are included in that portion of

the income of such estate or trust which is (or would, but for such exemption, be) includable in the gross income of the beneficiary, provided that he otherwise satisfies the requirements of these respective articles. In order to be entitled in such instance to the exemption from withholding of United States tax such beneficiary must otherwise satisfy such requirements and shall, where applicable, execute and submit to the fiduciary of such estate or trust in the United States the appropriate letter of notification prescribed in §§ 503.3(b) and 503.4(b).

§ 503.9 Land Berlin.

The convention shall also apply to Land Berlin effective for taxable years beginning on or after January 1, 1954, but only if the notification has been furnished to the United States Government in accordance with Article XX (2) of the convention. After application of the convention to Land Berlin in accordance with Article XX, references in the convention and in this part to the Federal Republic of Germany shall also be considered references to Land Berlin.

PARTS 504–507 [RESERVED]

PART 509—SWITZERLAND

Subpart—Withholding of Tax

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AUTHORITY: 26 U.S.C. 62, 3791 and 7805.

Subpart—Withholding of Tax

SOURCE: Treasury Decision 5867, 16 FR 11910, Nov. 27, 1951, unless otherwise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, Subpart—Withholding of Tax, consisting of §§ 509.1 through 509.10, was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§ 509.1 Introductory.

The income tax convention between the United States and the Swiss Confederation, signed May 24, 1951, proclaimed by the President of the United States on October 1, 1951, and effective as to taxable years beginning after December 31, 1950 (referred to in this subpart as the convention), provides in part as follows:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America:

The Federal income taxes, including surtaxes and excess profits taxes.

(b) In the case of The Swiss Confederation:

The federal, cantonal and communal taxes on income (total income, earned income, income from property, industrial and commercial profits, etc.).

(2) The present Convention shall also apply to any other income or profits tax of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term ''United States'' means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term ''Switzerland'' means The Swiss Confederation.

(c) The term ''permanent establishment'' means a branch, office, factory, workshop, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and habitually exercises a general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a commission agent, broker or custodian or other independent agent acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation. The maintenance within the territory of one of the contracting States by an enterprise of the other contracting State of a warehouse for convenience of delivery and not for purposes of display shall not of itself constitute a permanent establishment within that territory even though offers of purchase have been obtained by an agent of the enterprise in that territory and transmitted by him to the enterprise for acceptance.

(d) The term ''enterprise of one of the contracting States'' means, as the case may be, ''United States enterprise'' or ''Swiss enterprise''.

(e) The term ''United States enterprise'' means an industrial or commercial enterprise or undertaking carried on in the United States by a resident (including an individual, fiduciary and partnership) of the United States or by a United States corporation or other entity; the term ''United States corporation or other entity'' means a corporation or other entity created or organized under the law of the United States or of any State or Territory of the United States.

(f) The term ''Swiss enterprise'' means an industrial or commercial enterprise or undertaking carried on in Switzerland by an individual resident in Switzerland or by a Swiss corporation or other entity; the term ''Swiss corporation or other entity'' means a corporation or institution or foundation having juridical personality, or a partnership (association ''en nom collectif'' or ''en commandite''), or other association without juridical personality, created or organized under Swiss laws.

(g) The term ''competent authorities'' means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of Switzerland, the Director of the Federal Tax Administration as authorized by the Federal Department of Finances and Customs.

(h) The term ''industrial or commercial profits'' includes manufacturing, mercantile, mining, financial and insurance profits, but does not include income in the form of dividends, interest, rents or royalties, or remuneration for personal services: Provided, however, that such excepted items of income shall, subject to the provisions of this Convention, be taxed separately or together with industrial or commercial profits in accordance with the laws of the contracting States.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own tax laws.

* * * * *

ARTICLE VI

(1) The rate of tax imposed by one of the contracting States upon dividends derived from sources within such State by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall not exceed 15 percent: Provided, however, that this paragraph shall have no application to Swiss tax in the case of dividends derived from Switzerland by a Swiss citizen (who is not also a citizen of the United States) resident in the United States.

(2) It is agreed, however, that such rate of tax shall not exceed five percent if the shareholder is a corporation controlling, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the

dividend, and if not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate to five percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

(3) Switzerland may collect its tax without regard to paragraphs (1) and (2) of this Article but will make refund of the tax so collected in excess of the tax computed at the reduced rates provided in such paragraphs.

ARTICLE VII

(1) The rate of tax imposed by one of the contracting States on interest on bonds, securities, notes, debentures or on any other form of indebtedness (including mortgages or bonds secured by real property) derived from sources within such contracting State by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall not exceed five percent: Provided, however, that this paragraph shall have no application to Swiss tax in the case of interest derived from Switzerland by a Swiss citizen (who is not also a citizen of the United States) resident in the United States.

(2) Switzerland may collect its tax without regard to paragraph (1) of this Article but will make refund of the tax so collected in excess of the tax computed at the reduced rate provided in such paragraph.

ARTICLE VIII

Royalties and other amounts derived, as consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trademarks, and other like property and rights (including rentals and like payments in respect to motion picture films or for the use of industrial, commercial or scientific equipment), from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State.

ARTICLE IX

(1) Income from real property (including gains derived from the sale or exchange of such property but not including interest from mortgages or bonds secured by real property) and royalties in respect of the operation of mines, quarries, or other natural resources, shall be taxable only in the contracting State in which such property, mines, quarries, or other natural resources are situated.

(2) A resident or corporation or other entity of one of the contracting States deriving any such income from such property within the other contracting State may, for any taxable year, elect to be subject to the tax of such other contracting State, on a net basis, as if such resident or corporation or entity were engaged in trade or business within such other contracting States through a permanent establishment therein during such taxable year.

* * * * *

ARTICLE XI

(2) Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

(3) The term ''pensions'', as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term ''life annuities'' as used in this Article, means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

* * * * *

ARTICLE XIV

(1) Dividends and interest paid by a corporation other than a United States domestic corporation shall be exempt from United States tax where the recipient is a nonresident alien as to the United States resident in Switzerland or a Swiss corporation, not having a permanent establishment in the United States.

(2) Dividends and interest paid by a corporation other than a Swiss corporation shall be exempt from Swiss tax where the recipient is a resident or corporation of the United States, not having a permanent establishment in Switzerland.

* * * * *

ARTICLE XVI

(1) The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the like in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and

collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

(2) Each of the contracting States may collect such taxes imposed by the other contracting State as though such taxes were the taxes of the former State as will ensure that the exemption or reduced rate of tax granted under Articles VI, VII, VIII and XI(2) of the present Convention by such other State shall not be enjoyed by persons not entitled to such benefits.

(3) In no case shall the provisions of this Article be construed so as to impose upon either of the contracting States the obligation to carry out administrative measures at variance with the regulations and practice of either contracting State or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the State making application.

* * * * *

ARTICLE XIX

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

ARTICLE XX

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible. It shall have effect for the taxable years beginning on or after the first day of January of the year in which such exchange takes place: Provided, however, that if such exchange takes place on or after October 1 of such year, Article VI (except paragraph (2) thereof) and Article VII of the Convention shall have effect only for taxable years beginning on or after the first day of January of the year immediately following the year in which such exchange takes place.

(2) The present Convention shall continue effective for a period of five years beginning with the calendar year in which the exchange of the instruments of ratification takes place and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

* * * * *

As used in this Treasury decision, unless the context otherwise requires, the terms defined in the above articles of the convention shall have the meanings so assigned them.

§ 509.2 Dividends.

(a) *General.* Under Article VI of the convention, the rate of tax imposed with respect to dividends by section 211(a) of the Internal Revenue Code (relating to nonresident alien individuals not engaged in trade or business within the United States) and by section 231(a) of the Internal Revenue Code (relating to foreign corporations not engaged in trade or business within the United States) is reduced to 15 percent in the case of dividends received in taxable years beginning on or after January 1, 1951, from sources within the United States by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Switzerland or by a Swiss corporation if such alien or corporation at no time during the taxable year had a permanent establishment within the United States. As to what is a Swiss corporation (see Article II(1)(f) of the convention. Thus, if a nonresident alien who is a resident of Switzerland performs personal services within the United States during the calendar year 1952, but has at no time during such year a permanent establishment within the United States, he is entitled to the reduced rate of tax with respect to dividends derived in that year from United States sources, as provided in Article VI of the convention, even though, by reason of his having rendered personal services within the United States, he is engaged in trade or business therein in that year within the meaning of section 211(b) of the Internal Revenue Code. As to what constitutes a permanent establishment, see Article II(1)(c) of the convention.

In the case of dividends paid on or after January 1, 1951, by any foreign corporation to a nonresident alien who is a resident of Switzerland or to a

Swiss corporation, not having a permanent establishment in the United States, no withholding of United States tax is required. See Article XIV of the convention.

(b) *Dividends paid by a United States subsidiary corporation.* Under the provisions of Article VI(2) of the convention, dividends from sources within the United States paid by a domestic corporation to a Swiss corporation controlling, directly or indirectly, at the time the dividend is paid, 95 percent or more of the entire voting power in such domestic corporation are, when received in taxable years beginning on or after January 1, 1951, subject to tax at the rate of only 5 percent, if (1) not more than 25 percent of the gross income of such paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid consists of dividends and interest (other than dividends and interest paid to such domestic corporation by its own subsidiary corporations, if any), (2) the relationship between such domestic corporation and such Swiss corporation has not been arranged or maintained primarily with the intention of securing such reduced rate of 5 percent, and (3) such Swiss corporation at no time during the taxable year had a permanent establishment within the United States.

Any domestic corporation which claims or contemplates claiming that dividends paid or to be paid by it on or after January 1, 1951, are subject only to the 5 percent rate shall file, as soon as practicable, with the Commissioner of Internal Revenue, the following information: (1) The date and place of its organization; (2) the number of outstanding shares of stock of the domestic corporation having voting power and the voting power thereof; (3) the person or persons beneficially owning such stock of the domestic corporation and their relationship to the Swiss corporation; (4) the amount of gross income, by years, of the paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid; (5) the amount of interest and dividends, by years, included in the gross income of such domestic corporation and the amount of interest and dividends, by years, received by such corporation from its subsidiary corporations, if any; and (6) the relationship between the domestic corporation and the Swiss corporation to which it pays the dividends.

As soon as practicable after such information is filed, the Commissioner of Internal Revenue will determine whether the dividends concerned fall within the provisions of Article VI(2) of the convention and may authorize the release of excess tax withheld with respect to dividends which come within such provisions. In any case in which the Commissioner of Internal Revenue has notified such domestic corporation that the dividends come within such provisions, the reduced withholding rate of 5 percent will apply to any dividends subsequently paid by such corporation to the Swiss corporation unless the stock ownership of the domestic corporation, or the character of its income, materially changes, or unless the Commissioner of Internal Revenue determines that the relationship between the two corporations is being maintained primarily with the intention of securing such reduced rate; and, if such change in stock ownership or character of income occurs, such corporation shall promptly notify the Commissioner of Internal Revenue of the then existing facts with respect to such stock ownership or income.

(c) *Effect of address in Switzerland on withholding in case of dividends.* For the purpose of withholding of the tax in the case of dividends, every nonresident alien (including a nonresident alien individual, fiduciary, and partnership) whose address is in Switzerland shall be deemed by United States withholding agents to be a resident of Switzerland not having a permanent establishment in the United States; and every corporation whose address is in Switzerland shall be deemed by such withholding agents to be a Swiss corporation not having a permanent establishment in the United States.

(d) *Rate of withholding.* On and after January 1, 1951, withholding in the case of dividends paid to nonresident aliens (including a nonresident alien individual, fiduciary, and partnership) and to foreign corporations, whose addresses are in Switzerland, shall be at the

rate of 15 percent in every case except (1) that in which, prior to the date of payment of such dividends, the Commissioner of Internal Revenue has notified the paying corporation that such dividends fall within the provisions of Article VI (2) of the convention and (2) that in which the Commissioner of Internal Revenue has, prior to the date of payment of such dividends, notified the withholding agent that the reduced rate of tax shall not apply.

The preceding provisions relative to residents of Switzerland and to Swiss corporations are based upon the assumption that the payee of the dividend is the actual owner of the capital stock from which the dividend is derived and consequently is the person liable to the tax upon such dividend. As to action by the recipient who is not the owner of the dividend, see §509.8.

§509.3 Interest.

(a) *General.* Interest on bonds, securities, notes, debentures, or any other form of indebtedness (including interest on obligations of the United States, obligations of instrumentalities of the United States, and mortgages and bonds secured by real property) received in taxable years beginning on or after January 1, 1951, from sources within the United States by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Switzerland, or by a Swiss corporation, is subject to United States tax at the reduced rate of 5 percent under the provisions of Article VII of the convention if such alien or corporation at no time during the taxable year had a permanent establishment in the United States.

(b) *Application of reduced rate at source.* To secure the reduced rate of tax at the source in the case of coupon bond interest, the nonresident alien resident in Switzerland or the Swiss corporation shall submit Form 1001–S, in duplicate, to the paying agent with each presentation of interest coupons. Such form shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor, the name and address of the owner of such interest, and the amount of such interest. Such form shall contain a statement that the owner is a resident of Switzerland or a Swiss corporation and that such owner has no permanent establishment in the United States.

The reduction in the rate of United States tax contemplated by Article VII of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of such interest. The person presenting such coupon or on whose behalf it is presented shall, for the purpose of the reduction, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon is not the owner of the bond, Form 1001, and not Form 1001–S, shall be executed.

The original and duplicate ownership certificates, Form 1001–S, must be forwarded to the Commissioner of Internal Revenue by the withholding agent with the quarterly return, Form 1012, as provided in existing regulations with respect to Form 1001. See §29.143–7 of Regulations 111 (26 CFR 1949 ed. Supps. 29.143–7) [and §39.143–7 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)]. Form 1001–S need not be listed on Form 1012.

In the case of interest coupons presented in Switzerland by a nonresident alien who is not a resident of Switzerland, or by a foreign corporation other than a Swiss corporation, ownership certificates, Form 1001, shall be filed as provided in existing regulations without reference to the provisions of the convention. See §29.143–4 of Regulations 111 (26 CFR 1949 ed. Supps. 29.143–4) [and §39.143–4 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)].

To secure the reduced rate of tax at the source in the case of interest, other than interest payable by means of coupons, the nonresident alien who is a resident of Switzerland or the Swiss corporation shall file Form 1001A–S, in duplicate, with the withholding agent in the United States. Such form shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor and the name and address of the owner of such interest. Such form shall contain

a statement that the owner is a resident of Switzerland, or is a Swiss corporation, not having a permanent establishment in the United States.

Form 1001A–S must be filed for each three-calendar-year period, and the first such form filed by the taxpayer with any withholding agent shall be filed not later than 20 days preceding the date of the first payment of income in such period. If the taxpayer files such form with the withholding agent in the calendar year 1951, or in any subsequent calendar year, no additional Form 1001A–S need be filed prior to the end of the two calendar years immediately following the calendar year in which such form is so filed unless the Commissioner of Internal Revenue notifies the withholding agent that an additional Form 1001A–S must be filed by the taxpayer at any earlier date. If, after filing such form, the taxpayer ceases to be eligible for the benefit of the convention, he must promptly notify the withholding agent. When any change occurs in the ownership of record of the income on the books of the payor, the reduction in the rate of United States tax will no longer apply unless Form 1001A–S is duly executed and filed with the payor by the new owner of record of such income.

The duplicate of Form 1001A–S must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Records Division, Washington 25, D.C.

In the case of interest paid on or after January 1, 1951, by any foreign corporation to a nonresident alien who is a resident of Switzerland or to a Swiss corporation, not having a permanent establishment in the United States, no withholding of United States tax is required. See Article XIV of the convention.

§ 509.4 Patent and copyright royalties and film rentals.

Royalties and other amounts received in taxable years beginning on or after January 1, 1951, from sources within the United States by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Switzerland or by a Swiss corporation, as consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trade-marks, and other like property and rights (including rentals and like payments in respect to motion picture films or for the use of industrial, commercial, or scientific equipment), are exempt from United States tax under the provisions of Article VIII of the convention if such alien or corporation at no time during the taxable year in which such royalties or other amounts are received has had a permanent establishment within the United States. Such items are therefore not subject to the withholding provisions of the Internal Revenue Code. As to what constitutes a permanent establishment, see Article II(1)(c) of the convention.

To obviate withholding at the source in the case of such items, the nonresident alien who is a resident of Switzerland or the Swiss corporation shall file Form 1001A–S, in duplicate, with the withholding agent in the United States. The provisions of § 509.3(b) relating to the execution and effective period of such form with respect to interest are equally applicable with respect to the income falling within the scope of this section.

The duplicate of Form 1001A–S must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Records Division, Washington, D.C.

§ 509.5 Pensions and life annuities.

Article XI(2) of the convention provides that private pensions and life annuities derived in taxable years beginning on or after January 1, 1951, from sources within the United States by a nonresident alien individual who is a resident of Switzerland shall be exempt from United States tax.

The person paying such income shall be notified by letter from the resident of Switzerland that the income is exempt from taxation under the provisions of Article XI (2) and (3) or XI (2) and (4), as the case may be, of the convention. Such letter shall contain the address of the individual and a statement that such individual is a resident of Switzerland. The letter of notification, or a copy thereof, shall be immediately forwarded by the recipient to

the Commissioner of Internal Revenue, Records Division, Washington, D.C. Such letter shall constitute authorization to the payor of the income to pay such income without deduction of the tax at the source unless the Commissioner subsequently notifies such payor that the tax should be withheld with respect to payments made after such notification.

§ 509.6 Natural resource royalties and real property rentals.

The convention does not change the rate of tax imposed under existing law upon natural resource royalties and real property rentals. The withholding of the tax with respect to such items derived from sources within the United States by nonresident aliens who are residents of Switzerland and by Swiss corporations is not affected by the convention. See sections 211(a) and 231(a) of the Internal Code and Article IX of the convention.

§ 509.7 Release of excess tax withheld at source.

(a) *General.* In order to bring the convention into force and effect at the earliest practicable date, (1) the reduced rate of tax of 15 percent to be withheld at the source on dividends, (2) the reduced rate of tax of 5 percent to be withheld at the source on interest, and (3) the exemption from tax otherwise withheld at the source on patent royalties, copyright royalties, film rentals, and the like, are hereby made effective beginning January 1, 1951, in any case in which such dividends, interest, patent royalties, copyright royalties, film rentals, and the like, are derived from sources within the United States by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Switzerland or by a Swiss corporation.

In the case of every such taxpayer who furnishes to the withholding agent Form 1001A–S, as prescribed in § 509.3(b) or § 509.4, where tax at the rate of 30 percent has been withheld on or after January 1, 1951, there shall be released by the withholding agent and paid over to the person from whom withheld (1) in the case of interest (other than coupon bond interest), an amount equal to 25 percent of such interest, and (2) in the case of patent royalties, copyright royalties, film rentals, and the like, an amount equal to the tax so withheld.

In the case of every such taxpayer who furnishes to the withholding agent Form 1001–S, in duplicate, where tax at the rate of 28 percent or 30 percent, as the case may be, has been withheld on or after January 1, 1951, from coupon bond interest, there shall be released by the withholding agent and paid over to the person from whom it was withheld an amount equal to 25 percent of such interest. Form 1001–S, clearly marked ''Substitute'' in order to replace any Forms 1001 previously filed, is to be used solely for such release of excess tax withheld in 1951. One Form 1001–S, in duplicate, may be used to replace two or more Forms 1001 previously filed in such year. The use of Form 1001–S with each presentation of interest coupons for the purpose of securing the reduced rate of tax is set forth in § 509.3(b).

In the case of dividends paid to a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) whose address at the time of payment was in Switzerland, or to a Swiss corporation whose address at the time of payment was in Switzerland, where tax at the rate of 30 percent has been withheld on or after January 1, 1951, from such dividends, there shall be released by the withholding agent and paid over to the person from whom it was withheld an amount equal to 15 percent of such dividends.

(b) *Private pensions and life annuities paid in 1951 or subsequent years.* In order to bring the convention into force and effect at the earliest practicable date, the exemption from tax otherwise withheld at the source on private pensions and life annuities is hereby made effective beginning January 1, 1951, in any case in which such pensions and life annuities are derived from sources within the United States by a nonresident alien individual who is a resident of Switzerland.

The person paying such income shall be notified by letter from the resident of Switzerland that the income is exempt from taxation under the provisions of Article XI (2) and (3), or XI (2) and (4), as the case may be, of the convention. See § 509.5. Such letter shall

constitute authorization to the payer of such income, where tax at the rate of 30 percent has been withheld on or after January 1, 1951, to release and pay over to the person from whom it was withheld an amount equal to the tax so withheld.

(c) *Subsidiary's dividends.* With respect to a dividend paid on or after January 1, 1951, by a domestic corporation to a Swiss corporation whose address is in Switzerland, tax shall be withheld in accordance with the provisions of § 509.2 unless prior to the date of payment of such dividend the Commissioner of Internal Revenue has notified the paying corporation that such dividend falls within the scope of Article VI(2) of the convention. As soon as practicable after information required under § 509.2(b) is filed, the Commissioner of Internal Revenue will determine whether the dividend involved falls within the scope of Article VI(2) and may authorize the release of the excess tax withheld with respect to dividends which come within the scope of such provision.

§ 509.8 Addressee not actual owner.

If the first recipient with an address in Switzerland of any dividend from sources within the United States is a nominee or representative through whom the dividend flows to a third person, such recipient in Switzerland will withhold an additional amount of United States tax equivalent to the difference between the United States tax which would have been withheld had the convention not been in effect (30 percent as at the date of approval of this Treasury decision) and the 15 percent withheld at the source with respect to such dividend pursuant to § 509.2(d).

In any case in which a fiduciary or a partnership with an address in Switzerland receives, otherwise than as a nominee or representative, a dividend from United States sources, if a beneficiary of such fiduciary or a partner in such partnership is not entitled to the reduced rate of tax provided in Article VI of the convention, the fiduciary or partnership will withhold an additional amount of United States tax with respect to the portion of such dividend included in such beneficiary's or partner's net distributive share of the income of such fiduciary or partnership, as the case may be. The amount of the additional tax is to be calculated in the same manner as under the preceding paragraph.

The amounts so withheld by such withholding agents in Switzerland, as well as the amount of tax released with respect to the calendar year 1951 by the withholding agent in the United States in the case of a dividend flowing to a third person through a nominee or representative whose address is in Switzerland, will be deposited by such agents in Swiss francs with the Federal Tax Administration, Berne, Switzerland, Account: ''Zusatzlicher Steuerruckbehalt USA'' (''Additional tax withholdings USA''); and the appropriate Swiss form will be filed therewith. The Federal Tax Administration has arranged that the amounts so deposited will, after adjustment for tax refunded to persons entitled to the reduced rate of 15 percent, be periodically remitted by draft in United States dollars to the Collector of Internal Revenue, Baltimore, Maryland, U.S.A.

§ 509.9 Return of tax withheld and information return with respect to persons whose addresses are in Switzerland.

Every United States withholding agent shall make and file with the collector, in duplicate, an information return on Form 1042F, in addition to the withholding return, Form 1042, for the calendar year 1951 and each subsequent calendar year, with respect to:

(a) Dividends from which a tax of 15 percent was withheld from persons whose addresses are in Switzerland (5 percent in the case of dividends falling within the scope of the provisions of Article VI(2) of the Convention);

(b) Interest (other than coupon bond interest reported on Form 1001–S) from which a tax of 5 percent was withheld from persons who have furnished to the withholding agent Form 1001A–S;

(c) Royalties and like amounts from which no tax was withheld from persons who have furnished to the withholding agent Form 1001A–S; and

(d) All other fixed or determinable annual or periodical income paid to such persons.

§ 509.10 Beneficiaries of a domestic estate or trust.

A nonresident alien who is a resident of Switzerland and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from tax, or reduction in the rate of tax, as the case may be, provided in Articles VI, VII, and VIII of the convention with respect to dividends, interest, and royalties to the extent such item or items are included in his distributive share of the income of such estate or trust. In such case such beneficiary must, in order to be entitled to the exemption from, or reduction in the rate of, tax in the case of interest or royalties, execute Form 1001A–S and file such form with the fiduciary of such estate or trust in the United States.

Subpart—General Income Tax

SOURCE: Treasury Decision 6149, 20 FR 7587, Oct. 12, 1955; 25 FR 14022, Dec. 31, 1960, unless otherwise noted.

§ 509.101 Introductory.

The income tax convention between the United States and the Swiss Confederation, signed May 24, 1951, and proclaimed by the President of the United States on October 1, 1951, subject to the understanding expressed in the protocol of exchange, referred to in this part as the convention, provides as follows, effective for taxable years beginning on or after January 1, 1951:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income taxes, including surtaxes and excess profits taxes.

(b) In the case of The Swiss Confederation: The federal, cantonal and communal taxes on income (total income, earned income, income from property, industrial and commercial profits, etc.).

(2) The present Convention shall also apply to any other income or profits tax of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term ''United States'' means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term ''Switzerland'' means The Swiss Confederation.

(c) The term ''permanent establishment'' means a branch, office, factory, workshop, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and habitually exercises a general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a commission agent, broker or custodian or other independent agent acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation. The maintenance within the territory of one of the contracting States by an enterprise of the other contracting State of a warehouse for convenience of delivery and not for purposes of display shall not of itself constitute a permanent establishment within that territory even though offers of purchase have been obtained by an agent of the enterprise in that territory and transmitted by him to the enterprise for acceptance.

(d) The term ''enterprise of one of the contracting States'' means, as the case may be, ''United States enterprise'' or ''Swiss enterprise''.

(e) The term ''United States enterprise'' means an industrial or commercial enterprise or undertaking carried on in the United States by a resident (including an individual, fiduciary and partnership) of the United States or by a United States corporation or other entity; the term ''United States corporation or other entity'' means a corporation or other entity created or organized under the law of the United States or of any State or Territory of the United States.

(f) The term ''Swiss enterprise'' means an industrial or commercial enterprise or undertaking carried on in Switzerland by an individual resident in Switzerland or by a Swiss corporation or other entity; the term ''Swiss corporation or other entity'' means a corporation or institution or foundation having juridical personality, or a partnership (association ''en nom collectif'' or ''en commandite''), or other association without juridical personality, created or organized under Swiss laws.

(g) The term ''competent authorities'' means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of Switzerland, the Director of the Federal Tax Administration as authorized by the Federal Department of Finances and Customs.

(h) The term ''industrial or commercial profits'' includes manufacturing, mercantile, mining, financial and insurance profits, but does not include income in the form of dividends, interest, rents or royalties, or remuneration for personal services: Provided, however, that such excepted items of income shall, subject to the provisions of this Convention, be taxed separately or together with industrial or commercial profits in accordance with the laws of the contracting States.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own tax laws.

ARTICLE III

(1)(a) A Swiss enterprise shall not be subject to taxation by the United States in respect of its industrial and commercial profits unless it is engaged in trade or business in the United States through a permanent establishment situated therein. If it is so engaged the United States may impose its tax upon the entire income of such enterprise from sources within the United States.

(b) A United States enterprise shall not be subject to taxation by Switzerland in respect of its industrial and commercial profits except as to such profits allocable to its permanent establishment situated in Switzerland.

(2) No account shall be taken in determining the tax in one of the contracting States of the mere purchase of merchandise therein by an enterprise of the other State.

(3) Where an enterprise of one of the contracting States is engaged in trade or business in the territory of the other contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(4) In the determination of the industrial or commercial profits of the permanent establishment there shall be allowed as deductions all expenses which are reasonably applicable to the permanent establishment, including executive and general administrative expenses so applicable.

(5) The competent authorities of the two contracting States may lay down rules by agreement for the apportionment of industrial and commercial profits.

ARTICLE IV

Where an enterprise of one of the contracting States, by reason of its participation in the management or the financial structure of an enterprise of the other contracting State, makes with or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would normally have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

Income which an enterprise of one of the contracting States derives from the operation of ships or aircraft registered in that State shall be taxable only in the State in which such ships or aircraft are registered.

ARTICLE VI

(1) The rate of tax imposed by one of the contracting States upon dividends derived from sources within such State by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall not exceed 15 percent: Provided, however, that this paragraph shall have no application to Swiss tax in the case of dividends derived from Switzerland by a Swiss citizen (who is not also a citizen of the United States) resident in the United States.

(2) It is agreed, however, that such rate of tax shall not exceed five percent if the shareholder is a corporation controlling, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the dividend, and if not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate to five percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

(2) Switzerland may collect its tax without regard to paragraphs (1) and (2) of this Article but will make refund of the tax so collected in excess of the tax computed at the reduced rates provided in such paragraphs.

ARTICLE VII

(1) The rate of tax imposed by one of the contracting States on interest on bonds, securities, notes, debentures or on any other form of indebtedness (including mortgages or bonds secured by real property) derived from sources within such contracting State by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall not exceed five percent: Provided, however, that this paragraph shall have no application to Swiss tax in the case of interest derived from Switzerland by a Swiss citizen (who is not also a citizen of the United States) resident in the United States.

(2) Switzerland may collect its tax without regard to paragraph (1) of this Article but will make refund of the tax so collected in excess of the tax computed at the reduced rate provided in such paragraph.

ARTICLE VIII

Royalties and other amounts derived, as consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trademarks, and other like property and rights (including rentals and like payments in respect to motion picture films or for the use of industrial, commercial or scientific equipment), from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State.

ARTICLE IX

(1) Income from real property (including gains derived from the sale or exchange of such property but not including interest from mortgages or bonds secured by real property) and royalties in respect of the operation of mines, quarries, or other natural resources, shall be taxable only in the contracting State in which such property, mines, quarries, or other natural resources are situated.

(2) A resident or corporation or other entity of one of the contracting States deriving any such income from such property within the other contracting State may, for any taxable year, elect to be subject to the tax of such other contracting State, on a net basis, as if such resident or corporation or entity were engaged in trade or business within such other contracting State through a permanent establishment therein during such taxable year.

ARTICLE X

(1) An individual resident of Switzerland shall be exempt from United States tax upon compensation for labor or personal services performed in the United States (including the practice of the liberal professions and rendition of services as director) if he is temporarily present in the United States for a period or periods not exceding a total of 188 days during the taxable year and either of the following conditions is met:

(a) His compensation is received for such labor or personal services performed as an employee of, or under contract with, a resident or corporation or other entity of Switzerland, or

(b) His compensation received for such labor or personal services does not exceed $10,000.

(2) The provisions of paragraph (1) of this Article shall apply mutatis mutandis, to an individual resident of the United States with respect to compensation for such labor or personal services performed in Switzerland.

(3) The provisions of this Article shall have no application to the income to which Article XI (1) relates.

(4) The provisions of paragraph (1)(a) of this Article shall not apply to the compensation, profits, emoluments or other remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

ARTICLE XI

(1)(a) Wages, salaries and similar compensation, and pensions paid by the United States or by the political subdivisions or territories thereof to an individual (other than a Swiss citizen who is not also a citizen of the United States) shall be exempt from Swiss tax.

(b) Wages, salaries and similar compensation and pensions paid by Switzerland or by any agency or instrumentality thereof or by any political subdivisions or other public authorities thereof to an individual (other than a United States citizen who is not also a citizen of Switzerland) shall be exempt from United States tax.

(2) Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

(3) The term ''pensions'', as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term ''life annuities'' as used in this Article, means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XII

A professor or teacher, a resident of one of the contracting States, who temporarily visits the other contracting State for the purpose of teaching for a period not exceeding two years at a university, college, school or other educational institution in the other contracting State, shall be exempted in such other contracting State from tax on his remuneration for such teaching for such period.

ARTICLE XIII

A student or apprentice, a resident of one of the contracting States, who temporarily visits the other contracting State exclusively for the purposes of study or for acquiring business or technical experience shall not be taxable in the latter State in respect of remittances received by him from abroad for the purposes of his maintenance or studies.

ARTICLE XIV

(1) Dividends and interest paid by a corporation other than a United States domestic corporation shall be exempt from United States tax where the recipient is a nonresident alien as to the United States resident in Switzerland or a Swiss corporation, not having a permanent establishment in the United States.

(2) Dividends and interest paid by a corporation other than a Swiss corporation shall be exempt from Swiss tax where the recipient is a resident or corporation of the United States, not having a permanent establishment in Switzerland.

ARTICLE XV

(1) It is agreed that double taxation shall be avoided in the following manner:

(a) The United States in determining its taxes specified in Article I of this Convention in the case of its citizens, residents or corporations may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income taxable under the revenue laws of the United States as if this Convention had not come into effect. The United States shall, however, subject to the provisions of section 131, Internal Revenue Code, as in effect on the date of the entry into force of this Convention, deduct from its taxes the amount of Swiss taxes specified in Article I of this Convention. It is agreed that by virtue of the provisions of subparagraph (b) of this paragraph, Switzerland satisfies the similar credit requirement set forth in section 131(a)(3), Internal Revenue Code.

(b) Switzerland, in determining its taxes specified in Article I of this Convention in the case of its residents, corporations or other entities, shall exclude from the basis upon which such taxes are imposed such items of income as are dealt with in this Convention, derived from the United States and not exempt from, and not entitled to the reduced rate of, United States tax under this Convention; but in the case of a citizen of the United States resident in Switzerland there shall be excluded all items of income derived from the United States. Switzerland, however, reserves the right to take into account in the determination of the rate of its taxes also the income excluded as provided in this paragraph.

(2) The provisions of this Article shall not be construed to deny the exemptions from United States tax or Swiss tax, as the case may be, granted by Article XI (1) of this Convention.

ARTICLE XVI

(1) The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the like in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

(2) Each of the contracting States may collect such taxes imposed by the other contracting State as though such taxes were the taxes of the former State as will ensure that the exemption or reduced rate of tax granted under Articles VI, VII, VIII and XI(2) of the present Convention by such other State shall not be enjoyed by persons not entitled to such benefits.

(3) In no case shall the provisions of this Article be construed so as to impose upon either of the contracting States the obligation to carry out administrative measures at variance with the regulations and practice of either contracting State or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the State making application.

ARTICLE XVII

(1) Where a taxpayer shows proof that the action of the tax authorities of the contracting States has resulted, or will result, in double taxation contrary to the provisions of the present Convention, he shall be entitled to present the facts to the State of which he is a citizen or a resident, or, if the taxpayer is a corporation or other entity, to the State in which it is created or organized.

Should the taxpayer's claim be deemed worthy of consideration, the competent authority of such State shall undertake to come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

ARTICLE XVIII

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

(3) The citizens of one of the contracting States shall not, while resident in the other contracting State, be subjected therein to other or more burdensome taxes than are the citizens of such other contracting State residing in its territory. The term ''citizens'' as used in this Article includes all legal persons, partnerships and associations created or organized under the laws in force in the respective contracting States. In this Article the word ''taxes'' means taxes of every kind or description, whether Federal, State, cantonal, municipal or communal.

ARTICLE XIX

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

ARTICLE XX

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible. It shall have effect for the taxable years beginning on or after the first day of January of the year in which such exchange takes place: Provided, however, that if such exchange takes place on or after October 1 of such year, Article VI (except paragraph (2) thereof) and Article VII of the Convention shall have effect only for taxable years beginning on or after the first day of January of the year immediately following the year in which such exchange takes place.

(2) The present Convention shall continue effective for a period of five years beginning with the calendar year in which the exchange of the instruments of ratification takes place and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

Done at Washington, in duplicate, in the English and German languages, the two texts having equal authenticity, this 24th day of May, 1951.

For the President of the United States of America:

[SEAL]

DEAN ACHESON.

For the Swiss Federal Council:

[SEAL]

CHARLES BRUGGMANN.

PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES DATED OCTOBER 1, 1951

* * * * *

And whereas the Senate of the United States of America, by their resolution of September 17, 1951, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the aforesaid convention, subject to a reservation, as follows:

''The Government of the United States of America does not accept paragraph (4) of Article X of the Convention, relating to the profits or remuneration of public entertainers.''

And whereas the text of the aforesaid reservation was communicated by the Government of the United States of America to the Government of the Swiss Confederation and the aforesaid reservation was accepted by the Government of the Swiss Confederation;

And whereas the aforesaid convention was duly ratified by the President of the United States of America on September 20, 1951, in pursuance of the aforesaid advice and consent of the Senate and subject to the aforesaid reservation, and the aforesaid convention was duly ratified on the part of the Swiss Confederation;

And whereas the respective instruments of ratification of the aforesaid convention were duly exchanged at Bern on September 27, 1951, and a protocol of exchange of instruments of ratification, in the English and French languages, was signed at that place

and on that date by the respective Plenipotentiaries of the United States of America and the Swiss Confederation, the said protocol containing a statement that it is understood by the two Governments that the convention aforesaid, upon entry into force in accordance with its provisions, is modified in accordance with the aforesaid reservation, so that, in effect, paragraph (4) of Article X of the convention is deemed to be deleted;

And whereas, so far as appertains to an exchange of instruments of ratification prior to October 1 of any year, it is provided in Article XX of the aforesaid convention that upon the exchange of instruments of ratification the convention shall have effect for the taxable years beginning or [sic] or after the first day of January of the year in which such exchange takes place;

Now, therefore, be it known that I, Harry S. Truman, President of the United States of America, do hereby proclaim and make public the aforesaid convention to the end that the said convention and each and every article and clause thereof, subject to the aforesaid reservation, may be observed and fulfilled with good faith by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

* * * * *

§ 509.102 Applicable provisions of law.

(a) *General.* The Internal Revenue Code of 1954 provides in part as follows:

SUBTITLE A—INCOME TAXES

* * * * *

SEC. 894. *Income exempt under treaty.* Income of any kind, to the extent required by any treaty obligation of the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.

* * * * *

SUBTITLE F—PROCEDURE AND ADMINISTRATION

* * * * *

SEC. 7805. *Rules and regulations*—(a) *Authorization.* Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary or his delegate shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary or his delegate may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

* * * * *

(b) *Internal Revenue Code of 1939.* Any reference in §§ 509.101 to 509.122 to any provision of the Internal Revenue Code of 1954 shall, where applicable, be deemed also to refer to the corresponding provision of the Internal Revenue Code of 1939.

(c) *Effective date of regulations.* Pursuant to sections 894 and 7805 of the Internal Revenue Code of 1954, Article XIX of the convention, and other provisions of the internal revenue laws, §§ 509.101 to 509.122 are hereby prescribed effective for taxable years beginning on or after January 1, 1951. All regulations inconsistent herewith are modified accordingly.

§ 509.103 Scope of the convention.

(a) *Purposes of convention.* The primary purposes of the convention, to be accomplished on a reciprocal basis, are to avoid double taxation upon certain items of income derived from sources in one country by residents or corporations or other entities of the other country and to provide for administrative cooperation between the competent tax authorities of the two countries looking to the avoidance of double taxation and the prevention of fiscal evasion.

(b) *Exemption from United States tax.* The following items of income from sources within the United States are exempt from United States tax for taxable years beginning on or after January 1, 1951, subject to the respective articles of the convention:

(1) Industrial and commercial profits of a Swiss enterprise having no permanent establishment in the United States (Article III);

(2) Income derived by a Swiss enterprise from the operation of ships or aircraft registered in Switzerland (Article V);

(3) Patent and copyright royalties, and other like amounts, including motion picture film rentals, derived by a nonresident alien who is a resident of

Switzerland, or by a Swiss corporation or other entity, if such alien, corporation, or other entity has no permanent establishment in the United States (Article VIII);

(4) Compensation, subject to certain limitations, for personal services performed in the United States by a nonresident alien individual who is a resident of Switzerland (Article X);

(5) Compensation and pensions paid by Switzerland to an alien individual, and to a citizen of Switzerland who is also a citizen of the United States, including such items as are from sources without the United States (Article XI);

(6) Private pensions and life annuities paid to a nonresident alien individual who is a resident of Switzerland (Article XI);

(7) Remuneration derived from certain teaching in the United States by a professor or teacher who is a nonresident alien residing in Switzerland (Article XII); and

(8) Dividends and interest paid by a foreign corporation to a nonresident alien who is a resident of Switzerland, or to a Swiss corporation, if such alien or corporation has no permanent establishment in the United States (Article XIV).

(c) *Students or apprentices.* Remittances received from abroad for the purpose of maintenance or studies by a student or apprentice, a nonresident alien residing in Switzerland, who is temporarily present in the United States under specified circumstances are also exempt from United States tax (Article XIII).

(d) *Reduced rates of United States tax.* Dividends and interest derived from sources within the United States by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation or other entity, are subject to United States tax at reduced rates, if such alien, corporation, or other entity has no permanent establishment in the United States (Articles VI and VII).

(e) *Withholding regulations.* For regulations pertaining to the release of excess tax withheld, and to exemption from, or reduction in the rate of, withholding of United States tax at source, in the case of dividends, interest, patent and copyright royalties, film rentals, private pensions, and life annuities, received from sources within the United States by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation or other entity, see Treasury Decision 5867, approved November 21, 1951 (§§ 509.1 to 509.10).

(f) *United States citizens, residents, and corporations.* (1) Any citizen of Switzerland who is a resident of the United States is liable to United States tax as though the convention had not come into effect; however, such alien resident of the United States is entitled to the foreign tax credit in accordance with Article XV and is also entitled to the benefits of Article XI (1) and Article XVIII.

(2) A citizen of the United States, even though resident in Switzerland, or a domestic corporation, even though engaged in trade or business in Switzerland through a permanent establishment situated therein, is also liable to United States tax as though the convention had not come into effect but is entitled to the foreign tax credit and, to the extent, applicable, to the benefits of Article XI (1).

(g) *Other provisions applicable to Swiss residents and corporations.* Except as otherwise expressly provided by the convention, the United States tax liability of a nonresident alien who is a resident of Switzerland, or of a Swiss corporation or other entity, is determined in accordance with the provisions of the Internal Revenue Code of 1954 relating to nonresident alien individuals and foreign corporations.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, § 509.103 was amended by removing and reserving paragraph (e), effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§ 509.104 Definitions.

(a) *General.* Any term defined in the convention or §§ 509.101 to 509.122 shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

(b) *Specific terms.* As used in §§ 509.101 to 509.122—

(1) *United States tax.* The term ''United States tax'' means the Federal income taxes, including surtaxes and excess profits taxes, and any other income or profits tax of a substantially similar character imposed by the United States after May 24, 1951.

(2) *Swiss tax.* The term ''Swiss tax'' means the federal, cantonal, and communal taxes on income—that is, on total income, earned income, income from property, industrial and commercial profits, etc.—and any other income or profits tax of a substantially similar character imposed by Switzerland after May 24, 1951.

(3) *United States.* The term ''United States'' means the United States of America; and, when used in a geographical sense, means the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(4) *Switzerland.* The term ''Switzerland'' means the Swiss Confederation.

(5) *Permanent establishment*—(i) *Fixed place of business.* The term ''permanent establishment'' means an office, factory, workshop, warehouse, branch, or other fixed place of business, but does not include the casual and temporary use of merely storage facilities. It implies the active conduct of a business enterprise. The mere ownership, for example, of timberlands or a warehouse in the United States by a Swiss enterprise does not mean that such enterprise, in the absence of any business activity therein, has a permanent establishment in the United States. Moreover, the maintenance within the United States by a Swiss enterprise of a warehouse for convenience of delivery, and not for purposes of display, does not of itself constitute a permanent establishment in the United States, even though offers of purchase have been obtained by an agent therein of the Swiss enterprise and transmitted by him to the Swiss enterprise for acceptance. The fact that a Swiss enterprise maintains in the United States an office or other fixed place of business used exclusively for the purchase for such enterprise of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise.

(ii) *Subsidiary corporation.* The fact that a Swiss corporation has a domestic subsidiary corporation, or a foreign subsidiary corporation which is engaged in trade or business in the United States through a permanent establishment situated therein, does not of itself constitute either subsidiary corporation the United States permanent establishment of the Swiss parent corporation.

(iii) *Agency.* A Swiss enterprise which has an agency in the United States does not thereby have a permanent establishment in the United States, unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or unless he has a stock of merchandise from which he regularly fills orders on its behalf. If the enterprise has an agent in the United States who has power to contract on its behalf, but only at fixed prices and under conditions determined by such principal, it does not thereby necessarily have a permanent establishment in the United States. The mere fact that an agent of a Swiss enterprise—assuming he has no general authority to negotiate and conclude contracts on behalf of his principal—maintains samples, or occasionally fills orders from incidental stocks of goods maintained, in the United States does not of itself mean that such enterprise has a permanent establishment in the United States. The mere fact that salesmen, employees of a Swiss enterprise, promote the sale of their employer's products in the United States or that a Swiss enterprise transacts business in the United States by means of mail order activities does not mean that such enterprise has a permanent establishment in the United States. A Swiss enterprise shall not be deemed to have a permanent establishment in the United States merely because it carries on business dealings in the United States through a commission agent, broker, custodian, or other independent agent, acting in the ordinary course of his business as such.

(6) *Enterprise.* The term ''enterprise'' means any commercial or industrial enterprise or undertaking carried on by any person, for example, by an individual partnership, or corporation. It

includes such activites as manufacturing, merchandising, mining, processing, banking, and insuring. It does not include the rendition of personal services. Hence, a nonresident alien individual who is resident of Switzerland and who performs personal services is not, merely by reason of such services, engaged in a Swiss enterprise within the meaning of the convention; consequently, his liability to United States tax is not determined under Article III of the convention, if he has not otherwise carried on a Swiss enterprise.

(7) *Swiss enterprise.* The term ''Swiss enterprise'' means an enterprise carried on in Switzerland by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation or other entity. Thus, an enterprise carried on wholly outside Switzerland by a Swiss corporation is not a Swiss enterprise within the meaning of the convention.

(8) *Swiss corporation or other entity.* The term ''Swiss corporation or other entity'' means a corporation or institution or foundation having juridical personality, or a partnership (association ''en nom collectif'' or ''en commandite''), or other association without juridical personality, created or organized under Swiss laws.

(9) *United States enterprise.* The term ''United States enterprise'' means an enterprise carried on in the United States by a resident of the United States (including an individual, fiduciary, and partnership) or by a United States corporation or other entity.

(10) *United States corporation or other entity.* The term ''United States corporation or other entity'' means a corporation or other entity created or organized under the law of the United States or of any State or Territory of the United States.

(11) *Industrial and commercial profits.* The term ''industrial and commercial profits'' means profits arising from industrial, commercial, mercantile, manufacturing, and like activities of an enterprise, including mining, financial and insurance profits. It does not include income in the form of dividends, interests, rents, royalties, or remuneration for personal services. In determining the industrial and commercial profits from sources within the United States of a Swiss enterprise, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the United States by such enterprise. Moreover, in determining such profits of the United States permanent establishment of such enterprise, there shall be allowed as deductions all expenses which are reasonably applicable to the permanent establishment, including executive and general administrative expenses so applicable. See sections 861 through 864, Internal Revenue Code of 1954, and the regulations thereunder.

(12) *Commissioner.* The term ''Commissioner'' means the Commissioner of Internal Revenue or his authorized representative.

(13) *Director of the Federal Tax Administration.* The term ''Director of the Federal Tax Administration'' means the Director of the Federal Tax Administration (Direktor der eidgenoessischen Steuerverwaltung) of Switzerland.

§ 509.105 Industrial and commercial profits.

(a) *General.* (1) Article III of the convention adopts the principle that an enterprise of one of the contracting States shall not be taxable by the other contracting State upon its industrial and commercial profits unless it is engaged in trade or business in the latter State through a permanent establishment situated therein. Accordingly, a Swiss enterprise is subject to United States tax upon its industrial and commercial profits, to the extent of such profits from sources within the United States, only if it is engaged in trade or business in the United States at some time during the taxable year through a permanent establishment situated therein.

(2) From the standpoint of the United States tax the article has application only to a Swiss enterprise and its industrial and commercial profits from sources within the United States. Thus, a nonresident alien individual who is a citizen of Switzerland, or a Swiss corporation or other entity, carrying on an enterprise which is not Swiss, is subject to tax on such income of such enterprise pursuant to section

871(c) or section 882(a), Internal Revenue Code of 1954, if such alien, corporation, or other entity has engaged in trade or business in the United States at any time during the taxable year, even though it has not had a permanent establishment therein at any time within such year.

(b) *No United States permanent establishment.* A Swiss enterprise is not subject to United States tax upon its industrial and commercial profits from sources within the United States, nor shall such profits be included in gross income, if it has not at any time during the taxable year engaged in trade or business in the United States through a permanent establishment situated therein. For example, if during the taxable year an enterprise carried on in Switzerland by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation, were to sell merchandise, such as watches, dairy products, or liqueurs, in the United States through a commission agent or broker in the United States acting in the ordinary course of his business as such agent or broker, the profits arising from such sale would not be included in gross income and would be exempt from United States tax under Article III of the convention. Similarly, if during the taxable year such enterprise were to secure orders in the United States for such merchandise through its sales agents whose sole function in the United States is sales promotion, the orders being transmitted to Switzerland for acceptance, then the profits arising from such sales would not be included in gross income and would be exempt from United States tax.

(c) *United States permanent establishment*—(1) *General.* A Swiss enterprise is subject to United States tax upon its industrial and commercial profits from sources within the United States to the same extent as are nonresident aliens or foreign corporations which are subject to tax pursuant to section 871(c) or section 882(a), Internal Revenue Code of 1954, if such enterprise has at any time during the taxable year engaged in trade or business in the United States through a permanent establishment situated therein. If it is so engaged, it is subject to United States tax upon its entire income from sources within the United States except to the extent otherwise exempt from United States tax.

(2) *Allocation of profits.* In the determination of the income taxable to such enterprise for purposes of the United States tax, all industrial and commercial profits from sources within the United States shall be deemed to be allocable to the permanent establishment in the United States. Hence, if a Swiss enterprise which has a permanent establishment in the United States at some time during the taxable year were to sell in the United States, through a commission agent therein acting in the ordinary course of his business as such, merchandise which has been produced in Switzerland, the profits arising from such sale would be allocable to the permanent establishment to the extent they are derived from sources within the United States, even though the sale is made independently of the permanent establishment.

(3) *Independent basis.* The industrial and commercial profits of the permanent establishment in the United States shall be determined as if the establishment were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length, or on an independent basis, with the enterprise of which it is a permanent establishment.

§ 509.106 Control of a United States enterprise by a Swiss enterprise.

In effect, Article IV of the convention provides that, if a Swiss enterprise by reason of its control of a United States enterprise imposes on the latter enterprise conditions different from those which would result from normal business relations between independent enterprises, the accounts between the enterprises shall be adjusted in order to ascertain the true taxable income of each enterprise. The purpose is to place the controlled United States enterprise on a tax parity with an uncontrolled United States enterprise by determining, according to the standard of an uncontrolled enterprise, the true taxable income from the property and business of the controlled enterprise. The basic objective of the article is

that, if the accounting records do not truly reflect the taxable income from the property and business of the United States enterprise, the Commissioner shall intervene and, by making such distributions, apportionments, or allocations as he may deem necessary of gross income, deductions, credits, or allowances, or of any item or element affecting taxable income, between the United States enterprise and the Swiss enterprise by which it is controlled or directed, shall determine the true taxable income of the United States enterprise. The provisions of section 482 of the Internal Revenue Code of 1954, and the regulations thereunder, shall, insofar as applicable, be followed in the determination of the taxable income of the United States enterprise.

§ 509.107 Income from operation of ships or aircraft.

Under Article V of the convention so much of the income from sources within the United States of a Swiss enterprise as consists of earnings derived from the operation of ships or aircraft documented or registered in Switzerland shall not be included in gross income and shall be exempt from United States tax, even though at some time during the taxable year such enterprise has engaged in trade or business in the United States through a permanent establishment situated therein.

§ 509.108 Dividends.

(a) *General.* (1) The rate of United States tax imposed by the Internal Revenue Code of 1954 upon dividends derived from sources within the United States by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation or other entity, shall not exceed 15 percent under the provisions of Article VI of the convention, if such alien, corporation, or other entity at no time during the taxable year in which such dividends are derived has a permanent establishment in the United States.

(2) If, for example, a nonresident alien individual who is a resident of Switzerland performs personal services within the United States during the taxable year, but has at no time during such year a permanent establishment within the United States, he is entitled to the reduced rate of tax with respect to dividends derived in that year from United States sources, as provided in Article VI of the convention, even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he has engaged in trade or business within the United States during such year by reason of his having performed personal services therein.

(b) *Dividends paid by related corporation.* The rate of United States tax imposed by the Internal Revenue Code of 1954 upon dividends derived from sources within the United States by a Swiss corporation shall not exceed 5 percent under the provisions of Article VI (2) of the convention if:

(1) The Swiss corporation is a shareholder which controls, directly or indirectly, at the time the dividend is paid 95 percent or more of the entire voting power in the corporation paying the dividend;

(2) Not more than 25 percent of the gross income of the paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid consists of dividends and interest (other than dividends and interest received by such paying corporation from its own subsidiary corporations, if any);

(3) The relationship between the paying corporation and the Swiss corporation has not been arranged or maintained primarily with the intention of securing the reduced rate of 5 percent; and

(4) The Swiss corporation at no time during the taxable year in which such dividends are derived has a permanent establishment in the United States.

§ 509.109 Interest.

The rate of United States tax imposed by the Internal Revenue Code of 1954 upon interest on bonds, securities, notes, debentures, or on any other form of indebtedness, including interest on obligations of the United States, obligations of instrumentalities of the United States, and mortgages and bonds secured by real property, which is derived from sources within the United States by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation or other entity, shall not exceed 5 percent

under the provisions of Article VII of the convention, if such alien, corporation, or other entity at no time during the taxable year in which such interest is derived has a permanent establishment in the United States.

§ 509.110 Patent and copyright royalties and film rentals.

Royalties and other amounts representing consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trademarks, and other like property and rights, including rentals and like payments in respect to motion picture films or for the use of industrial, commercial, or scientific equipment, which are derived from sources within the United States by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation or other entity, are exempt from United States tax under the provisions of Article VIII of the convention if such alien, corporation, or other entity at no time during the taxable year in which such items of income are derived has a permanent establishment in the United States.

§ 509.111 Real property income and natural resource royalties.

(a) *General.* Income of whatever nature derived by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation or other entity, from real property situated in the United States, including gains derived from the sale or exchange of such property, rentals from such property, and royalties in respect of the operation of mines, quarries, or other natural resources situated in the United States, is not exempt from United States tax by the convention. Such items of income are subject to taxation under the provisions of the Internal Revenue Code of 1954 generally applicable to the taxation of nonresident alien individuals and foreign corporations. See Article IX of the convention. Interest derived from mortgages and bonds secured by real property does not constitute income from real property for purposes of this section but is subject to the provisions applicable to interest generally. See § 509.109.

(b) *Net basis*—(1) *General.* Notwithstanding the provisions of paragraph (a) of this section, a nonresident alien who is a resident of Switzerland, or a Swiss corporation or other entity, who during the taxable year derives from sources within the United States any income from real property as described in such paragraph may elect for such taxable year to be subject to United States tax on a net basis as though such alien, corporation, or other entity were engaged in trade or business in the United States during such year through a permanent establishment situated therein.

(2) *Manner of electing.* Such nonresident alien (including an individual, fiduciary, and member of a partnership) shall signify his election to be subject to tax on such a basis by filing Form 104B clearly marked at the top of the first page thereof as follows: ''Return of Resident of Switzerland Electing to File on a Net Basis Pursuant to Article IX of Swiss Income Tax Convention''. Such corporation shall signify its election to be subject to tax on such a basis by filing Form 1120 clearly marked at the top of the first page there of as follows: ''Return of Swiss Corporation Electing to File on a Net Basis Pursuant to Article IX of Swiss Income Tax Convention''. The election so signified shall be irrevocable for the taxable year for which such election is made. All income from sources within the United States, including gains from the sale or exchange of capital assets or of other property, shall be disclosed on the return so filed. See sections 871 and 882 of the Internal Revenue Code of 1954 and the regulations thereunder.

§ 509.112 Compensation for labor or personal services.

(a) *Exemption from tax.* Under Article X of the convention compensation received by a nonresident alien individual who is a resident of Switzerland for labor or personal services, including the practice of the liberal professions and the rendition of services as a director, performed in the United States shall not be included in gross income and shall be exempt from United States tax in either of the following situations:

(1) *Swiss employer.* Where such individual is temporarily present in the United States for a period or periods not exceeding in the aggregate a total of 183 days during a taxable year beginning on or after January 1, 1951, any compensation received by him (irrespective of when received, if received in taxable years beginning on or after January 1, 1951) for such labor or personal services performed in the United States during such year as an employee of, or under contract with, a nonresident alien (including a nonresident alien individual and fiduciary) who is a resident of Switzerland, or a Swiss corporation or other entity, whether or not such alien, corporation, or other entity is engaged in trade or business within the United States, shall not be included in gross income and shall be exempt from United States tax.

(2) *Other employers.* Where such individual is temporarily present in the United States for a period or periods not exceeding in the aggregate a total of 183 days during a taxable year beginning on or after January 1, 1951, any compensation received by him (irrespective of when received, if received in taxable years beginning on or after January 1, 1951) for such labor or personal services performed in the United States during such year shall not be included in gross income and shall be exempt from United States tax if such compensation does not exceed $10,000 in the aggregate. Thus, if a nonresident alien individual who is a resident of Switzerland performs personal services in the United States during the taxable year as an employee of a domestic corporation for which he receives compensation of $15,000 in the aggregate, none of such compensation shall be exempt from United States tax even though such individual is present in the United States during such year for a period or periods not exceeding a total of 183 days, since the aggregate compensation received is in excess of $10,000.

(b) *Definitions.* For purposes of this section, the term ''compensation for labor or personal services'' shall include, but shall not be limited to, the compensation, profits, emoluments, or other remuneration of public entertainers, such as, stage, motion picture, television, or radio artists, musicians, and athletes. For the allocation or segregation as between sources within, and sources without, the United States in the case of compensation for labor or personal services, see sections 861 through 864, Internal Revenue Code of 1954, and the regulations thereunder.

(c) *Exception.* The provisions of this section have no application to the income to which Article XI(1) of the convention relates.

§ 509.113 Government wages, salaries, and pensions.

(a) *General.* Under Article XI of the convention any wage, salary, or similar compensation, or any pension, paid by Switzerland or any agency or instrumentality thereof, or by any political subdivisions or other public authorities of Switzerland, to any alien individual (whether or not a resident of the United States) or to any individual who occupies the dual status of a citizen of the United States and a citizen of Switzerland shall not be included in gross income and shall be exempt from United States tax, even though at some time during the taxable year such individual has engaged in trade or business in the United States through a permanent establishment situated therein.

(b) *Definition.* As used in this section, the term ''pensions'' means periodic payments made in consideration for services rendered or by way of compensation for injuries received. Under Article XV(2) of the convention the exclusion from gross income, and exemption from United States tax, provided by this section shall not be denied despite the provisions of Article XV. See § 509.118.

(c) *Cross reference.* For the taxation generally of compensation of alien employees of foreign governments and the consequences of executing and filing the waiver provided for in section 247(b) of the Immigration and Nationality Act, see section 893 of the Internal Revenue Code of 1954 and the regulations thereunder.

§ 509.114 Private pensions and life annuities.

(a) *General.* Private pensions and life annuities derived from sources within

the United States and paid to a nonresident alien individual who is a resident of Switzerland shall not be included in gross income and shall be exempt from United States tax, in accordance with Article XI of the convention, even though at some time during the taxable year such individual has engaged in trade or business in the United States through a permanent establishment situated therein.

(b) *Definitions.* As used in this section, the term ''pensions'' means periodic payments made in consideration for services rendered or by way of compensation for injuries received; and the term ''life annuities'' means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

§ 509.115 Visiting professors or teachers.

(a) *General.* Pursuant to Article XII of the convention, a professor or teacher, a nonresident alien who is a resident of Switzerland, who temporarily visits the United States for the purpose of teaching for a period not exceeding two years at any university, college, school, or other educational institution situated within the United States shall, for a period not exceeding two years from the date of his initial arrival in the United States, be exempt from United States tax with respect to his remuneration earned in taxable years beginning on or after January 1, 1951, for such teaching during such period not in excess of two years.

(b) *More than two years.* The exemption granted by Article XII is applicable to remuneration earned during such part of the individual's visit as does not exceed two years from the date of arrival even though the total period of his presence in the United States may extend beyond two years, provided that during such entire period he may be considered to be temporarily visiting the United States.

(c) *Residence.* Such exemption shall not apply to the remuneration of an alien who is a resident of the United States or who is not a resident of Switzerland.

(d) *Nonresidence presumed.* An individual who otherwise qualifies for the exemption from United States tax granted by Article XII shall, for a period of not more than two years immediately succeeding the date of his arrival within the United States for the purpose of such teaching, be deemed to have the tax status of a nonresident alien in the absence of proof of his intention to remain indefinitely in the United States. See section 871 of the Internal Revenue Code of 1954 and the regulations thereunder.

§ 509.116 Students or apprentices.

(a) *General.* Under Article XIII of the convention, a student or apprentice, a nonresident alien who is a resident of Switzerland, who temporarily visits the United States exclusively for the purposes of study or for acquiring business or technical experience shall not include in gross income, and shall be exempt from United States tax with respect to, amounts derived by him in taxable years beginning on or after January 1, 1951, and received during such years from without the United States as remittances for the purposes of his maintenance or studies.

(b) *Residence.* The exemption shall not apply to remittances received by an alien who is a resident of the United States or who is not a resident of Switzerland.

§ 509.117 Dividends and interest paid by a foreign corporation.

(a) *General*—(1) *Dividends.* A dividend paid by a foreign corporation constitutes, in whole or in part, income from sources within the United States and is subject to tax by the United States when received by a nonresident alien individual or other foreign corporation, if 50 percent or more of the gross income of the paying corporation for the statutory period was derived from sources within the United States. See section 861(a)(2)(B), section 872(a), and section 882(b), Internal Revenue Code of 1954; and the regulations thereunder.

(2) *Interest.* Interest on bonds, notes, and other interest-bearing obligations of resident foreign corporations constitutes, in its entirety, income from sources within the United States and is

subject to tax by the United States when received by a nonresident alien individual or other foreign corporation, if 20 percent or more of the gross income of the paying corporation for the statutory period was derived from sources within the United States. See section 861(a)(1)(B), section 872(a), and section 882(b), Internal Revenue Code of 1954; and the regulations thereunder.

(b) *Exemption from United States tax.* Notwithstanding the provisions of paragraph (a) of this section, Article XIV(1) of the convention provides that dividends and interest paid by any foreign corporation and derived by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation, shall not be included in gross income and shall be exempt from United States tax if such alien or corporation at no time during the taxable year in which such items of income are derived has a permanent establishment in the United States. The exemption so provided shall apply even though the corporation paying the dividends or interest is a resident foreign corporation at the time of payment and without regard to the percentage of its gross income from sources within the United States.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, § 509.117 was amended by removing and reserving paragaph (a), effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§ 509.118 Credit against United States tax for Swiss tax.

(a) *General*—(1) *Taxable as though no convention.* Notwithstanding any other provision of the convention the United States, in determining the United States tax of a citizen or resident of the United States, or of a domestic corporation, may, under Article XV(1)(a) of the convention, include in the basis upon which such tax is imposed all items of income taxable under the revenue laws of the United States, as though the convention had not come into effect. For example, despite the exemption from United States tax granted by Article VIII of the convention with respect to a copyright royalty derived from sources within the United States by a resident of Switzerland, such royalty shall be included in gross income and is subject to United States tax when so derived by a resident of Switzerland who is a citizen of the United States, even though such resident has no permanent establishment in the United States.

(2) *Exception.* Notwithstanding the provisions of subparagraph (1) of this paragraph, the exclusion from gross income, and exemption from United States tax, granted by Article XI(1) of the convention with respect to wages, salaries, and similar compensation, and pensions, paid by Switzerland or any agency or instrumentality thereof, or by any political subdivisions or other public authorities of Switzerland, shall not be denied. See Article XV(2) of the convention.

(b) *Application of credit*—(1) *General.* For the purpose of mitigating double taxation, Article XV(1)(a) of the convention provides that a citizen or resident of the United States, or a domestic corporation, deriving income from sources within Switzerland shall be allowed a credit against the United States tax for the amount of Swiss tax paid or accrued during the taxable year. This credit shall be made in accordance with the provisions of section 131 of the Internal Revenue Code of 1939 as in effect on September 27, 1951, but subject to the provisions of Article XVIII(2) of the convention.

(2) *Similar credit requirement.* (i) Article XV(1)(a) further provides that, by virtue of the provisions of Article XV(1)(b) of the convention, relating to the exclusion from basis for computing the Swiss tax, Switzerland satisfies the similar credit requirement set forth in section 901(b)(3), Internal Revenue Code of 1954, relating to alien residents of the United States, etc.

(ii) This provision of Article XV(1)(a) shall be taken to mean that, solely by reason of the exclusion granted by it under Article XV(1)(b) and without reference to concessions otherwise made by such country, Switzerland satisfies the similar credit requirement only with respect to taxes paid to Switzerland, and not with respect to taxes paid to another foreign country. Nothing in this subdivision shall be construed, however, to prevent Switzerland from otherwise satisfying the similar credit

requirement, in accordance with section 901 of the Internal Revenue Code of 1954 and the regulations thereunder, with respect to taxes paid to another foreign country. Thus, if pursuant to a convention between Switzerland and another foreign country, Switzerland were to exempt from its income taxes the income received from sources within such other foreign country by a United States citizen residing in Switzerland, then Switzerland would, in accordance with such regulations under section 901, satisfy the similar credit requirement of section 901(b)(3) with respect to income taxes paid to such other country by a Swiss citizen residing in the United States.

§ 509.119 Exchange of information.

(a) *General.* (1) By Article XVI of the convention the United States and Switzerland adopt the principle of exchange of such information as is necessary for carrying out the provisions of the convention, preventing fraud, or detecting practices which are aimed at the reduction of the revenues of either country, but not including information which would be contrary to public policy or which would disclose any trade, business, industrial, or professional secret or any trade process.

(2) The information and correspondence relative to exchange of information may be transmitted directly by the Commissioner to the Director of the Federal Tax Administration.

(b) *Return of information by withholding agents.* (1) To facilitate compliance with Article XVI of the convention, every United States withholding agent shall make and file in duplicate with the District Director of Internal Revenue, Baltimore 2, Maryland, an information return on Form 1042 Supplement, with respect to persons having addresses in Switzerland, which shall be filed for the calendar year 1955 and subsequent calendar years. This return shall be filed simultaneously with Form 1042.

(2) There shall be reported on such Form 1042 Supplement all items of fixed or determinable annual or periodical income (and amounts described in section 402(a)(2), section 631(b) and (c), and section 1235 of the Internal Revenue Code of 1954, which are considered to be gains from the sale or exchange of capital assets) derived from sources within the United States and paid to nonresident aliens (including nonresident alien individuals, fiduciaries, and partnerships) and to nonresident foreign corporations, whose addresses at the time of payment were in Switzerland, including such items of income upon which, in accordance with the withholding regulations under the convention, no withholding of United States tax is required; except that any of such items which constitute interest in respect of which Form 1001–S or substitute Form 1001–S has been filed in duplicate with the withholding agent is not required to be reported on such Form 1042 Supplement.

(c) *Information to be furnished in ordinary course.* In compliance with the provisions of Article XVI of the convention the Commissioner will transmit to the Director of the Federal Tax Administration, as soon as practicable after the close of the calendar year 1955 and of each subsequent calendar year during which the convention is in effect, the following information relating to such preceding calendar year:

(1) The duplicate copy of each available Form 1042 Supplement filed pursuant to paragraph (b) of this section; and

(2) The duplicate copy of each available ownership certificate, Form 1001–S, and substitute Form 1001–S, filed pursuant to the withholding regulations under the convention, in connection with coupon bond interest.

(d) *Information in specific cases.* Under the provisions and limitations of Article XVI of the convention and upon request of the Director of the Federal Tax Administration, the Commissioner shall furnish to the Director information available to, or obtainable by, the Commissioner relative to the tax liability of any person under the revenue laws of Switzerland in any case in which such information is necessary for carrying out the provisions of the convention or for the prevention of fraud or the like in relation to the taxes which are the subject of the convention.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, § 509.119 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183,

Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§ 509.120 Double taxation claims.

(a) *General.* Under Article XVII of the convention, where the taxpayer shows proof that the action of the tax authorities of the United States or Switzerland has resulted, or will result, in double taxation contrary to the provisions of the convention, he is entitled to present the facts to the country of which he is a citizen; or, if he is not a citizen of either country, to the country of which he is a resident; or, if the taxpayer is a corporation or other entity, to the country in which it is created or organized. The article provides that, should the taxpayer's claim be deemed worthy of consideration, the competent authority of the country to which the facts are presented shall undertake to come to an agreement with the competent authority of the other country with a view to equitable avoidance of the double taxation in question.

(b) *Manner of filing claim.* Such a claim on behalf of a United States citizen, corporation, or other entity, or on behalf of a resident of the United States who is not a Swiss citizen, shall be filed with the Commissioner. The claim shall be set up in the form of a letter addressed to ''The Commissioner of Internal Revenue, Washington, D.C.'' and shall show fully all facts and laws on the basis of which the claimant alleges that such double taxation has resulted or will result. If the Commissioner determines that there is an appropriate basis for the claim under the convention, he shall take up the matter with the Director of the Federal Tax Administration with a view to arranging an agreement of the character contemplated by Article XVII.

§ 509.121 Beneficiaries of an estate or trust.

(a) *Qualified beneficiary.* If he otherwise satisfies the requirements of the respective articles concerned, a nonresident alien who is a resident of Switzerland and who is a beneficiary of an estate or trust shall be entitled to the exemption from, or reduction in the rate of, United States tax granted by Articles VI, VII, VIII, and XIV of the convention with respect to dividends, interest, and royalties and other like amounts, to the extent that (1) any amount paid, credited, or required to be distributed by such estate or trust to such beneficiary is deemed to consist of such items and (2) such items would, without regard to the convention, be includible in his gross income.

(b) *Amounts otherwise includible in gross income of beneficiary.* For the determination of amounts which, without regard to the convention, are includible in the gross income of the beneficiary, see subchapter J of chapter 1 of the Internal Revenue Code of 1954, and the regulations thereunder.

§ 509.122 Swiss partnerships.

(a) *General.* Whether an individual, corporation, or other entity, a member of a partnership created or organized under Swiss laws, is subject to United States tax upon such person's distributive share of the income of such partnership depends upon both the status of the partnership and the status of such member.

(b) *Citizen partner.* A citizen or resident of the United States, or a domestic corporation, is subject to United States tax upon such person's distributive share of the income of such partnership as though the convention had not come into effect, but subject to the provisions of § 509.118; even though other members, by reason of benefits granted by the convention, are not subject to United States tax upon their distributive share of such income.

(c) *Noncitizen partner.* In any case in which income is derived from sources within the United States by a partnership created or organized under Swiss laws, any member of such partnership who has a permanent establishment in the United States or who is either a nonresident alien not a resident of Switzerland or is a foreign corporation which is not Swiss is not entitled, with respect to such member's distributive share of such income, to any benefit granted by the convention solely to nonresident aliens residing in Switzerland, or to Swiss corporations or other

entities, having no permanent establishment in the United States. Conversely, any member of such partnership who individually complies with the requirements for obtaining any such benefit will be entitled thereto with respect to such member's distributive share of such income. A member of a Swiss partnership which has a permanent establishment in the United States shall likewise be considered to have a permanent establishment in the United States.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, §509.122 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

PARTS 510–512 [RESERVED]

PART 513—IRELAND

Subpart—Withholding of Tax

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513.10 Beneficiaries of a domestic estate or trust.
513.11 Refund of income tax withheld during 1951.

AUTHORITY: 26 U.S.C. 62.

SOURCE: Treasury Decision 5897, 17 FR 3633, Apr. 24, 1952, unless otherise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

Subpart—Withholding of Tax

§513.1 Introductory.

(a) The income tax convention between the United States and the Republic of Ireland, signed September 13, 1949, proclaimed by the President of the United States on December 24, 1951, and effective (as respects the United States tax) for taxable years beginning on or after January 1, 1951, referred to in this subpart as the convention, provides in part as follows:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the United States of America: The Federal income taxes, including surtaxes (hereinafter referred to as United States tax).

(b) In Ireland: The income tax (including surtax) and the corporation profits tax (hereinafter referred to as Irish tax).

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Party subsequently to the date of signature of the present Convention.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires—

(a) The term ''United States'' means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term ''Ireland'' means the Republic of Ireland and the term ''Irish'' has a corresponding meaning.

(c) The terms ''territory of one of the Contracting Parties'' and ''territory of the other Contracting Party'' mean the United States or Ireland as the context requires.

(d) The term ''United States corporation'' means a corporation, association or other like entity created or organized in or under the laws of the United States.

(e) The term ''Irish corporation'' means any kind of juridical person created under the laws of Ireland.

(f) The terms ''corporation of one Contracting Party'' and ''corporation of the other Contracting Party'' mean a United States corporation or an Irish corporation as the context requires.

(g) The term ''resident of Ireland'' means any person (other than a citizen of the United States or a United States corporation) who is resident in Ireland for the purposes of Irish tax and not resident in the United States for the purposes of United States tax. A corporation is to be regarded as resident in Ireland if its business is managed and controlled in Ireland.

(h) The term ''resident of the United States'' means any individual who is resident in the United States for the purposes of United States tax and not resident in Ireland for the purposes of Irish tax, and any United States corporation and any partnership created or organized in or under the laws of the

United States, being a corporation or partnership which is not resident in Ireland for the purposes of Irish tax.

(i) The term ''Irish enterprise'' means an industrial or commercial enterprise or undertaking carried on by a resident of Ireland.

(j) The term ''United States enterprise'' means an industrial or commercial enterprise or undertaking carried on by a resident of the United States.

(k) The terms ''enterprise of one of the Contracting Parties'' and ''enterprise of the other Contracting Party'' mean a United States enterprise or an Irish enterprise, as the context requires.

(l) The term ''permanent establishment'' when used with respect to an enterprise of one of the Contracting Parties means a branch, management, factory or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the Contracting Parties shall not be deemed to have a permanent establishment in the territory of the other Contracting Party merely because it carries on business dealings in the territory of such other Contracting Party through a bona fide commission agent or broker acting in the ordinary course of his business as such. The fact that an enterprise of one of the Contracting Parties maintains in the territory of the other Contracting Party a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one Contracting Party has a subsidiary corporation which is a corporation of the other Contracting Party or which is engaged in trade or business in the territory of such other Contracting Party (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(2) For the purposes of Article VI, VII, VIII, IX and XIV a resident of Ireland shall not be deemed to be engaged in trade or business in the United States in any taxable year unless such resident has a permanent establishment situated therein in such taxable year. The same principle shall be applied, mutatis mutandis, by Ireland in the case of a resident of the United States.

(3) In the application of the provisions of the present Convention by one of the Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party relating to the taxes which are the subject of the present Convention.

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ARTICLE VI

(1) The rate of United States tax on dividends derived from a United States corporation by a resident of Ireland who is subject to Irish tax on such dividends and not engaged in trade or business in the United States shall not exceed 15 per cent: provided that such rate of tax shall not exceed five per cent if such resident is a corporation controlling, directly or indirectly, at least 95 per cent of the entire voting power in the corporation paying the dividend, and not more than 25 per cent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate to five per cent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

(2) Dividends derived from sources within Ireland by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such dividends, and (c) not engaged in trade or business in Ireland, shall be exempt from Irish surtax.

(3) Either of the Contracting Parties may terminate this Article by giving written notice of termination to the other Contracting Party, through diplomatic channels, on or before the thirtieth day of June in any calendar year after the calendar year in which the exchange of the instruments of ratification takes place and in such event paragraph (1) hereof shall cease to be effective as to United States tax on and after the first day of January, and paragraph (2) hereof shall cease to be effective as to Irish tax on and after the 6th day of April, in the calendar year next following that in which such notice is given.

ARTICLE VII

(1) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within the United States by a resident of Ireland who is subject to Irish tax on such interest and not engaged in trade or business in the United States, shall be exempt from United States tax; but such exemption shall not apply to such interest paid by a United States corporation to a corporation resident in Ireland controlling, directly or indirectly, more than 50 per cent of the entire voting power in the paying corporation.

(2) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within Ireland by

a resident of the United States who is subject to United States tax on such interest and not engaged in trade or business in Ireland, shall be exempt from Irish tax; but such exemption shall not apply to such interest paid by a corporation resident in Ireland to a United States corporation controlling, directly or indirectly, more than 50 per cent of the entire voting power in the paying corporation.

ARTICLE VIII

(1) Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulas, trade-marks, and other like property, and derived from sources within the United States by a resident of Ireland who is subject to Irish tax on such royalties or other amounts and not engaged in trade or business in the United States, shall be exempt from United States tax.

(2) Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulas, trademarks, and other like property, and derived from sources within Ireland by a resident of the United States who is subject to United States tax on such royalties or other amounts and not engaged in trade or business in Ireland shall be exempt from Irish tax.

(3) For the purposes of this Article, the term ''royalties'' shall be deemed to include rentals in respect of motion picture films.

ARTICLE IX

(1) The rate of United States tax on royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and on rentals from real property or from an interest in such property, derived from sources within the United States by a resident of Ireland who is subject to Irish tax with respect to such royalties or rentals and not engaged in trade or business in the United States, shall not exceed 15 per cent; provided that any such resident may elect for any taxable year to be subject to United States tax as if such resident were engaged in trade or business in the United States.

(2) Royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and rentals from real property or from an interest in such property, derived from sources within Ireland by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such royalties and rentals, and (c) not engaged in trade or business in Ireland, shall be exempt from Irish surtax.

ARTICLE XX

(1) Any salary, wage, similar remuneration, or pension, paid by the Government of the United States to an individual (other than a citizen of Ireland who is not also a citizen of the United States) in respect of services rendered to the United States in the discharge of governmental functions, shall be exempt from Irish tax.

(2) Any salary, wage, similar remuneration, or pension, paid by the Government of Ireland to an individual (other than a citizen of the United States who is not also a citizen of Ireland) in respect of services rendered to Ireland in the discharge of governmental functions, shall be exempt from United States tax.

(3) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Parties for purposes of profit.

* * * * *

ARTICLE XII

(1) Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within the United States by an individual who is a resident of Ireland shall be exempt from United States tax.

(2) Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within Ireland by an individual who is a resident of the United States shall be exempt from Irish tax.

(3) The term ''life annuity'' means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in consideration of money paid.

* * * * *

ARTICLE XV

(1) Dividends and interest paid, on or after the first day of January in the calendar year in which the exchange of instruments or ratification takes place, by an Irish corporation shall be exempt from United States tax except where the recipient is a citizen of or a resident in the United States or a United States corporation.

(2) Dividends and interest paid, on or after the 6th day of April of the first year of assessment specified in Article XXII(2)(b), (i) of this Convention, by a United States corporation shall be exempt from Irish tax except where the recipient is a resident of Ireland.

* * * * *

ARTICLE XX

(1) The taxation authorities of the Contracting Parties shall exchange such information (being information available under the respective taxation laws of the Contracting Parties) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this Article, the term ''taxation authorities'' means, in the case of the United States, the Commissioner of Internal Revenue or his authorized representative and, in the case of Ireland, the Revenue Commissioners or their authorized representative.

* * * * *

ARTICLE XXII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington, District of Columbia, as soon as possible.

(2) Upon exchange of ratifications, the present Convention shall have effect:

(a) as respects United States tax, for the taxable years beginning on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place;

(b)(i) as respects Irish income tax, for the year of assessment beginning on the 6th day of April in the calendar year in which the exchange of instruments of ratification takes place and subsequent years; (ii) as respects Irish surtax, for the year of assessment beginning on the 6th day of April immediately preceding the calendar year in which the exchange of instruments of ratification takes place, and subsequent years; and (iii) as respects Irish corporation profits tax, for any chargeable accounting period beginning on or after the first day of April in the calendar year in which the exchange of instruments of ratification takes place, and for the unexpired portion of any chargeable accounting period current at that date.

ARTICLE XXIII

(1) The present Convention shall continue in effect indefinitely but either of the Contracting Parties may, on or before the 30th day of June in any calendar year following the calendar year in which the exchange of instruments of ratification takes place, give to the other Contracting Party, through diplomatic channels, notice of termination and, in such event, the present Convention shall cease to be effective:

(a) as respects United States tax, for the taxable years beginning on or after the first day of January in the calendar year next following that in which such notice is given;

(b)(i) as respects Irish income tax, for any year of assessment beginning on or after the 6th day of April in the calendar year next following that in which such notice is given; (ii) as respects Irish surtax, for any year of assessment beginning on or after the 6th day of April in the calendar year in which such notice is given; and (iii) as respects Irish corporation profits tax, for any chargeable accounting period beginning on or after the first day of April in the calendar year next following that in which such notice is given and for the unexpired portion of any chargeable accounting period current at that date.

(2) The termination of the present Convention or of any Article thereof shall not have the effect of reviving any treaty or arrangement abrogated by the present Convention or by treaties previously concluded between the Contracting Parties.

(b) As used in this subpart, unless the context otherwise requires, the terms defined in the above articles of the convention shall have the meanings so assigned to them.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, §513.1 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§513.2 Dividends.

(a) *General.* (1) Under Article VI of the convention the rate of tax imposed with respect to dividends by section 211(a) of the Internal Revenue Code (relating to nonresident alien individuals not engaged in trade or business within the United States) and by section 231(a) of the Internal Revenue Code (relating to foreign corporations not engaged in trade or business within the United States) is reduced to 15 percent in the case of dividends derived from a United States corporation and received in taxable years beginning on or after January 1, 1951, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation (whether or not created or organized in

or under the laws of Ireland) whose business is managed and controlled in Ireland, if such alien or corporation is subject to Irish tax on such dividends and at no time during the taxable year had a permanent establishment within the United States. As to what is a United States corporation, see Article II (1)(d) of the convention.

(2) Thus, if a nonresident alien who is resident in Ireland for the purposes of Irish tax performs personal services within the United States during the taxable year, has at no time during such year a permanent establishment within the United States, and is subject to Irish tax on a dividend derived by him in such year from a United States corporation, he is entitled to the reduced rate of tax with respect to such dividend, as provided in Article VI of the convention, even though under the provisions of section 211(b) of the Internal Revenue Code he has engaged in trade or business within the United States during such year by reason of his having rendered personal services therein.

(3) The fact that the payee of the dividend is not required to pay Irish tax on such dividend because of the application of reliefs or exemptions under Irish revenue laws does not prevent the application of the reduction in rate of United States tax with respect to such dividend. If the dividend would have been subject to Irish tax had the payee thereof derived an income large enough to require payment of tax then liability to Irish tax exists for the purpose of the reduction in rate of United States tax. As to what constitutes a permanent establishment, see Article II (1)(l) of the convention.

(4) In the case of dividends paid on or after January 1, 1951, by an Irish corporation, as defined in Article II (1)(e) of the convention, no withholding of United States tax is required. See Article XV (1) of the convention.

(b) *Dividends paid by a United States subsidiary corporation.* (1) Under the proviso of Article VI (1) of the convention dividends derived from a domestic corporation by a foreign corporation whose business is managed and controlled in Ireland and which controls, directly or indirectly, at the time the dividends is paid 95 percent or more of the entire voting power in such domestic corporation are, when received in taxable years beginning on or after January 1, 1951, subject to tax at the rate of only 5 percent, if (i) not more than 25 percent of the gross income of such paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid consists of dividends and interest (other than dividends and interest paid to such domestic corporation by its own subsidiary corporations, if any), (ii) the relationship between such domestic corporation and such foreign corporation has not been arranged or maintained primarily with the intention of securing such reduced rate of 5 percent, (iii) such foreign corporation is subject to Irish tax on such dividends, and (iv) such foreign corporation at no time during the taxable year had a permanent establishment within the United States.

(2) Any domestic corporation which claims or contemplates claiming that dividends paid or to be paid by it on or after January 1, 1951, are subject only to the 5 percent rate shall file the following information with the Commissioner of Internal Revenue as soon as practicable: (i) The date and place of its organization; (ii) the location of the management and control of the foreign corporation to which the dividends are paid or to be paid; (iii) the number of outstanding shares of stock of the domestic corporation having voting power and the voting power thereof; (iv) the person or persons beneficially owning such stock of the domestic corporation and their relationship to such foreign corporation; (v) the amount of gross income by years of the domestic corporation for the three-year period immediately preceding the taxable year in which the dividend is paid; (vi) the amount of interest and dividends by years included in the gross income of the domestic corporation, and the amount of interest and dividends by years received by such corporation from its subsidiary corporations, if any; and (vii) the relationship between the domestic corporation and the foreign corporation to which it pays the dividend.

(3) As soon as practicable after such information is filed, the Commissioner

of Internal Revenue will determine whether the dividends concerned fall within the scope of the proviso of Article VI(1) of the convention and may authorize the release of excess tax withheld with respect to dividends which come within such proviso. In any case in which the Commissioner of Internal Revenue has notified the domestic corporation that the dividends fall within the scope of such proviso the reduced withholding rate of 5 percent will apply to any dividends subsequently paid by such corporation to the foreign corporation, unless the stock ownership of the domestic corporation, or the character of its income, or the place of management and control of the corporation to which the dividend is paid materially changes; or unless the Commissioner of Internal Revenue determines that the relationship between the two corporations is being maintained primarily with the intention of securing the reduced rate of tax; and, if such change in stock ownership, character of income, or place of management and control occurs, the domestic corporation shall promptly notify the Commissioner of Internal Revenue of the then existing facts with respect thereto. The continued application of the reduced withholding rate is also dependent upon the continued fulfillment of conditions in subparagraph (1) (iii) and (iv) of this paragraph.

(c) *Effect of address in Ireland on withholding in case of dividends.* For the purpose of withholding of the tax in the case of dividends every nonresident alien (including a nonresident alien individual, fiduciary, and partnership) whose address is in Ireland shall be deemed by United States withholding agents to be a nonresident alien who is (1) resident in Ireland for the purposes of Irish tax, (2) subject to Irish tax on such dividends, and (3) without a permanent establishment in the United States; and every foreign corporation whose address is in Ireland shall be deemed by such withholding agents to be a foreign corporation whose business is managed and controlled in Ireland and which is (i) subject to Irish tax on such dividends and (ii) without a permanent establishment in the United States.

(d) *Rate of withholding.* (1) Withholding at source in the case of dividends derived from a United States corporation and paid on or after January 1, 1952, to nonresident aliens (including a nonresident alien individual, fiduciary, and partnership) and to foreign corporations, whose addresses are in Ireland, shall be at the rate of 15 percent in every case except that in which, prior to the date of payment of such dividends, the Commissioner of Internal Revenue has notified the withholding agent that (i) such dividends fall within the scope of the proviso of Article VI(1) of the convention or (ii) the reduced rate of tax shall not apply.

(2) The preceding provisions respecting the application of the reduced withholding rate in the case of dividends paid to nonresident aliens and foreign corporations with addresses in Ireland are based upon the assumption that the payee of the dividend is the actual owner of the capital stock from which the dividend is derived and consequently is the person liable to United States tax upon such dividend. As to action by the recipient who is not the owner of the dividend, see §513.8.

(3) The rate at which United States tax has been withheld from any dividend paid on and after thirty days from the date on which this subpart is filed with the Division of the Federal Register to any person whose address is in Ireland at the time the dividend is paid shall be shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment, or on an accompanying statement.

EFFECTVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, §513.2 was revised, effective Jan. 1, 1999. At 63 FR 2723, Jan. 16, 1998, §513.2 was corrected in the fifth line by changing the word ''does'' to read ''does not'' effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001. For the convenience of the user, the revised text is set forth as follows:

§513.2 Dividends.

The fact that the payee of the dividend is not required to pay Irish tax on such dividend because of the application of reliefs or exemptions under Irish revenue laws does not prevent the application of the reduction in rate of United States tax with respect to

such dividend. If the dividend would have been subject to Irish tax had the payee thereof derived an income large enough to require payment of tax then liability to Irish tax exists for the purpose of the reduction in rate of United States tax. As to what constitutes a permanent establishment, see Article II(1)(i) of the convention.

[62 FR 53497, Oct. 14, 1997; 63 FR 2723, Jan. 16, 1998]

§ 513.3 Interest.

(a) *General.* (1) Interest (other than interest falling within the scope of paragraph (c) of this section) on bonds, securities, notes, debentures, or any other form of indebtedness, including interest on obligations of the United States, obligations of instrumentalities of the United States, and mortgages and bonds secured by real property, derived from sources within the United States and received in taxable years beginning on or after January 1, 1951, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation (whether or not created or organized in or under the laws of Ireland) whose business is managed and controlled in Ireland, is exempt from United States tax under the provisions of Article VII(1) of the convention if such alien or corporation is subject to Irish tax on such interest and at no time during the taxable year had a permanent establishment within the United States. Such interest is, therefore, not subject to the withholding provisions of the Internal Revenue Code. As to what constitutes a permanent establishment, see Article II(1) of the convention.

(2) The provisions of § 513.2(a) relating to the degree of liability to Irish tax in the case of dividends are equally applicable with respect to the income falling within the scope of this section.

(b) *Application of exemption from withholding.* (1) To obviate withholding at the source in the case of coupon bond interest the nonresident alien resident in Ireland for the purpose of Irish tax, or the foreign corporation whose business is managed and controlled in Ireland, shall for each issue of bonds submit Form 1001–IR in duplicate to the paying agent with each presentation of interest coupons. Such form shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor, the name and address of the owner of such interest, and the amount of such interest. Such form shall contain a statement that the owner (i) is resident in Ireland for the purposes of Irish tax, or is a foreign corporation whose business is managed and controlled in Ireland, (ii) has no permanent establishment in the United States, and (iii) is subject to Irish tax on such interest.

(2) The exemption from United States tax contemplated by Article VII(1) of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of such interest. The person presenting such coupon, or on whose behalf it is presented, shall for the purpose of the exemption from tax be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon is not the owner of the bond, Form 1001, and not Form 1001–IR, shall be executed.

(3) The original and duplicate ownership certificates, Form 1001–IR, must be forwarded to the Commissioner of Internal Revenue by the withholding agent with the quarterly return on Form 1012, as provided in existing regulations with respect to Form 1001. See § 29.143–7 of Regulations 111 (26 CFR 1949 ed. Supps. 29.143–7 [and § 39.143–7 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)] Form 1001–IR need not be listed on Form 1012.

(4) For general provisions pertaining to the use, without reference to the provisions of the convention, of ownership certificate, Form 1001, by nonresident aliens and nonresident foreign corporations, see §§ 29.143–4 and 29.143–6 of Regulations 111 (26 CFR 1949 ed. Supps. 29.143–4 and 29.143–6) [and §§ 39.143–4 and 39.143–6 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)]

(5) To obviate withholding at the source in the case of interest, other than interest payable by means of coupons, the nonresident alien resident in Ireland for the purposes of Irish tax, or the foreign corporation whose business is managed and controlled in Ireland,

shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VII(1) of the convention. The letter of notification shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor and the name and address of the owner of such interest. It shall also contain a statement that the owner (i) is resident in Ireland for the purposes of Irish tax, or is a foreign corporation whose business is managed and controlled in Ireland, (ii) has no permanent establishment in the United States, and (iii) is subject to Irish tax on such interest. This letter shall constitute authorization for the payment of such interest without deduction of the tax at source.

(6) The letter of notification in the case of interest, other than interest payable by means of coupons, must be filed for each three-calendar-year period, and the first such letter filed by the taxpayer with any withholding agent shall be filed not later than 20 days preceding the date of the first payment of interest in such period. If the taxpayer files such letter with the withholding agent in the calendar year 1952, or in any subsequent calendar year, no additional letter need be filed prior to the end of the two calendar years immediately following the calendar year in which such letter is so filed unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter must be filed by the taxpayer at any earlier date. If, after filing a letter of notification, the taxpayer ceases to be eligible for the benefit of the convention, he must promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from United States tax will no longer apply unless a letter of notification is duly executed and filed with the withholding agent by the new owner of record of such interest.

(7) Each letter of notification, or the duplicate thereof, must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Clearing Branch, Washington 25, D.C.

(8) In the case of interest paid on or after January 1, 1951, by an Irish corporation, as defined in Article II(1)(e) of the convention, no withholding of United States tax is required. See Article XV(1) of the convention.

(c) *Exemption not applicable to interest paid by subsidiary corporation to its parent corporation.* (1) Under the exception contained in Article VII(1) of the convention any interest derived from sources within the United States and paid by a domestic corporation to a foreign corporation whose business is managed and controlled in Ireland is not exempt from United States tax if such foreign corporation controls, directly or indirectly, at the time the interest is paid more than 50 percent of the entire voting power of all classes of stock of such domestic corporation. The exemption from United States tax provided by Article VII(1) of the convention does not, therefore, apply to such interest paid by such domestic corporation.

(2) In any case in which a foreign corporation whose business is managed and controlled in Ireland anticipates the receipt of interest from a domestic corporation and the relationship existing between the foreign corporation and the domestic corporation is such as to render uncertain whether, by reason of the exception contained in Article VII(1) of the convention, the exemption will apply to such interest, the foreign corporation shall not undertake to file any Form 1001–IR or letter of notification prescribed by paragraph (b) of this section unless it has, prior to such filing, applied for and received from the Commissioner of Internal Revenue, Washington 25, D.C., a determination that such foreign corporation does not control, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation. The application to the Commissioner shall contain a full statement of all the facts pertinent to a determination of the question.

(3) As soon as practicable after the application has been filed, the Commissioner of Internal Revenue will determine whether the foreign corporation has such control of the domestic corporation as to render the exemption

provided by Article VII(1) of the convention inapplicable to interest paid by such domestic corporation to such foreign corporation and shall notify the foreign corporation of his determination. The foreign corporation shall forthwith file with the domestic corporation a copy of the Commissioner's letter of notification.

(4) If the Commissioner's determination is that the foreign corporation does not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the domestic corporation, the foreign corporation may thereafter obviate withholding at the source with respect to subsequent payments of such interest by complying with the provisions of paragraph (b) of this section, that is, by submitting Form 1001–IR in the case of coupon bond interest, or the letter of notification for each three-calendar-year period in the case of interest other than interest payable by means of coupons.

(5) A determination of the Commissioner that the foreign corporation does not have such control of the domestic corporation as to render the exemption provided by Article VII(1) of the convention inapplicable will apply until such time as the stock ownership of the domestic corporation has changed to the extent that interest to be received from the domestic corporation by the foreign corporation is no longer exempt from United States tax under Article VII(1) of the convention. If such change in stock ownership occurs, the foreign corporation shall promptly notify both the Commissioner of Internal Revenue and the domestic corporation of the then existing facts with respect to such stock ownership.

(6) In any case in which a foreign corporation whose business is managed and controlled in Ireland has received on or after January 1, 1952, interest from a domestic corporation and the relationship existing between the foreign corporation and the domestic corporation was at the time the interest was paid such as to render uncertain whether, by reason of the exception contained in Article VII(1) of the convention, such interest was exempt from United States tax, the foreign corporation shall apply to the Commissioner of Internal Revenue for a similar determination as to the degree of control at the time the interest was paid. If the Commissioner's determination is that at such time the degree of control was such as to permit the application of the exemption provided by Article VII(1) of the convention, his letter of notification may, subject to the provisions of §513.7(e), authorize the release of excess tax withheld with respect to such exempt interest.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, §513.3 was revised, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001. For the convenience of the user, the revised text is set forth as follows:

§ 513.3 Interest.

The provisions of §513.2 relating to the degree of liability to Irish tax in the case of dividends are equally applicable with respect to the income falling within the scope of this section.

[62 FR 53497, Oct. 14, 1997]

§ 513.4 Patent and copyright royalties and film rentals.

(a) Royalties and other amounts (including rentals for the use of, or for the right to use, motion picture films) derived from sources within the United States and received in taxable years beginning on or after January 1, 1951, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation (whether or not created or organized in or under the laws of Ireland) whose business is managed and controlled in Ireland, when paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trade-marks, and other like property, are exempt from United States tax under the provisions of Article VIII(1) and (3) of the convention if such alien or corporation is subject to Irish tax on such income and at no time during the taxable year had a permanent establishment within the United States. Such items of income

are, therefore, not subject to the withholding provisions of the Internal Revenue Code. As to what constitutes a permanent establishment, see Article II(1)(l) of the convention.

(b) The provisions of §513.2(a) relating to the degree of liability to Irish tax in the case of dividends are equally applicable with respect to the income falling within the scope of this section.

(c) To obviate withholding at the source in the case of such items the nonresident alien resident in Ireland for the purposes of Irish tax, or the foreign corporation whose business is managed and controlled in Ireland, shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VIII of the convention. The provisions of §513.3(b) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest are equally applicable with respect to the income falling within the scope of this section.

(d) Each letter of notification, or the duplicate thereof, must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Clearing Branch, Washington 25, D.C.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §513.4 was revised, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001. For the convenience of the user, the revised text is set forth as follows:

§513.4 Patent and copyright royalties and film rentals.

The provisions of §513.2 relating to the degree of liability to Irish tax in the case of dividends are equally applicable with respect to the income falling within the scope of this section.

[62 FR 53498, Oct. 14, 1997]

§513.5 Natural resource royalties and real property rentals.

(a) Under Article IX of the convention the rate of tax imposed with respect to natural resource royalties and real property rentals by section 211(a) of the Internal Revenue Code (relating to nonresident alien individuals not engaged in trade or business within the United States) and by section 231(a) of the Internal Revenue Code (relating to foreign corporations not engaged in trade or business within the United States) is reduced to 15 percent in the case of royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and in the case of rentals from real property or from an interest in such property, derived from sources within the United States and received in taxable years beginning on or after January 1, 1951, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation (whether or not created or organized in or under the laws of Ireland) whose business is managed and controlled in Ireland, if such alien or corporation is subject to Irish tax on such income and at no time during the taxable year had a permanent establishment within the United States. As to what constitutes a permanent establishment, see Article II(1)(l) of the convention.

(b) The provisions of §513.2(a) relating to the degree of liability to Irish tax in the case of dividends are equally applicable with respect to the income falling within the scope of this section.

(c) To secure the reduced rate of tax at the source in the case of such items the nonresident alien resident in Ireland for the purposes of Irish tax, or the foreign corporation whose business is managed and controlled in Ireland, shall notify the withholding agent by letter in duplicate that the rate of United States tax with respect to such income is reduced to 15 percent under the provisions of Article IX of the convention. The provisions of §513.3(b) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest are equally applicable with respect to the income falling within the scope of this section.

(d) Each letter of notification, or the duplicate thereof, must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Clearing Branch, Washington 25, D.C.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §513.5 was revised, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed

until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001. For the convenience of the user, the revised text is set forth as follows:

§ 513.5 Natural resource royalties and real property rentals.

The provisions of §513.2 relating to the degree of liability to Irsh tax in the case of dividends are equally applicable with respect to the income falling within the scope of this section.

[62 FR 53498, Oct. 14, 1997]

§ 513.6 Pensions and life annuities.

(a) Pensions, other than pensions paid by the Government of the United States to individuals in respect of services rendered thereto in the discharge of governmental functions, and any life annuity, derived from sources within the United States in taxable years beginning on or after January 1, 1951, by a nonresident alien individual who is resident in Ireland for the purposes of Irish tax are exempt from United States tax under the provisions of Article XII of the convention.

(b) To obviate withholding at the source in the case of such exempt income the nonresident alien individual who is resident in Ireland for the purposes of Irish tax shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article XII of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is resident in Ireland for the purposes of Irish tax. This letter shall constitute authorization for the payment of such income without deduction of the tax at source unless the Commissioner of Internal Revenue subsequently notifies the withholding agent that the tax should be withheld from payments of such income made after receipt of such notice. If, after filing a letter of notification, the owner of the income ceases to be eligible for the benefit of the convention, he must promptly notify the withholding agent by letter in duplicate.

(c) Each letter of notification, or the duplicate thereof, must be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Clearing Branch, Washington 25, D.C.

§ 513.7 Release of excess tax withheld at source.

(a) *General.* (1) In order to bring the convention into force and effect at the earliest practicable date,

(i) The reduced rate of tax of 15 percent to be withheld at the source from dividends, natural resource royalties, and real property rentals, and

(ii) The exemption from tax otherwise withheld at the source from interest, patent royalties, copyright royalties, film rentals, and the like,

are hereby made effective beginning January 1, 1952, in any case in which such natural resource royalties, real property rentals, interest, patent royalties, copyright royalties, film rentals, and the like are derived from sources within the United States, or in which such dividends are derived from a United States corporation, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is resident in Ireland for the purposes of Irish tax, or by a foreign corporation whose business is managed and controlled in Ireland, if such alien or corporation is subject to Irish tax on such income and at no time during the taxable year in which such income is so derived had a permanent establishment within the United States.

(2) In the case of every such taxpayer whose address at the time of payment was in Ireland and who furnishes to the withholding agent the letter of notification prescribed in §§513.3(b), 513.4, or §513.5, where United States tax at the rate of 30 percent has been withheld on or after January 1, 1952, there shall be released (except as provided in paragraph (e) of this section) by the withholding agent and paid over to the person from whom it was withheld:

(i) In the case of natural resource royalties and real property rentals, an amount equal to 15 percent of such royalties and rentals, and

(ii) In the case of interest (other than coupon bond interest), patent royalties, copyright royalties, film rentals,

and the like, an amount equal to the tax so withheld.

(3) In the case of every such taxpayer whose address at the time of payment was in Ireland and who furnishes to the withholding agent Form 1001–IR in duplicate, where United States tax at the rate of 28 percent or 30 percent, as the case may be, has been withheld from coupon bond interest on or after January 1, 1952, there shall be released (except as provided in paragraph (e) of this section) by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld, if such taxpayer also files in duplicate with the withholding agent as authorization for the release of such amount a Form 1001–IR clearly marked ''Substitute''. One such substitute form shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by such taxpayer in the calendar year in which the excess tax is released. The use of Form 1001–IR with each presentation of interest coupons for the purpose of obviating withholding of tax at source is set forth in §513.3(b).

(4) In the case of dividends derived from a United States corporation and paid to a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) or to a foreign corporation, whose address at the time of payment was in Ireland, where United States tax at the rate of 30 percent has been withheld from such dividends on or after January 1, 1952, there shall be released (except as provided in paragraph (d) of this section) by the withholding agent and paid over to the person from whom it was withheld an amount equal to 15 percent of such dividends.

(b) *Amounts withheld during 1951.* For provisions respecting the refund of excess tax withheld during the calendar year 1951, see §513.11.

(c) *Pensions and life annuities.* (1) In order to bring the convention into force and effect at the earliest practicable date the exemption from tax otherwise withheld at the source from life annuities and pensions, other than pensions paid by the Government of the United States to individuals in respect of services rendered thereto in the discharge of governmental functions, is hereby made effective beginning January 1, 1952, in any case in which such pensions and life annuities are derived from sources within the United States by a nonresident alien individual who is resident in Ireland for the purposes of Irish tax.

(2) In the case of every such taxpayer whose address at the time of payment was in Ireland and who furnishes to the withholding agent the letter of notification prescribed in §513.6, where United States tax at the rate of 30 percent has been withheld on or after January 1, 1952, from such pensions or life annuities, as the case may be, there shall be released by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld.

(d) *Subsidiary's dividends.* (1) United States tax shall be withheld at the rate of 15 percent from any dividend derived from a United States corporation and paid on or after January 1, 1952, to a foreign corporation whose address is in Ireland unless, prior to the date of payment thereof, the Commissioner of Internal Revenue notifies the domestic corporation that such dividend falls within the scope of the proviso of Article VI(1) of the convention.

(2) In the case of every domestic corporation receiving notification from the Commissioner of Internal Revenue under the provisions of §513.2(b) that dividends paid or to be paid by it fall within the scope of the proviso of Article VI(1) of the convention, where United States tax in excess of the applicable rate of 5 percent has been withheld on or after January 1, 1952, from dividends which come within the scope of such proviso, the withholding agent shall, if so authorized in such notification, release and pay over to the foreign corporation from which it was withheld the excess tax withheld with respect to such dividends.

(e) *Interest paid where degree of stock ownership is determined.* In the case of every foreign corporation whose address at the time of payment was in Ireland and which (1) furnishes to the domestic corporation a copy of the Commissioner's authorization of release prescribed in §513.3(c) and (2) files the letter of notification prescribed in

§ 513.3(b), or the substitute Form 1001–IR prescribed in paragraph (a) of this section, whichever is applicable, where United States tax at the rate of 28 percent or 30 percent, as the case may be, has been withheld on or after January 1, 1952, the withholding agent shall release and pay over to the foreign corporation from which it was withheld an amount equal to the tax so withheld.

§ 513.8 Addressee not actual owner.

(a) If any person with an address in Ireland who receives a dividend from a United States corporation with respect to which United States tax at the rate of only 15 percent has been withheld at source is a nominee or representative through whom such dividend flows to a person other than one described in § 513.2(a) as being entitled to such reduced rate of 15 percent, such recipient in Ireland will withhold an additional amount of United States tax equivalent to the difference between the United States tax which would have been withheld had the convention not been in effect (30 percent as of the date of approval of this subpart) and the 15 percent withheld at the source with respect to such dividend pursuant to § 513.2(d).

(b) In any case in which a fiduciary or partnership with an address in Ireland receives, otherwise than as a nominee or representative, a dividend from a United States corporation with respect to which United States tax at the rate of only 15 percent has been withheld at source, if a beneficiary of such fiduciary or a partner in such partnership is not entitled to the reduced rate of tax provided in Article VI(1) of the convention, the fiduciary or partnership will withhold an additional amount of United States tax with respect to the portion of such dividend included in such beneficiary's share of the distributed or distributable income, or in such partner's distributive share of the income, of such fiduciary or partnership, as the case may be. The amount of the additional tax is to be calculated in the same manner as under paragraph (a) of this section.

(c) If any amount of United States tax is released pursuant to § 513.7(a) by the withholding agent in the United States with respect to a dividend received by such a person with an address in Ireland, the latter will also withhold from such released amount any additional amount of United States tax, otherwise required to be withheld by the preceding provisions of this section in respect of such dividend, in the same manner as if at the time of payment of such dividend United States tax at the rate of only 15 percent had been withheld at source therefrom.

(d) The amounts so withheld by such withholding agents in Ireland will be deposited, without converting such amounts into United States dollars, with the Irish Revenue Commissioners on or before the 15th day after the close of the calendar year quarter in which such withholding in Ireland occurs. Each withholding agent making such deposit will render therewith the appropriate Irish form as prescribed in regulations made by the Revenue Commissioners. The Revenue Commissioners have arranged that the amounts so deposited will be remitted by draft in United States dollars to the District Director of Internal Revenue, Baltimore, Maryland, U.S.A., on or before the end of the calendar month in which the deposits are made, such draft to be accompanied by the Irish form rendered by the withholding agents in Ireland in connection with such deposits.

§ 513.9 Information to be furnished in ordinary course.

In compliance with the provisions of Article XX of the convention the Commissioner of Internal Revenue will transmit to the Irish Revenue Commissioners, as soon as practicable after the close of the calendar year 1952 and of each subsequent calendar year during which the convention is in effect, the following information relating to such preceding calendar year:

(a) The name and address of each person whose address as disclosed on each available Form 1042 is in Ireland deriving from sources within the United States dividends, interest, rent, royalties, salaries, wages, pensions, annuities, and other fixed or determinable annual or periodical income; and the amount of such income as disclosed on

such form with respect to each such person.

(b) The duplicate copy of each available ownership certificate, Form 1001–IR, filed pursuant to §513.3(b), and substitute Form 1001–IR, filed pursuant to §513.7(a), in connection with coupon bond interest.

§513.10 Beneficiaries of a domestic estate or trust.

A nonresident alien who is resident in Ireland for the purposes of Irish tax and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from, or reduction in the rate of, United States tax provided in Articles VI, VII, VIII, IX, and XV of the convention with respect to dividends, interest, royalties, natural resource royalties, and real property rentals to the extent such item or items are included in his share of the distributed or distributable income of such estate or trust. In order to be entitled in such instance to the exemption from, or reduction in the rate of, tax such beneficiary must otherwise satisfy the requirements of these respective Articles of the convention and must, where applicable, execute and submit to the fiduciary of such estate or trust in the United States the appropriate letter of notification prescribed in §§513.3(b), 513.4, and 513.5.

§513.11 Refund of income tax withheld during 1951.

(a) If United States tax withheld at the source during the year 1951 from dividends, interest, royalties, natural resource royalties, real property rentals, pensions, or life annuities is in excess of the tax imposed by Chapter 1 (relating to the income tax) of the Internal Revenue Code, as modified by the convention, claim by the taxpayer for the refund of any overpayment shall be made under section 322 of the Internal Revenue Code by filing Form 843 together with Form 1040NB, Form 1040NB–a, Form 1040B, or Form 1120NB, whichever is applicable, or with an amended return.

(b) The taxpayer's total gross income from sources within the United States, including every item of capital gain subject to tax under the provisions of section 211(a)(1)(B) or 211(c) of the Internal Revenue Code, shall be disclosed on the return. In the event that securities are held in the name of a person other than the actual or beneficial owner, the name and address of such person must be furnished with the claim. There shall also be included in such claim for refund a statement:

(1) That the taxpayer was, at the time when the item or items of income were derived, (i) a nonresident alien (including a nonresident alien individual, fiduciary, or partnership) who at such time was resident in Ireland for the purposes of Irish tax, or (ii) a foreign corporation whose business at such time was managed and controlled in Ireland.

(2) That the taxpayer at no time during the taxable year in which the income was derived had a permanent establishment in the United States.

(3) That the taxpayer is subject to Irish tax on the item or items of income for which the benefit of the convention is claimed.

(c) If, however, the taxpayer is an individual who during the taxable year derived from sources within the United States income which consists exclusively of pensions or life annuities entitled to the benefit of Article XII of the convention, the statements specified in paragraph (b) (2) and (3) of this section will not be required.

(d) As to additional information required in the case of a foreign corporation claiming the benefit of the 5 percent rate on dividends, or in certain doubtful cases the benefit of the exemption with respect to interest, paid by a domestic corporation, see §513.2(b) or §513.3(c).

PART 514—FRANCE

Subpart—Withholding of Tax

TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1956, AND BEFORE JANUARY 1, 1967, OR DIVIDENDS, INTEREST, AND ROYALTIES PAID BEFORE AUGUST 11, 1968

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514.6 Private pensions and life annuities.
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TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1966, OR DIVIDENDS, INTEREST, AND ROYALTIES PAID ON OR AFTER AUGUST 11, 1968

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Subpart—General Income Tax

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514.114 Credit against United States tax liability for income tax paid to France.
514.115 Adjustment of tax liability of residents of France and French corporations.
514.116 Reciprocal administrative assistance.
514.117 Reciprocal regulations.

AUTHORITY: 26 U.S.C. 7805.

Subpart—Withholding of Tax

TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1956, AND BEFORE JANUARY 1, 1967, OR DIVIDENDS, INTEREST, AND ROYALTIES PAID BEFORE AUGUST 11, 1968

SOURCE: Treasury Decision 6273, 22 FR 9530, Nov. 28, 1957; 25 FR 14022, Dec. 31, 1960, unless otherwise noted.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, the undesignated centerheading preceding §514.1 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§514.1 Introductory.

(a) *Applicable provisions of convention.* The income tax convention between the United States and France, signed on July 25, 1939, and October 18, 1946, as modified by the supplemental convention, signed June 22, 1956 (the instruments of ratification of which were exchanged on June 13, 1957), referred to in this part as the convention, provides in part as follows, the quoted articles being effective as indicated:

Article I(a) of the Supplemental Convention of 1956, on June 13, 1957.

Article I(d) of the Supplemental Convention of 1956, on January 1, 1952.

Article 7 and the Protocol of the Convention of 1939, on January 1, 1945.

The supplemental convention signed June 22, 1956, provides in part as follows:

ARTICLE I

The provisions of the Convention and Protocol between the United States and the French Republic signed at Paris on July 25, 1939 are hereby modified and supplemented as follows:

(a) By striking out Article 1(a) and inserting in lieu thereof the following:

''(a) In the case of the United States: The Federal income taxes (including surtaxes and excess profits taxes) and the documentary taxes on sales or transfers of shares or certificates of stock or bonds.''

* * * * *

(d) By adding immediately after Article 6 the following new articles:

''ARTICLE 6A

Dividends and interest derived, on or after January 1, 1952, from sources within one of the contracting States by a resident or corporation or other entity of the other State, not having a permanent establishment in the former State shall be subject to tax by such former State at a rate not in excess of 15 percent of the gross amount of such dividends or interest. Such reduced rate of tax shall not apply to dividends or interest paid prior to the calendar year in which are exchanged the instruments of ratification of the present Convention if, for the taxable year in which such dividends or interest is received, penalty for fraud with respect to the taxes which are the subject of the present Convention has been imposed against the recipient of such dividends or interest.''

* * * * *

ARTICLE III

(a) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Paris as soon as possible.

(b) Its provisions shall come into force and shall become effective as of the date of the exchange of the instruments of ratification subject both to the provisions of Article I (d) and (e) and to the provisions set forth herein below.

* * * * *

(c) If refund of any overpayment resulting from the application of Article I(d) of the present Convention is prevented on the date of exchange of instruments of ratification or within two years from such date by the operation of any law, refund of such overpayment (without interest) shall nevertheless be made provided that claim for refund is filed within two years after the date of the exchange of instruments of ratification of the present Convention with the contracting State to which such overpayment was made.

(d) The present Convention shall remain effective so long as the Conventions signed July 25, 1939 and October 18, 1946, remain effective.

The convention of July 25, 1939, provides, in part, as follows:

ARTICLE 7

* * * * *

Royalties derived from within one of the contracting States by a resident, or by a corporation or other entity of the other contracting State as consideration for the right to use copyrights, patents, secret processes and formulae, trademarks and other analogous rights shall be exempt from taxation in the former State, provided such resident, corporation or other entity does not have a permanent establishment there.

ARTICLE 8

* * * * *

Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

Protocol:

* * * * *

III. As used in this Convention:

(a) The term ''permanent establishment'' includes branches, mines and oil wells, plantations, factories, workshops, stores, purchasing and selling and other offices, agencies, warehouses, and other fixed places of business but does not include a subsidiary corporation.

When an enterprise of one of the contracting States carries on business in the other State through an employee or agent, established there, who has general authority to negotiate and conclude contracts or has a stock of merchandise from which he regularly fills orders which he receives, this enterprise shall be deemed to have a permanent establishment in the latter State. But the fact that an enterprise of one of the contracting States has business dealings in the other State through a bona fide commission agent or broker shall not be held to mean that such enterprise has a permanent establishment in the latter State.

Insurance enterprises shall be considered as having a permanent establishment in one of the States as soon as they receive premiums from or insure risks in the territory of that State.

IV. The term ''life annuities'' referred to in Article 8 of this Convention means a stated sum payable periodically at stated times during life, or during a specified number of years to the person who has paid the premium or a gross sum for such an obligation.

The convention of October 18, 1946, provides, in part, as follows:

TITLE III

Administrative Assistance

* * * * *

ARTICLE 13

(1) The competent authorities of the two Contracting States may prescribe regulations necessary to interpret and carry out

the provisions of the present Convention and the Convention of July 25, 1939.

* * * * *

(b) *Definitions*—(1) *In general.* Any term defined in the convention or §§ 514.1 to 514.10 shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

(2) *France.* As used in §§ 514.1 to 514.10, the term ''France'', when used in a geographical sense, means continental France, exclusive of Algeria and the Colonies.

§ 514.2 Dividends.

(a) *General.* (1) The rate of United States tax imposed by the Internal Revenue Code upon dividends derived from sources within the United States on or after January 1, 1952, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of France when such dividend is so paid, or by a French corporation, shall not exceed 15 percent if such alien or corporation at no time during the taxable year in which such dividends are so received has no permanent establishment within the United States. Article I(a) of the convention, signed June 22, 1956. As to what constitutes a ''permanent establishment'' see Protocol III(a), in § 514.1.

(2) Thus, if a nonresident alien individual who is a resident of France performs personal services within the United States during the taxable year but has at no time during such year a permanent establishment within the United States, he is entitled to the reduced rate of tax with respect to dividends derived from United States sources, as provided in Article I(d) of the convention even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he has engaged in trade or business within the United States during such year by reason of his having rendered personal services therein.

(b) *Effect of address in France on withholding in the case of dividends.* For the purpose of withholding of United States tax in the case of dividends, every nonresident alien (including a nonresident alien individual, fiduciary, and partnership) whose address is in France shall be deemed by United States withholding agents to be a nonresident alien who is a resident of France not having a permanent establishment in the United States; and every foreign corporation whose address is in France shall be deemed by such withholding agents to be a French corporation not having a permanent establishment in the United States.

(c) *Rate of withholding.* (1) Withholding at source in the case of dividends derived from sources within the United States and paid on or after January 1, 1957, to nonresident aliens (including a nonresident alien individual, fiduciary, and partnership) and to foreign corporations, whose addresses are in France, shall be at the rate of 15 percent in every case except that in which, prior to the date of payment of such dividends, the Commissioner of Internal Revenue has notified the withholding agent that the reduced rate of withholding shall not apply.

(2) The preceding provisions respecting the application of the reduced withholding rate in the case of dividends paid to nonresident aliens and foreign corporations with addresses in France are based upon the assumption that the payee of the dividend is the actual owner of the capital stock from which the dividend is derived and consequently is the person liable to the United States upon such dividend. As to action by the recipient who is not the owner of the dividend, see § 514.3.

(3) The rate at which the United States tax has been withheld from any dividend paid at any time after the expiration of the thirtieth day after the date on which §§ 514.1 to 514.10 are published in the FEDERAL REGISTER to any person whose address is in France at the time the dividend is paid shall be shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment or on an accompanying statement.

§ 514.3 Dividends received by addressee not actual owner.

(a) *Additional tax to be withheld*—(1) *Nominee or representative.* The recipient in France of any dividend, paid on or

after January 1, 1957, from which United States tax at the reduced rate of 15 percent has been withheld at source pursuant to §514.2(c)(1), who is a nominee or representative through whom the dividend is received by a person other than one described in §514.2(a) as being entitled to the reduced rate, shall withhold an additional amount of United States tax equivalent to the United States tax which would have been withheld if the convention had not been in effect (30 percent as of the date of approval of §§514.1 to 514.10) minus the 15 percent which has been withheld at the source.

(2) *Fiduciary or partnership.* A fiduciary or a partnership with an address in France which receives, otherwise than as a nominee or representative, a dividend from which United States tax at the reduced rate of 15 percent has been withheld at source pursuant to §514.2 shall withhold an additional amount of United States tax from the portion of the dividend included in the gross income from sources within the United States of any beneficiary or partner, as the case may be, who is not entitled to the reduced rate of tax in accordance with §514.2(c). The amount of the additional tax is to be calculated in the same manner as under subparagraph (1) of this paragraph.

(3) *Released amounts of tax.* If any amount of United States tax is released pursuant to §514.8(a)(1) by the withholding agent in the United States with respect to a dividend paid to a nominee, representative, fiduciary, or partnership with an address in France, the latter shall withhold from such released amount any additional amount of United States tax, otherwise required to be withheld from the dividend by the provisions of subparagraphs (1) and (2) of this paragraph, in the same manner as if at the time of payment of the dividends United States tax at the rate of only 15 percent had been withheld at source therefrom.

(b) *Returns filed by French withholding agents.* The amounts withheld pursuant to paragraph (a) of this section by any withholding agent in France shall be deposited, without converting the amounts into United States dollars, with the Directeur General des Impots of France on or before the 15th day after the close of the quarter of the calendar year in which the withholding in France occurs. The withholding agent making the deposit shall render therewith such appropriate French form as may be prescribed by the Directeur General des Impots. The amounts so deposited should be remitted by the Directeur General des Impots by draft in the United States dollars to the Director, International Operations Division, Internal Revenue Service, Washington 25, D. C., U. S. A., on or before the end of the calendar month in which the deposit is made, and should be accompanied by such French form as may be required to be rendered by the withholding agent in France in connection with the deposit.

§514.4 Interest.

(a) *General.* The rate of United States tax imposed by the Internal Revenue Code upon interest on bonds, securities, notes, debentures, or on any other form of indebtedness, including interest on obligations of the United States, obligations of instrumentalities of the United States, and mortgages and bonds secured by real property, which is derived from sources within the United States in taxable years beginning on or after January 1, 1952, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of France, or by a French corporation or other entity, shall not exceed 15 percent under the provisions of Article I(d) of the convention if such alien, corporation, or other French entity at no time during the taxable year in which such interest is received has a permanent establishment in the United States. As to what constitutes a permanent establishment see Article III(a) of the convention.

(b) *Application of reduced rate at source.* (1) To secure withholding of United States tax at the rate of 15 percent at source in the case of coupon bond interest, the nonresident alien who is a resident of France, or the French corporation or other entity, shall, for each issue of bonds, file Form 1001–F in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, or by his trustee or agent,

and shall show the name and address of the obligor, the name and address of the owner of the interest, and the amount of the interest. It shall contain a statement that the owner (i) is a resident of France, or is a French corporation or other entity, and (ii) has no permanent establishment in the United States.

(2) The reduction in the rate of United States tax contemplated by Article 6A of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of the interest. The person presenting the coupon or on whose behalf it is presented shall, for the purpose of the reduction in tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001–F, shall be executed.

(3) The original and duplicate of Form 1001–F shall be forwarded by the withholding agent to the Director, International Operations Division, Internal Revenue Service, Washington 25, D. C., with the annual return on Form 1042. Form 1001–F shall be listed on Form 1042.

(4) To secure the reduced rate of United States tax at source in the case of interest other than coupon bond interest, the nonresident alien individual who is a resident of France, or the French corporation or other entity, shall file Form 1001A–F in duplicate with the withholding agent in the United States. This form shall be signed by the owner of the interest, or by his trustee or agent, and shall show the name and address of the obligor and the name and address of the owner of the interest. It shall contain a statement that the owner (i) is a resident of France, or is a French corporation or other entity, and (ii) has no permanent establishment in the United States.

(5) Form 1001A–F shall be filed with the withholding agent for each successive three-calendar-year period during which such interest is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which such income is first paid on or after January 1, 1957. Each such form filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once such a form has been filed in respect of any three-calendar-year period, no additional Form 1001A–F need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that another such form shall be filed by the taxpayer. If, after filing such form, the taxpayer ceases to be eligible for the reduced rate of United States tax granted by Article 6A of the convention in respect to such interest, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the reduction in rate of withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a Form 1001A–F with the withholding agent.

(6) The duplicate of each Form 1001A–F shall be immediately forwarded by the withholding agent to the Director, International Operations Division, Internal Revenue Service, Washington 25, D. C.

§ 514.5 Patent and copyright royalties and film rentals.

(a) *Exemption from tax.* Royalties for the right to use copyrights, patents, designs, secret processes and formulae, trademarks, and other analogous property, and royalties and rentals in respect of motion picture films or for the use of industrial, commercial, or scientific equipment, which are derived from sources within the United States on or after January 1, 1945, by a nonresident alien individual who is a resident of France, or by a French corporation, are exempt from United States tax under the provisions of Article 7 of the convention signed July 25, 1939, as modified by Article 7(b) of the convention signed October 18, 1946, if such alien or corporation at no time during the taxable year in which such income

is derived has engaged in trade or business within the United States through a permanent establishment situated therein.

(b) *Exemption from withholding of United States tax.* To avoid withholding of United States tax at source in the case of items of income to which this section applies, the nonresident alien who is a resident of France, or the French corporation, shall file Form 1001A–F, in duplicate, with the withholding agent in the United States.

(c) *Manner of filing.* The provisions of §514.4 relating to the execution, filing, effective period, and disposition of Form 1001A–F, are equally applicable with respect to the income falling within the scope of this section.

(d) *Revocation of 26 CFR (1939) 7.418 (Treasury Decision 5499).* Effective January 1, 1957, the provisions of 26 CFR 7.418 (Rev. 1953, Parts 1–79, and Supps.) (Treasury Decision 5499, 11 F.R. 2158), approved February 27, 1946, are hereby made inapplicable, and the provisions of this section are hereby substituted therefor with respect to payments of royalties and film rentals made on or after January 1, 1957.

§514.6 Private pensions and life annuities.

(a) *Exemption from tax.* Private pensions and life annuities as defined in paragraph (d) of this section, derived from sources within the United States on or after January 1, 1945, and paid to a nonresident alien who is a resident of France are exempt from United States tax under the provisions of Article 8 of the convention of July 25, 1939.

(b) *Exemption from withholding of United States tax—Form to use.* To secure exemption from withholding of United States tax at the source in the case of private pensions and life annuities, the nonresident alien who is a resident of France shall file Form 1001A–F, in duplicate, with the withholding agent in the United States.

(c) *Manner of filing.* The provisions of §514.4 relating to the execution, filing, effective period, and disposal of Form 1001A–F are equally applicable with respect to the income falling within the scope of this section.

(d) *Definition.* As used in this section, the term ''pensions'' means periodic payments made in consideration for services rendered or by way of compensation for injuries received, and the term ''life annuities'' means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth. Neither term includes retired pay or pensions paid by the United States or by any State or Territory of the United States.

§514.7 Beneficiaries of a domestic estate or trust.

(a) *Entitled to benefits of convention.* If he otherwise satisfies the requirements of the respective articles concerned, a nonresident alien individual who is a resident of France and who is a beneficiary of a domestic estate or trust shall be entitled to the reduction in the rate of, or exemption from, United States tax granted by Articles 6A and 7 of the convention with respect to dividends, interest, and patent royalties and other like amounts to the extent that (1) any amount paid, credited, or required to be distributed by such estate or trust to such beneficiary is deemed to consist of such items, and (2) such items would, without regard to the convention, be includible in his gross income.

(b) *Withholding of United States tax.* In order to be entitled, because of the application of paragraph (a) of this section, to the reduction in rate of, or exemption from, withholding of United States tax the beneficiary must otherwise satisfy the requirements of the respective articles concerned, and shall, where applicable, execute and submit to the fiduciary of the estate or trust in the United States the appropriate form or forms prescribed in §§514.4(b) and 514.6(b).

(c) *Amounts otherwise includible in gross income of beneficiary.* For the determination of amounts which, without regard to the convention, are includible in the gross income of the beneficiary, see subchapter J of chapter 1 of the Internal Revenue Code of 1954, and the regulations thereunder.

§ 514.8 Release of excess tax withheld at source.

(a) *Amounts to be released*—(1) *Dividends derived from domestic corporation.* If United States tax has been withheld at the statutory rate on or after January 1, 1957, from dividends described in § 514.2(a) and derived from a domestic corporation by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) or by a foreign corporation, whose address at the time of payment was in France, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 514.2(c).

(2) *Coupon bond interest*—(i) *Substitute form.* In the case of every taxpayer who furnishes to the withholding agent Form 1001–F clearly marked ''Substitute'' and executed in accordance with § 514.4(b)(1), where United States tax has been withheld at the statutory rate on or after January 1, 1957, from coupon bond interest, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 514.4(b)(1) if the taxpayer also attaches to such form a letter in duplicate, signed by the owner, trustee, or agent and containing the following:

(*a*) The name and address of the obligor;

(*b*) The name and address of the owner from which the excess tax was withheld;

(*c*) A statement that, at the time when the interest was derived from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of France, or, in the case of a corporation, the owner was a French corporation; and

(*d*) A statement that the owner at no time during the taxable year in which the interest was derived was engaged in trade or business within the United States through a permanent establishment situated therein.

One such substitute form shall be filed, in duplicate, with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001–F, shall be executed.

(ii) *Disposition of form.* The original and duplicate of substitute Form 1001–F (and letter) shall be forwarded by the withholding agent to the Director, International Operations Division, Internal Revenue Service, Washington, D.C., with the annual return on Form 1042. Substitute Form 1001–F need not be listed on Form 1042.

(3) *Noncoupon interest, royalties, private pensions, and life annuities.* (i) If a taxpayer furnishes to the withholding agent a Form 1001A–F, properly executed as prescribed by § 514.4(b)(4), and United States tax has been withheld at the statutory rate on or after January 1, 1957, from noncoupon interest payments in respect of which the form is filed, the withholding agent should release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 514.4(b)(4).

(ii) If a taxpayer furnishes to the withholding agent a Form 1001A–F, properly executed as prescribed by § 514.4(b)(4), and United States tax has been withheld at the statutory rate on or after January 1, 1957, from royalties, private pensions, and life annuities in respect of which the form is filed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the total tax so withheld.

(b) *Amounts not to be released.* The provisions of this section do not apply to excess tax withheld at source which has been paid by the withholding agent to the internal revenue officer entitled to receive payment of the tax withheld under chapter 3 of the Internal Revenue Code of 1954.

(c) *Statutory rate.* As used in this section, the term ''statutory rate'' means the rate prescribed by chapter 3 of the Internal Revenue Code of 1954 and the

regulations thereunder, as though the convention had not come into effect.

§ 514.9 Refund of excess tax withheld.

(a) *Years 1952, 1953, 1954, 1955, 1956.* Where the tax withheld at the source upon dividends and interest paid in any one or more of the calendar years 1952, 1953, 1954, 1955, and 1956 is in excess of the tax due from the taxpayer under the convention, supplemented as set forth above, it will be necessary for the taxpayer to file an income tax return (Form 1040NB France for individuals and Form 1120NB France for corporations) with respect to such taxable year or years. The return shall cover all years for which a refund is claimed. The return must be filed on or before June 13, 1959. One return shall cover all years for which a refund is claimed. The taxpayer's total fixed or determinable, annual or periodical income (other than royalties) from sources within the United States should be reported on the return, and the income for each taxable year should be shown separately. There shall also be shown on such returns the amounts, if any, received in any of such years of capital gains (other than gains from the sale or exchange of stocks, securities or commodities) from sources within the United States. For this purpose, beginning with the calendar year 1954, certain distributions from employees' trusts, and amounts received incident to disposal of timber or coal or patent rights shall be included in such capital gains. See section 871(a)(1) of the Internal Revenue Code of 1954 for provisions pertaining to individual taxpayers and section 881(a) for provisions pertinent to corporate taxpayers. There shall be included with the return the following statements:

(1) That the taxpayer was a nonresident alien (including a nonresident alien individual, fiduciary, or partnership) resident in France or was a French corporation, during the year or years for which the return is filed;

(2) That the taxpayer had no permanent establishment in the United States during the respective years in which the income was received;

(3) That no penalty for fraud has been imposed by the United States against the taxpayer claimant with respect to income tax for the year or years for which the return is filed.

In addition to the above statements, all information requested on the return must be furnished. Any tax paid in excess of that due from the owner of the income will be refunded by the United States Government as required by law. For the purpose of refund of excess tax withheld resulting from the tax convention, a properly executed return on Form 1040NB France or Form 1120NB France shall constitute a claim for refund or credit for the amount of the overpayment disclosed by such return.

(b) *Date of payment of tax.* The United States tax withheld from dividends and interest derived from sources within the United States by nonresident aliens, or by a foreign corporation not engaged in trade or business in the United States, is deemed to have been paid on March 15 of the calendar year immediately succeeding that in which such income has been so derived. Section 1461, Internal Revenue Code of 1954. Hence, the United States tax withheld from dividends and interest derived by such aliens resident in France and such French corporations for the years 1952, 1953, 1954, 1955, and 1956 is deemed to have been paid, respectively, on March 15, 1953, March 15, 1954, March 15, 1955, March 15, 1956, and March 15, 1957.

§ 514.10 Effective date.

The provisions of §§ 514.1 through 517.9 shall be effective with respect to taxable years beginning after December 31, 1956, and before January 1, 1967, or with respect to dividends, interest, and royalties paid before August 11, 1968.

[T.D. 6986, 34 FR 136, Jan. 4, 1969]

TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1966, OR DIVIDENDS, INTEREST, AND ROYALTIES PAID ON OR AFTER AUGUST 11, 1968

SOURCE: Treasury Decision 6986, 34 FR 136, Jan. 4, 1969, unless otherwise noted.

§ 514.20 Introductory.

(a) *Applicable provisions of convention.* The income tax convention between the United States and France, signed on July 28, 1967 (the instruments of

ratification of which were exchanged on July 11, 1968), provides in part as follows, effective for taxable years beginning after December 31, 1966, or with respect to the rate of withholding tax, for dividends, interest, and royalties paid on or after August 11, 1968:

ARTICLE 1—TAXES COVERED

(1) The taxes which are the subject of the present Convention are:

(a) In the case of the United States, the Federal income tax, including surtax, imposed by the Internal Revenue Code and

(b) In the case of France:

(i) The income tax on the income of physical persons, the complementary tax, the corporation tax, including any withholding tax, prepayment (precompte) or advance payment with respect to the aforesaid taxes, and

(ii) The tax on Stock Exchange transactions.

(2) The Convention shall also apply to any documentary taxes on sales or transfers of shares or certificates of stock or bonds which are subsequently imposed.

(3) The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

(4) For the purpose of Article 24 (Nondiscrimination), this Convention shall also apply to taxes of every kind and to those imposed at the national, State, and local level.

ARTICLE 2—GENERAL DEFINITIONS

(1) In this Convention, unless the context otherwise requires:

(a) The term ''United States of America'' means the United States of America and when used in the geographical sense means the States thereof and the District of Columbia. The term ''France'' when used in a geographical sense means Metropolitan France and the Overseas departments (Guadeloupe, Guyane, Martinique, and Reunion).

(b) The terms ''a Contracting State'' and ''the other Contracting State'' means the United States or France, as the context requires.

(c) The term ''person'' comprises an individual or a corporation, or any other body of individuals or persons.

(d)(i) The term ''United States corporation'' or ''corporation of the United States'' means a corporation, or any entity treated as a corporation for U.S. tax purposes, which is created or organized under the laws of the United States or any State thereof or the District of Columbia; and

(ii) The term ''French corporation'' or ''corporation of France'' means any body corporate or any entity which is treated as a body corporate under French tax law, which is resident within France for French tax purposes.

(e) The term ''competent authority'' means:

(i) In the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) In the case of France, the Minister of Economy and Finance or his delegate.

(2) As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

ARTICLE 3—FISCAL DOMICILE

(1) The term ''resident of France'' means:

(a) A French corporation, and

(b) Any person (other than a body corporate or any entity which under French law is treated as a body corporate) who is resident in France for purposes of its tax.

(2) The term ''resident of the United States'' means:

(a) A U.S. corporation, and

(b) Any person (other than a corporation or an entity treated under U.S. law as a corporation) who is resident in the United States for purposes of its tax, but in the case of a person acting as a partner or fiduciary only to the extent that the income derived by such person in that capacity is taxed as the income of a resident.

(3) An individual who is a resident in both Contracting States shall be deemed a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States or in neither of the Contracting States, he shall be deemed a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests). If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed a resident of that Contracting State in which he has an habitual abode. If he has an habitual abode in both Contracting States or in neither of the Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement. For purposes of this Article, a permanent home is the place in which an individual dwells with his family. An individual who is deemed to be a resident of one Contracting State and not a resident of the other Contracting State by reason of the provisions of this paragraph shall be deemd a resident only of the former State for all purposes of this Convention (including Article 22).

ARTICLE 4—PERMANENT ESTABLISHMENT

(1) For the purposes of this Convention, the term ''permanent establishment'' means a fixed place of business through which a resident of one of the Contracting States engaged in industrial or commercial activity.

(2) The term ''permanent establishment'' shall include especially:

(a) A seat of management,

(b) A branch;

(c) An office;

(d) A factory;

(e) A workshop;

(f) A warehouse;

(g) A mine, quarry, or other place of extraction of natural resources;

(h) A building site or construction or assembly project which exists for more than 12 months.

(3) Notwithstanding paragraph (1) of this Article, a permanent establishment shall not include a fixed place of business used only for one or more of the following activities:

(a) The use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;

(b) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;

(c) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of processing by another person;

(d) The maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information, for the resident;

(e) The maintenance of a fixed place of business for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the resident.

(4) A person acting in a Contracting State on behalf of a resident of the other Contracting State—other than an agent of an independent status to whom paragraph (5) applies—shall be deemed to be a permanent establishment in the first-mentioned State if such person:

(a) Has, and habitually exercises in that State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchase of goods or merchandise for that resident, or

(b) Maintains substantial equipment or machinery within the first-mentioned State for a period of 12 months or more.

(5) A resident of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident carries on business in that other State through a broker, general commission agent, or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

(6) The fact that a resident of one of the Contracting States is a related person, as defined in Article 8 of this Convention, with respect to a resident of the other Contracting State or with respect to a person which engages in industrial or commercial activity in that other Contracting State (whether through a permanent establishment or otherwise) shall not be taken into account in determining whether that resident of the first Contracting State has a permanent establishment in the other Contracting State.

(7) An insurance company of one of the Contracting States shall be considered as having a permanent establishment in the other Contracting State if, through a representative other than one described in paragraph (5), such company receives premiums from or insures risks in the territory of that other Contracting State.

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ARTICLE 6—BUSINESS PROFITS

(1) Industrial or commercial profits of a resident of one of the Contracting States shall be taxable only in that State unless such resident is engaged in industrial or commercial activity in the other Contracting State through a permanent establishment situated therein. If such resident is so engaged, tax may be imposed by such other State on the industrial or commercial profits of such resident but only on so much of them as are attributable to the permanent establishment.

(2) Where a resident of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the resident of which it is a permanent establishment.

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably connected with such profits including executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere.

(4) No profits shall be attributed to a permanent establishment merely by reason of the purchase of goods or merchandise by that permanent establishment, or by the resident of which it is a permanent establishment, for the account of that resident.

(5) The term ''industrial or commercial profits of a resident'' includes income derived from manufacturing, mercantile, agricultural, fishing, or mining activities, from the operation of ships or aircraft, from the furnishing of personal services, from the rental of tangible personal property, and from insurance activities and rents or royalties derived from motion picture films, films or tapes of radio or television broadcasting. It also includes income derived from real property and natural resources and dividends, interest, royalties (as defined in paragraphs (3) and (4) of Article 11), and capital gains but only if the right or property giving rise to such income, dividends, interest, royalties, or capital gains is effectively connected with a permanent establishment which the recipient, being a resident of one Contracting State, has in the other Contracting State. It does not include income received by an individual as compensation for personal services either as an employee or in an independent capacity.

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ARTICLE 9—DIVIDENDS

(1) Dividends derived from sources within a Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) Dividends derived from sources within a Contracting State by a resident of the other Contracting State may also be taxed by the former Contracting State but the tax imposed on such dividends shall not exceed—

(a) 15 percent of the amount actually distributed; or

(b) When the recipient is a corporation, 5 percent of the amount actually distributed if—

(i) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 percent of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation, and

(ii) Not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consisted of interest and dividends (other than interest derived in the conduct of a banking, insurance, or financing business and dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which was owned by the paying corporation at the time such dividends or interest were received).

(3) Paragraph (2) of this Article and, in the case of dividends derived by a resident of France, paragraph (1) of this Article, shall not apply if the recipient of the dividends has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid are effectively connected with the permanent establishment. In such a case, the provisions of Article 6 shall apply.

(4)(a) Except as provided in subparagraph (b), dividends paid by a corporation of one of the Contracting States shall be treated as income from sources within that Contracting State, and dividends paid by any other corporation shall be treated as income from sources outside that Contracting State.

(b) Dividends paid by a corporation other than a U.S. corporation shall be treated as dividends from sources within the United States if such corporation had a permanent establishment in the United States and more than 80 percent of its gross income was taxable to such permanent establishment for a 3–year period ending with the close of its taxable year preceding the declaration of such dividends (or for such portion of that period as the corporation has been in existence).

(5) When the prepayment (precompte) is levied on dividends paid by a French corporation to a resident of the United States, such resident shall be entitled to the refund of that prepayment, subject to deduction of the withholding tax with respect to the refunded amount in accordance with paragraph (2) of this Article.

ARTICLE 10—INTEREST

(1) Interest derived from sources within one Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) Interest on bonds, notes, debentures, or any other form of indebtedness from sources within the United States and paid to a resident of France may also be taxed by the United States at a rate not in excess of 10 percent of the amount paid.

(3) Interest on bonds, notes, debentures, or any other form of indebtedness from sources within France and paid to a resident of the United States may also be taxed by France at a rate not in excess of 10 percent of the amount paid except that interest on bonds issued before January 1, 1965, may be taxed at a rate not in excess of 12 percent of the amount paid.

(4) Paragraphs (2) and (3) of this Article and, in the case of interest derived by a resident of France, paragraph (1) of this Article, shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected to such permanent establishment. In such a case, the provisions of Article 6 shall apply.

(5) The term ''interest'' as used in this article means income from Government securities, bonds, or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income has its source.

(6) Interest shall be deemed to be from sources within a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to be from sources within the Contracting State in which the permanent establishment is situated.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(8) Interest received by one of the Contracting States, or by an instrumentality of that State not subject to income tax by such State, shall be exempt in the State in which such interest has its source.

ARTICLE 11—ROYALTIES

(1) Royalties derived from sources within one Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) Except as provided in paragraph (3), royalties derived from sources within a Contracting State by a resident of the other Contracting State may also be taxed by the former Contracting State but the tax imposed on such royalties shall not exceed 5 percent of the gross amount paid.

(3) Royalties derived from copyrights of literary, artistic, or scientific works (including gain from the sale or exchange of property giving rise to such royalties) by a resident of one Contracting State shall be taxable only in that Contracting State.

(4) The term ''royalties'' as used in paragraph (1) of this Article means—

(a) Any royalties, rentals, or other amounts paid as consideration for the use of, or the right to use, patents, designs or models, plans, secret processes or formulae, trademarks, or other like property or rights, or for knowledge, experience, or skill (know-how), and

(b) Gains derived from the sale or exchange of any such right or property, if payment of the amounts realized on such sale or exchange is contingent, in whole or in part, on the productivity, use or disposition of such right or property. If the amounts derived from the sale or exchange of any such right or property are not so contingent, the provisions of Article 12 shall apply.

(5) Paragraphs (2) and (3) of this Article, and, in the case of royalties derived by a resident of France, paragraph (1) of this Article, shall not apply if the recipient of the royalty, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment and the right or property giving rise to the royalties is effectively connected with such permanent establishment. In such a case, the provisions of Article 6 shall apply.

(6) Royalties paid for the use of, or the right to use, property described in paragraph (4) in a State shall be treated as income from sources within that State.

(7) Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the royalties paid exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall only apply to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

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ARTICLE 13—BRANCH PROFITS

(1)(a) Dividends paid by a French corporation to a person other than a citizen, resident, or corporation of the United States shall be exempt from tax by the United States unless such French corporation had a permanent establishment in the United States and more than 80 percent of its gross income was taxable to such permanent establishment for a 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such portion of that period as the corporation has been in existence).

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ARTICLE 16—GOVERNMENTAL FUNCTIONS

(1) Remuneration, including pensions, paid by, or out of funds created by, a Contracting

State or a political subdivision or a local authority thereof to any individual who is a national of that State in respect of services rendered to that State or a subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that Contracting State.

(2) The provisions of Articles 15, 19, and 20 shall apply to remuneration or pensions in respect of services rendered in connection with any industrial or commercial activity carried on by one of the Contracting States or a political subdivision or a local authority thereof.

(3) In the case of an individual who is a national of both Contracting States, the provisions of Article 22, paragraph (4), shall apply to remuneration described in paragraph (1) but such remuneration shall be treated as income from sources within the Contracting State from which such individual receives such remuneration.

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ARTICLE 19—PRIVATE PENSIONS AND ANNUITIES

(1) Except as provided in Article 16, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

(2) Alimony and annuities paid to a resident of a Contracting State shall be taxable only in that Contracting State.

(3) The term ''annuities,'' as used in this Article, means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

(4) The term ''pensions,'' as used in this Article, means periodic payments made after retirement in consideration for, or by way of compensation for injuries received in connection with, past employment.

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ARTICLE 27—ASSISTANCE IN COLLECTION

(1) The two Contracting States undertake to lend assistance and support to each other in the collection of the taxes to which the present Convention relates, together with interest, costs, and additions to the taxes and fines not being of a penal character according to the laws of the State requested, in the cases where the taxes are definitively due according to the laws of the State making the application.

(2) In the case of an application for enforcement of taxes, revenue claims of each of the Contracting States which have been finally determined will be accepted for enforcement by the State to which application is made and collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes.

(3) The application will be accompanied by such documents as are required by the laws of the State making the application to establish that the taxes have been finally determined.

(4) If the revenue claim has not been finally determined, the State to which application is made will take such measures of conservancy (including measures with respect to transfer of property of nonresident aliens) as are authorized by its laws for the enforcement of its own taxes.

(5) The assistance provided for in this Article shall not be accorded with respect to citizens, corporations, or other entities of the State to which application is made.

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ARTICLE 31—ENTRY INTO FORCE

(1) This Convention shall be ratified and instruments of ratification shall be exchanged at Washington. It shall enter into force 1 month after the date of exchange of the instruments of ratification. Its provisions shall for the first time have effect:

(a) In the case of France:

(i) As respects withholding taxes, to any proceeds payable and transactions completed on or after the date on which this Convention enters into force;

(ii) As respects other income taxes, to taxes which are levied for the assessment year 1967; and

(iii) As respects the tax on stock exchange transactions, the date on which this Convention enters into force.

(b) In the case of the United States:

(i) As respects the rate of withholding tax, to amounts received on or after the date on which this Convention enters into force;

(ii) As respects other income taxes, to taxable years beginning on or after January 1, 1967.

(2) Upon the coming into effect of this Convention, there shall terminate:

(a) The Convention of July 25, 1939, relating to income and other taxes.

(b) The Convention of October 18, 1946, the supplementary Protocol of May 17, 1948, and the Convention of June 22, 1956, insofar as they concern taxes on income, on capital and tax on stock exchange transactions.

The provisions of those Conventions and of that Protocol will cease to have effect from the date on which the corresponding provisions of the present Convention shall for the first time have effect according to the subparagraph (1) above-mentioned.

ARTICLE 32—TERMINATION

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least 6 months before the end of any calendar year after the year 1969. In such event, the Convention shall cease to have effect:

(1) In the case of France:

(a) As respects withholding taxes, on January 1 of the year following the year in which notice is given.

(b) As respects other income taxes, for any year of assessment beginning on or after January 1 of the year following the year in which notice is given; and

(c) As respects the tax on stock exchange transactions, for any transactions occurring on or after January 1 of the year following the year in which notice is given.

(2) In the case of the United States:

(a) As respects withholding taxes, on January 1 of the year following the year in which notice is given;

(b) As respects other income taxes, for any taxable year beginning on or after January 1 of the year following the year in which notice is given; and

(c) As respects taxes referred to in paragraph (2) of Article 1, for any transactions occurring on or after January 1 of the year following the year in which notice is given.

(b) *Definitions.* Any term defined in the convention shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.20 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§514.21 Dividends.

(a) *Exemption from or reduction in rate of United States tax*—(1) *Exempt from U.S. tax.* Except as provided in subparagraph (2) of this paragraph, dividends paid by a French corporation on or after August 11, 1968, to a nonresident alien individual or foreign corporation are exempt from tax by the United States under the provisions of Article 13(1)(a) of the convention. Such dividends are, therefore, not subject to the withholding of U.S. tax at source.

(2) *Exemption and reduced rate of withholding not applicable.* Dividends paid by a French corporation on or after August 11, 1968, to a nonresident alien individual or foreign corporation (other than a resident of France or a French corporation) are subject to U.S. tax in accordance with the provisions of section 871(a) or 881(a) of the Internal Revenue Code and the regulations thereunder if the paying corporation has a permanent establishment in the United States and more than 80 percent of its gross income was taxable to such permanent establishment for a 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such portion of that period as the corporation has been in existence). Such dividends are not eligible for the reduced rate of withholding under Article 9(2) of the convention or to exemption from tax under Article 13(1)(a) of the convention.

(3) *Application of reduced rate*—(i) *Rate of 15 percent.* Except as provided in subdivision (ii) of this subparagraph, and subparagraph (4) of this paragraph the rate of U.S. tax imposed upon dividends derived from sources within the United States on or after August 11, 1968, and received by a nonresident alien individual who is a resident of France or a French corporation or a person resident in France for French tax purposes shall not exceed 15 percent of the gross amount actually distributed as provided for in Article 9(2) of the convention. For the purposes of this section the gross amount actually distributed includes amounts constructively received.

(ii) *Rate of 5 percent.* The rate of U.S. tax imposed upon dividends derived from sources within the United States on or after August 11, 1968, and received by a French corporation shall not exceed 5 percent of the gross amount actually distributed if—

(*a*) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 percent of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation, and

(*b*) Not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consisted of interest and dividends (other than interest derived in the conduct of a banking, insurance, or financing business and dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which was owned by the paying corporation at the time such dividends or interest were received).

(iii) *Information to be filed with the Commissioner when claiming a 5-percent rate.* Any paying corporation which claims or contemplates claiming that dividends paid or to be paid by it on or after August 11, 1968, are subject to United States tax at the rate of 5 percent under Article 9 of the convention shall file the following information with the Commissioner of Internal Revenue, Washington, D.C. 20224, as soon as practicable:

(*a*) The date and place of its organization;

(*b*) The number and a brief description of outstanding shares of stock of the paying corporation and the voting power thereof;

(*c*) The number of shares of each class of voting stock of the paying corporation owned by the recipient corporation and the date the recipient corporation acquired such stock;

(*d*) The amount of the gross income of the paying corporation for its taxable year immediately preceding the taxable year in which the dividends are paid;

(*e*) The amount of the interest and dividends included in such gross income, the amount of such interest derived in the conduct of a banking, insurance, or financing business, if any, and the amount of such interest and dividends received from a subsidiary corporation in which the paying corporation owns at least 50 percent of the voting stock on the date of receipt.

(iv) *Notification by Commissioner—5 percent rate.* As soon as practicable after such information is filed, the Commissioner of Internal Revenue will determine whether the dividends concerned qualify under Article 9 of the convention for the reduced rate of 5 percent and will notify the paying corporation of his determination. If the dividends qualify for such reduced rate, this notification may also authorize the release, pursuant to §514.28(a)(1)(ii), of excess tax withheld from the dividends concerned. A duplicate copy of such notification shall be attached to the Form 1042S filed by the paying corporation for the first year of payment. There shall be attached to Form 1042S filed by the paying corporation for each subsequent year of payment a statement that the conditions upon which the notification was issued are applicable to such subsequent year.

(4) *Dividends effectively connected with a permanent establishment.* The reduction in rate of tax provided in subparagraph (3) of this paragraph shall not apply if the owner of the dividends has a permanent establishment in the United States and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment. Such dividends are subject to tax in accordance with the provisions of Article 6 of the convention.

(b) *Withholding of tax from dividends*—(1) *15 percent rate*—(i) *Reduction based on address in France.* Except as provided in subparagraph (2) of this paragraph, withholding of United States tax at source on or after August 11, 1968, from dividends derived from sources within the United States by a person whose address is in France, shall be at the reduced rate of 15 percent in every case except that in which, prior to the date of payment of such dividends, the Commissioner of Internal Revenue or the owner of the dividends has notified the withholding agent that such reduced rate of withholding shall not apply.

(ii) *Reduced rate of 15 percent applicable only to owner of capital stock.* The reduced rate of 15 percent is available only to the real owner of the capital stock from which the dividend is derived. As to action by a French addressee who is not the real owner of the capital stock, see §514.22(c).

(iii) *Evidence of rate of tax withheld.* The rate at which U.S. tax has been withheld from a dividend paid on or after August 11, 1968, to a person whose address is in France on the date the dividend is paid to such person shall be

shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment, or on an accompanying statement.

(2) *5-percent rate*—(i) *Reduction based on notification by Commissioner.* If, in accordance with paragraph (a)(3)(iv) of this section, the Commissioner of Internal Revenue has notified the paying corporation that the dividends qualify under Article 9 of the convention for the reduced rate of 5 percent, the reduced withholding rate of 5 percent, to the extent withholding of U.S. tax is required, shall apply to any dividends paid by the paying corporation on or after August 11, 1968.

(ii) *Dividends cease to qualify for 5-percent rate.* If, after receipt of notification from the Commissioner of Internal Revenue that the dividends qualify for the reduced rate of 5 percent, the French recipient corporation ceases to be eligible for the reduction in rate because one or more of the conditions of subdivision (ii) (*a*) or (*b*) of paragraph (a)(3) of this section are not satisfied, the reduction in the rate of withholding of U.S. tax shall no longer apply. When any change occurs in the ownership of stock as recorded on the books of the paying corporation or in the percentage of dividends and interest included in gross income of the paying corporation, the paying corporation shall notify the Commissioner of Internal Revenue as soon as possible.

(iii) *Evidence of tax withheld.* The rate at which U.S. tax has been withheld from a dividend paid on or after August 11, 1968, to a French corporation shall be shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment, or on an accompanying statement.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.21 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§ 514.22 Dividends received by persons not entitled to reduced rate of tax.

(a) *General.* Article 27(1) of the convention provides that each Contracting State shall undertake to lend assistance and support to the other Contracting State in the collection of taxes covered by the convention.

(b) *Additional French tax to be withheld in the United States*—(1) *By a nominee or representative.* The recipient in the United States of any dividend from which French tax has been withheld at the reduced rate of 15 percent, who is a nominee or representative through whom the dividend is received by a person who is not a resident of the United States, shall withhold an additional amount of French tax equivalent to the French tax which would have been withheld if the convention had not been in effect (25 percent as of the date of approval of this Treasury decision) minus the 15 percent which has been withheld at the source.

(2) *By a fiduciary or partnership.* A fiduciary or partnership with an address in the United States which receives, otherwise than as a nominee or representative, a dividend from sources within France from which French tax has been withheld at the reduced rate of 15 percent, shall withhold an additional amount of French tax from the portion of the dividend included in the gross income from sources within France of any beneficiary or partner, as the case may be, who is not entitled to the reduced rate of tax in accordance with the applicable provisions of the convention. The amount of the additional tax is to be calculated in the same manner as under subparagraph (1) of this paragraph.

(3) *Withholding additional French tax from amounts released or refunded.* If any amount of French tax is released by the withholding agent in France with respect to a dividend received by a nominee, representative, fiduciary, or partnership in the United States, the recipient shall withhold from such released amount any additional amount of French tax otherwise required to be withheld from the dividend by the provisions of subparagraphs (1) and (2) of this paragraph, in the same manner as if at the time of payment of the dividends French tax at the rate of 15 percent had been withheld therefrom.

(4) *Return of French tax by U.S. withholding agents.* Amounts of French tax withheld pursuant to this paragraph by withholding agents in the United

States shall be deposited in U.S. dollars with the Director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225, on or before the 16th day after the close of the quarter of the calendar year in which the withholding occurs. Such withholding agent shall also submit such appropriate forms as may be prescribed by the Commissioner of Internal Revenue.

(c) *Additional U.S. tax to be withheld in France*—(1) *By a nominee or representative.* The recipient in France of any dividend from which U.S. tax has been withheld at the reduced rate of 15 percent pursuant to §514.21(b)(1), who is a nominee or representative through whom the dividend is received by a person who is not entitled to the reduced rate in accordance with §514.21(a)(3)(i), shall withhold an additional amount of U.S. tax equivalent to the U.S. tax which would have been withheld if the convention had not been in effect (30 percent as of the date of approval of this Treasury decision) minus the 15 percent which has been withheld at the source.

(2) *By a fiduciary or partnership.* A fiduciary or partnership with an address in France which receives, otherwise than as a nominee or representative, a dividend from which U.S. tax has been withheld at the reduced rate of 15 percent pursuant to §514.21(b)(1) shall withhold an additional amount of U.S. tax from the portion of the dividend included in the gross income from sources within the United States of any beneficiary or partner, as the case may be, who is not entitled to the reduced rate of tax in accordance with §514.21(a)(3)(i). The amount of the additional tax is to be calculated in the same manner as under subparagraph (1) of this paragraph.

(3) *Released amounts of tax.* If any amount of U.S. tax is released pursuant to §514.28 by the withholding agent in the United States with respect to a dividend received by a nominee, representative, fiduciary, or partnership with an address in France, the recipient shall withhold from such released amount any additional amount of U.S. tax, otherwise required to be withheld from the dividend by the provisions of subparagraphs (1) and (2) of this paragraph, in the same manner as if at the time of payment of the dividends U.S. tax at the rate of 15 percent has been withheld at source therefrom.

(4) *Return of U.S. tax by French withholding agents.* Amounts of U.S. tax withheld pursuant to this paragraph by withholding agents in France shall be deposited without converting the amounts into U.S. dollars, with the Directeur General des Impots of France on or before the 16th day after the close of the quarter of the calendar year in which the withholding occurs. The withholding agent making the deposit shall render therewith such appropriate French form as may be prescribed by the Directeur General des Impots. The amounts so deposited should be remitted by the Directeur General des Impots by draft in United States dollars to the director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225, and should be accompanied by such French form as may be required to be rendered by the withholding agent in France in connection with the deposit.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.22 was amended by removing paragraph (c), effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§514.23 Interest.

(a) *Not subject to U.S. tax.* Interest derived from sources within the United States on or after August 11, 1968, by the French Government or by an instrumentality of the French Government and which is not subject to income tax in France is exempt from U.S. tax under the provisions of Article 10(8). Such interest is not subject to withholding of U.S. tax at source.

(b) *Application of reduced rate*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, the rate of U.S. tax imposed by the Internal Revenue Code upon interest derived from sources within the United States on or after August 11, 1968, by a nonresident alien individual who is a resident of France, or French corporation or person resident in France for French tax purposes shall not exceed 10 percent

under the provisions of Article 10(2) of the convention.

(2) *Definitions.* As used in this paragraph, the term ''interest'' means income from Government securities, bonds, or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the United States, including interest on certain deferred payments described in section 483 of the Internal Revenue Code and original issue discount described in section 1232(b) of the Internal Revenue Code.

(3) *Interest effectively connected with a permanent establishment.* The reduction in rate of tax provided in subparagraph (1) of this paragraph shall not apply if the owner thereof has a permanent establishment in the United States and the indebtedness giving rise to the interest is effectively connected to such permanent establishment. Such interest is subject to tax in accordance with the provisions of Article 6 of the convention.

(c) *Withholding of tax from interest*—(1) *Coupon bond interest*—(i) *Form to use.* To secure withholding of U.S. tax at the rate of 10 percent in the case of coupon bond interest, the nonresident alien individual who is a resident of France, or French corporation or person resident in France for French tax purposes shall, for each issue of bonds, file Form 1001–F in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, or by his trustee or agent, and shall show the information required by paragraph (d) of §1.1461–1 of this chapter. It shall contain a statement that at the time the interest is derived the owner (*a*) if an individual, is neither a citizen nor resident of the United States, but is a resident of France, or is a French corporation or person resident in France for French tax purposes, and (*b*) has no permanent establishment in the United States, or if the owner does have such a permanent establishment, the indebtedness giving rise to the interest is not effectively connected to such permanent establishment.

(ii) *Reduction in rate applicable only to owner.* The reduction in the rate of U.S. tax contemplated by Article 10(2) of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of the interest. The person presenting the coupon or on whose behalf it is presented, shall, for the purpose of the reduction in tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001–F, shall be used, and U.S. tax shall be withheld at the statutory rate.

(iii) *Disposition of Form 1001–F.* The original and duplicate of Form 1001–F shall be forwarded by the withholding agent to the Director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225, in accordance with paragraph (b)(2) of §1.1461–2 of this chapter, with the annual return on Form 1042. A summary of the Form 1001 or 1001–F shall be reported on Form 1042 as provided by instructions thereto.

(2) *Other interest*—(i) *Letter of notification.* To secure the reduced rate of U.S. tax at source in the case of interest other than coupon bond interest, the nonresident alien individual who is a resident of France, or French corporation or person resident in France for French tax purposes, shall notify the withholding agent by letter in duplicate that the interest is taxable at the reduced rate of tax provided in Article 10(2) of the convention. The letter of notification shall be signed by the owner of the interest, or by his trustee or agent, shall show the name and address of the obligor and the name and address of the owner of the interest, and shall indicate the dates on which the taxable years of the owner to which the letter is applicable begin and end. The letter shall contain a statement that the owner (*a*) if an individual, is neither a citizen nor a resident of the United States but is a resident of France, or is a French corporation or other entity resident in France for French tax purposes, and (*b*) does not have a permanent establishment in the

United States or, if the owner does have such a permanent establishment, a statement that the indebtedness giving rise to the income is not effectively connected to such permanent establishment. If the interest is taxable at the reduced rate of tax, the letter of notification may also authorize the release, pursuant to §514.28, of excess tax withheld from the interest concerned.

(ii) *Manner of filing letter.* The letter of notification, which shall constitute authorization for the withholding of U.S. tax at source at the reduced rate of 10 percent, shall be filed with the withholding agent as soon as practicable for each successive 3-calendar-year period during which the income is paid. Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the owner of the interest. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from U.S. tax granted by Article 10(2) of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the reduction in rate of withholding of U.S. tax shall no longer apply unless the new owner of record is entitled to such reduced rate and promptly files a letter of notification with the withholding agent.

(iii) *Disposition of letter.* The original of each letter of notification filed pursuant to this subparagraph shall be retained by the withholding agent and the duplicate shall be immediately forwarded by the withholding agent to the Director, Office of International Operations, Internal Revenue Service, Washington, D.C. 20225.

(3) *Change in circumstances.* If the owner of the interest acquires a permanent establishment in the United States after filing a letter of notification referred to in subparagraph (2) of this paragraph, such owner shall file a new letter of notification even though the indebtedness giving rise to the income to which such document relates is not effectively connected to such permanent establishment

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.23 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§ 514.24 Royalties.

(a) *Exemption from U.S. tax*—(1) *Copyright royalties.* Except as provided in subparagraph (2) of this paragraph royalties or other amounts paid as consideration for the use of, or for the right to use copyrights of literary, artistic, or scientific works (including gain from the sale or exchange of property giving rise to such royalties) which are derived from sources within the United States on or after August 11, 1968, by a nonresident alien individual who is a resident of France, or by a French corporation or a person resident in France for French tax purposes are exempt from U.S. tax under the provisions of Article 11(3) of the convention.

(2) *Copyright royalties effectively connected with a permanent establishment.* The exemption from tax provided in subparagraph (1) of this paragraph shall not apply if the owner of such royalties, or of gain from the sale or exchange of property giving rise to such royalties, has a permanent establishment in the United States and the property giving rise to such royalties or gain is effectively connected with such permanent establishment. Such royalties are subject to tax in accordance with the provisions of Article 6.

(3) *Exemption from withholding of tax*—(i) *Use of letter of notification.* To avoid withholding of U.S. tax at source with respect to copyright royalties to which this paragraph applies, the nonresident alien who is a resident of France or French corporation or person resident in France for French tax purposes, shall notify the withholding agent by letter in duplicate that the royalty is exempt from U.S. tax under Article 11(3) of the convention. The letter of notification shall be signed by the owner of the royalty or of the gain from the sale or exchange of property giving rise to such royalty, or by the trustee or agent of such owner, and shall show the name and address of the owner. The letter shall contain a statement that at the time the royalty is

derived the owner (*a*) if an individual, is neither a citizen nor a resident of the United States but is a resident of France or, if a corporation or other entity is resident in France for French tax purposes, and (*b*) has no permanent establishment in the United States or, if the owner does have such a permanent establishment, a statement that the property or right giving rise to such royalty is not effectively connected with such permanent establishment. If the royalty is exempt from U.S. tax, the letter of notification may also authorize the release, pursuant to §514.28 of excess tax withheld from the royalty concerned.

(ii) *Manner of filing letter of notification.* The provisions of §514.23(c)(2)(ii) and (iii) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest, including its use for the release of excess tax withheld and §514.23(c)(3) relating to change of circumstances, are equally applicable with respect to the income falling within the scope of this section.

(b) *Reduction in rate of United States tax*—(1) *Industrial royalties.* Except as provided in subparagraph (3) of this paragraph, the rate of U.S. tax imposed on royalties, derived from sources within the United States on or after August 11, 1968, by a nonresident alien individual who is a resident of France, or by a French corporation shall not, under Article 11(2) of the convention, exceed 5 percent of the gross amount paid.

(2) *Definitions.* As used in this paragraph, the term ''royalty'' means royalties, rentals, or other amounts (other than royalties described in paragraph (a)(1) of this section) paid as consideration for the use of or the right to use patents, designs or models, plans, secret processes or formulae, trademarks, or other like property or rights, or for knowledge, experience, or skill (know-how) and gains derived from the sale or exchange of such right or property if payment is contingent, in whole or in part, on the productivity use, or disposition of the property or rights sold. The term ''royalty'' does not include natural resource royalties which are subject to tax in accordance with the provisions of Article 5 of the convention.

(3) *Industrial royalties effectively connected with a permanent establishment.* The reduction in rate of tax provided in subparagraph (1) of this paragraph shall not apply if the owner of the royalties or of the gain from the sale or exchange of the property or right giving rise to such royalties has a permanent establishment in the United States and the property or right giving rise to such royalties or gain is effectively connected with such permanent establishment. Such royalties are subject to tax in accordance with the provisions of Article 6 of the convention.

(4) *Withholding of U.S. tax from industrial royalties.* In order to secure the reduced rate of U.S. tax at source as provided in subparagraph (1) of this paragraph, the nonresident alien individual who is a resident of France or French corporation or person resident in France for French tax purposes shall notify the withholding agent by letter in duplicate that the royalty qualifies for the reduced rate of U.S. tax granted by Article 11(2) of the convention. The letter of notification shall be signed by the owner of the royalty, or by the trustee or agent of such owner, and shall show the name and address of the owner. The provisions of subparagraph (3) of paragraph (a) of this section relating to the form, content, execution, filing, and effective period of the letter of notification prescribed therein with respect to copyright royalties, including its use for the release of excess tax withheld and relating to change of circumstances, are equally applicable with respect to industrial royalties.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.24 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§514.25 Private pensions, alimony, and annuities.

(a) *Exemption from U.S. tax*—(1) *Requirements.* Any pension (other than one paid by the United States or a political subdivision or a local authority

thereof to an individual who is a citizen of the United States for the discharge of governmental functions), alimony, or annuity derived from sources within the United States by a nonresident alien individual who is a resident of France and received in a taxable year of the recipient beginning after December 31, 1966, shall be exempt from U.S. tax under the provisions of Article 19 of the convention.

(2) *Definitions*—(i) *Pension.* As used in this paragraph, the term ''pension'' means periodic payments made after retirement in consideration of past employment or as compensation for injuries received in connection with past employment. The term ''pension'' does not include retirement pay or pensions paid by the United States or by any State or local authority of the United States which are subject to tax in accordance with the provisions of Article 16 of this convention.

(ii) *Annuity.* The term ''annuity'' means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered), but not including retirement pay or pensions paid by the United States or by any State or territory of the United States.

(b) *Exemption from withholding tax*—(1) *Use of letter of notification.* To avoid withholding of U.S. tax at source with respect to pensions, alimony, or annuities which are exempt from U.S. tax in accordance with paragraph (a) of this section, the nonresident alien individual who is a resident of France shall notify the withholding agent by letter in duplicate that the pension, alimony, or annuity is exempt from U.S. tax under Article 19 of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that at the time the income is received, the owner is neither a citizen nor a resident of the United States but is a resident of France.

(2) *Manner of filing letter.* The provisions of §514.23(c)(2)(ii) and (iii) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest, including its use for the release of excess tax withheld and §514.23(c)(3) relating to change of circumstances, are equally applicable with respect to the income falling within the scope of this section.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.25 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§514.26 Income covered by convention.

(a) *Exemption from or reduction in rate of tax*—(1) *Request for ruling.* If a nonresident alien individual who is a resident of France or French corporation or person resident in France for French tax purposes claims or contemplates claiming that an item of income (including income referred to in §§514.21 through 514.25) is exempt from, or subject to a reduced rate of, U.S. tax under the convention, such owner of the income may request a ruling to that effect from the Commissioner of Internal Revenue, Washington, D.C. 20224, by filing a statement setting forth all the facts pertinent to a determination of the question.

(2) *Notification of applicant.* As soon as practicable after such information is filed, the Commissioner will determine whether the income concerned qualifies under the convention for exemption from or reduced rate of, U.S. tax and will notify the applicant of his ruling. If income qualifies for such benefit, this notification may also authorize the release, pursuant to §514.28(a)(2), of excess tax withheld from the income concerned.

(b) *Exemption from, or reduction in rate of, withholding*—(1) *Notification of withholding agent.* If the Commissioner rules that income received by such applicant qualifies for exemption from, or reduction in rate of, U.S. tax under the convention, and the applicant sends a copy of such ruling to the withholding agent, the income designated in such ruling shall be exempt, or subject to a reduced rate of, withholding of U.S. tax

unless the Commissioner or the applicant notifies the withholding agent that such income ceases to qualify for such benefit. A duplicate copy of such notification shall be attached to the Form 1042S filed by the withholding agent with respect to the income concerned.

(2) *Change in circumstances.* If during the period covered by the ruling letter, any fact upon which the ruling letter is based materially changes, the applicant shall immediately notify the withholding agent and the Commissioner of such change.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.26 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§ 514.27 Beneficiaries of domestic estate and trust.

A nonresident alien individual who is a resident of France and a beneficiary of a domestic estate or trust shall be entitled to the exemption from, or reduction in rate of, United States tax granted by Articles 9, 10, 11, 13(1)(a), and 19 of the convention with respect to dividends, interest, royalties, and pensions, annuities, and alimony if he otherwise satisfies the requirements for exemption or reduction specified in the articles concerned, to the extent that (a) any amount paid, credited, or required to be distributed by the estate or trust to the beneficiary is deemed to consist of those items and (b) the items so deemed to be included in such amount would, without regard to the convention, be includible in his gross income. However, such beneficiary is not entitled to the exemption from, or reduction in the rate of, U.S. tax granted by such articles to the extent that the trust conduit rules are not applicable to any payment received by the beneficiary such as, for example, a payment made out of the income of a trust established for the support and maintenance of a wife pursuant to a divorce decree. To obtain the exemption from, or reduction in the rate of, withholding of U.S. tax where permitted by this section, the beneficiary must, where applicable, execute and submit to the fiduciary of the estate or trust in the United States the appropriate letter of notification in the form prescribed in §514.23(c) (2) and (3), modified where necessary to indicate the type of income involved.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.27 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§ 514.28 Release of excess tax withheld at source.

(a) *Amounts to be released*—(1) *Tax withheld from dividends*—(i) *Dividends subject to 15-percent rate.* If U.S. tax has been withheld on or after August 11, 1968, at a rate in excess of 15 percent from dividends described in §514.21(a)(3)(i) received by a nonresident alien individual who is a resident of France or French corporation or person resident in France for French tax purposes whose address at the time of payment was in France, the withholding agent shall release and par over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §514.21(b)(1).

(ii) *Dividends subject to 5-percent rate.* If U.S. tax has been withheld at a rate in excess of 5 percent on or after August 11, 1968, from dividends which qualify for the reduced rate of 5 percent under §514.21(a)(3)(ii), the withholding agent shall, if so authorized in accordance with §514.21(a)(3)(iv) release and pay over to the corporation from which the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §514.21(b)(2)(i).

(2) *Tax withheld from coupon bond interest*—(i) *Substitute ownership certificate.* If U.S. tax has been withheld at a rate in excess of 10 percent on or after August 11, 1968, from coupon bond interest described in §514.23(c)(1), the owner of the interest shall furnish the withholding agent a Form 1001–F clearly marked ''Substitute'' and executed in accordance with §514.23(c). Upon receipt of such substitute Form 1001–F

the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §514.23(b)(1).

(ii) *Filing and disposition of substitute ownership certificate.* One substitute Form 1001–F shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 or 1001–F previously filed by the owner of the interest in the calendar year in which the excess tax was withheld and with respect to which the excess is released. Such forms shall be disposed of in accordance with the rules of §514.23(c)(1)(iii).

(3) *Tax withheld from other income covered by convention.* If the owner of the other income furnishes to the withholding agent the letter of notification prescribed in §514.24(a)(3) or (b)(4), §514.25(b)(1), or the authorization for release of tax prescribed in §514.26(a)(2), and U.S. tax has been withheld at a rate in excess of the rate provided in the convention with respect to payments of income to which such letter of authorization is applicable, made on or after August 11, 1968, or received in the taxable year of the owner beginning after December 31, 1966 (whichever is applicable), the withholding agent shall release and pay to the person from whom the tax was withheld an amount which is equal to the tax so withheld from such income, or to the difference between the tax so withheld and the tax required to be withheld, as the case may be.

(b) *Amounts not to be released.* The provisions of this section do not apply to any excess tax withheld at the source subsequent to the due date for filing Form 1042.

(c) *Statutory rate.* As used in this paragraph, the term ''statutory rate'' means the rate of tax (30 percent as of the date of approval of this Treasury decision) prescribed by subchapter A of chapter 3 (relating to the withholding of tax on nonresident alien individuals and foreign corporations) of the Internal Revenue Code as though the convention has not come into effect.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.28 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§514.29 Refund of excess tax paid to Director of International Operations.

(a) *In general.* Where U.S. tax withheld at the source on items of income covered by the convention is in excess of the tax imposed under subtitle A (relating to the income tax) of the Internal Revenue Code, as modified by the convention, and such withheld amounts have been paid to the Director of International Operations, a claim by the owner of such income for refund of any resulting overpayment may be made under section 6402 of such Code, and the regulations thereunder.

(b) *Form of claim*—(1) *Where return previously filed.* If the owner of the income has previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 843 or an amended return.

(2) *Where no return previously filed.* If the owner of the income has not previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 1040NR or Form 1120–F, whichever is applicable, showing the overpayment. Such return will serve as a claim for refund, and it is not necessary for the taxpayer to file Form 843.

(c) *Information required.* If the owner's total gross income (including every item of capital gain subject to tax) from sources within the United States for the taxable year in which such overpayment resulted has not been disclosed in an income tax return filed with the Internal Revenue Service prior to the time the claim for refund is made, such owner shall disclose such total gross income with his claim. In the event that securities are held in the name of a person other than the actual or beneficial owner, the name and

address of such person shall be furnished with the claim. In addition to such other information as may be required to establish the overpayment, there shall also be included in such claim for refund:

(1) A statement that, at the time when the items of income were received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of France, a French corporation or person resident in France for French tax purposes.

(2) If the owner's claim is based on exemption from, or reduction in rate of, tax for dividends, interest, or royalties, a statement that the owner does not have a permanent establishment in the United States, or, if the owner does have such a permanent establishment, that the holding from which such income was derived was not effectively connected with such permanent establishment.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.29 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§514.30 Information furnished in ordinary course.

For provisions relating to the exchange of information under Article 30 of the convention, see paragraph (d) of §1.1461–2 of this chapter.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.30 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§514.31 Return required when liability not satisfied by withholding.

For action by a nonresident alien individual who is a resident of France or a French corporation or person resident in France for French tax purposes in a case where such individual's or corporation's or person's U.S. income tax liability is not satisfied by withholding of U.S. tax at source, see paragraph (b) of §1.6012–1 of this chapter and paragraph (b) of §1.6012–2 of this chapter.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.31 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§514.32 Effective date.

(a) *In general.* Except as provided in paragraph (b) of this section, the provisions of this Treasury decision shall be effective with respect to the rate of withholding tax, to amounts derived from sources within the United States on or after August 11, 1968, and with respect to all other taxes covered by the convention to amounts received in a taxable year of the recipient beginning after December 31, 1966.

(b) *Withholding of additional French tax.* The provisions of §514.22 shall be effective with respect to income derived from sources within France on or after August 11, 1968.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.32 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

Subpart—General Income Tax

AUTHORITY: 53 Stat. 32, 467; 26 U.S.C. 62, 3791.

SOURCE: Treasury Decision 5499, 11 FR 2154, Mar. 2, 1946, as amended by T.D. 6273, 22 FR 9529, Nov. 28, 1957, unless otherwise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, Subpart—General Income Tax, consisting of §§514.101 through 514.117, was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

REGULATIONS EFFECTIVE JAN. 1, 1945

§514.101 Introductory.

The tax convention and protocol between the United States and France (referred to in this subpart as the convention) proclaimed by the President of the United States on January 5, 1945, and effective January 1, 1945, provide in part as follows:

TITLE I—DOUBLE TAXATION

ARTICLE 1

The taxes referred to in this Convention are:

(a) In the case of the United States of America: The federal income taxes, including surtaxes and excess-profits taxes;

(b) In the case of France:

(1) The real estate tax;

(2) The industrial and commercial profits tax;

(3) The annual tax on undistributed profits;

(4) The agricultural profits tax;

(5) The tax on salaries, allowances and emoluments, wages, pensions and annuities;

(6) The professional profits tax;

(7) The tax on income from securities and movable capital;

(8) The general income tax.

ARTICLE 2

Income from real property, including income from agricultural undertakings, shall be taxable only in the State in which such real property is situated.

ARTICLE 3

An enterprise of one of the contracting States is not subject to taxation by the other contracting State in respect of its industrial and commercial profits except in respect of such profits allocable to its permanent establishment in the latter State.

No account shall be taken, in determining the tax in one of the contracting States, of the purchase of merchandise effected therein by an enterprise of the other State for the purpose of supplying establishments maintained by such enterprise in the latter State.

The competent authorities of the two contracting States may lay down rules by agreement for the apportionment of industrial and commercial profits.

The term ''industrial and commercial profits'' shall not include the following:

(a) Income from real property;

(b) Income from mortgages, from public funds, securities (including mortgage bonds), loans, deposits and current accounts;

(c) Dividends and other income from shares in a corporation;

(d) Rentals or royalties arising from leasing personal property or from any interest in such property, including rentals or royalties for the use of, or for the privilege of using, patents, copyrights, secret processes and formulae, good-will, trade marks, trade brands, franchises and other like property;

(e) Profit or loss from the sale or exchange of capital assets.

Subject to the provisions of this Convention the income referred to in paragraphs (a), (b), (c), (d) and (e) shall be taxed separately or together with industrial and commercial profits in accordance with the laws of the contracting States.

ARTICLE 4

American enterprises having permanent establishments in France are required to submit to the French fiscal administration the same declarations and the same justifications, with respect to such establishments, as French enterprises.

The French fiscal administration has the right, within the provisions of its national legislation and subject to the measures of appeal provided in such legislation, to make such corrections in the declaration of profits realized in France as may be necessary to show the exact amount of such profits.

The same principle applies mutatis mutandis to French enterprises having permanent establishments in the United States.

ARTICLE 5

When an American enterprise, by reason of its participation in the management or capital of a French enterprise, makes or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with a third enterprise, any profits which should normally have appeared in the balance sheet of the French enterprise, but which have been in this manner, diverted to the American enterprise, are, subject to the measures of appeal applicable in the case of the tax on industrial and commercial profits, incorporated in the taxable profits of the French enterprise.

The same principle applies mutatis mutandis, in the event that profits are diverted from an American enterprise to a French enterprise.

ARTICLE 6

Income derived by navigation enterprises of one of the contracting States from the operation of ships documented under the laws of that State shall continue to benefit in the other State by the reciprocal tax exemptions accorded by the exchange of notes of June 11 and July 8, 1927 between the United States of America and France.

Income which an enterprise of one of the contracting States derives from the operation of aircraft registered in that State shall be exempt from taxation in the other State.

ARTICLE 7

Royalties from real property or in respect of the operation of mines, quarries or other natural resources shall be taxable only in the contracting State in which such property, mines, quarries or other natural resources are situated.

Royalties derived from within one of the contracting States by a resident or by a corporation or other entity of the other contracting State as consideration for the right to use copyrights, patents, secret processes and formulae, trademarks and other analogous rights shall be exempt from taxation in the former State, provided such resident, corporation or other entity does not have a permanent establishment there.

ARTICLE 8

Wages, salaries and similar compensation and pensions paid by one of the contracting States or by a political subdivision thereof to individuals residing in the other State shall be exempt from taxation in the latter State.

Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

ARTICLE 9

Income from labor or personal services shall be taxable only in the State in which the taxpayer carries on his personal activity.

This provision does not apply to the income referred to in Article 8.

ARTICLE 10

Income from the exercise of a liberal profession shall be taxable only in the State in which the professional activity is exercised.

There is the exercise of a liberal profession in one of the two contracting States only when the professional activity has a fixed center in that country.

ARTICLE 11

Gains derived in one of the contracting States from the sale or exchange of stocks, securities or commodities by a resident or a corporation or other entity of the other contracting State shall be exempt from taxation in the former State, provided such resident or corporation or other entity has no permanent establishment in the former State.

ARTICLE 12

Students from one of the contracting States residing in the other contracting State exclusively for the purpose of study shall not be taxable by the latter State in respect of remittances received from within the former State for the purpose of their maintenance or studies.

ARTICLE 13

In the calculation of taxes established in one of the contracting States on the use of property or increment of property of an enterprise of the other State, account shall be taken only of that portion of the capital situated or employed and allocable to a permanent establishment within the former State.

The foregoing provision shall apply to the French ''patent'' tax and the United States capital stock tax even though these two taxes have not been referred to in Article 1 of the present Convention.

In the application of the present Article navigation enterprises of one of the contracting States, enjoying in the other State the benefits of Article 6 of the present Convention, shall not be considered as having a permanent establishment in the latter State insofar as shipping activities are concerned.

ARTICLE 14

It is agreed that double taxation shall be avoided in the following manner:

A. *As regards the United State of America.* Notwithstanding any other provision of this Convention, the United States of America in determining the income and excess-profits taxes, including all surtaxes, of its citizens, or residents, or corporations, may include in the basis upon which such taxes are imposed, all items of income taxable under the Revenue Laws of the United States of America, as though this Convention had not come into effect. The United States of America shall, however, deduct from the taxes thus computed the amount of French income tax paid. This deduction shall be made in accordance with the benefits and limitations of Section 131 of the United States Internal Revenue Code relating to credit for foreign taxes.

B. *As regards France*—(a) *Schedular taxes.* Income from securities, debts and trusts having its source in the United States of America shall be subject in France to the tax on income from securities; but this tax shall be reduced by the amount of the tax already paid in the United States of America on the same income. In consideration of the fiscal regime to which the legislation of the United States of America subjects the income of nonresident aliens and foreign corporations or other entities, the deduction of the tax paid in the United States of America shall be effected in a lump sum through a reduction of 12 in the rate of the tax established by the French law.

The income other than that indicated in the preceding paragraph shall not be subject to any schedular tax in France when, according to this Convention, it is taxable in the United States of America.

(b) *General tax on revenue.* Notwithstanding any other provision of the present Convention, the general income tax can be determined according to all the elements of taxable income as imposed by French fiscal legislation.

However, the provisions of the first paragraph of Article 114 of the French Code on direct taxation relative to the taxation of aliens domiciled or resident in France shall continue to be applied.

ARTICLE 15

In derogation of Article 3 of the Decree of December 6, 1872, American corporations which maintain in France permanent establishments shall be liable to the tax on income from securities on three-fourths of the profits actually derived from such establishments, the industrial and commercial profits being determined in accordance with Articles 3 and 4 of this Convention.

The remaining one-fourth shall, in all cases, be taken as the basis of the annual tax on undistributed profits applicable to the same corporations.

ARTICLE 16

An American corporation shall not be subject to the obligations prescribed by Article 3 of the Decree of December 6, 1872, by reason of any participation in the management or in the capital of, or any other relations with, a French corporation. In such case, the tax on income from securities continues to be levied, in conformity with French legislation, on the dividends, interest and all other distributions made by the French enterprise; but it is moreover collectible, if the occasion arises, and subject to the measures of appeal applicable in the case of the tax on income from securities, with respect to the profits which the American corporation derives from the French corporation under the conditions prescribed in Article 5.

ARTICLE 17

The American corporations subject to the provisions of Article 3 of the Decree of December 6, 1872 who were not placed under the special regime established by Articles 5 and 6 of the Convention for the avoidance of double income taxation between the United States of America and France, signed April 27, 1932, may, during a new period of six months from the date of the entry into force of the present Convention, exercise with reference to past years, the option provided in those two articles under the conditions which they prescribe.

Moreover, the American corporations contemplated in the third paragraph of Article 10 of the Convention of April 27, 1932, may be admitted to benefit from the provisions of that paragraph, when the tax has not yet been paid, if the latter was not found to be payable, prior to May 1, 1930, by a definitive judicial decision or if such decision has been the subject of an appeal in cassation.

ARTICLE 18

Any United States income tax liability remaining unpaid as at the effective date of this Convention for years beginning prior to January 1, 1936 of any individual resident of France (other than a citizen of the United States of America) or of a French corporation may be adjusted by the Commissioner of Internal Revenue of the United States of America, on the basis of the provisions of the United States Revenue Act of 1936. However, no adjustment will be made more than two years subsequent to the effective date of this Convention unless the taxpayer files a request with the Commissioner of Internal Revenue prior to such date.

ARTICLE 19

Notwithstanding any other provision of this Convention, in order to avoid double taxation on public servants, employees of one of the contracting States being citizens of that State and remunerated by it, who have been received by the other State to perform services in such State shall be exempt in their principal place of residence from direct and personal taxes whether national, State or local.

Such employees who own real property in the State in which they perform services shall not benefit from the above exemptions with respect to the taxes levied on such real property. Employees who engage in any private gainful occupation in such State shall not be entitled to any exemption under this Article.

TITLE II—FISCAL ASSISTANCE

ARTICLE 20

With a view to the more effective imposition of the taxes to which the present Convention relates, the contracting States undertake, on condition of reciprocity, to furnish information of a fiscal nature which the authorities of each State concerned have at their disposal, or are in a position to obtain under their own laws, that may be of use to the authorities of the other State in the assessment of the said taxes.

Such information shall be exchanged between the competent authorities of the contracting States in the ordinary course or on request.

ARTICLE 21

In accordance with the preceding Article, the competent authorities of the United States of America will transmit to the competent authorities of France, as regards any person, corporation or other entity (other than a citizen, corporation or other entity of the United States of America) having an address in France and deriving from sources within the United States of America rents, dividends, interest, royalties, income from trusts, wages, salaries, pensions, annuities, or other fixed or determinable periodical income, the name and address of such person, corporation or other entity as well as the amount of such income.

The competent authorities of France will transmit to the competent authorities of the United States of America, as regards any

person, corporation or other entity (other than a citizen, corporation or other entity of France) having an address in the United States of America and deriving from sources within France rents, dividends, interest, royalties, income from trusts, wages, salaries, pensions, annuities, or other fixed or determinable periodical income, the name and address of such person, corporation or other entity as well as the amount of such income.

The information relating to each year will be transmitted as soon as possible after December 31.

ARTICLE 22

The competent authorities of each of the contracting States shall be entitled to obtain, through diplomatic channels, from the competent authorities of the other contracting States, except with respect to citizens, corporations or other entities of the State to which application is made, particulars in concrete cases necessary for the establishment of the taxes to which the present Convention relates.

However, the competent authorities of each State shall not be prevented from transmitting to the competent authorities of the other State information relating to their own nationals (citizens, corporations or other entities) if they deem it opportune for the prevention of fiscal evasion.

ARTICLE 23

Each contracting State undertakes to lend assistance and support in the collection of the taxes to which the present Convention relates, together with interest, costs, and additions to the taxes and fines not being of a penal character according to the laws of the State requested, in the cases where the taxes are definitively due according to the laws of the State making the application.

In the case of an application for enforcement of taxes, revenue claims of each of the contracting States which have been finally determined shall be accepted for enforcement by the State to which application is made and collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes.

The application shall be accompanied by such documents as are required by the laws of the State making the application, to establish that the taxes have been finally determined.

If the revenue claim has not been finally determined, the State to which application is made may, at the request of the State making the application, take such measures of conservancy as are authorized by the laws of the former State for the enforcement of its own taxes.

The assistance provided for in this Article shall not be accorded with respect to the citizens, corporations or other entities of the State to which application is made.

ARTICLE 24

In no case shall the provisions of Article 22 relating to particulars in concrete cases, or of Article 23 relating to mutual assistance in the collection of taxes, be construed so as to impose upon either of the contracting States the obligation to carry out administrative measures at variance with the regulations and practice of either contracting State, or to supply particulars which are not procurable under the law of the State to which application is made, or that of the State making application.

The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it. Nevertheless, such State may refuse to comply with the request for reasons of public policy or if compliance would involve violation of a business, industrial or trade secret. In such case it shall inform, as soon as possible, the State making the application.

ARTICLE 25

Any taxpayer who shows proof that the action of the revenue authorities of the contracting States has resulted in double taxation in his case in respect of any of the taxes to which the present Convention relates, shall be entitled to lodge a claim with the State of which he is a citizen or, if the taxpayer is a corporation or other entity, with the State in which it is created or organized. Should the claim be upheld, the competent authority of such State may come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

ARTICLE 26

The competent authorities of the two contracting States may prescribe regulations necessary to interpret and carry out the provisions of this Convention. With respect to the provisions of this Convention relating to exchange of information and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, rates of conversion of currencies, transfer of sums collected, minimum amounts subject to collection, payment of costs of collection, and related matters.

TITLE III—GENERAL PROVISIONS

ARTICLE 27

The present Convention shall be ratified, in the case of the United States of America by the President, by and with the advice and consent of the Senate, and in the case of

France, by the President of the French Republic with the consent of the Parliament.

This Convention shall become effective on the first day of January following the exchange of the instruments of ratification.

The Convention shall remain in force for a period of five years and indefinitely thereafter but may be terminated by either contracting State at the end of the five-year period or at any time thereafter, provided six months' prior notice of termination has been given, the termination to become effective on the first day of January following the expiration of the six-month period.

Upon the coming into effect of this Convention, the Convention for the avoidance of double income taxation between the United States of America and France, signed April 27, 1932 shall terminate.

Done at Paris, in duplicate, in the English and French languages, this 25th day of July, 1939.

[SEAL]

WILLIAM C. BULLITT

[SEAL]

GEORGES BONNET

PROTOCOL

At the moment of signing the present Convention for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance in the case of income and other taxes, the undersigned Plenipotentiaries have agreed that the following provisions shall form an integral part of the Convention:

I. The present Convention is concluded with reference to American and French law in force on the day of its signature.

Accordingly, if these laws are appreciably modified the competent authorities of the two States will consult together.

II. The income from real property referred to in Article 2 of the present Convention shall include profits from the sale or exchange of the said property, but shall not include interest on mortgages or obligations secured by the said property.

III. As used in this Convention:

(a) The term ''permanent establishment'' includes branches, mines and oil wells, plantations, factories, workshops, stores, purchasing and selling and other offices, agencies, warehouses, and other fixed places of business but does not include a subsidiary corporation.

When an enterprise of one of the contracting States carries on business in the other State through an employee or agent, established there, who has general authority to negotiate and conclude contracts or has a stock of merchandise from which he regularly fills orders which he receives, this enterprise shall be deemed to have a permanent establishment in the latter State. But the fact that an enterprise of one of the contracting States has business dealings in the other State through a bona fide commission agent or broker shall not be held to mean that such enterprise has a permanent establishment in the latter State.

Insurance enterprises shall be considered as having a permanent establishment in one of the States as soon as they receive premiums from or insure risks in the territory of that State.

(b) The term ''enterprise'' includes every form of undertaking whether carried on by an individual, partnership, corporation, or any other entity.

(c) The term ''enterprise of one of the contracting States'' means, as the case may be, ''United States enterprise'' or ''French enterprise''.

(d) The term ''United States enterprise'' means an enterprise carried on in the United States of America by a resident of the United States of America or by a United States corporation or other entity.

The term ''United States corporation or other entity'' means a partnership, corporation or other entity created or organized in the United States of America or under the law of the United States of America or of any State or Territory of the United States of America.

(e) The term ''French enterprise'' is defined in the same manner, mutatis mutandis, as the term ''United States enterprise''.

IV. The term ''life annuities'' referred to in Article 8 of this Convention means a stated sum payable periodically at stated times during life, or during a specified number of years to the person who has paid the premiums or a gross sum for such an obligation.

V. Citizens and corporations or other entities of one of the contracting States within the other contracting State shall not be subjected as regards the taxes referred to in the present Convention, to the payment of higher taxes than are imposed upon the citizens or corporations or other entities of such latter State.

VI. The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit, allowance, or other advantage accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

VII. Documents and information contained therein, transmitted under the provisions of this Convention by one of the contracting States to the other contracting State shall not be published, revealed or disclosed to any person except to the extent permitted under the laws of the latter State with respect to similar documents or information.

VIII. As used in this Convention the terms ''competent authority'' or ''competent authorities'' means, in the case of the United States of America, the Secretary of the Treasury and in the case of France, the Minister of Finance.

IX. The term ''United States of America'' as used in this Convention in a geographic sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

X. The term ''France'', when used in a geographic sense, indicates continental France, exclusive of Algeria and the Colonies.

XI. Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

Done in duplicate at Paris, this 25th day of July, 1939.

WILLIAM C. BULLITT
GEORGES BONNET

§ 514.102 Applicable provisions of the Internal Revenue Code.

(a) The Internal Revenue Code provides in part as follows:

SEC. 22. GROSS INCOME. * * *

(b) *Exclusions from gross income.* The following items shall not be included in gross income and shall be exempt from taxation under this chapter:

* * * * *

(7) Income exempt under treaty.—Income of any kind, to the extent required by any treaty obligation of the United States;

* * * * *

SEC. 62. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

(b) Pursuant to section 62 of the Internal Revenue Code, Article 26 of the convention, and other provisions of the internal revenue laws, §§ 514.103–514.117 are hereby prescribed and all regulations inconsistent herewith are modified accordingly.

§ 514.103 Scope of the convention.

(a) The primary purposes of the convention are to avoid double taxation upon certain classes of income, and to inaugurate fiscal cooperation between the two States with respect to reciprocal disclosure of information and to the collection of the taxes enumerated in Article 1 of the convention.

(b) The specific classes of income from sources within the United States exempt under the convention from United States income taxes are:

(1) Industrial and commercial profits of a French enterprise having no permanent establishment in the United States (Article 3);

(2) Income derived by a French enterprise from the operation of ships documented under the laws of, or aircraft registered in, France (Article 6);

(3) Royalties derived by a nonresident alien who is a resident of France or by a French corporation or other French entity (having no permanent establishment within the United States), for the right to use copyrights, patents, secret processes and formulae, trademarks and other analogous rights (Article 7);

(4) Compensation and pensions paid by France or by a political subdivision of France to individuals (other than citizens of the United States) for services rendered to France whether within or without the United States (Article 8);

(5) Private pensions and life annuities derived from within the United States and paid to nonresident alien individuals (whether or not such individuals are citizens of France) residing in France during the year in which such amounts are paid (Article 8);

(6) Earned income of a doctor, lawyer, engineer, or other member of a liberal profession who is a nonresident alien individual and is a resident of France and does not maintain within the United States an office, establishment, installation, or other fixed center related to the practice of his profession within the United States (Article 10);

(7) Gains from sources within the United States arising from the sale or exchange of stocks, securities, or commodities by a resident of France (other than a citizen of the United States) or a French corporation or other French entity unless such resident, corporation, or other entity has, at any time during the taxable year in which such sale takes place, a permanent establishment within the United States (Article 11).

(c) Except as expressly provided by the convention, the tax liability of nonresident aliens who are residents of France or of French corporations or

other French entities is determined in accordance with the provisions of the laws and of the regulations thereunder applicable generally to nonresident alien individuals and to foreign corporations.

(d) The convention shall not be construed to affect the liability to United States income taxation of citizens of France who are resident in the United States except to the extent that such individuals are entitled to the benefits of Articles 8, 14A, and 19 and to paragraph V of the protocol of the convention. The tax liability of a United States citizen or a resident of the United States, a member of a French partnership carrying on a French enterprise is not affected by Article 3 of the convention. Such citizen or resident is subject to United States income tax upon his distributive share of the net income of such partnership even though the other members of such partnership are not subject to tax upon their share of the partnership's industrial and commercial profits from sources within the United States where the enterprise has no permanent establishment within the United States. The convention shall not be construed to affect the liability to United States income taxation of citizens of the United States or residents of the United States who are not citizens of France.

(e) The convention has no reference to rates of taxation imposed by the respective States but is concerned with the exempting of income arising in one of the contracting States when such income is derived from sources within such contracting State by a resident or corporation or other entity of the other contracting State and meets the conditions upon which such exemption depends as prescribed in the convention. This subpart is not concerned with the provisions of Articles 14B, 15, 16, and 17 of the convention since such articles affect only the allowance against the taxes imposed by France of income and excess profits taxes paid to the United States or the application of French revenue laws and decrees.

§ 514.104 Definitions.

(a) Any word or term used in this subpart which is defined in the convention shall be given the definition assigned to such word or term in such convention. Any word or term used in this subpart which is not defined in the convention but is defined in the Internal Revenue Code shall be given the definition contained therein.

(b) As used in this subpart:

(1) The term ''permanent establishment'' includes branches, mines and oil wells, plantations, factories, workshops, stores, purchasing and selling and other offices, agencies, warehouses and other fixed places of business. A French parent corporation having a domestic or foreign subsidiary corporation in the United States shall not be deemed by reason of such fact to have a permanent establishment in the United States. The mere fact that a foreign subsidiary corporation of a French parent corporation has a permanent establishment in the United States does not mean that such French parent corporation has a permanent establishment in the United States. The fact that a French enterprise carries on business dealings in the United States through a bona fide commission agent or broker shall not be held to mean that such enterprise has a permanent establishment in the United States. If, however, a French enterprise carries on business in the United States through an employee or agent established there who has general authority to negotiate and conclude contracts or has a stock of merchandise from which he regularly fills orders, such enterprise shall be deemed to have a permanent establishment in the United States. Thus, if a French enterprise has a full time employee or full time agent who for such enterprise maintains in the United States a stock of merchandise from which orders are filled, such enterprise has a permanent establishment in the United States even though such employee or agent has no general authority to negotiate and conclude contracts on behalf of such enterprise. However, the mere fact that a commission agent or broker through whom a French enterprise carries on business in the United States maintains a small stock of goods in the United States from which occasional orders are filled shall not be construed as meaning that such enterprise has a permanent establishment in the United States. The mere

fact that salesmen, employees of a French enterprise, promote the sale of its products in the United States does not mean that such enterprise has a permanent establishment therein. However, a French insurance enterprise which insures risks within the United States or receives premiums from sources within the United States is deemed to have a permanent establishment within the United States.

(2) The term ''enterprise'' means any commercial or industrial undertaking, whether conducted by an individual, partnership, corporation, or other entity. It includes such activities as manufacturing, merchandising, mining, banking, and insurance. It does not include the operation of, or the trading in, real property located in the United States. It does not include the rendition of personal services. Hence, a nonresident alien individual who is a resident of France, rendering personal services within the United States is not, merely by reason of such services, engaged in an enterprise within the meaning of the convention, and his liability to United States income tax is unaffected by Article 3 of the Convention.

(3) The term ''French enterprise'' means an enterprise carried on in France by a nonresident alien individual resident of France or by a French corporation or other French entity. The term ''corporation or other entity'' means a partnership, corporation, or other entity created or organized in France or under the laws of France. For example, an enterprise carried on wholly outside France by a French corporation is not a French enterprise within the meaning of the convention. Whether a French entity is a corporation, a partnership, or a trust is to be determined in accordance with the principles of existing law relating to the taxation of nonresident aliens and foreign corporations.

(4) The term ''industrial and commercial profits'' means the profits arising from the industrial, mercantile, manufacturing, or like activities of a French enterprise as defined in this section. Such term does not include income from real property, interest, dividends, rentals and royalties, gains from the sale or exchange of capital assets, or compensation for labor or personal service. Such enumerated items of income are not governed by the provisions of Article 3 but, to the extent covered by the convention, are subject to the rules elsewhere set forth therein and in this subpart.

(5) The term ''Secretary'' means the Secretary of the Treasury and the term ''Minister'' means the Minister of Finance of France.

§ 514.105 Scope of convention with respect to determination of "industrial and commercial profits" of a nonresident alien individual resident of France, or of a French corporation or other entity carrying on a French enterprise in the United States.

(a) *General.* Article 3 of the convention adopts the principle that an enterprise of one of the contracting States shall not be taxable in the other contracting State in respect of its industrial and commercial profits unless it has a permanent establishment in the latter State. Hence, a French enterprise is subject to United States tax upon its industrial and commercial profits from sources within the United States only if it has a permanent establishment within the United States. From the standpoint of Federal income taxation, the article has application only to a French enterprise and to the industrial and commercial income thereof from sources within the United States. It has no application, for example, to compensation for labor or personal services performed in the United States, to income derived from real property located in the United States or any interest therein, including rentals and royalties, to gains from the sale or other disposition of such real property or interest, to dividends and interest, to rentals and royalties arising from leasing personal property or any interest in such property, including rentals and royalties for the use of patents, copyrights, secret processes and formulae, good will, trade marks, trade brands, franchises, and other like property, or to profits from the sale or exchange of capital assets. Such enumerated items of income, to the extent covered by the convention, are treated separately elsewhere in this subpart and are subject to the rules laid down

in the sections having specific references to the respective items of income.

(b) *No United States permanent establishment.* A nonresident alien individual who is a resident of France, or a French corporation or other French entity carrying on a French enterprise, but having no permanent establishment in the United States, is not subject to United States income tax upon industrial and commercial profits from sources within the United States. For example, if such French corporation sells stock in trade, such as wines or perfumery or cheese, through a bona fide commission agent or broker in the United States, the resulting profit is, under the terms of Article 3 of the convention, exempt from United States income tax. Such French corporation, however, remains subject to tax upon all other items of income from sources within the United States which are not expressly exempted from such tax under the convention.

(c) *United States permanent establishment.* A nonresident alien individual who is a resident of France, or a French corporation or other entity, carrying on a French enterprise having a permanent establishment in the United States is subject to tax upon his or its industrial and commercial profits from sources within the United States. In the determination of the income of such resident of France or French corporation or other entity from sources within the United States, all industrial and commercial profits from such sources shall be deemed to be allocable to the permanent establishment within the United States. Hence, for example, if a French enterprise, having a permanent establishment in the United States, sells directly in the United States through a commission agent or broker therein goods produced in France, the resulting profits derived from United States sources from the latter transactions are allocable to such permanent establishment. The net income from sources within the United States, including the industrial and commercial profits, shall be determined in accordance with the provisions of section 119 of the Internal Revenue Code and the regulations thereunder. In determining industrial and commercial profits no account shall be taken of the mere purchase of merchandise effected in the United States by such French enterprise. A nonresident alien who is a resident of France, a member of a French partnership having a permanent establishment within the United States, shall by reason of such fact be deemed to have a permanent establishment within the United States.

§ 514.106 Control of a domestic enterprise by a French enterprise.

Article 5 of the convention provides that if a French enterprise by reason of its control of a domestic business imposes conditions different from those which would result from normal business relations between independent enterprises, the accounts between the enterprises will be adjusted so as to ascertain the true net income of the domestic enterprise. The purpose is to place the controlled domestic enterprise on a tax parity with an uncontrolled domestic enterprise by determining, according to the standard of an uncontrolled enterprise, the true net income from the property and business of the controlled enterprise. The convention contemplates that if the accounting records do not truly reflect the net income from the property and business of such domestic enterprise the Commissioner of Internal Revenue shall intervene and, by making such distributions, apportionments, or allocations as he may deem necessary of gross income or deductions of any item or element affecting net income as between such domestic enterprise and the French enterprise by which it is controlled or directed, determine the true net income of the domestic enterprise. The provisions of §29.45–1 of Regulations 111 (26 CFR 1949 ed. Supps. 29.45–1) [and §39.45–1 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)], shall, in so far as applicable, be followed in the determination of the net income of the domestic business.

§ 514.107 Income from operation of ships or aircraft.

The income derived by a French enterprise from the operation of ships documented under the laws of France, or of aircraft registered in France, is

under Article 6 of the convention exempt from United States income tax. However, the profits derived by such enterprise from the operation of ships or aircraft, if any, not so documented or registered are treated as are industrial and commercial profits generally. See Article 3 of the convention and §514.105.

§514.108 Income from real property, including mineral royalties.

Income of whatever nature derived by a nonresident alien individual who is a resident of France, or by a French corporation or other French entity from real property situated in the United States, including gains derived from the sale of such property and royalties in respect of the operation of mines, quarries, or other natural resources situated in the United States, is not exempted from taxation by the convention. The treatment of such income for taxation purposes is governed by those provisions of the Internal Revenue Code applicable generally to the taxation of nonresident aliens and foreign corporations.

§514.110 Government wages, salaries, and similar compensation, pensions, and life annuities.

(a) Under Article 8 of the convention, wages, salaries, and similar compensation, and pensions paid by France, or by a political subdivision thereof, to individuals residing in the United States are exempt from Federal income tax. However, under the provisions of Article 14A of the convention, such exemption shall not be construed as applying to recipients of such income who are citizens of the United States or alien residents who are not citizens of France.

(b) Under the provisions of the same article of the convention private pensions and life annuities derived from sources within the United States by nonresident alien individuals who are residents of France are exempt from Federal income tax. Such items of income are therefore not subject to the withholding provisions of the Internal Revenue Code. See paragraph IV of the protocol to the convention as to what constitutes life annuities. See, also, §514.109[1] with respect to patent and copyright royalties as to the requirements necessary to avoid withholding of the tax at the source, which requirements are also applicable for the purposes of this section.

§514.111 Compensation for labor or personal services.

(a) *General.* In general and subject to the provisions of Article 8 and Article 10 of the convention and paragraph (b) of this section, compensation for labor or personal services derived from sources within the United States by a nonresident alien who is a resident of France, is subject to tax in accordance with the provisions of the Internal Revenue Code applicable generally to nonresident aliens. The provisions of Article 9 do not disturb either the provisions of section 119(a)(3) of the Internal Revenue Code, relating to source of compensation for labor or personal services, or the provisions of the Internal Revenue Code relating to the taxation of such compensation in the hands of a nonresident individual who is a resident of France.

(b) *Professional earnings.* Article 10 of the convention provides a special rule of taxation with respect to professional fees constituting income derived from sources within the United States by a resident of France who is a nonresident alien. Under such rule, such nonresident alien rendering professional services, such as medical, legal, engineering, and scientific services, is not subject to United States tax with respect to such compensation unless he has an office or other fixed place situated in the United States during the taxable year. Thus, such alien present in the United States during any part of the taxable year and rendering professional advice as a medical doctor or as a lawyer or as an engineer, is not subject to Federal income tax on fees derived by him in such taxable year by reason of such services unless he maintains at some time during such taxable year an office or other fixed place in the United States incident to the practice of his profession. The exemption applies regardless of the length of time

[1] Section 514.109 (formerly §7.418) was revoked by T.D. 6273, 22 F.R. 9529, Nov. 28, 1957.

spent within the United States during the taxable year and regardless of the amount of the fees or professional charges resulting to such alien from such services. As to when an alien is regarded as a resident of the United States and hence outside the scope of the exemption, see §29.211–2 of Regulations 111 (26 CFR 1949 ed. Supps. 29.211–2) [and §39.211–2 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)].

§ 514.112 Stocks, securities, and commodities.

Under Article 11 of the convention, gains derived from the sale or exchange within the United States of stocks, securities, or commodities (if of a kind customarily dealt in on an organized commodity exchange) by a nonresident alien individual resident in France, or by a French corporation or other French entity, is exempt from Federal income tax unless such individual, corporation, or other entity has a permanent establishment in the United States. If, however, a permanent establishment is maintained in the United States, such gains are not so exempt even though the sales or exchanges resulting in such gains were carried on directly from the home office of the taxpayer and not through the permanent establishment in the United States. As to what constitutes a permanent establishment, see §514.104(b)(1).

§ 514.113 Remittances to students.

Under Article 12 of the convention, nonresident alien individuals who are residents of France and who are temporarily residing in the United States for the purposes of studying or for acquiring business experience, are exempt from Federal income tax upon amounts representing remittances from France for the purposes of their maintenance and studies.

§ 514.114 Credit against United States tax liability for income tax paid to France.

For the purpose of avoidance of double taxation, Article 14A of the convention provides that, on the part of the United States, there shall be allowed against the United States income and excess profits tax liabilities a credit for any income, war-profits or excess profits taxes paid to France by United States citizens or domestic corporations. Such principle also applies in the case of a citizen of France residing in the United States. Such credit, however, is subject to the limitations provided in section 131 of the Internal Revenue Code (relating to the credit for foreign taxes) and section 729 of such Code (relating to laws applicable). See §§29.131–1 to 29.131–10 of Regulations 111 (26 CFR 1949 ed. Supps. 29.131–1 to 29.131–10), [§§39.131(a)–1 to 39.131(j)–1 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)], and §§35.729–1 to 35.729–3 Regulations 112 (26 CFR 1938 ed. Supps. 35.729–1 to 35.729–3).

§ 514.115 Adjustment of tax liability of residents of France and French corporations.

Article 18 of the convention confers upon the Commissioner authority to adjust under the Revenue Act of 1936 the tax liability for taxable years beginning prior to January 1, 1936, of nonresident alien residents of France, and French corporations, in any case in which such tax liability remained unpaid on January 1, 1945. Such provision, however, will not apply in any case unless:

(a) The Commissioner is satisfied that the additional income tax involved did not arise by reason of fraud with intent to evade the tax on the part of the taxpayer concerned; and

(b) The taxpayer files, prior to January 1, 1947, with the Commissioner a sworn statement showing for each year involved and for such other years as the Commissioner may require, (1) by items and classes of income the amounts of interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical income, gains, profits, and income derived from sources within the United States; (2) the business transactions, if any, carried on in the United States by or in behalf of the taxpayer during each of such years; and (3) such further information as the Commissioner may require in the particular case.

§ 514.116 Reciprocal administrative assistance.

(a) *General.* (1) By Article 20 of the convention, the United States and France adopt the principle of exchange of information for use in the determination and assessment of the taxes with which the convention is concerned. Pursuant to such principle, every United States withholding agent shall make and file with the collector, in duplicate, an information return on Form 1042C for the calendar year 1945 and each subsequent calendar year in addition to withholding return Form 1042, with respect to dividends, interest, royalties, rents, salaries, wages, pensions, and annuities, or other fixed or determinable annual or periodical income paid to persons whose addresses are in France whether or not tax has been withheld with respect to such income. There shall be reported on Form 1042C not only such items of income listed on Form 1042, but also such items of interest listed on monthly returns, Form 1012, and there shall be shown on such return items of income paid to such addressees even though such items are exempt from tax under the convention, as, for example, certain royalties.

(2) The information and correspondence relating to exchange of information may be transmitted direct by the Secretary to the Minister.

(b) *Information to be furnished in due course.* In accordance with the provisions of Article 21 of the convention, the Secretary shall forward to the Minister as soon as practicable after the close of the calendar year 1945 and of each calendar year thereafter during which the convention is in effect, the names and addresses of all persons whose addresses are within France and who derive from sources within the United States, dividends, interest, rents, royalties, salaries, wages, pensions, and annuities, or other fixed or determinable annual or periodical profits and income showing the amounts of such profits and income in the case of each addressee. For these purposes, the transmission to the Minister of information return, Form 1042C, as provided in paragraph (a) of this section for the calendar year 1945 and subsequent calendar years shall constitute a compliance with the provisions of Article 21 of the convention and of this subpart.

(c) *Information in specific cases.* Under the provisions of Article 22 of the convention, the Secretary shall furnish (if request therefor is made by the Minister through diplomatic channels) to the Minister such information, relative to the tax liability to France of any person (other than a citizen of the United States or a United States domestic corporation or other United States domestic entity), as is available to, or may be obtained by, the Secretary under the revenue laws of the United States.

§ 514.117 Reciprocal regulations.

Article 26 of the convention provides that the United States and France may prescribe (a) regulations for the purpose of carrying the convention into effect within the respective countries and (b) reciprocal rules relating to the exchange of information.

PART 515 [RESERVED]

PART 516—AUSTRIA

Subpart—Withholding of Tax

Sec.

516.1 Introductory.
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516.11 Information to be furnished in ordinary course.
516.12 Taxable years beginning in 1956 and ending in 1957.

AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

SOURCE: Treasury Decision 6322, 23 FR 7841, Oct. 10, 1958; 25 FR 14022, Dec. 31, 1960, unless otherwise noted.

EFFECTIVE DATE NOTE: By T.D. 8732, 62 FR 53498, Oct. 14, 1997, part 516 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed

until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

Subpart—Withholding of Tax

§ 516.1 Introductory.

(a) *Pertinent provisions.* The income tax convention between the United States and the Republic of Austria, signed on October 25, 1956, referred to in this part as the convention, provides in part as follows, effective on and after January 1, 1957:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The federal income taxes, including surtaxes.

(b) In the case of the Republic of Austria: The Einkommensteuer (income tax), the Koerperschaftsteuer (corporation tax) and the Beitrag vom Einkommen zur Foerderung des Wohnbaues und fuer Zwecke des Familienlastenausgleiches (housing reconstruction and family allowance contribution).

(2) The present Convention shall also apply to any other income or profits tax of a substantially similar character which may be imposed by one of the contracting States after the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term ''United States'' means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and Hawaii, and the District of Columbia;

(b) The term ''Austria'' means the Republic of Austria;

(c) The term ''enterprise of one of the contracting States'' means, as the case may be, a United States enterprise or an Austrian enterprise;

(d) The term ''United States enterprise'' means an industrial or commercial enterprise or undertaking carried on in the United States by a natural person (including an individual in his individual capacity or as a member of a partnership) resident in the United States or by a United States corporation or other entity; the term ''United States corporation or other entity'' means a corporation or other entity created or organized under the law of the United States or of any State or Territory of the United States;

(e) The term ''Austrian enterprise'' means an industrial or commercial enterprise or undertaking carried on in Austria by a natural person (including an individual in his individual capacity or as a member of a partnership) resident in Austria or by an Austrian corporation; the term ''Austrian corporation'' means a corporation or other entity created or organized under the law of Austria;

(f) The term ''permanent establishment'' means a branch, office, factory, workshop, a warehouse, a merchandising establishment, a mine, oil well or other place of exploitation of the ground or soil, a construction or assembly project or the like, the duration of which exceeds or will likely exceed twelve months, or other fixed place of business; but does neither include the casual and temporary use of mere storage facilities, nor an agent or employee unless the agent or employee has full power for the negotiation and concluding of contracts on behalf of an enterprise and also habitually exercises this power in that other State or has a stock of merchandise belonging to the enterprise of the other State from which he regularly fills orders on behalf of the enterprise. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a commission agent, broker, custodian or other independent agent, acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods and merchandise shall not of itself constitute such fixed place of business a permanent establishment of the enterprise. The maintenance within the territory of one of the contracting States by an enterprise of the other contracting State of a warehouse for convenience of delivery and not for purposes of display shall not of itself constitute a permanent establishment within that territory. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation;

(g) The term ''competent authorities'' means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of Austria, the Federal Ministry of Finance.

(2) For the purpose of the present Convention:

(a) Dividends paid by a corporation of one of the contracting States shall be treated as income from sources within such State.

(b) Interest paid by one of the contracting States, including any local government

thereof, or by an enterprise of one of the contracting States not having a permanent establishment in the other contracting State shall be treated as income from sources within the former State.

(c) Income from real property (including gains derived from the sale or exchange of such property, but not including interest from mortgages or bonds secured by real property) and royalties in respect of the operation of mines, oil wells, or other natural resources shall be treated as income derived from the contracting State in which such real property, mines, oil wells or other natural resources are situated.

(d) Compensation for labor or personal services (including the practice of liberal professions) shall be treated as income from sources within the contracting State where are rendered the services for which such compensation is paid.

(e) Royalties for using, or for the right to use, in one of the contracting States, patents, copyrights, designs, trademarks and like property shall be treated as income from sources within such State.

(3) In the application of the provisions of this Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which the term has under its own tax laws. For the purposes of this Convention the term ''residence'' in Austria shall include the customary place of abode therein.

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ARTICLE VI

The rate of tax imposed by one of the contracting States upon dividends received from sources within such State by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall not exceed 50 percent of the statutory rate of tax imposed on such dividends by such former State but such rate of tax shall not exceed 5 percent if the shareholder is a corporation controlling, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the dividend, and if not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate to five percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

ARTICLE VII

Interest received from sources within one of the contracting States, on bonds, notes, debentures, securities or on any other form of indebtedness (exclusive of interest on debts secured by mortgages) by a resident or corporation or other entity of the other contracting State shall, in an amount not exceeding fair and reasonable consideration on indebtedness, be exempt from tax by the former State if such resident, corporation or other entity has no permanent establishment in such former State.

ARTICLE VIII

(1) Royalties and other amounts received as consideration for the right to use literary, musical or other copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trademarks, and other like property and rights (including rentals and like payments for the use of industrial, commercial or scientific equipment but not including motion picture film rentals) by a resident or a corporation or other entity of one of the contracting States from sources within the other contracting State shall, in an amount not exceeding fair and reasonable consideration for such right to use, be exempt from taxation by such other State if the recipient has no permanent establishment situated in such other State.

(2) The rate of tax imposed by one of the contracting States upon motion picture film rentals received from sources within such contracting State by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall not exceed 50 percent of the statutory rate of tax imposed on such rentals but in any case shall not exceed 10 percent of the amount of such rentals.

ARTICLE IX

(1) Income from real property (including gains derived from the sale or exchange of such property and interest on mortgages secured by such property) and royalties in respect of the operation of mines, oil wells or other natural resources shall be taxable in the contracting State in which such property, mines, oil wells or other natural resources are situated.

(2) Where a resident or corporation or other entity of one of the contracting States derives any income coming within the scope of paragraph (1) from property within the other contracting State, the recipient may, for any taxable year, elect to be subject to the tax of such other contracting State on a net basis as if such resident, corporation or other entity were engaged in trade or business within such other State through a permanent establishment therein.

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ARTICLE XI

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(2) Private pensions and private life annuities which are from sources within one of the contracting States and are paid to individuals residing in the other contracting State shall be exempt from taxation by the former State.

(3) The term ''pensions'', as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term ''life annuities'', as used in this Article, means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

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ARTICLE XIV

(1) Dividends and interest paid by an Austrian corporation (other than a United States corporation) shall be exempt from United States tax where the recipient is a nonresident alien or a foreign corporation.

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ARTICLE XVI

(1) The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the like in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

(2) In no case shall the provisions of this Article be construed so as to impose upon either of the contracting States the obligation to carry out administrative measures at variance with the regulations and practice of either contracting State or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the State making application.

ARTICLE XVII

* * * * *

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Convention or its relationship to Conventions of the contracting States with third States the competent authorities of the contracting States may settle the question by mutual agreement.

ARTICLE XVIII

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter granted by the laws of one of the contracting States in the determination of the tax imposed by such State.

* * * * *

ARTICLE XIX

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

ARTICLE XX

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Vienna as soon as possible. The Convention shall have effect on and after the first day of January of the calendar year in which such exchange takes place.

(2) The present Convention shall remain in force indefinitely, but may be terminated by either of the contracting States, provided that at least six months' prior notice of termination has been given through diplomatic channels. In such event, the present Convention shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

(b) *Meaning of terms.* As used in §§ 516.1 to 516.12, any term defined in the convention shall have the meaning so asigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

§516.2 Dividends; general rules.

(a) *Paid by an Austrian corporation.* Dividends paid on or after January 1, 1957, by an Austrian corporation which is not a United States corporation are exempt from United States tax under the provisions of Article XIV (1) of the convention if the recipient is a nonresident alien or a foreign corporation.

(b) *50 percent of statutory rate*—(1) *In general.* Article VI of the convention provides that the rate of United States tax imposed upon dividends received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Austria, or by an Austrian corporation or other entity, shall not exceed 50 percent of the statutory rate of tax imposed on such dividends by the United States if such alien, corporation, or other entity has not had a permanent establishment in the United States at any time during the taxable year in which such dividends are received. This subparagraph does not apply to dividends falling within the scope of paragraph (a) or (c) of this section.

(2) *Personal services.* If a nonresident alien individual who is a resident of Austria performs personal services within the United States during the taxable year, but has at no time during such year a permanent establishment within the United States, he is entitled to the reduced rate of tax on dividends prescribed by subparagraph (1) of this paragraph, even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he has engaged in trade or business within the United States during such year by reason of his having performed personal services therein.

(c) *Dividends paid by a related corporation*—(1) *Rate of 5 percent.* Under the provisions of Article VI of the convention, dividends received from sources within the United States on or after January 1, 1957, by an Austrian corporation which controls, directly or indirectly, at the time the dividend is paid, 95 percent or more of the entire voting power in the corporation paying the dividend are subject to United States tax at a rate not in excess of 5 percent if (i) not more than 25 percent of the gross income of the paying corporation for the 3-year period immediately preceding the taxable year in which the dividend is paid consists of dividends and interest (other than dividends and interest received by such paying corporation from its own subsidiary corporations, if any), (ii) the relationship between the paying corporation and the Austrian corporation has not been arranged or maintained primarily with the intention of securing the reduced rate of 5 percent, and (iii) the Austrian corporation at no time during the taxable year in which such dividends are received has had a permanent establishment within the United States. This subparagraph does not apply to dividends falling within the scope of paragraph (a) of this section.

(2) *Information to be filed with Commissioner.* Any corporation (hereinafter referred to as the claimant) which claims or contemplates claiming that dividends paid or to be paid by it are subject to a rate of United States tax not in excess of 5 percent shall file the following information with the Commissioner of Internal Revenue as soon as practicable: (i) the date and place of its organization; (ii) the number of outstanding shares of stock of the claimant having voting power and the voting power thereof; (iii) the person or persons beneficially owning such stock of the claimant and their relationship to the Austrian corporation; (iv) the amounts by years (for the 3-year period immediately preceding the taxable year in which the dividend is paid) of the gross income of the claimant, of the interest and dividends included in such gross income, and of the interest and dividends received by the claimant from its own subsidiary corporations, if any; and (v) the relationship between the claimant and the Austrian corporation receiving the dividend.

(3) *Notification by Commissioner.* As soon as practicable after such information is filed, the Commissioner will determine whether the dividends concerned qualify under Article VI of the convention for a rate of tax not in excess of 5 percent and will notify the claimant of his determination. If the dividends do qualify for such reduced rate, this notification may also authorize the release, pursuant to §516.9(a)(3),

of excess tax withheld from the dividends concerned.

(d) *Withholding of United States tax from dividends*—(1) *Exempt from withholding.* No withholding of United States tax is required in the case of dividends paid by an Austrian corporation which, in accordance with paragraph (a) of this section, are exempt from United States tax.

(2) *50 percent of statutory rate*—(i) *In general.* Withholding of tax at source on or after January 1, 1958, in the case of dividends (other than dividends falling within the scope of subparagraph (1) or (3) of this paragraph) received from sources within the United States by a nonresident alien or by a foreign corporation or other entity, whose address is in Austria, shall, to the extent withholding of United States tax is required, be at the rate of 50 percent of the statutory rate in every case except that in which, prior to the date of payment of such dividends, the Commissioner of Internal Revenue has notified the withholding agent that the reduced rate of withholding shall not apply.

(ii) *Effect of address in Austria.* For the purposes of this subparagraph, every nonresident alien whose address is in Austria shall be deemed by United States withholding agents to be a nonresident alien individual who is a resident of Austria not having a permanent establishment within the United States; and every foreign corporation or other entity whose address is in Austria shall be deemed by such withholding agents to be an Austrian corporation or other entity not having a permanent establishment within the United States.

(iii) *Reduced rate applicable to owner only.* This subparagraph is based on the assumption that the payee of the dividend is the actual owner of the capital stock from which the dividend is derived. As to action by a recipient who is not the owner, see § 516.3.

(iv) *Statutory rate.* As used in this subparagraph, the term ''statutory rate'' means the rate (30 percent as of the date of approval of this Treasury decision) prescribed with respect to dividends by chapter 3 of the Internal Revenue Code of 1954 as though the convention had not come into effect.

(v) *Nonresident alien.* The term ''nonresident alien'', as used in this subparagraph, includes nonresident alien individuals, fiduciaries, and partnerships.

(3) *Rate of 5 percent.* If, in accordance with paragraph (c)(3) of this section, the Commissioner of Internal Revenue has notified the claimant corporation that the dividends qualify under Article VI of the convention for a rate of tax not in excess of 5 percent, the reduced withholding rate of 5 percent, to the extent withholding of United States tax is required, shall apply on or after January 1, 1958, to any dividends subsequently paid by such corporation and received by the Austrian corporation, unless (i) the stock ownership of the claimant corporation materially changes, (ii) the character of the income of the claimant corporation materially changes, or (iii) the Commissioner determines that the relationship between the two corporations concerned is being maintained primarily with the intention of securing the reduced rate of United States tax. In such instance, if such change in stock ownership or character of income occurs, the claimant corporation shall promptly notify the Commissioner of the then existing facts with respect thereto. The continued application of the rate not in excess of 5 percent is also dependent upon the continued fulfillment of paragraph (c)(1)(iii) of this section.

(4) *Evidence of tax withheld.* The rate at which United States tax has been withheld from any dividend paid at any time after the expiration of the thirtieth day after the date on which §§ 516.1 to 516.12 are published in the FEDERAL REGISTER to any person whose address is in Austria at the time the dividend is paid shall be shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment, or on an accompanying statement.

§ 516.3 Dividends received by addressee not actual owner.

(a) *Additional tax to be withheld*—(1) *Nominee or representative.* If the recipient in Austria of any dividend from which tax has been withheld at a reduced rate pursuant to § 516.2(d)(2) is a

nominee or representative through whom the dividend is received by a person other than one described in §516.2(b), such nominee or representative shall withhold an additional amount of United States tax equivalent to the United States tax which would have been withheld if the convention had not been in effect (30 percent as of the date of approval of §§516.1 to 516.12) minus the amount which has been withheld at the source.

(2) *Fiduciary or partnership.* If a fiduciary or a partnership with an address in Austria receives, otherwise than as a nominee or representative, a dividend from which United States tax has been withheld at a reduced rate pursuant to §516.2(d)(2), such fiduciary or partnership shall withhold an additional amount of United States tax from the portion of the dividend included in the gross income from sources within the United States of any beneficiary or partner, as the case may be, who is not entitled to the reduced rate of tax in accordance with §516.2(b). The amount of the additional tax is to be calculated in the same manner as under subparagraph (1) of this paragraph.

(3) *Released amounts of tax.* If any amount of United States tax is released pursuant to §516.9(a)(2) by the withholding agent in the United States with respect to a dividend paid to such a person (nominee, representative, fiduciary, or partnership) with an address in Austria, the latter shall withhold from such released amount any additional amount of United States tax, otherwise required to be withheld from the dividend by the provisions of subparagraphs (1) and (2) of this paragraph, in the same manner as if at the time of payment of the dividend United States tax at the reduced rate prescribed by §516.2(d)(2) had been withheld at source from such dividend.

(b) *Returns filed by Austrian withholding agents.* The amounts withheld pursuant to paragraph (a) of this section by any withholding agent in Austria shall be deposited, without converting the amounts into United States dollars, with the Austrian Federal Ministry of Finance on or before the 15th day after the close of the quarter of the calendar year in which the withholding in Austria occurs. The withholding agent making the deposit shall render therewith such appropriate Austrian form as may be prescribed by the Federal Ministry of Finance. The amounts so deposited should be remitted by the Federal Ministry of Finance by draft in United States dollars, on or before the end of the calendar month in which the deposit is made, to the Director of International Operations, Internal Revenue Service, Washington, D.C., U.S.A. The remittance should be accompanied by such Austrian forms as may be required to be rendered by the withholding agent in Austria in connection with the deposit.

§516.4 Interest.

(a) *Paid by Austrian corporation.* Interest paid on or after January 1, 1957, by an Austrian corporation which is not a United States corporation is exempt from United States tax under the provisions of Article XIV(1) of the convention if the recipient is a nonresident alien or a foreign corporation. Such exempt interest is not subject to the withholding of United States tax at source.

(b) *Other interest.* Interest on bonds, notes, debentures, securities, or on any other form of indebtedness, including interest on obligations of the United States and its instrumentalities but not including interest on debts secured by mortgages, which is received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Austria, or by an Austrian corporation or other entity, is exempt, in an amount not exceeding a fair and reasonable consideration on the indebtedness, from United States tax under the provisions of Article VII of the convention if such alien, corporation, or other entity at no time during the taxable year in which such interest is received has a permanent establishment in the United States. This paragraph does not apply to the interest which is exempt from United States tax in accordance with paragraph (a) of this section.

(c) *Personal services.* If a nonresident alien individual who is a resident of Austria performs personal services within the United States during the taxable year, but has at no time during such year a permanent establishment

in the United States, he is entitled to the interest exemption prescribed by paragraph (b) of this section even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he has engaged in trade or business within the United States during such year by reason of his having performed personal services therein.

(d) *Exemption from withholding of United States tax*—(1) *Coupon bond interest*—(i) *Form to use.* To avoid withholding of United States tax at source on or after January 1, 1958, in the case of coupon bond interest to which paragraph (b) of this section applies, the nonresident alien individual who is a resident of Austria, or the Austrian corporation or other entity, shall, for each issue of bonds, file Form 1001–A in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, or by his trustee or agent, and shall show the information required by §1.1461–1(d) of this chapter. It shall contain a statement that the owner (*a*) is a resident of Austria, or is an Austrian corporation or other entity, and (*b*) has no permanent establishment in the United States.

(ii) *Exemption applicable only to owner.* The exemption from United States tax contemplated by Article VII of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of the interest. The person presenting the coupon, or on whose behalf it is presented, shall, for the purpose of the exemption from United States tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001–A, shall be executed.

(iii) *Disposition of form.* The original and duplicate of Form 1001–A shall be forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C., in accordance with §1.1461–2(b)(2) of this chapter.

(2) *Interest on noncoupon bonds*—(i) *Notification by letter.* To avoid withholding of United States tax at source on or after January 1, 1958, in the case of interest (other than coupon bond interest) to which paragraph (b) of this section applies, the nonresident alien individual who is a resident of Austria, or the Austrian corporation or other entity, shall notify the withholding agent by letter in duplicate that the interest is exempt from United States tax under the provisions of Article VII of the convention. The letter of notification shall be signed by the owner of the interest, or by his trustee or agent, and shall show the name and address of the obligor and the name and address of the owner of the interest. It shall contain a statement (*a*) that the owner is neither a citizen nor a resident of the United States but is a resident of Austria, or, in the case of a corporation or other entity, that the owner is an Austrian corporation or other entity, and (*b*) that the owner has at no time during the current taxable year had a permanent establishment in the United States.

(ii) *Use of letter for release of excess tax.* If the letter is also to be used as authorization for the release, pursuant to §516.9(a)(5), of excess tax withheld from such interest, it shall also contain a statement (*a*) that, at the time when the interest was received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Austria, or, in the case of a corporation or other entity, the owner was an Austrian corporation or other entity, and (*b*) that the owner at no time during the taxable year in which such interest was received had a permanent establishment in the United States.

(iii) *Manner of filing letter.* The letter of notification, which shall constitute authorization for the payment of the interest without withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which the interest is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which the interest is first paid on or after January 1, 1958. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment

within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by Article VII of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(iv) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

(3) *Reasonableness of consideration.* For purposes of this paragraph, the withholding agent may, unless he has information to the contrary, presume that the interest represents a fair and reasonable consideration on the indebtedness involved.

§516.5 Patent and copyright royalties and film rentals.

(a) *Items exempt from tax*—(1) *In general.* Royalties and other amounts received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Austria or by an Austrian corporation or other entity, as consideration for the right to use literary, musical or other copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trademarks, and other like property and rights (including rentals and like payments for the use of industrial, commercial, or scientific equipment but not including motion picture film rentals) are, in an amount not exceeding a fair and reasonable consideration for such right, exempt from United States tax under the provisions of Article VIII(1) of the convention if such alien, corporation, or other entity has not had a permanent establishment in the United States at any time during the taxable year in which such items are received.

(2) *Exemption from withholding of United States tax*—(i) *Notification by letter.* To avoid withholding of United States tax at source on or after January 1, 1958, in the case of the items of income to which this paragraph applies, the nonresident alien individual who is a resident of Austria, or the Austrian corporation or other entity, shall notify the withholding agent by letter in duplicate that the income is exempt from United States tax under the provisions of Article VIII(1) of the convention.

(ii) *Manner of filing letter.* The provisions of §516.4(d)(2) relating to the execution, filing, effective period, and disposition of the letter of notification prescribed therein, including its use for the release of excess tax withheld, are equally applicable with respect to the income falling within the scope of this paragraph.

(iii) *Reasonableness of consideration.* For purposes of this subparagraph, the withholding agent may, unless he has information to the contrary, presume that the royalty or other like amount represents a fair and reasonable consideration for the right involved.

(b) *Motion picture film rentals*—(1) *Reduced rate.* Under Article VIII(2) of the convention, the rate of United States tax imposed upon motion picture film rentals received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Austria, or by an Austrian corporation or other entity, shall not exceed the lesser of (i) 50 percent of the statutory rate of tax imposed on such rentals by the United States or (ii) 10 percent of the gross amount of such rentals, if such alien, corporation, or other entity at no time during the taxable year in which such rentals are received has a permanent establishment in the United States.

(2) *Reduction in rate of withholding of United States tax*—(i) *Notification by letter.* To secure withholding of United

States tax at source on or after January 1, 1958, at the reduced rate (10 percent, as of the date of approval of §§ 516.1 to 516.12, of the gross amount of the rentals) in the case of the motion picture film rentals to which this paragraph applies, the nonresident alien individual who is a resident of Austria, or the Austrian corporation or other entity, shall notify the withholding agent by letter in duplicate that the rentals are subject to United States tax at the reduced rate under the provisions of Article VIII(2) of the convention.

(ii) *Manner of filing letter.* The provisions of § 516.4(d)(2) relating to the execution, filing, effective period, and disposition of the letter of notification prescribed therein, including its use for the release of excess tax withheld, are equally applicable with respect to the rentals falling within the scope of this paragraph except that the release of excess tax withheld from such rentals shall be made in accordance with § 516.9(a)(6).

§ 516.6 Private pensions and private life annuities.

(a) *Exemption from tax.* Private pensions and private life annuities which are from sources within the United States and are paid on or after January 1, 1957, to a nonresident alien individual who is a resident of Austria are exempt from United States tax under the provisions of Article XI (2) of the convention.

(b) *Exemption from withholding of United States tax*—(1) *Notification by letter.* To avoid withholding of United States tax at source on or after January 1, 1958, in the case of the items of income to which this section applies, the nonresident alien individual who is a resident of Austria shall notify the withholding agent by letter in duplicate that the income is exempt from United States tax under the provisions of Article XI (2) of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Austria.

(2) *Use of letter for release of tax.* If the letter is also to be used as authorization for the release, pursuant to § 516.9(a)(5), of excess tax withheld from such items of income, it shall also contain a statement that the owner was, at the time when the income was paid from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of Austria.

(3) *Manner of filing letter.* The letter of notification shall constitute authorization for the payment of such items of income without withholding of United States tax at source unless the Commissioner of Internal Revenue subsequently notifies the withholding agent that the tax shall be withheld with respect to payments of such items of income made after receipt of such notice. If, after filing a letter of notification, the owner of the income ceases to be eligible for the exemption from United States tax granted by the convention in respect to such income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington, D.C.

(c) *Definitions.* As used in this section, the term ''pensions'' means periodic payments made in consideration for services rendered or by way of compensation for injuries received, and the term ''life annuities'' means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth. Neither term includes retired pay or pensions paid by the United States or by any State or Territory of the United States.

§516.7 Sources of income.

For determining the sources of income for purposes of §§516.1 to 516.12 see sections 861 to 864, inclusive, of the Internal Revenue Code of 1954 and Article II (2) of the convention.

§516.8 Beneficiaries of an estate or trust.

(a) *Entitled to benefit of convention.* If he otherwise satisfies the requirements of the respective articles concerned, a nonresident alien who is a beneficiary of an estate or trust shall be entitled to the exemption from, or reduction in the rate of, United States tax granted by Articles VI, VII, VIII, and XIV of the convention with respect to dividends, interest, and copyright royalties and other like amounts, to the extent that (1) any amount paid, credited, or required to be distributed by such estate or trust to such beneficiary is deemed to consist of such items, and (2) such items would, without regard to the convention, be includible in his gross income.

(b) *Withholding of United States tax.* In order to be entitled in such instance to the exemption from, or reduction in rate of, withholding of United States tax, the beneficiary must otherwise satisfy such requirements and shall, where applicable, execute and submit to the fiduciary of the estate or trust in the United States the appropriate letter of notification prescribed in §§516.4(d)(2), 516.5(a)(2) and (b)(2).

(c) *Amounts otherwise includible in gross income of beneficiary.* For the determination of amounts which, without regard to the convention, are includible in the gross income of the beneficiary, see subchapter J of chapter 1 of the Internal Revenue Code of 1954, and the regulations thereunder (§§1.641–1 to 1.692–1 of this chapter).

§516.9 Release of excess tax withheld at source.

(a) *Amounts to be released*—(1) *Dividends and interest paid by Austrian corporation.* If United States tax at the statutory rate has been withheld on or after January 1, 1958, from dividends and interest paid by an Austrian corporation (other than a United States corporation) to a recipient who is a nonresident alien or a foreign corporation, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(2) *Dividends subject to 50 percent of statutory rate.* If United States tax at the statutory rate has been withheld on or after January 1, 1958, from dividends described in §516.2(b) and received from sources within the United States by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) or by a foreign corporation or other entity, whose address at the time of payment was in Austria, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §516.2(d)(2).

(3) *Dividends subject to 5 percent rate.* If United States tax at the statutory rate has been withheld on or after January 1, 1958, from dividends which qualify under §516.2(c)(1) for a rate of tax not in excess of 5 percent, the withholding agent shall, if so authorized in accordance with §516.2(c)(3), release and pay over to the corporation from which the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §516.2(d)(3).

(4) *Coupon bond interest*—(i) *Substitute form.* In the case of every taxpayer who furnishes to the withholding agent Form 1001–A clearly marked ''Substitute'' and executed in accordance with §516.4(d)(1)(i), where United States tax has been withheld at the statutory rate on or after January 1, 1958, from coupon bond interest exempt under §516.4(b), the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld, if the taxpayer also attaches to such form a letter in duplicate, signed by the owner, or by his trustee or agent, and containing the following:

(*a*) The name and the address of the obligor;

(*b*) The name and the address of the owner of the interest from which the excess tax was withheld;

(*c*) A statement that, at the time when the interest was received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Austria, or, in the case of a corporation or other entity, the owner was an Austrian corporation or other entity; and

(*d*) A statement that the owner at no time during the taxable year in which the interest was received had a permanent establishment in the United States. One such substitute form shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released.

(ii) *Disposition of form.* The original and duplicate of substitute Form 1001–A (and letter) shall be forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington, D.C., in accordance with §1.1461–2(b) of this chapter.

(5) *Interest on noncoupon bonds, royalties, pensions, and annuities.* If a taxpayer furnishes to the withholding agent the authorization of release prescribed in §516.4(d)(2)(ii), §516.5(a)(2)(ii), or §516.6(b)(2) and United States tax has been withheld at the statutory rate on or after January 1, 1958, from the interest, copyright royalties or other like amounts, pensions, or annuities in respect to which such authorization is prescribed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(6) *Motion picture film rentals.* If a taxpayer furnishes to the withholding agent the authorization of release prescribed in §516.5(b)(2)(ii) and United States tax has been withheld at the statutory rate on or after January 1, 1958, from the motion picture film rentals in respect to which such authorization is prescribed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §516.5(b)(2)(i).

(b) *Amounts not to be released.* The provisions of this section do not apply to excess tax withheld at source which has been paid by the withholding agent to the Director of International Operations.

(c) *Statutory rate.* As used in this section, the term ''statutory rate'' means the rate prescribed by chapter 3 of the Internal Revenue Code of 1954 as though the convention had not come into effect.

(d) *Amounts withheld during 1957.* For provisions respecting the refund of excess tax withheld during the calendar year 1957, see §516.10.

§ 516.10 Refund of excess tax withheld during 1957.

(a) *In general.* Where United States tax withheld at the source during the calendar year 1957 from dividends, interest, copyright royalties and the like, motion picture film rentals, private pensions or private life annuities is in excess of the tax imposed under subtitle A (relating to the income tax) of the Internal Revenue Code of 1954, as modified by the convention, a claim by the taxpayer for refund of any overpayment resulting therefrom may be made under section 6402 of such Code and the regulations thereunder.

(b) *Form of claim*—(1) *Where return previously filed.* If the taxpayer has previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 843 or an amended return.

(2) *Where no return previously filed.* If the taxpayer has not previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 1040NB, Form 1040NB–a, Form 1040B, Form 1120, or Form 1120NB, whichever is applicable, showing the overpayment. Such return will serve as a claim for refund, and it will not be necessary for the taxpayer to file Form 843.

(c) *Information required.* If the taxpayer's total gross income (including every item of capital gain subject to

tax) from sources within the United States for the taxable year in which such overpayment resulted has not been disclosed in an income tax return filed with the Internal Revenue Service prior to the time the claim for refund is made, the taxpayer shall disclose such total gross income with his claim. In the event that securities are held in the name of a person other than the actual or beneficial owner, the name and address of such person shall be furnished with the claim. In addition to such other information as may be required to establish the overpayment, there shall also be included in such claim for refund:

(1) A statement that, at the time when the item or items of income were received (or ''paid'', in the case of private pensions and private life annuities) from which the excess tax was withheld, (i) the taxpayer was neither a citizen nor a resident of the United States but was a resident of Austria, or, in the case of a corporation or other entity, (ii) the taxpayer was an Austrian corporation or other entity; and

(2) A statement that the taxpayer at no time during the taxable year in which the income was received had a permanent establishment within the United States.

(d) *Exceptions*—(1) *Private pensions and private life annuities.* If the taxpayer is an individual who during the taxable year of overpayment received income from United States sources consisting exclusively of private pensions or private life annuities entitled to the benefit of Article XI (2) of the convention, the statement specified in paragraph (c)(2) of this section shall not be required.

(2) *Dividends paid by a related corporation.* As to additional information required in the case of an Austrian corporation claiming the benefit of the 5 percent rate on dividends paid by a related corporation, see §516.2(c).

§516.11 Information to be furnished in ordinary course.

For provisions relating to the exchange of information under Article XVI of the convention, see §1.1461–2(d) of this chapter.

§516.12 Taxable years beginning in 1956 and ending in 1957.

If, in the case of a taxable year beginning in 1956 and ending in 1957, a taxpayer has no permanent establishment in the United States at any time during that part of the taxable year which follows December 31, 1956, then he shall, for purposes of §§516.1 to 516.12 be deemed not to have had a permanent establishment in the United States at any time during the taxable year.

PART 517—PAKISTAN

Subpart—Withholding of Tax

Sec.

517.1 Introductory.
517.2 Dividends paid by, or to, a Pakistan company.
517.3 Patent and copyright royalties.
517.4 Private pensions and annuities.
517.5 Interest derived by the State Bank of Pakistan.
517.6 Beneficiaries of a domestic estate or trust.
517.7 Release of excess tax withheld at source.
517.8 Information to be furnished in ordinary course.
517.9 Application of the convention to fiscal years.

AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

SOURCE: Treasury Decision 6431, 24 FR 10100, Dec. 15, 1959; 25 FR 14022, Dec. 31, 1960, unless otherwise noted.

EFFECTIVE DATE NOTE: By T.D. 8732, 62 FR 53498, Oct. 14, 1997, part 517 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

Subpart—Withholding of Tax

§517.1 Introductory.

(a) *Pertinent provisions of the convention.* The income tax convention between the United States and Pakistan, signed on July 1, 1957, referred to in §§517.1 to 517.9 as the convention, provides in part as follows, effective for taxable years beginning on or after January 1, 1959:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the United States of America: The Federal income taxes, including surtaxes (hereinafter referred to as United States tax)..

(b) In Pakistan: The income tax, supertax and the business profits tax (hereinafter referred to as Pakistan tax).

(2) The present Convention shall also apply to any other taxes of a substantially similar character (including excess profits tax) imposed by either contracting State after the date of signature of the present Convention, or by the Government of any territory to which the present Convention is extended under Article XVIII.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires:

(a) The term ''United States'' means the United States of America and when used in a geographical sense means the States thereof, the Territories of Alaska and Hawaii and the District of Columbia;

(b) The term ''Pakistan'' means the Provinces of Pakistan and the Capital of the Federation;

(c) The terms ''one of the contracting States'' and ''the other contracting State'' mean the United States or Pakistan, as the context requires;

(d) The term ''tax'' means United States tax, or Pakistan tax, as the context requires;

(e) The term ''person'' includes any body of persons, corporate or not corporate;

(f) The term ''company'' means any body corporate or not corporate, assessed as a company under Pakistan law relating to Pakistan tax;

(g) The term ''United States corporation'' means a corporation, association or other like entity created or organized in the United States or under the law of the United States or of any State or Territory of the United States;

(h) The term ''resident of the United States'' means any individual or fiduciary who is resident in the United States for the purposes of the United States tax, and not resident in Pakistan for the purposes of the Pakistan tax, and any United States corporation or any partnership created or organized in the United States or under the laws of the United States, being a corporation or partnership which is not resident in Pakistan for the purposes of Pakistan tax;

(i) The term ''resident of Pakistan'' means any person (other than a citizen of the United States or a United States corporation) who is resident in Pakistan for the purposes of Pakistan tax and not resident in the United States for the purposes of the United States tax. A company is to be regarded as a resident of Pakistan if its business is managed and controlled in Pakistan;

(j) The terms ''resident of one of the contracting States'' and ''resident of the other contracting State'' means a person who is a resident of the United States or a person who is a resident of Pakistan, as the context requires;

(k) The terms ''United States enterprise'' and ''Pakistan enterprise'' mean, respectively an industrial or commercial enterprise or undertaking carried on in the United States by a resident of the United States and an industrial or commercial enterprise or undertaking carried on in Pakistan by a resident of Pakistan; and the terms ''enterprise of one of the contracting States'' and ''enterprise of the other contracting State'' mean a United States enterprise or a Pakistan enterprise, as the context requires;

(l) The term ''industrial or commercial profits'' does not include rents or royalties in respect of motion picture films or of oil wells, mines and quarries, or income in the form of dividends, interest, rents or royalties, or fees or other remuneration derived by an enterprise from the management, control or supervision of the trade, business, or other activity of another enterprise or concern, or remuneration for labor or personal services, or income from the operation of ships;

(m) The term ''permanent establishment'', when used with respect to an enterprise of one of the contracting States, means a branch, management, factory or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection—

(i) An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other contracting State merely because it carries on business dealings in that other contracting State through a bona fide broker or general commission agent acting in the ordinary course of his business as such; and

(ii) The fact that a corporation or company which is a resident of one of the contracting States has a subsidiary corporation or company which is a resident of the other contracting State or which is engaged in trade or business in such other contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation or company a permanent establishment of its parent corporation or company;

(n) The term ''taxation authorities'' means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury and, in the case of Pakistan, the Central Board of Revenue or their authorized representatives; and, in the case of any territory to which the present Convention is extended under Article XVIII, the competent

authority for the administration in such territory of the taxes to which the present Convention applies.

(2) In the application of the provisions of the present Convention by one of the contracting States, any term not otherwise defined shall, unless the contest otherwise requires, have the meaning which it has under the laws of that contracting State relating to the taxes which are the subject of the present Convention.

* * * * *

ARTICLE VI

(1) The rate of United States tax on dividends paid by a United States corporation to a Pakistan company—

(i) Not having a permanent establishment in the United States and

(ii) Owning shares carrying more than 50 percent of the voting power in the corporation paying such dividends shall not exceed fifteen percent.

* * * * *

ARTICLE VII

(1) Dividends paid by a company which is a resident of Pakistan shall be exempt from United States tax except where the recipient thereof is a citizen or resident or corporation of the United States.

* * * * *

ARTICLE VIII

(1) Any royalty (other than royalties or rentals from motion picture films) paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trademark, or other like property, and derived from sources in one of the contracting States by a resident of the other contracting State not having a permanent establishment in the former State shall be exempt from tax by such former State.

(2) Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

ARTICLE IX

(1) Remuneration, including pensions and annuities, paid by or on behalf of the Government of the United States or its political subdivisions to an individual who is a citizen of the United States, not ordinarily resident in Pakistan, for services rendered to that Government in the discharge of governmental functions shall be exempt from Pakistan tax.

(2) Remuneration, including pensions and annuities, paid by or on behalf of the Government of Pakistan or the Government of a Province in Pakistan or any local authority thereof to any individual who is a citizen of Pakistan not having immigrant status in the United States, for services rendered in the discharge of functions of that Government or of local authority, as the case may be, shall be exempt from United States tax.

(3) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on for purposes of profit.

ARTICLE X

(1) A pension or annuity (other than a pension or annuity of the kind referred to in paragraphs (1) and (2) of Article IX) derived from sources within one of the contracting States by a resident of the other contracting State shall be exempted from tax by the former State.

(2) The term ''annuity,'' for the purposes of this Article, means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

(3) This Article shall not apply to a pension or annuity payable from a superannuation fund approved or recognized under the tax law of Pakistan nor to a pension or annuity from a fund, under an employees' pension or annuity plan, contributions to which under the tax law of the United States are deductible in determining the taxable income of the employer.

* * * * *

ARTICLE XIV

(1) Effective January 1, 1956 the State Bank of Pakistan shall be exempted from United States tax with respect to interest from sources within the United States.

* * * * *

ARTICLE XVI

(1) The taxation authorities of the contracting States shall exchange such information (being information which is available under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as

secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

* * * * *

(3) The taxation authorities of both contracting States may prescribe regulations necessary to interpret and carry out the provisions of the present Convention and may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention.

(4) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of either contracting State in determining the tax of such State.

ARTICLE XVII

(1) The citizens or nationals of one of the contracting States shall not, while resident in the other contracting State, be subjected in such other State to taxes or any requirement connected therewith which is other, higher or more burdensome than the taxes and connected requirements to which the citizens or nationals of such other State resident therein are or may be subjected.

(2) The term ''citizens'' or ''nationals'', as used in this Article, includes all legal persons, partnerships and associations deriving their status from, or created or organized under, the laws in force in the respective contracting States.

(3) Nothing contained in this Article shall be construed—

(a) as obliging either of the contracting States to grant to persons not resident in its territory those personal allowances, reliefs and reductions for tax purposes which are by law available only to persons who are so resident; or

(b) as affecting any provisions of the law of Pakistan regarding the imposition of tax on a non-resident or the grant of rebate of tax to companies fulfilling specified requirements regarding the declaration and payment of dividends, unless those requirements are fulfilled.

* * * * *

ARTICLE XIX

The present Convention shall come into force on the date when the last of all such things shall have been done in the United States and Pakistan as are necessary to give the Convention the force of law in the United States and Pakistan, respectively, and shall thereupon have effect—

(a) In the United States, for the taxable years beginning on or after the first day of January of the year in which the instruments of ratification are exchanged;

(b) In Pakistan, in respect of the ''previous years'' or the ''chargeable accounting periods'' (as defined by the tax laws of Pakistan) beginning on or after the first day of January of the year in which the instruments of ratification are exchanged.

ARTICLE XX

The present Convention shall continue in effect indefinitely but either of the contracting States may, on or before the 30th day of June in any calendar year not earlier than three years from the date of signature of the present Convention, give to the other contracting State written notice of termination and, in such event the present Convention shall cease to be effective—

(a) in the United States, for the taxable years beginning on or after the first day of January next following such written notice of termination; and

(b) in Pakistan, in respect of the ''previous years'' or the ''chargeable accounting periods'' (as defined by the tax laws of Pakistan) beginning on or after the first day of January next following such written notice of termination.

(b) *Meaning of terms.* As used in §§ 517.1 to 517.9, any term defined in the convention shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

§ 517.2 Dividends paid by, or to, a Pakistan company.

(a) *Exemption from, or reduction in rate of, United States tax*—(1) *Dividends paid by a foreign company managed and controlled in Pakistan.* Dividends which are paid by a foreign company whose business is managed and controlled in Pakistan and are received in a taxable year beginning on or after January 1, 1959, by a recipient who is not a citizen or resident or corporation of the United States are exempt from United States tax under the provisions of Article VII(1) of the convention.

(2) *Dividends paid to a Pakistan parent company.* The rate of United States tax imposed upon dividends paid by a domestic corporation and received from sources within the United States in a taxable year beginning on or after January 1, 1959, by a Pakistan company

shall not exceed 15 percent under the provisions of Article VI(1) of the convention if (i) the Pakistan company does not have a permanent establishment in the United States at any time during the taxable year in which the dividend is received and (ii) the Pakistan company owns, at the time the dividend is paid, shares of stock carrying more than 50 percent of the voting power of the domestic corporation. For the purposes of this subparagraph, the term ''Pakistan company'' means a company, as defined in Article II(1)(f) of the convention.

(b) *Withholding of tax from dividends*—(1) *Exemption from withholding.* No withholding of United States tax is required in the case of dividends paid by a foreign company whose business is managed and controlled in Pakistan if, in accordance with paragraph (a)(1) of this section, the dividends are exempt from United States tax.

(2) *Withholding of tax at rate of 15 percent from dividends paid to a Pakistan parent company*—(i) *Notification by letter.* To secure withholding of United States tax on or after January 1, 1959, at the rate of 15 percent in the case of dividends entitled to the reduced rate in accordance with paragraph (a)(2) of this section, the Pakistan company shall notify the withholding agent by letter in duplicate that the dividends are subject to the reduced rate of United States tax under the provisions of Article VI(1) of the convention. The letter of notification shall be signed by an officer of the company and shall show the name and address of the corporation paying the dividends, the name and address of the Pakistan company receiving the dividends, and the official title of the officer signing the letter. The letter shall contain a statement that (*a*) the owner of the dividends is a Pakistan company, (*b*) the owner at no time during the current taxable year had a permanent establishment in the United States, and (*c*) the Pakistan company owns shares of stock carrying more than 50 percent of the voting power of the domestic corporation paying the dividends. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.

(ii) *Use of letter for release of excess tax.* If the letter of notification is also to be used as authorization for the release, pursuant to §517.7(a)(2), of excess tax withheld from dividends, it shall also contain a statement that (*a*) at the time when the dividends were paid from which the excess tax was withheld, the owner was a Pakistan company, (*b*) the owner at no time during the taxable year in which the dividends were received had a permanent establishment in the United States, and (*c*) the Pakistan company owned, at the time when the dividends were paid, shares of stock carrying more than 50 percent of the voting power of the domestic corporation paying the dividends. The dates of the beginning and ending of the taxable year of the taxpayer in which the dividends were received shall also be indicated.

(iii) *Manner of filing letter.* The letter of notification, which shall constitute authorization for withholding of tax at the reduced rate of 15 percent, shall be filed with the withholding agent for each successive 3-calendar-year period during which the dividends are paid. For this purpose, the first of such periods shall commence with the beginning of the calendar year in which the dividends are first paid on or after January 1, 1959. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter of notification has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the Pakistan company ceases to be eligible for the reduction in rate of United States tax granted by Article VI(1) of the convention, it shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the shares of stock as recorded in the books of record, the reduction in the rate of withholding of United States tax shall no longer apply unless the

new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(iv) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be forwarded immediately by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

(3) *Dividends paid to Pakistan company where degree of stock ownership is uncertain*—(i) *Request for determination in respect of future payments.* If a Pakistan company anticipates the receipt of dividends from a domestic corporation and the relationship existing between the Pakistan company and the domestic corporation is such as to render uncertain whether, by reason of the requirement as to stock ownership, the reduction in rate of United States tax granted by Article VI(1) of the convention will apply to such dividends, the Pakistan company shall not undertake to file the letter of notification prescribed in subparagraph (2)(i) of this paragraph unless it has, prior to such filing, applied for and received from the Commissioner of Internal Revenue, Washington 25, D.C., a determination that it owns shares of stock carrying more than 50 percent of the voting power of the domestic corporation. The application for the determination shall contain a full statement of all the facts pertinent to such a determination.

(ii) *Notification of determination.* As soon as practicable after the application has been filed, the Commissioner of Internal Revenue will determine whether the Pakistan company owns shares of stock carrying sufficient voting power of the domestic corporation to permit the Pakistan company to claim the benefit of Article VI(1) of the convention in the case of such dividends and shall notify the Pakistan company of his determination. The Pakistan company shall thereafter file with the withholding agent a copy of the Commissioner's letter of notification.

(iii) *Securing reduced rate of withholding.* If the determination of the Commissioner of Internal Revenue is that the Pakistan company does own shares of stock carrying more than 50 percent of the voting power of the domestic corporation, the Pakistan company may thereafter, if otherwise qualified, secure the reduced rate of withholding of United States tax by filing a letter of notification in accordance with subparagraph (2) of this paragraph.

(iv) *Period during which determination is applicable.* A determination by the Commissioner of Internal Revenue that a Pakistan company does own shares of stock carrying sufficient voting power of the domestic corporation to permit the Pakistan company to claim the benefit of Article VI(1) of the convention will apply until such time as the stock ownership of the domestic corporation has changed to the extent that, because of such change, dividends to be received from the domestic corporation by the Pakistan company no longer qualify for the reduced rate of United States tax under Article VI(1) of the convention. If such change in stock ownership occurs, the Pakistan company shall promptly notify both the Commissioner of Internal Revenue and the withholding agent of the then existing facts with respect to such stock ownership.

(v) *Request for determination in respect of past payments.* If a Pakistan company has received on or after January 1, 1959, dividends from a domestic corporation and the relationship existing between the Pakistan company and the domestic corporation was at the time the dividends were paid, such as to render uncertain whether, by reason of the requirement as to stock ownership, the dividends qualified for the reduction in rate of United States tax granted by Article VI(1) of the convention, the Pakistan company shall apply to the Commissioner of Internal Revenue, Washington 25, D.C., for a determination as to whether the Pakistan company owned, at the time the dividends were paid, shares of stock carrying sufficient voting power of the domestic corporation. If the Commissioner's determination is that at such time the stock ownership was such as to permit the application of the reduced rate of United States tax granted by Article VI(1) of the convention, his letter of notification may, subject to the provisions of § 517.7(a)(2), authorize the release of excess tax withheld from such dividends.

§517.3 Patent and copyright royalties.

(a) *Exemption from United States tax*—(1) *In general.* Any royalty paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trademark, or other like property, and received from sources within the United States in a taxable year beginning on or after January 1, 1959, by a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax, or by a foreign company whose business is managed and controlled in Pakistan, is exempt from United States tax under the provisions of Article VIII of the convention if such alien or company has not had a permanent establishment in the United States at any time during the taxable year in which the royalty is received. Notwithstanding the preceding sentence, no exemption from United States tax shall be granted under Article VIII of the convention in respect of royalties or rentals from motion picture films.

(2) *Exemption applicable to reasonable consideration only.* If any royalty exceeds a fair and reasonable consideration for the rights in respect of which it is paid, the exemption under this paragraph shall apply to only so much of the royalty as represents the fair and reasonable consideration.

(3) *Personal services.* If a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax were to perform personal services within the United States during the taxable year but not have a permanent establishment in the United States at any time during the year, he would be entitled to the exemption granted by Article VIII of the convention even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he had engaged in trade or business within the United States during that year by reason of his having performed personal services therein.

(b) *Exemption from witholding of tax*—(1) *Notification by letter.* To avoid withholding of United States tax on or after January 1, 1959, from a royalty which is exempt in accordance with paragraph (a) of this section, the nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax, or the foreign company whose business is managed and controlled in Pakistan, shall notify the withholding agent by letter in duplicate that the royalty is exempt from United States tax under the provisions of Article VIII of the convention. The letter of notification shall be signed by the owner of the royalty, or by his trustee or agent, and shall show the name and address of the obligor and the name and address of the owner of the royalty. The letter shall contain a statement that (i) the owner is neither a citizen nor a resident of the United States but is a resident of Pakistan for the purposes of Pakistan tax, or, in the case of a corporation, the owner is a foreign company whose business is managed and controlled in Pakistan, and (ii) the owner has at no time during the current taxable year had a permanent establishment in the United States. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.

(2) *Use of letter for release of excess tax.* If the letter is also to be used as authorization for the release, pursuant to §517.7(a)(3), of excess tax withheld from the royalty, it shall also contain a statement that (i) at the time when the royalty was received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Pakistan for the purposes of Pakistan tax, or, in the case of a corporation, the owner was a foreign company whose business was managed and controlled in Pakistan, and (ii) the owner at no time during the taxable year in which the royalty was received had a permanent establishment in the United States. The dates of the beginning and ending of the taxable year of the taxpayer in which the royalty was received shall also be indicated.

(3) *Manner of filing letter.* The letter of notification, which shall constitute authorization for the payment of the royalty without withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which the royalty is paid. For this purpose, the first of such periods shall commence with the beginning of the calendar year in which the royalty is

first paid on or after January 1, 1959. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by Article VIII of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the royalty as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be forwarded immediately by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

(5) *Reasonableness of consideration.* For purposes of this paragraph, the withholding agent may, unless he has information to the contrary, presume that the royalty represents a fair and reasonable consideration for the rights in respect of which it is paid.

§ 517.4 Private pensions and annuities.

(a) *Exemption from United States tax—*(1) *Pensions and annuities which are exempt.* Except as provided in subparagraph (2) of this paragraph, a pension or annuity which is derived from sources within the United States and received in a taxable year beginning on or after January 1, 1959, by a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax shall be exempt from United States tax under the provisions of Article X of the convention.

(2) *Pensions and annuities which are not exempt.* The following pensions or annuities are not exempt from United States tax under the provisions of Article X of the convention or under this section—

(i) A pension or annuity paid by or on behalf of the Government of the United States or its political subdivisions, for services rendered to that Government in the discharge of governmental functions; and

(ii) A pension or annuity paid by or on behalf of the Government of Pakistan or the Government of a Province in Pakistan or any local authority thereof, for services rendered in the discharge of functions of that Government or of local authority, as the case may be; and

(iii) A pension or annuity payable from a fund, under an employees' pension or annuity plan, contributions to which are deductible under the tax law of the United States in determining taxable income of the employer.

(b) *Definition of annuity.* As used in this section, the term ''annuity'' means a stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

(c) *Exemption from withholding of tax—*(1) *Notification by letter.* To avoid withholding of United States tax on or after January 1, 1959, from pensions or annuities which are exempt from tax in accordance with paragraph (a) of this section, the nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax shall notify the withholding agent by letter in duplicate that the pensions or annuities are exempt from United States tax under the provisions of Article X of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Pakistan for the purposes of Pakistan tax. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.

(2) *Use of letter for release of tax.* If the letter is also to be used as authorization for the release, pursuant to §517.7(a)(3), of excess tax withheld from the pensions or annuities, it shall also contain a statement that the owner was, at the time when the income was received from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of Pakistan for the purposes of Pakistan tax. The dates of the beginning and ending of the taxable year of the taxpayer in which the income was received shall also be indicated.

(3) *Manner of filing letter.* The letter of notification shall constitute authorization for the payment of the pensions or annuities without withholding of United States tax at source unless the Commissioner of Internal Revenue notifies the withholding agent thereafter to withhold the tax from such items of income. If, after filing a letter of notification, the owner of the income ceases to be eligible under the convention for the exemption from United States tax in the case of such items of income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be forwarded immediately by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

§517.5 Interest derived by the State Bank of Pakistan.

(a) *Exemption from United States tax.* Any interest of the State Bank of Pakistan which is received from sources within the United States on or after January 1, 1956, is, to the extent not exempt from tax under section 892 of the Internal Revenue Code of 1954, exempt from United States tax under the provisions of Article XIV(1) of the convention.

(b) *Exemption from withholding of tax.* No withholding of United States tax is required in the case of interest received from sources within the United States by the State Bank of Pakistan if, in accordance with paragraph (a) of this section, the interest is exempt from United States tax.

(c) *Refund of excess tax withheld before January 1, 1959.* If United States tax has been withheld before January 1, 1959, and on or after January 1, 1956, from interest of the State Bank of Pakistan, a claim by the bank for the refund of any overpayment resulting therefrom may be made under section 6402 of the Internal Revenue Code of 1954 and the regulations thereunder. For the release of excess tax withheld from such interest on or after January 1, 1959, see §517.7(a)(4).

§517.6 Beneficiaries of a domestic estate or trust.

A nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from United States tax granted by Article VIII of the convention with respect to patent and copyright royalties to the extent that (a) any amount paid, credited, or required to be distributed by the estate or trust to the beneficiary is deemed to consist of those items and (b) the items so deemed to be included in such amount would, without regard to the convention, be includible in his gross income; provided, however, that the beneficiary otherwise satisfies the requirements for exemption specified in Article VIII of the convention. To obtain the exemption from withholding of United States tax in such a case, the beneficiary must execute and submit to the fiduciary of the estate or trust in the United States the letter of notification prescribed in §517.3(b).

§517.7 Release of excess tax withheld at source.

(a) *Amounts to be released*—(1) *Dividends paid by a foreign company managed and controlled in Pakistan.* If United States tax at the statutory rate has been withheld on or after January 1, 1959, from dividends paid by a foreign company whose business is managed and controlled in Pakistan to a recipient other than a citizen or resident or

corporation of the United States, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(2) *Dividends paid to a Pakistan parent company.* If United States tax at the statutory rate has been withheld on or after January 1, 1959, from dividends entitled to the reduced rate of 15 percent in accordance with § 517.2(a)(2), the withholding agent shall, if furnished the authorization of release prescribed in § 517.2(b)(2)(ii) or (3)(v), release and pay over to the company from which the tax was withheld an amount which is equal to the difference between the tax so withheld from income received by the taxpayer in a taxable year beginning on or after January 1, 1959, and the tax required to be withheld from such income pursuant to § 517.2(b)(2)(i).

(3) *Patent and copyright royalties, pensions, and annuities.* If a taxpayer furnishes to the withholding agent the authorization of release prescribed in § 517.3(b)(2) or § 517.4(c)(2) and United States tax has been withheld at the statutory rate on or after January 1, 1959, from the royalties, pensions, or annuities in respect of which such authorization is prescribed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld from income received by the taxpayer in a taxable year beginning on or after January 1, 1959.

(4) *Interest paid to the State Bank of Pakistan.* If United States tax at the statutory rate has been withheld on or after January 1, 1959, from interest of the State Bank of Pakistan, the withholding agent shall release and pay over to that bank an amount which is equal to the tax so withheld.

(b) *Amounts not to be released.* The provisions of this section do not apply to excess tax withheld at source which has been paid by the withholding agent to the Director of International Operations, Internal Revenue Service.

(c) *Statutory rate.* As used in this section, the term ''statutory rate'' means the rate of tax required to be withheld in accordance with chapter 3 of the Internal Revenue Code of 1954 as though the convention had not come into effect.

§ 517.8 Information to be furnished in ordinary course.

For provisions relating to the exchange of information under Article XVI of the convention, see paragraph (d) of § 1.1461–2 of this chapter (Income Tax Regulations; 26 CFR 1.1461–2(d)).

§ 517.9 Application of the convention to fiscal years.

Since the convention is effective for taxable years beginning on or after January 1, 1959, the fact that the exemption from, or reduction in the rate of, withholding of United States tax at source authorized by §§ 517.1 to 517.9 is made effective beginning January 1, 1959, is not a determination in itself that the item of income concerned is entitled to the benefit of the exemption from, or reduced rate of, United States tax granted by the convention.

PARTS 518—519 [RESERVED]

PART 520—SWEDEN

Subpart—General Income Tax

Sec.

520.101 Introductory.
520.102 Scope of this subpart.
520.103 Definitions.
520.104 Scope of convention with respect to determination of ''industrial and commercial profits'' of a nonresident alien individual resident of Sweden or of a Swedish corporation or other entity carrying on a Swedish enterprise in the United States.
520.105 Control of a domestic enterprise by a Swedish enterprise.
520.106 Income from operation of ships or aircraft.
520.107 Income from real property.
520.108 Mineral royalties.
520.109 Patent and copyright royalties.
520.110 Dividends and interest.
520.111 Capital gains.
520.112 Wages, salaries and similar compensation, pensions and life annuities.
520.113 Compensation for labor or personal services.
520.114 Remittances.
520.115 Scope of Article XIV.
520.116 Reciprocal administrative assistance.
520.117 Information to be furnished in the ordinary course.
520.118 Information in specific cases.

520.119 Mutual assistance in the collection of taxes.

AUTHORITY: 53 Stat. 32, 467; 26 U.S.C. 62, 3791.

SOURCE: Treasury Decision 4975, 5 FR 2400, June 28, 1940, unless otherwise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

EFFECTIVE DATE NOTE: By T.D. 8732, 62 FR 53498, Oct. 14, 1997, part 520 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

Subpart—General Income Tax

§ 520.101 Introductory.

(a) The tax convention and protocol between the United States and Sweden, referred to in this subpart as the convention, proclaimed by the President of the United States on December 12, 1939, and effective January 1, 1940, provides as follows:

ARTICLE I

The taxes referred to in this Convention are:

(a) In the case of the United States of America:

(1) The Federal income taxes, including surtaxes and excess-profits taxes.

(2) The Federal capital stock tax.

(b) In the case of Sweden:

(1) The National income and property tax, including surtax.

(2) The National special property tax.

(3) The communal income tax.

It is mutually agreed that the present Convention shall also apply to any other or additional taxes imposed by either contracting State, subsequent to the date of signature of this Convention, upon substantially the same bases as the taxes enumerated herein.

The benefits of this Convention shall accrue only to citizens and residents of the United States of America, to citizens and residents of Sweden and to United States or Swedish corporations and other entities.

ARTICLE II

An enterprise of one of the contracting States is not subject to taxation by the other contracting State in respect of its industrial and commercial profits except in respect of such profits allocable to its permanent establishment in the latter State. The income thus taxed in the latter State shall be exempt from taxation in the former State.

No account shall be taken, in determining the tax in one of the contracting States, of the mere purchase of merchandise effected therein by an enterprise of the other State.

The competent authorities of the two contracting States may lay down rules by agreement for the apportionment of industrial and commercial profits.

ARTICLE III

When an enterprise of one of the contracting States, by reason of its participation in the management or capital of an enterprise of the other contracting State, makes or imposes on the latter in their commercial or financial relations conditions different from those which would be made with an independent enterprise, any profits which should normally have appeared in the balance sheet of the latter enterprise but which have been in this manner diverted to the former enterprise may, subject to applicable measures of appeal, be incorporated in the taxable profits of the latter enterprise. In such case consequent rectifications may be made in the accounts of the former enterprise.

ARTICLE IV

Income which an enterprise of one of the contracting States derives from the operation of ships or aircraft registered in that State is taxable only in the State in which registered. Income derived by such an enterprise from the operation of ships or aircraft not so registered shall be subject to the provisions of Article II.

ARTICLE V

Income of whatever nature derived from real property, including gains derived from the sale of such property, but not including interest from mortgages or bonds secured by real property, shall be taxable only in the contracting State in which the real property is situated.

ARTICLE VI

Royalties from real property or in respect of the operation of mines, quarries, or other natural resources shall be taxable only in the contracting State in which such property, mines, quarries, or other natural resources are situated.

Other royalties and amounts derived from within one of the contracting States by a resident or by a corporation or other entity of the other contracting State as consideration for the right to use copyrights, patents, secret processes and formulas, trademarks and other analogous rights, shall be exempt from taxation in the former State.

ARTICLE VII

1. Dividends shall be taxable only in the contracting State in which the shareholder is resident or, if the shareholder is a corporation or other entity, in the contracting State

in which such corporation or other entity is created or organized; provided, however, that each contracting State reserves the right to collect and retain (subject to applicable provisions of its revenue laws) the taxes which, under its revenue laws, are deductible at the source, but not in excess of 10 per centum of the amount of such dividends. For the purposes of this Article the National income and property tax imposed by Sweden shall be deemed to be a tax deducted at the source.

2. Notwithstanding the provisions of Article XXII of this Convention, the provisions of this Article may be terminated by either of the contracting States at the end of two years from the date upon which this Convention enters into force or at any time thereafter, provided at least six months' prior notice of termination is given, such termination to become effective on the first day of January following the expiration of such six-month period. In the event the provisions of this Article are terminated, the provisions of—

(1) Article XIII (2), in so far as they relate to the special property tax imposed by Sweden upon shares in a corporation;

(2) Article XIV(b)(2), relating to the allowance of an additional deduction from taxes on dividends; and

(3) Article XVI, in so far as they relate to exchange of information with respect to dividends,

will likewise terminate.

ARTICLE VIII

Interest on bonds, notes, or loans shall be taxable only in the contracting State in which the recipient of such interest is a resident or, in the case of a corporation or other entity, in the State in which the corporation or other entity is created or organized; *Provided, however,* That each contracting State reserves the right to collect and retain (subject to applicable provisions of its revenue laws) the taxes which, under its revenue laws, are deductible at the source.

ARTICLE IX

Gains derived in one of the contracting States from the sale or exchange of capital assets by a resident or a corporation or other entity of the other contracting State shall be exempt from taxation in the former State, provided such resident or corporation or other entity has no permanent establishment in the former State.

ARTICLE X

Wages, salaries and similar compensation and pensions paid by one of the contracting States or by the political subdivisions or territories or possessions thereof to individuals residing in the other State shall be exempt from taxation in the latter State.

Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

ARTICLE XI

(a) Compensation for labor or personal services, including the practice of the liberal professions, shall be taxable only in the contracting State in which such services are rendered.

(b) The provisions of paragraph (a) are, however, subject to the following exceptions:

A resident of Sweden shall be exempt from United States tax upon compensation for labor or personal services performed within the United States of America if he fails within either of the following classifications:

1. He is temporarily present within the United States of America for a period or periods not exceeding a total of one hundred eighty days during the taxable year and his compensation is received for labor or personal services performed as an employee of, or under contract with, a resident or corporation or other entity of Sweden; or

2. He is temporarily present in the United States of America for a period or periods not exceeding a total of ninety days during the taxable year and the compensation received for such services does not exceed $3,000.00 in the aggregate.

In such cases Sweden reserves the right to the taxation of such income.

(c) The provisions of paragraph (b) of this Article shall apply, mutatis mutandis, to a resident of the United States of America deriving compensation for personal services performed within Sweden.

(d) The provisions of paragraphs (b) and (c) of this Article shall have no application to the professional earnings of such individuals as actors, artists, musicians and professional athletes.

(e) The provisions of this Article shall have no application to the income to which Article X relates.

ARTICLE XII

Students or business apprentices from one contracting State residing in the other contracting State exclusively for purposes of study or for acquiring business experience shall not be taxable by the latter State in respect of remittances received by them from within the former State for the purposes of their maintenance or studies.

ARTICLE XIII

(1) If the property consists of:

(a) Immovable property and accessories appertaining thereto;

In the case of taxes on property or increment of property the following provisions shall be applicable:

(b) Commercial or industrial enterprises, including maritime shipping and air transport undertakings;

the tax may be levied only in that contracting State which is entitled under the preceding Articles to tax the income from such property.

(2) In the case of all other forms of property, the tax may be levied only in that contracting State where the taxpayer has his residence or, in the case of a corporation or other entity, in the contracting State where the corporation or other entity has been created or organized.

The same principles shall apply to the United States capital stock tax with respect to corporations of Sweden having capital or other property in the United States of America.

ARTICLE XIV

It is agreed that double taxation shall be avoided in the following manner:

(a) Notwithstanding any other provision of this Convention, the United States of America in determining the income and excess-profits taxes, including all surtaxes, of its citizens or residents or corporations may include in the basis upon which such taxes are imposed all items of income taxable under the revenue laws of the United States of America as though this Convention had not come into effect. The United States of America shall, however, deduct the amount of the taxes specified in Article I (b) (1) and (3) of this Convention or other like taxes from the income tax thus computed but not in excess of that portion of the income tax liability which the taxpayer's net income taxable in Sweden bears to his entire net income.

(b)(1) Notwithstanding any other provision of this Convention, Sweden, in determining the graduated tax on income and property of its residents or corporations or other entities, may include in the basis upon which such tax is imposed all items of income and property subject to such tax under the taxation laws of Sweden. Sweden shall, however, deduct from the tax so calculated that portion of such tax liability which the taxpayer's income and property exempt from taxation in Sweden under the provisions of this Convention bears to his entire income and property.

(2) There shall also be allowed by Sweden from its National income and property tax a deduction offsetting the tax deducted at the source in the United States of America, amounting to not less than 5 per centum of the dividends from within the United States of America and subject to such tax in Sweden. It is agreed that the United States of America shall allow a similar credit against the United States income tax liability of citizens of Sweden residing in the United States of America.

ARTICLE XV

With a view to the more effective imposition of the taxes to which the present Convention relates, each of the contracting States undertakes, subject to reciprocity, to furnish such information in the matter of taxation, which the authorities of the State concerned have at their disposal or are in a position to obtain under their own law, as may be of use to the authorities of the other State in the assessment of the taxes in question and to lend assistance in the service of documents in connection therewith. Such information and correspondence relating to the subject matter of this Article shall be exchanged between the competent authorities of the contracting States in the ordinary course or on demand.

ARTICLE XVI

1. In accordance with the preceding Article, the competent authorities of the United States of America shall forward to the competent authorities of Sweden as soon as practicable after the close of each calendar year the following information relating to such calendar year:

(a) The names and addresses of all addresses within Sweden deriving from sources within the United States of America dividends, interest, royalties, pensions, annuities, or other fixed or determinable annual or periodical income, showing the amount of such income with respect to each addressee;

(b) Any particulars which the competent United States authorities may obtain from banks, savings banks or other similar institutions concerning assets belonging to individuals resident in Sweden or to Swedish corporations or other entities;

(c) Any particulars which the competent United States authorities may obtain from inventories in the case of property passing on death concerning debts contracted with individuals resident in Sweden or Swedish corporations or other entities.

2. The competent authorities of Sweden shall forward to the competent authorities of the United States of America as soon as practicable after the close of each calendar year the following information relating to such calendar year:

(a) The particulars contained in the forms delivered to the Swedish authorities in connection with the payment to individuals or corporations or other entities whose addresses are within the United States of America of dividends on shares in a corporation or participation certificates in cooperative societies, and interest on bonds or other similar securities;

(b) The particulars contained in permits accorded to individuals resident in the United State of America or to United States corporations or other entities to enable them

to acquire for business purposes immovable property situated in Sweden;

(c) Any particulars which the central Swedish authorities may obtain from banks, savings banks or other similar institutions concerning assets belonging to individuals resident in the United States of America or to United States corporations or other entities;

(d) Any particulars which the central Swedish authorities may obtain from inventories in the case of property passing on death, concerning debts contracted with individuals resident of the United States of America, or United States corporations or other entities;

(e) A list of the names and addresses of all United States citizens resident in the United States of America who have made declarations to the Central Committee in Stockholm in charge of the taxation of taxpayers not resident in Sweden for purposes of the Swedish tax on income and property;

(f) Particulars concerning annuities and pensions, public or private, paid to individuals resident in the United States of America.

ARTICLE XVII

Each contracting State undertakes, in the case of citizens or corporations or other entities of the other contracting State, to lend assistance and support in the collection of the taxes to which the present Convention relates, together with interest, costs, and additions to the taxes and fines not being of a penal character. The contracting State making such collection shall be responsible to the other contracting State for the sums thus collected.

In the case of applications for enforcement of taxes, revenue claims of each of the contracting States which have been finally determined shall be accepted for enforcement by the other contracting State and collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes. The State to which application is made shall not be required to enforce executory measures for which there is no provision in the law of the State making the application.

The applications shall be accompanied by such documents as are required by the laws of the State making the application to establish that the taxes have been finally determined.

If the revenue claim has not been finally determined the State to which application is made may at the request of the other contracting State, take such measures of conservancy as are authorized by the revenue laws of the former State.

ARTICLE XVIII

The competent authority of each of the contracting States shall be entitled to obtain, through diplomatic channels, from the competent authority of the other contracting State, particulars in concrete cases relative to the application to citizens or to corporations or other entities of the former State, of the taxes to which the present Convention relates. With respect to particulars in other cases, the competent authority of each of the contracting States will give consideration to requests from the competent authority of the other contracting State.

ARTICLE XIX

In no case shall the provisions of Article XVII, relating to mutual assistance in the collection of taxes, or of Article XVIII, relating to particulars in concrete cases, be construed so as to impose upon either of the contracting States the obligation.

(1) to carry out administrative measures at variance with the regulations and practice of either contracting State, or

(2) to supply particulars which are not procurable under its own legislation or that of the State making application.

The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it. Nevertheless, such State may refuse to comply with the request for reasons of public policy or if compliance would involve violation of a business, industrial or trade secret or practice. In such case it shall inform, as soon as possible, the State making the application.

ARTICLE XX

Where a taxpayer shows proof that the action of the revenue authorities of the contracting States has resulted in double taxation in his case in respect of any of the taxes to which the present Convention relates, he shall be entitled to lodge a claim with the State of which he is a citizen or, if he is not a citizen of either of the contracting States, with the State of which he is a resident, or, if the taxpayer is a corporation or other entity, with the State in which it is created or organized. Should the claim be upheld, the competent authority of such State may come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

ARTICLE XXI

The competent authorities of the two contracting States may prescribe regulations necessary to interpret and carry out the provisions of this Convention. With respect to the provisions of this Convention relating to

exchange of information, service of documents and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, minimum amounts subject to collection and related matters.

ARTICLE XXII

The present Convention shall be ratified, in the case of the United States of America, by the President, by and with the advice and consent of the Senate, and in the case of Sweden, by His Majesty the King, with the consent of the Riksdag. The ratifications shall be exchanged at Stockholm.

This Convention shall become effective on the first day of January following the exchange of the instruments of ratification and shall apply to income realized and property held on or after that date. The Convention shall remain in force for a period of five years and indefinitely thereafter but may be terminated by either contracting State at the end of the five-year period or at any time thereafter, provided at least six months' prior notice of termination has been given, the termination to become effective on the first day of January following the expiration of the six-month period.

In witness whereof the respective Plenipotentiaries have signed this Convention and have affixed their seals hereto.

Done in duplicate, in the English and Swedish languages, both authentic, at Washington, this twenty-third day of March, nineteen hundred and thirty-nine.

For the President of the United States of America:

SUMNER WELLES [SEAL]

For His Majesty the King of Sweden:

W. BOSTROM [SEAL]

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation, and the establishment of rules of reciprocal administrative assistance in the case of income and other taxes, this day concluded between the United States of America and Sweden, the undersigned Plenipotentiaries have agreed that the following provisions shall form an integral part of the Convention:

1. As used in this Convention:

(a) The term ''permanent establishment'' includes branches, mines and oil wells, plantations, factories, workshops, warehouses, offices, agencies, installations, and other fixed places of business of an enterprise but does not include the casual or temporary use of merely storage facilities. A permanent establishment of a subsidiary corporation shall not be deemed to be a permanent establishment of the parent corporation. When an enterprise of one of the contracting States carries on business in the other State through an employee or agent, established there, who has general authority to contract for his employer or principal, it shall be deemed to have a permanent establishment in the latter State. But the fact that an enterprise of one of the contracting States has business dealings in the other State through a bona fide commission agent, broker or custodian shall not be held to mean that such enterprise has a permanent establishment in the latter State.

(b) The term ''enterprise'' includes every form of undertaking whether carried on by an individual, partnership, corporation, or any other entity.

(c) The term ''enterprise of one of the contracting States'' means, as the case may be, ''United States enterprise'' or ''Swedish enterprise''.

(d) The term ''United States enterprise'' means an enterprise carried on in the United States of America by a resident of the United States of America or by a United States corporation or other entity; the term ''United States corporation or other entity'' means a partnership, corporation or other entity created or organized in the United States of America or under the law of the United States of America or of any State or Territory of the United States of America.

(e) The term ''Swedish enterprise'' is defined in the same manner, mutatis mutandis, as the term ''United States enterprise''.

2. The term ''corporation'' includes associations, joint-stock companies, and insurance companies.

3. A citizen of one of the contracting States not residing in either shall be deemed, for the purpose of this Convention, to be a resident of the contracting State of which he is a citizen.

When doubt arises with respect to residence or with respect to the taxable status of corporations or other entities, the competent authorities of the two contracting States may settle the question by mutual agreement.

4. The provisions of Swedish law concerning the taxation of the undivided estates of deceased persons shall not apply where the beneficiaries are directly liable to taxation in the United States of America.

5. The term ''life annuities'' referred to in Article X of this Convention means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in consideration of a gross sum paid for such obligation.

6. The Swedish so-called ''fees tax'' (bevillingsavgift for vissa offentliga forestallningar) based on gross income in so far as it affects such individuals as actors, artists, musicians and professional athletes

shall be deemed to be an income tax for the purposes of Article XIV (a).

The credit for taxes provided in Article XIV shall have no application to taxes deducted at the source from dividends and interest except to the extent provided in paragraph (b)(2) of that Article.

In the application of the provisions of this Convention the benefits of section 131 of the United States Revenue Act of 1938, relating to credits for foreign taxes shall be accorded but the credit provided for in Article XIV(a) shall not extend to United States excess-profits taxes nor to the surtax imposed on personal holding companies.

7. Citizens of each of the contracting States residing within the other contracting State shall not be subjected in the latter State to other or higher taxes than are imposed upon the citizens of such latter State.

8. The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers, nor to deny to either of the contracting States the right to subject to taxation its own diplomatic and consular officers.

9. The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

10. In the administration of the provisions of this Convention relating to exchange of information, service of documents, and mutual assistance in collection of taxes, fees and costs incurred in the ordinary course shall be borne by the State to which application is made but extraordinary costs incident to special forms of procedure shall be borne by the applying State.

11. Documents and other communications or information contained therein, transmitted under the provisions of this Convention by one of the contracting States to the other contracting State shall not be published, revealed or disclosed to any person except to the extent permitted under the laws of the latter State with respect to similar documents, communications or information.

12. As used with respect to revenue claims in Article XVII of this Convention the term ''finally determined'' shall be deemed to mean:

(a) In the case of Sweden, claims which have been finally established, even though still open to revision by exceptional procedure;

(b) In the case of the United States of America, claims which are no longer appealable, or which have been determined by decision of a competent tribunal, which decision has become final.

13. As used in this Convention the term ''competent authority'' or ''competent authorities'' means, in the case of the United States of America, the Secretary of the Treasury and in the case of Sweden, the Finance Ministry.

14. The term ''United States of America'' as used in this Convention in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

15. Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

16. The present Convention and Protocol shall not be deemed to affect the exchange of notes between the United States of America and Sweden providing relief from double income taxation on shipping profits, signed March 31, 1938.

Done at Washington, this twenty-third day of March, nineteen hundred and thirty-nine.

SUMNER WELLES [SEAL]
W. BOSTROM [SEAL]

And where the said convention and the said protocol have been duly ratified on both parts and the ratifications of the two Governments were exchanged at Stockholm on the fourteenth day of November, one thousand nine hundred and thirty-nine;

And whereas, as is provided in Article XXII, the said convention shall become effective on the first day of January following the exchange of the instruments of ratification;

Now, therefore, be it known that I, Franklin D. Roosevelt, President of the United States of America, have caused the said convention and the said protocol to be made public to the end that the same and every article, clause and part thereof may be observed and fulfilled with good faith by the United States of America and the citizens thereof on and from the first day of January, one thousand nine hundred and forty.

In testimony whereof, I have hereunder set my hand and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this twelfth day of December, in the year of our Lord one thousand nine hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-fourth.

[SEAL]

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

(b) The Internal Revenue Code provides in part as follows:

SEC. 22. GROSS INCOME.

* * * * *

(b) *Exclusions from gross income.* The following items shall not be included in gross income and shall be exempt from taxation under this chapter:

* * * * *

(7) *Income exempt under treaty.* Income of any kind, to the extent required by any treaty obligation of the United States:

SEC. 62. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

§ 520.102 Scope of this subpart.

(a) The primary purposes of the convention, to be accomplished on a mutually reciprocal basis, are the avoidance of double taxation, exchange of fiscal information complementary to those provisions of the convention relating to avoidance of double taxation, and mutual assistance in the collection of the taxes to which the convention relates. The regulations in this subject deal primarily with the effect of the convention upon the determination of taxable income from sources within the United States of nonresident alien individuals resident in Sweden and of Swedish corporations and other Swedish entities, and with the information to be made available to the Finance Minister of Sweden.

(b) The specific classes of income from sources within the United States exempt by reason of the convention from United States income tax are:

(1) Industrial and commercial profits of a Swedish enterprise having no permanent establishment in the United States (Article II);

(2) Income derived by a Swedish enterprise from the operation of ships or aircraft registered in Sweden (Article IV);

(3) Royalties and amounts derived by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity as consideration for the right to use copyrights, patents, secret processes and formulas, trade-marks and other analogous rights (Article VI);

(4) Gains derived from the sale or exchange of capital assets by a nonresident alien individual resident in Sweden, or by a Swedish corporation or other entity, having no permanent establishment in the United States (Article IX);

(5) Wages, salaries and similar compensation and pension paid by Sweden or by a political subdivision thereof to individuals (other than citizens of the United States) temporarily residing in the United States (Article X);

(6) Private pensions and life annuities paid to nonresident alien individuals residing in Sweden (Article X),

(7) Compensation for labor or personal services performed within the United States by a nonresident alien individual resident in Sweden, such exemption being, however, subject to the limitations set forth in Article XI of the convention and in § 520.113;

(8) Remittances from sources within Sweden (if and to the extent that they constitute gross income without regard to this convention) received in the United States by a nonresident alien individual resident of Sweden who is temporarily resident in the United States for the purposes of study or for acquiring business experience, such remittances being for the purposes of their maintenance or studies (Article XII).

(c) The convention does not affect the liability to United States income tax of Swedish citizens resident in the United States except to the extent such citizens are entitled to the benefits of Article XIV of the convention. For the purposes of the convention, an individual resident in neither Sweden nor the United States and claiming the benefits of the convention as a citizen of Sweden shall be deemed to be a resident of Sweden if it is shown to the satisfaction of the Commissioner that he is such citizen. With respect to dividends and interest, see § 520.10.

(d) Except as to those items of income expressly exempted by the convention, the income tax liability of a nonresident alien individual resident of Sweden and of a Swedish corporation or other entity is determined in accordance with the provisions of the internal revenue laws of the United States and the regulations thereunder

applicable generally to the taxation of nonresident alien individuals and foreign corporations.

(e) Except insofar as concerns dividends, the convention makes no reference to rates of taxation imposed by the United States.

§ 520.103 Definitions.

(a) Any word or term used in this subpart which is defined in the convention shall be given the definition assigned to such word or term in such convention. Any word or term used in this subpart which is not defined in the convention but is defined in the Internal Revenue Code shall be given the definition contained therein.

(b) As used in this subpart:

(1) The term ''permanent establishment'' includes branches, mines and oil wells, plantations, factories, workshops, warehouses, offices, agencies, installations and other fixed places of business of an enterprise but does not include the casual or temporary use of merely storage facilities. A Swedish parent corporation having a subsidiary corporation which latter corporation has a permanent establishment in the United States will not be deemed, by reason of such fact, to have itself a permanent establishment in the United States. A Swedish enterprise as defined in the convention carrying on business in the United States through an employee or agent, established in the United States, who has general authority to contract for his employer or principal, shall be deemed to have a permanent establishment in the United States. However, business dealings in the United States by a Swedish enterprise through a bona fide commission agent, broker or custodian do not constitute a permanent establishment in the United States.

(2) The term ''enterprise'' means any commercial or industrial undertaking whether conducted by an individual, partnership, corporation or any other entity. It includes such activities as manufacturing, merchandising, mining, banking and insurance. It does not include the operation of, or the trading in, real property located in the United States. It does not include the rendition of personal services. Hence, a nonresident alien individual, a resident of Sweden, rendering personal services within the United States, is not merely by reason of such services, engaged in an enterprise within the meaning of the convention and his liability to Federal income tax is unaffected by Article II of the convention.

(3) The term ''Swedish enterprise'' means an enterprise carried on in Sweden by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity. The term ''Swedish corporation or other entity'' means a partnership, corporation or other entity created or organized in Sweden or under the laws of Sweden. For example, an enterprise carried on wholly without Sweden by a nonresident alien individual resident in Sweden is not a Swedish enterprise within the meaning of the convention.

(4) The term ''industrial and commercial profits'' means the profits arising from the industrial, mercantile, manufacturing or like undertakings of a Swedish enterprise as defined in this section. Such term does not include dividends, interest, compensation for labor or personal services, or income derived from real property or from any interest in such property, including rentals and royalties therefrom and gain from the sale or disposition thereof. Such latter items of income are not governed by the provisions of Article II but are subject to the rules elsewhere set forth in the convention and in this subpart with respect to such specific items of income. As to gains from the sale or exchange of capital assets, see § 520.111.

§ 520.104 Scope of convention with respect to determination of "industrial and commercial profits" of a nonresident alien individual resident of Sweden or of a Swedish corporation or other entity carrying on a Swedish enterprise in the United States.

(a) *General.* Article II of the convention adopts the principle that an enterprise of one of the contracting States shall not be taxable in the other contracting State in respect of its industrial and commercial profits unless it has a permanent establishment in the latter State. Hence, a Swedish enterprise is subject to tax upon its industrial and commercial profits from

sources within the United States only if it has a permanent establishment within the United States. From the standpoint of Federal income taxation, the article has application only to a Swedish enterprise and to the industrial and commercial income thereof from sources within the United States. It has no application, for example, to compensation for labor or personal services performed in the United States nor to income derived from real property located in the United States nor to any interest in such property, including rentals and royalties therefrom, nor to gains from the sale or disposition thereof nor to dividends and interest. Such latter items of income are treated separately elsewhere in the regulations in this subpart and are subject to the rules laid down in the sections having specific reference to the respective items of income: As to what is a ''Swedish enterprise'', a ''permanent establishment'' and ''industrial and commercial profits,'' see § 520.103.

(b) *No United States permanent establishment.* A nonresident alien individual resident in Sweden or a Swedish corporation or other entity, carrying on a Swedish enterprise but having no permanent establishment in the United States is not subject to United States income tax upon industrial and commercial profits from sources within the United States. For example, if such Swedish corporation sells stock in trade such as iron ore or wood pulp through a bona fide commission agent or broker in the United States, the resulting profit is, under the terms of Article II of the convention, exempt from United States income tax. Such Swedish corporation, however, remains subject to tax upon all other items of income from sources within the United States and not expressly exempted from such tax under the convention. However, see §§ 520.109, 520.111, 520.112 and 520.113.

(c) *United States permanent establishment.* A nonresident alien individual resident in Sweden or a Swedish corporation or other entity, carrying on a Swedish enterprise having a permanent establishment in the United States is subject to tax upon his or its industrial and commercial profits from sources within the United States. In the determination of the income of such resident of Sweden or Swedish corporation or other entity from sources within the United States, all industrial and commercial profits from sources within the United States shall be deemed to be allocable to the permanent establishment within the United States. The net income from sources within the United States, including the industrial and commercial profits, shall be determined in accordance with the provisions of section 119, Internal Revenue Code, and regulations thereunder. In determining such income, no account shall be taken of the mere purchase of merchandise effected in the United States by such Swedish enterprise.

§ 520.105 Control of a domestic enterprise by a Swedish enterprise.

Article III of the convention provides that if a Swedish enterprise by reason of its control of a domestic business imposes conditions different from those which would result from normal bargaining between independent enterprises, the accounts between the enterprises will be adjusted so as to ascertain the true net income of the domestic enterprises. The purpose is to place the controlled domestic enterprise on a tax parity with an uncontrolled domestic enterprise by determining, according to the standard of an uncontrolled enterprise, the true net income from the property and business of the controlled enterprise. The convention contemplates that if the accounting records do not truly reflect the net income from the property and business of such domestic enterprise the Commissioner shall intervene and, by making such distributions, apportionments or allocations as he may deem necessary of gross income or deductions or of any item or element affecting net income as between such domestic enterprise and the Swedish enterprise by which it is controlled or directed, determine the true net income of the domestic enterprise. The provisions of Regulations 103 (26 CFR 1938 ed. Supps. 19.45–1), [Regulations 111 (26 CFR 1949 ed. Supps. 29.45–1) and Regulations 118 (§ 39.45–1, 26 CFR, Rev. 1953, Parts 1–79, and Supps.)] shall, insofar as applicable, be followed in the determination of the net income of the domestic business.

§ 520.106 Income from operation of ships or aircraft.

The income derived by a Swedish enterprise from the operation of ships or aircraft registered in Sweden is exempt from United States income tax. However, the profits derived by such enterprise from the operation of ships or aircraft not so registered are treated as are industrial and commercial profits generally. See Article II of the convention and § 520.104.

§ 520.107 Income from real property.

Income of whatever nature derived by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity from real property situated in the United States, including gains derived from the sale of such property, is not exempt from taxation by the convention. The treatment of such income for taxation purposes is governed by those provisions of the Internal Revenue Code applicable generally to the taxation of nonresident aliens and foreign corporations. Interest derived from mortgages or bonds secured by real property does not constitute income from real property within the meaning of the convention but is subject to the provisions applicable to interest generally. See Article VIII of the convention and § 520.110.

§ 520.108 Mineral royalties.

Royalties derived by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity from real property or in respect of the operation of mines, quarries, timber or other natural resources situated in the United States are not exempt from taxation under the convention. Such items of income are subject to taxation under the provisions of the Internal Revenue Code applicable generally to the taxation of nonresident aliens and foreign corporations.

§ 520.109 Patent and copyright royalties.

(a) Royalties and amounts derived from sources within the United States by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity (if such corporation or entity is not a resident of the United States) as consideration for the right to use copyrights, patents, secret processes and formulas, trademarks and other analogous rights are exempt from Federal income taxation under the provisions of Article VI of the convention. Such items are therefore not subject to the withholding provisions of the Internal Revenue Code. Such exemption does not, however, apply in the case of a Swedish corporation engaged in trade or business within the United States or having an office or place of business therein. Such corporation is a resident Swedish corporation and hence the provisions of Article XIV (a) are applicable.

(b) To obviate withholding of the tax at the source, the alien individual resident in Sweden or Swedish corporation or other entity should by letter, notify the payor of the income that such income is exempt from Federal income is exempt from Federal income taxation under the provisions of the convention. Such letter from such resident of Sweden shall contain his address and a statement that he is a resident of Sweden. The letter from such corporation or other entity shall contain the address of its office or place of business and a statement that it is a corporation or other entity organized under the laws of Sweden and shall be signed by an officer of the corporation or other entity giving his official title. The letter of notification of a copy thereof should be immediately forwarded by the recipient to the Commissioner of Internal Revenue, Withholding Returns Section, Washington 25, D.C., United States of America.

§ 520.110 Dividends and interest.

(a) In general dividends derived from sources within the United States by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity remain subject to taxation under the provisions of the Internal Revenue Code applicable generally to the taxation of nonresident alien individuals and foreign corporations. See Article XIV (a) of the convention. However, for a period of at least 2 years beginning on January 1, 1940, the tax in the case of such alien individual resident in Sweden or such Swedish corporation or other entity (nonresident

as to the United States) shall not exceed 10 percent of the amount of such dividends. See Article VII of the convention. Hence, the higher rates applicable generally in the case of nonresident alien individuals subject to the provisions of section 211 (c), Internal Revenue Code, are not applicable to dividends received by nonresident alien individuals who are residents of Sweden.

(b) The taxation of interest derived from sources within the United States by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity is not affected by the convention except that in the case of such individual such interest is subject only to the rate of tax imposed by section 211 (a), Internal Revenue Code. Hence, interest, like dividends, is excluded for the purposes of section 211(c), from the gross amount of fixed or determinable annual or periodical income of nonresident alien individuals who are residents of Sweden.

§ 520.111 Capital gains.

Under Article IX of the convention, gain derived from the sale or exchange of capital assets (other than real property) within the United States by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity is exempt from Federal income tax unless such individual, corporation or other entity has a permanent establishment in the United States. With respect to real property, see § 520.107.

§ 520.112 Wages, salaries and similar compensation, pensions and life annuities.

(a) Under Article X of the convention, wages, salaries and similar compensation and pensions paid by Sweden or by a political subdivision thereof to individuals temporarily residing in the United States are exempt from Federal income tax. By reason, however, of the application of Article XIV(a) of the convention, such exemption does not apply to recipients of such income who are either citizens of the United States or aliens resident therein. As to who are resident aliens, see Regulations 103 (26 CFR 1938 ed. Supps. 19.211–2 to 19.211–4), [Regulations 111 (26 CFR 1949 ed. Supps. 29.211–2 to 29.211–4) and Regulations 118 (§§ 39.211–2 to 39.211–4, 26 CFR, Rev. 1953, Parts 1–79, and Supps.)]. As to the taxation generally of the compensation of employees of foreign governments, see section 116(h) of the Internal Revenue Code and Regulations 103 (26 CFR 1938 ed. Supps. 19.116–2), [Regulations 111 (26 CFR 1949 ed. Supps. 29.116–2) and Regulations 118 (§ 39.116–2, 26 CFR Rev. 1953, Parts 1–79, and Supps.)].

(b) Under the provisions of the same article of the convention, private pensions and life annuities derived from sources within the United States by nonresident alien individuals residing in Sweden are exempt from the Federal income tax. Such items of income are, therefore, not subject to the withholding provisions of the Internal Revenue Code. See paragraph 5 of the protocol to the convention as to what constitutes life annuities. See also § 520.109 with respect to patent and copyright royalties as to requirements necessary to avoid withholding of the tax at the source, which requirements are here also applicable.

§ 520.113 Compensation for labor or personal services.

(a) Article XI of the convention adopts the principle that compensation for labor or personal services, including compensation realized in the practice of the liberal professions, is subject to tax only in the contracting State in which such services are rendered. Hence, in general such compensation derived by nonresident alien individuals residing in Sweden for services rendered in the United States is subject to Federal income tax. Such general rule is, however, subject to the following exceptions under the provisions of Article XI:

(1) Such nonresident alien individual is not subject to Federal income tax upon compensation for labor or personal services performed within the United States if the following conditions prescribed by subparagraph (2) (i) and (ii) of this paragraph are met.

(2) He is temporarily present in the United States for a period or periods:

(i) Not exceeding 180 days during the taxable year and his compensation is received for labor or personal services

performed as an employee of, or under contract with, a resident of Sweden or a Swedish corporation or other entity; or

(ii) Not exceeding 90 days during the taxable year and the compensation received for such services does not exceed $3,000 in the aggregate for such taxable year even though such compensation is paid by a United States resident or by a domestic corporation or other domestic entity.

(b) If, therefore, such nonresident alien individual (1) is temporarily present in the United States for a period or periods in excess of 90 days during the taxable year, or (2) receives more than $3,000 in the aggregate during the taxable year for labor or personal services performed within the United States he is not exempt under paragraph (a)(2)(ii) of this section, and his right to exemption under the convention will depend on his meeting both tests prescribed under paragraph (a)(2)(i) of this section.

(c) These exceptions, however, do not extend to the professional earnings of actors, artists, musicians, professional athletes and those engaged in like activities. The professional earnings of such individuals resident in Sweden for services rendered within the United States are subject to the provisions of the Internal Revenue Code applicable generally to the taxation of nonresident alien individuals.

§ 520.114 Remittances.

Under Article XII nonresident alien individuals residents of Sweden who are temporarily residing in the United States exclusively for the purposes of study or acquiring business experience and receiving remittances from Sweden for the purposes of their maintenance and studies in the United States are exempt from Federal income tax upon such amounts if and to the extent that such amounts constitute gross income.

§ 520.115 Scope of Article XIV.

(a) *General.* Article XIV (a) has an important bearing upon other articles of the convention. While many preceding articles provide in effect that items of income derived by citizens or residents of the United States or by domestic corporations from sources in Sweden are subject to tax only in Sweden, Article XIV(a) nevertheless permits the imposition of Federal income tax upon such income in the hands of such taxpayers. For example, Article V provides that income from real property, including gains derived from the sale or exchange of such property, shall be taxable only in the contracting State in which such property is situated. Hence, looking at such article without reference to Article XIV a United States citizen realizing such income from real property situated within Sweden would not be subject to Federal income tax upon such income. Article XIV(a), however, prescribes that, notwithstanding Article V or any other article of the convention, the Federal income tax may apply to all items of income without regard to other provisions of the convention and hence all items of income from sources within Sweden, regardless of their treatment in the articles dealing respectively with such items of income, must be included in gross income of United States citizens, residents and corporations for the purposes of the Federal income tax.

(b) *Credit for Swedish income taxes.* (1) Article XIV(a), for the purposes of avoidance of double taxation, further provides that a citizen or resident of the United States or a domestic corporation deriving income from sources within Sweden shall be entitled to a credit against the Federal income tax liability for the amount of Swedish national income and property tax, including surtax, and for the Swedish communal income tax. Such credit is, however, subject to the limitations prescribed in section 131, Internal Revenue Code (relating to the credit for foreign taxes) in that it cannot exceed the same proportion of the tax against which the credit is taken which the taxpayer's net income from sources within Sweden bears to the entire net income, in the case of a taxpayer other than a corporation, or to the normal tax net income, in the case of a corporation, for the same taxable year.

(2) In the application of Article XIV(a), the provisions of section 131, Internal Revenue Code, are in general applicable. See paragraph 6 of the protocol to the convention.

§ 520.116 Reciprocal administrative assistance.

(a) By Article XV of the convention, United States and Sweden adopt the principle of exchange of information and assistance in the service of documents incident to the collection of taxes. It is agreed that such fiscal cooperation shall be carried out in accordance with the laws of the respective countries and hence only such information as is available to the Commissioner under the revenue laws may be used as a source from which to secure the information required to be submitted to the Finance Minister of Sweden.

(b) Pursuant to such principle, withholding agents shall, in the preparation of withholding returns, Form 1042, report on such returns, in addition to the items of income upon which tax has been withheld at the source, those items of income paid to a nonresident alien individual resident in Sweden or to a Swedish corporation or other entity upon which tax has not been withheld at the source. (See § 520.109.) Such return shall show the same information with respect to such items of income upon which tax has not been withheld at the source as is shown with respect to items of income upon which the tax has been withheld at the source.

(c) All information and correspondence relating to exchange of information and to service of documents may be transmitted by the Secretary directly to the Finance Minister of Sweden.

§ 520.117 Information to be furnished in the ordinary course.

(a) In accordance with the provisions of Article XVI (1) (a) and (b) of the convention, the Secretary shall forward to the Finance Minister of Sweden, Stockholm, Sweden, as soon as practicable after the close of the calendar year 1940 and of each calendar year thereafter during which the convention is in effect the following information relating to such preceding calendar year:

(1) The name and address of each person whose address as disclosed on Forms 1012 and 1042 is in Sweden deriving from sources within the United States dividends, interest, royalties, pensions, annuities, or other fixed or determinable annual or periodical income, showing the amount of such income with respect to such person.

(2) The name and address of each person whose address as disclosed by Forms 1000, 1087 and 1099 is in Sweden showing the amount of income set forth on such form with respect to each person.

(b) In accordance with the provisions of Article XVI(1)(c) of the convention, there shall likewise be forwarded any particulars which the Commissioner may obtain incident to the determination of estate tax liability of any decedent from inventories of assets of estates of decedents concerning debts contracted with individuals resident in Sweden or with Swedish corporations or other entities.

§ 520.118 Information in specific cases.

Under the provisions of Article XVIII of the convention and upon request of the Finance Minister of Sweden, made through diplomatic channels and subject to the provisions of Article XIX of the convention, the Secretary will furnish to the Finance Minister of Sweden particulars in case of any specific taxpayer who is a citizen of Sweden or a Swedish corporation or other entity, relating to the application of Swedish national income and property tax and the Swedish communal income tax. In the case of other specific taxpayers, the Secretary will give consideration to requests of the Finance Minister of Sweden with a view to furnishing similar information concerning such taxpayer.

§ 520.119 Mutual assistance in the collection of taxes.

Under the provisions of Article XXI of the convention, the Secretary of the Treasury and the Finance Minister of Sweden are authorized to prescribe rules with respect to those provisions of the convention relating to the exchange of information, service of documents, and mutual assistance in the collection of the taxes to which the convention relates. Such rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of

amounts collected and related matters will be made the subject matter of a common agreement between the competent authorities of the two contracting States concerned and when consummated will be published.

PART 521—DENMARK

Subpart—Withholding of Tax

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AUTHORITY: 26 U.S.C. 62, 143, 144, 211, and 231.

Subpart—Withholding of Tax

SOURCE: Treasury Decision 5692, 14 FR 1123, Mar. 12, 1949, unless otherwise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

EFFECTIVE DATE NOTE: By T.D. 8732, 62 FR 53498, Oct. 14, 1997, Subpart—Withholding of Tax, consisting of §§521.1 through 521.8 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

RELEASE OF EXCESS TAX WITHHELD AND REDUCTION IN RATE OF WITHHOLDING

§521.1 Introductory.

(a) The income tax convention between the United States and the Kingdom of Denmark, signed May 6, 1948, proclaimed by the President of the United States on December 8, 1948, and effective as to taxable years beginning after December 31, 1947 (referred to in this subpart as the convention), provides in part as follows:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income tax, including surtaxes.

(b) In the case of Denmark:

The national income tax, including the war profits tax.

The intercommunal income tax.

The communal income tax.

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term ''United States'' means the United States of America, and when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term ''Denmark'' means the Kingdom of Denmark; the provisions of the Convention shall not, however, extend to the Faroe Islands; nor do they apply to Greenland.

(c) The term ''permanent establishment'' means a branch office, factory, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and exercises a

general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a *bona fide* commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(d) The term ''enterprise of one of the contracting States'' means, as the case may be, ''United States enterprise'' or ''Danish enterprise.''

(e) The term ''enterprise'' includes every form of undertaking whether carried on by an individual, partnership, corporation, or any other entity.

(f) The term ''United States enterprise'' means an enterprise carried on in the United States of America by a resident of the United States of America or by a United States corporation or other entity; the term ''United States corporation or other entity'' means a partnership, corporation or other entity created or organized in the United States of America or under the law of the United States of America or of any State or Territory of the United States of America.

(g) The term ''Danish enterprise'' means an enterprise carried on in Denmark by a resident of Denmark or by a Danish corporation or other entity; the term ''Danish corporation or other entity'' means a partnership, corporation or other entity created or organized in Denmark or under Danish laws.

(h) The term ''competent authorities'' means, in the case of the United States the Commissioner of Internal Revenue or his authorized representative; and in the case of Denmark, the Chief of the Taxation Department of the Ministry of Finance (Generaldirektren for Skattevaesenet) or his authorized representative.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own tax laws.

* * * * *

ARTICLE VI

(1) Dividends shall be taxable only in the contracting State in which the shareholder is resident or, if the shareholder is a corporation or other entity, in the contracting State in which such corporation or other entity is incorporated or organized.

(2) Each of the contracting States reserves, however, the right to collect and retain the tax, which, under its revenue laws, is deductible at the source with respect to such dividends, but the tax shall not exceed 15 percent of the amount of dividends derived from sources within such State by a resident, corporation or other entity of the other State, if the recipient has no permanent establishment in the contracting State from which the dividends are derived.

(3) It is agreed, however, that the rate of dividend tax at the source shall not exceed five percent if the shareholder is a corporation controlling, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the dividend, and if not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate of five percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

ARTICLE VII

Interest on bonds, securities, notes, debentures, or on any other form of indebtedness derived from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from tax by such former State.

ARTICLE VIII

Royalties and other amounts derived as consideration for the right to use copyrights, patents, designs, secret processes and formulas, trade-marks and other like property (including rentals and like payments in respect of motion picture films) derived from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State.

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ARTICLE X

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(2) Private pensions and life annuities derived from within one of the contracting

States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

(3) The term ''life annuities'' as used herein means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in consideration of a gross sum paid for such obligation.

* * * * *

ARTICLE XXII

The competent authorities of the two contracting States may prescribe regulations necessary to interpret and carry out the provisions of this Convention. With respect to the provisions of this Convention relating to exchange of information and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, minimum amounts subject to collection and related matters.

ARTICLE XXIII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) Upon the exchange of instruments of ratification, the present Convention shall have effect.

(a) in the case of United States tax, for the taxable years beginning on or after the first day of January of the year in which such exchange takes place;

(b) in the case of Danish tax, for the taxable years beginning on or after the first day of April of the year in which such exchange takes place.

(3) The present Convention shall continue effective for a period of five years and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective.

(a) As respects United States tax, for the taxable years beginning on or after the first day of January next following the expiration of the six-month period;

(b) As respects Danish tax, for the taxable years beginning on or after the first day of April next following the expiration of the six-month period.

* * * * *

(b) As used in this subpart, unless the context otherwise requires, the terms defined in the above articles of the convention shall have the meanings so assigned to them.

§ 521.2 Dividends.

(a) *General.* The rate of tax imposed by section 211(a) of the Internal Revenue Code (relating to nonresident alien individuals not engaged in trade or business within the United States) and by section 231(a) of the Internal Revenue Code (relating to foreign corporations not engaged in trade or business within the United States) is 30 percent. Such rate is reduced under Article VI of the convention to 15 percent in the case of dividends received on or after January 1, 1948, from sources within the United States by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Denmark or by a Danish corporation if such alien or corporation at no time during the taxable year had a permanent establishment within the United States. As to what is a Danish corporation, see Article II(1)(g) of the convention. Thus, if a nonresident alien who is a resident of Denmark performs personal services within the United States during the calendar year 1948, but has at no time during such year a permanent establishment within the United States, he is entitled to the reduced rate of tax with respect to dividends derived in that year from United States sources, as provided in Article VI of the convention, even though by reason of his having rendered personal services within the United States he is engaged in trade or business therein in that year within the meaning of section 211(b) of the Internal Revenue Code. As to what constitutes a permanent establishment, see Article II(1)(c) of the convention.

(b) *Dividends paid by a United States subsidiary corporation.* (1) Under the provisions of Article VI (3) of the convention, dividends paid by a domestic corporation to a Danish corporation controlling, directly or indirectly, at the time the dividend is paid, 95 percent or more of the entire voting power in such domestic corporation, are subject to tax at the rate of only 5 percent, if (i) not more than 25 percent of

the gross income of such paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid consists of dividends and interest (other than dividends and interest paid to such domestic corporation by its own subsidiary corporations, if any, and (ii) the relationship between such domestic corporation and such Danish corporation has not been arranged or maintained primarily with the intention of securing such reduced rate of 5 percent.

(2) Any domestic corporation which claims or contemplates claiming that dividends paid or to be paid by it on or after January 1, 1948, are subject only to the 5 percent rate shall file, as soon as practicable, with the Commissioner of Internal Revenue, the following information: (i) the date and place of its organization; (ii) the number of outstanding shares of stock of the domestic corporation having voting power and the voting power thereof; (iii) the person or persons beneficially owning such stock of the domestic corporation and their relationship to the Danish corporation; (iv) the amount of gross income, by years, of the paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid; (v) the amount of interest and dividends, by years, included in the gross income of such domestic corporation and the amount of interest and dividends, by years, received by such corporation from its subsidiary corporations, if any; and (vi) the relationship between the domestic corporation and the Danish corporation to which it pays the dividend.

(3) As soon as practicable after such information is filed, the Commissioner of Internal Revenue will determine whether the dividends concerned fall within the provisions of Article VI (3) of the convention and may authorize the release of excess tax withheld with respect to dividends which come within such provision. In any case in which the Commissioner of Internal Revenue has notified such domestic corporation that the dividends come within such provision, the reduced rate of 5 percent applies to any dividends subsequently paid by such corporation to the Danish corporation unless the stock ownership of the domestic corporation, or the character of its income, materially changes, and, if such change or changes occur, such corporation shall promptly notify the Commissioner of Internal Revenue of the then existing facts with respect to such stock ownership or income.

(c) *Effect on withholding in case of dividends of address in Denmark.* For the purposes of withholding of the tax in the case of dividends, every nonresident alien (including a nonresident alien individual, fiduciary or partnership) whose address is in Denmark shall be deemed by United States withholding agents to be a resident of Denmark not having a permanent establishment in the United States and every corporation whose address is in Denmark shall be deemed by such withholding agents to be a Danish corporation not having a permanent establishment in the United States.

(d) *Rate of withholding.* (1) On and after January 1, 1949, withholding in the case of dividends paid to nonresident aliens (including a nonresident alien individual, fiduciary or partnership) and to foreign corporations, whose addresses are in Denmark, shall (except (i) in any case in which prior to the date of payment of such dividend, the Commissioner of Internal Revenue has notified the paying corporation that such dividend falls within the provisions of Article VI (3) of the convention, and (ii) in any case in which the Commissioner notifies the withholding agent that the reduced rate shall not apply), be at the rate of 15 percent.

(2) The preceding provisions relative to residents of Denmark and to Danish corporations are based upon the assumption that the payee of the dividend is the actual owner of the capital stock from which the dividend is derived and consequently is the person liable to the tax upon such dividend. As to action by the recipient who is not the owner of the dividend, see §521.7.

§521.3 Interest.

(a) *General.* Interest, whether on bonds, securities, notes, debentures, or any other form of indebtedness (including interest on obligations of the

United States and on obligations of instrumentalities of the United States), received on or after January 1, 1948, from sources within the United States by (1) a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Denmark, or (2) a Danish corporation, is exempt from United States tax under the provisions of Article VII of the convention if such alien or corporation at no time during the taxable year in which such interest is so received had a permanent establishment in the United States. Such interest is, therefore, not subject to the withholding provisions of the Internal Revenue Code.

(b) *Exemption from withholding.* (1) To obviate withholding at the source in the case of coupon bond interest, the nonresident alien resident in Denmark or the Danish corporation shall submit Form 1001–D, in duplicate, to the paying agent with each presentation of interest coupons. Such form shall be signed by the owner of the interest, trustee or agent, and shall show the name and address of the obligor, and the name and address of the owner of such interest and the amount of such interest. Such form shall contain a statement that the owner is a resident of Denmark or a Danish corporation and that such owner has no permanent establishment in the United States.

(2) The exemption from United States tax contemplated by Article VII of the convention, insofar as it concerns coupon bond interest, is an exemption applicable only to the owner of such interest. The person presenting such coupon or on whose behalf it is presented shall, for the purpose of the exemption, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon is not the owner of the bond, Form 1001, and not Form 1001–D, shall be executed.

(3) The original and duplicate ownership certificates, Form 1001–D, must be forwarded to the Commissioner with the quarterly return, Form 1012, as provided in existing regulations with respect to Form 1001. See §29.143–7 of Regulations 111 (26 CFR 1949 ed. Supps. 29.143–7) [and §39.143–7 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)]. Form 1001–D need not be listed on Form 1012.

(4) In the case of interest coupons presented in Denmark by a nonresident alien who is not a resident of Denmark or by a foreign corporation other than a Danish corporation, ownership certificates, Form 1001, shall be filed as provided in existing regulations without reference to the provisions of the convention. See §29.143–4 of Regulations 111 (26 CFR 1949 ed. Supps. 29.143–4) [and §39.143–4 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)].

(5) To avoid withholding at the source in the case of interest other than interest payable by means of coupons, the nonresident alien who is a resident of Denmark, or the Danish corporation, shall file Form 1001A–D, in duplicate, with the withholding agent in the United States. Such form shall be signed by the owner of the income, trustee or agent, and shall show the name and address of the obligor and the name and address of the owner of such interest. Such form shall contain a statement that the owner is a resident of Denmark or is a Danish corporation and that the owner has no permanent establishment in the United States.

(6) Form 1001A–D must be filed for each three calendar year period and the first such form filed by the taxpayer with any withholding agent should be filed not later than 20 days preceding the date of the first payment of income in such period. If the taxpayer files such form with the withholding agent in the calendar year 1948 or in any subsequent calendar year no additional Form 1001A–D need be filed prior to the end of the two calendar years immediately following the calendar year in which such form is so filed unless the Commissioner notifies the withholding agent that an additional Form 1001A–D must be filed by the taxpayer at any earlier date. The duplicate of Form 1001A–D should be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Records Division, Washington 25, D.C.

§521.4 Patent and copyright royalties and film rentals.

(a) Royalties and other like amounts received on or after January 1, 1948, by (1) a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Denmark or (2) a Danish corporation, as consideration for the right to use copyrights, patents, designs, secret processes and formulae, trademarks, and other like property, including rentals and like payments in respect of motion picture films, are exempt from United States tax under the provisions of Article VIII of the convention if such alien or corporation had at no time during the taxable year in which such royalty or other amount was so received a permanent establishment in the United States. Such items are, therefore, not subject to the withholding provisions of the Internal Revenue Code. As to what constitutes a permanent establishment, see Article II(1)(c) of the convention.

(b) To obviate withholding at the source, the nonresident alien who is a resident of Denmark, or the Danish corporation shall file Form 1001A–D, in duplicate, with the withholding agent in the United States. Such form shall be signed by the owner of the income, trustee or agent and shall contain the statements provided on such form with respect to interest as set forth in §521.3, the provisions of which with respect to the effective period of such form are equally applicable with respect to the income falling within the scope of this section. The duplicate copy of Form 1001A–D should be immediately forwarded by the withholding agent to the Commissioner of Internal Revenue, Records Division, Washington 25, D.C.

§521.5 Private pensions and life annuities.

(a) Under Article X(2) of the convention private pensions and life annuities derived on or after January 1, 1948, from sources within the United States by a nonresident alien individual who is a resident of Denmark are exempt from United States tax.

(b) The person paying such income should be notified by letter from the resident of Denmark that the income is exempt from taxation under the provisions of Article X(2) of the convention. Such letter shall contain the address of the individual and a statement that such individual is a resident of Denmark. The letter of notification, or a copy thereof, should be immediately forwarded by the recipient to the Commissioner of Internal Revenue, Records Division, Washington 25, D.C. Such letter shall constitute authorization to the payor of the income to pay such income without deduction of the tax at the source unless the Commissioner subsequently notifies such payor that the tax should be withheld with respect to payments made after such notification.

§521.6 Release of excess tax withheld at source.

(a) *General.* (1) In order to bring the convention into force and effect at the earliest practicable date:

(i) The reduced rate of tax of 15 percent to be withheld at the source on dividends, and

(ii) Exemption from tax otherwise withheld at the source on interest, patent royalties, copyright royalties, film rentals and the like,

are hereby made effective beginning January 1, 1948 in any case in which such dividends, interest, patent royalties, copyright royalties, film rentals and the like are derived from sources within the United States by a nonresident alien including a nonresident alien individual, fiduciary and partnership who is a resident of Denmark, or a Danish corporation.

(2) Accordingly, in the case of dividends paid to a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) whose address at the time of payment was in Denmark, or to a Danish corporation whose address at the time of payment was in Denmark, where tax at the rate of 30 percent has been withheld on or after January 1, 1948, from dividends, there shall be released by the withholding agent and paid over to the person from whom it was withheld an amount equal to 15 percent of such dividends.

(3) In the case of every such taxpayer who furnishes to the withholding agent Form 1001–D, as prescribed in §521.3 or

521.4, where tax at the rate of 30 percent has been withheld on or after January 1, 1948, there shall be released by the withholding agent and paid over to the person from whom withheld an amount equal to the amount so withheld in the case of interest (as to coupon bond interest, see paragraph (4) of this paragraph), patent royalties, copyright royalties, film rentals and the like.

(4) In the case of every such taxpayer who furnishes to the withholding agent Form 1001–D, in duplicate, where tax at the rate of 28 percent or 30 percent, as the case may be, has been withheld on or after January 1, 1948, from coupon bond interest, there shall be released by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax withheld from such interest. Form 1001–D used for this purpose should be clearly marked ''Substitute'' in order to replace Forms 1001 previously filed. One Form 1001–D, in duplicate, may be used to replace two or more Forms 1001. The form marked ''Substitute'' is to be used solely for the release of excess tax withheld in 1948. The use of Form 1001–D for the purpose of exemption upon presentation of interest coupons is set forth in §521.3 (b).

(b) *Private pensions and life annuities paid in 1948 or subsequent years.* (1) In order to bring the convention into force and effect at the earliest practicable date, the exemption from tax otherwise withheld at the source on private pensions and life annuities is made effective beginning January 1, 1948, in any case in which such pensions and life annuities are derived from sources within the United States by a nonresident alien individual who is a resident of Denmark.

(2) The person paying such income should be notified by letter from the resident of Denmark that the income is exempt from taxation under the provisions of Article X(2) of the convention. See §521.5. Such letter will constitute authorization to the payor of the income to release the tax withheld on or after January 1, 1948, with respect to such pensions or life annuities.

(c) *Subsidiary's dividends.* With respect to a dividend paid on or after January 1, 1948, by a domestic corporation to a Danish corporation whose address is in Denmark, tax shall be withheld in accordance with the provisions of §521.2 unless prior to the date of payment of such dividend the Commissioner of Internal revenue has notified the paying corporation that such dividend falls within the scope of Article VI (3) of the convention. As soon as practicable after information required under §521.2 (b) is filed, the Commissioner of Internal Revenue will determine whether the dividend involved falls within the scope of Article VI (3) and may authorize the release of the excess tax withheld with respect to dividends which come within the scope of such provision.

§521.7 Addressee not actual owner.

(a) If the recipient in Denmark of any dividend from sources within the United States is a nominee or representative through whom the dividend flows to a person other than a person described in §521.2(a) as being entitled to the reduced rate of 15 percent provided in Article VI of the convention, such recipient in Denmark will withhold an additional amount of United States tax equivalent to the difference between the United States tax which would have been withheld had the convention not been in effect (30 percent as at the date of approval of this subpart) and the 15 percent withheld at the source with respect to such dividend pursuant to §521.2.

(b) In any case in which a fiduciary or a partnership with an address in Denmark receives, otherwise than as a nominee or representative, a dividend from a United States corporation, if a beneficiary of such fiduciary or a partner in such partnership is not entitled to the reduced rate of tax provided in Article VI of the convention, the fiduciary or partnership will withhold an additional amount of United States tax with respect to the portion of such dividend included in such beneficiary's or partner's net distributive share of the income of such fiduciary or partnership, as the case may be. The rate of the additional tax is calculated in the same manner as under paragraph (a) of this section.

(c) The amounts so withheld by the withholding agent in Denmark will, on

or before the 15th day after the close of the calendar year quarter in which such withholding has taken place, be deposited with the Danish National Bank (Danmarks Nationalbank) without converting such amounts into dollars. Each withholding agent making such deposit will accompany such deposit with the appropriate Danish form executed as required by the Danish National Bank. The Danish National Bank has arranged to remit, on or before the end of the calendar month in which such deposit is so made, by draft in United States dollars, the amounts so deposited to the District Director of Internal Revenue, Baltimore, Maryland, U.S.A., forwarding with such draft the appropriate Danish form filed by the withholding agents.

§ 521.8 Beneficiaries of a domestic estate or trust.

A nonresident alien who is a resident of Denmark and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption, or reduction in the rate of tax, as the case may be, provided in Articles VI, VII and VIII if the convention with respect to dividends, interest and royalties to the extent such item or items are included in his distributive share of income of such estate or trust. In such case such beneficiary must, in order to be entitled to the exemption or reduction in the rate of tax, in the case of interest or royalties, execute Form 1001A–D and file such form with the fiduciary of such estate or trust in the United States.

Subpart—General Income Tax

SOURCE: Treasury Decision 5777, 15 FR 1595, Mar. 22, 1950, unless otherwise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

TAXATION OF NONRESIDENT ALIENS WHO ARE RESIDENTS OF DENMARK AND OF DANISH CORPORATIONS

§ 521.101 Introductory.

The income tax convention between the United States and the Kingdom of Denmark, signed May 6, 1948, proclaimed (with reservations thereto) by the President of the United States on December 8, 1948, and effective for taxable years beginning on and after January 1, 1948 (referred to in this subpart as the convention), provides in part as follows:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income tax, including surtaxes.

(b) In the case of Denmark:

The national income tax, including the war profits tax.

The intercommunal income tax.

The communal income tax.

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term ''United States'' means the United States of America, and when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term ''Denmark'' means the Kingdom of Denmark; the provisions of the Convention shall not, however, extend to the Faroe Islands; nor do they apply to Greenland.

(c) The term ''permanent establishment'' means a branch office, factory, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and exercises a general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a bona fide commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(d) The term ''enterprise of one of the contracting States'' means, as the case may be,

''United States enterprise'' or ''Danish enterprise''.

(e) The term ''enterprise'' includes every form of undertaking whether carried on by an individual, partnership, corporation, or any other entity.

(f) The term ''United States enterprise'' means an enterprise carried on in the United States of America by a resident of the United States of America or by a United States corporation or other entity; the term ''United States corporation or other entity'' means a partnership, corporation or other entity created or organized in the United States of America or under the law of the United States of America or of any State or Territory of the United States of America.

(g) The term ''Danish enterprise'' means an enterprise carried on in Denmark by a resident of Denmark or by a Danish corporation or other entity; the term ''Danish corporation or other entity'' means a partnership, corporation, or other entity created or organized in Denmark or under Danish laws.

(h) The term ''competent authorities'' means, in the case of the United States, the Commissioner of Internal Revenue or his authorized representative; and in the case of Denmark, the Chief of the Taxation Department of the Ministry of Finance (Generaldirektoren for Skattevaesenet) or his authorized representative.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined, shall, unless the context otherwise requires, have the meaning which such term has under its own tax laws.

ARTICLE III

(1) An enterprise of one of the contracting States shall not be subject to taxation in the other contracting State in respect of its industrial and commercial profits unless it is engaged in trade or business in such other State through a permanent establishment situated therein. If it is so engaged such other State may impose its tax upon the entire income of such enterprise from sources within such other State.

(2) In determining the industrial or commercial profits from sources within the territory of one of the contracting States of an enterprise of the other contracting State, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the territory of the former contracting State by such enterprise.

(3) Where an enterprise of one of the contracting States is engaged in trade or business in the territory of the other contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment and the profits so attributed shall, subject to the law of such other contracting State, be deemed to be income from sources within the territory of such other contracting State.

ARTICLE IV

Where an enterprise of one of the contracting States, by reason of its participation in the management or the financial structure of an enterprise of the other contracting State, makes with or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would normally have accrued to one of the enterprises but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

(1) Income which an enterprise of one of the contracting States derives from the operation of ships or aircraft registered in that State shall be exempt from taxation in the other contracting State.

(2) The present Convention shall not be deemed to affect the arrangement between the United States and Denmark providing for relief from double income taxation on shipping profits, effected by exchanges of notes dated May 22, August 9 and 18, October 24, 25, and 28, and December 5 and 6, in the year 1922.

ARTICLE VI

(1) Dividends shall be taxable only in the contracting State in which the shareholder is resident or, if the shareholder is a corporation or other entity, in the contracting State in which such corporation or other entity is incorporated or organized.

(2) Each of the contracting States reserves, however, the right to collect and retain the tax which, under its revenue laws, is deductible at the source with respect to such dividends, but the tax shall not exceed 15 percent of the amount of dividends derived from sources within such State by a resident, corporation or other entity of the other State, if the recipient has no permanent establishment in the contracting State from which the dividends are derived.

(3) It is agreed, however, that the rate of dividend tax at the source shall not exceed five percent if the shareholder is a corporation controlling, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the dividend, and if not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends, other than interest

and dividends received from its own subsidiary corporations. Such reduction of the rate to five percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

ARTICLE VII

Interest on bonds, securities, notes, debentures, or on any other form of indebtedness derived from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from tax by such former State.

ARTICLE VIII

Royalties and other amounts derived as consideration for the right to use copyrights, patents, designs, secret processes and formulas, trade-marks and other like property (including rentals and like payments in respect of motion picture films) derived from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State.

ARTICLE IX

(1) Income from real property (not including interest derived from mortgages and bonds secured by real property) and royalties in respect of the operation of mines, quarries, or other natural resources, shall be taxable only in the contracting State in which such property, mines, quarries, or other natural resources are situated.

(2) A resident or corporation of one of the contracting States deriving any such income from sources within the other contracting State may, for any taxable year, elect to be subject to the tax of such other contracting State, on a net basis, as if such resident or corporation were engaged in trade or business within such other contracting State through a permanent establishment therein during such taxable year.

ARTICLE X

(1) Wages, salaries, and similar compensation and pensions paid by one of the contracting States or by any other public authority within that State to individuals residing in the other State shall be taxable only in the former State.

(2) Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

(3) The term ''life annuities'' as used herein means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in consideration of a gross sum paid for such obligation.

ARTICLE XI

(1) Compensation for labor or personal services, including the practice of the liberal professions, shall be taxable only in the contracting State in which such services are rendered.

(2) The provisions of paragraph (1) are, however, subject to the following exceptions:

(a) A resident of Denmark shall be exempt from United States tax upon compensation for labor or personal services if he is temporarily present in the United States for a period or periods not exceeding a total of ninety days during the taxable year and the compensation received for such services does not exceed $3,000 in the aggregate. If, however, his compensation is received for labor or personal services performed as an employee of, or under contract with, a resident or corporation or other entity of Denmark, he will be exempt from United States tax if his stay in the United States does not exceed a total of 180 days during the taxable year.

(b) The provisions of paragraph (2)(a) of this Article shall apply mutatis mutandis, to a resident of the United States with respect to compensation for personal services otherwise subject to income tax in Denmark.

(3) The provisions of this Article shall have no application to the income to which Article X (1) relates.

ARTICLE XII

Gains derived in one of the contracting States from the sale or exchange of capital assets by a resident or corporation or other entity of the other contracting State shall be exempt from taxation in the former State if such resident or corporation or other entity is not engaged in trade or business in such former State. [This Article deleted by reservation, see President's Proclamation hereinafter.]

ARTICLE XIII

Students or apprentices, citizens of one of the contracting States, residing in the other contracting State exclusively for purposes of study or for acquiring business experience, shall not be taxable in the latter State in respect of remittances (other than their own income) received by them from abroad for the purposes of their maintenance or studies.

ARTICLE XIV

A professor or teacher, a resident of one of the contracting States, who temporarily visits the territory of the other contracting State for the purpose of teaching for a period not exceeding two years at a university, college, school or other educational institution

in the other contracting State, shall be exempted in such other contracting State from tax on his remuneration for such teaching for such period.

ARTICLE XV

It is agreed that double taxation shall be avoided in the following manner:

(a) The United States in determining the income taxes, including surtaxes, of its citizens, residents or corporations may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income taxable under the revenue laws of the United States as if this convention had not come into effect. The United States shall, however, subject to the provisions of section 131, Internal Revenue Code, deduct from its taxes the amount of Danish taxes specified in Article I of this Convention.

(b) Denmark, in determining its taxes specified in Article I of this Convention, may regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income subject to such taxes under the taxation laws of Denmark. Denmark shall, however, deduct from the taxes so calculated the United States tax on income coming within the provisions of Articles III, IX, X (1), XIII and XIV of this Convention and on earned income earned within the United States, but in an amount not exceeding that proportion of the Danish taxes which such income bears to the entire income subject to tax by Denmark. Denmark will also allow as a deduction from its taxes an amount equal to 15 percent (five percent in the case of dividends covered by Article VI (3)) of the gross amount of dividends (reduced by the United States tax applicable to such dividends) from sources within the United States.

ARTICLE XVI

(1) The citizens of one of the contracting States shall not, while resident in the other contracting State, be subjected therein to other or more burdensome taxes than are the citizens of such other contracting State residing in its territory. As used in this paragraph:

(a) The term ''citizens'' includes all legal persons, partnerships, and associations created or organized under the laws in the respective contracting States, and

(b) The term ''taxes'' means taxes of every kind or description whether national, Federal, state, provincial or municipal.

(2) It is agreed that section 25, paragraph 5, of the Danish law No. 391 of July 12, 1946, prescribing an addition of 50 percent of the capital increment tax on corporations in cases where more than 50 percent of the entire stock capital is owned by a single shareholder residing outside Denmark, shall not be applicable when the shareholder in question is a resident of the United States or a United States corporation or other entity.

ARTICLE XVII

The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against tax avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

ARTICLE XVIII

(1) The contracting States undertake to lend assistance and support to each other in the collection of the taxes which are the subject of the present Convention, together with interest, costs, and additions to the taxes.

(2) In the case of application for enforcement of taxes, revenue claims of each of the contracting States which have been finally determined may be accepted for enforcement by the other contracting State and may be collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes.

(3) Any application shall include a certification that under the laws of the State making the application the taxes have been finally determined.

(4) The assistance provided for in this Article shall not be accorded with respect to the citizens, corporations, or other entities of the State to which application is made, except as is necessary to insure that the exemption or reduced rate of tax granted under the present Convention to such citizens, corporations, or other entities shall not be enjoyed by persons not entitled to such benefits.

ARTICLE XIX

The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it except that such State may refuse to comply with the request for reasons of public policy or if compliance would involve violation of a trade, business, industrial or professional secret or trade process.

ARTICLE XX

Where a taxpayer shows proof that the action of the revenue authorities of the contracting States has resulted in double taxation in his case in respect of any of the taxes to which the present Convention relates, he shall be entitled to lodge a claim with the State of which he is a citizen or, if he is not a citizen of either of the contracting States, with the State of which he is a resident, or, if the taxpayer is a corporation or other entity, with the State in which it is created or organized. Should the claim be upheld, the competent authority of such State may come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

ARTICLE XXI

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

(3) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

ARTICLE XXII

The competent authorities of the two contracting States may prescribe regulations necessary to interpret and carry out the provisions of this Convention. With respect to the provisions of this Convention relating to exchange of information and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, minimum amounts subject to collection and related matters.

ARTICLE XXIII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) Upon the exchange of instruments of ratification, the present Convention shall have effect.

(a) In the case of United States tax, for the taxable years beginning on or after the first day of January of the year in which such exchange takes place;

(b) In the case of Danish tax, for the taxable years beginning on or after the first day of April of the year in which such exchange takes place.

(3) The present Convention shall continue effective for a period of five years and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective.

(a) As respects United States tax, for the taxable years beginning on or after the first day of January next following the expiration of the six-month period;

(b) As respects Danish tax, for the taxable years beginning on or after the first day of April next following the expiration of the six-month period.

Done at Washington, in duplicate, in the English and Danish languages, the two texts having equal authenticity, this 6th day of May 1948.

For the President of the United States of America:

[SEAL]

G. C. MARSHALL.

For his Majesty the King of Denmark:

[SEAL]

HENRIK KAUFFMAN.

PROCLAMATION OF THE PRESIDENT OF THE UNITED STATES DATED DECEMBER 8, 1948

* * * * *

And whereas the Senate of the United States of America, by their resolution of June 17, 1948, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the aforesaid convention subject to a reservation, as follows:

The Government of the United States of America does not accept Article XII of the convention relating to gains from the sale or exchange of capital assets.

And whereas the text of the aforesaid reservation was communicated by the Government of the United States of America to the Government of Denmark and thereafter the Government of Denmark gave notice of its acceptance of the aforesaid reservation;

And whereas the aforesaid convention was duly ratified by the President of the United States of America on November 24, 1948, in pursuance of the aforesaid advice and consent of the Senate and subject to the aforesaid reservation, and the said convention, with the exception of Article XII thereof, was duly ratified on the part of Denmark;

And whereas the respective instruments of ratification of the aforesaid convention were duly exchanged at Washington on December

1, 1948, and a protocol of exchange of instruments of ratification, in the English and Danish languages, was signed on that date by the respective Plenipotentiaries of the United States of America and Denmark, the English text of which protocol reads in part: ''it is the understanding of both Governments that Article XII of the convention aforesaid shall be deemed to be deleted and of no effect.'';

* * * * *

§ 521.102 Applicable provisions of the Internal Revenue Code.

(a) The Internal Revenue Code provides in part as follows:

CHAPTER I—INCOME TAX

* * * * *

SEC. 22. GROSS INCOME.

* * * * *

(b) *Exclusions from gross income.* The following items shall not be included in gross income and shall be exempt from taxation under this chapter:

* * * * *

(7) *Income exempt under treaty.* Income of any kind, to the extent required by any treaty obligation of the United States;

* * * * *

SEC. 62. RULES AND REGULATIONS. The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

(b) Pursuant to section 62 of the Internal Revenue Code, other provisions of the internal revenue laws, and to Article XXII of the convention, the following regulations, which are designated as §§ 521.101 to 521.117 are hereby prescribed and all regulations inconsistent herewith are modified accordingly.

§ 521.103 Scope of the convention.

(a) The primary purposes of the convention, to be accomplished on a reciprocal basis, are to avoid double taxation upon major items of income derived from sources in one country by persons resident in, or by corporations of, the other country, and to provide for administrative cooperation between the competent tax authorities of the two countries looking to the avoidance of double taxation and fiscal evasion.

(b) The specific classes of income from sources within the United States exempt under the convention from United States tax for taxable years beginning on and after January 1, 1948, are:

(1) Industrial and commercial profits of a Danish enterprise having no permanent establishment in the United States (Article III);

(2) Income derived by a nonresident alien who is a resident of Denmark, or by a Danish corporation, from the operation of ships or aircraft registered in Denmark (Article V);

(3) Interest and royalties (including motion picture film rentals) derived by a nonresident alien who is a resident of Denmark or by a Danish corporation if such alien or corporation has no permanent establishment in the United States (Articles VII and VIII);

(4) Compensation and pensions paid by Denmark to aliens for services rendered to Denmark (Article X(1));

(5) Private pensions and life annuities derived by nonresident alien individuals residing in Denmark (Article X(2));

(6) Compensation, subject to certain limitations, for personal services derived by a nonresident alien who is a resident of Denmark (Article XI);

(7) Remittances from sources outside the United States received in the United States by a Danish citizen who is temporarily present in the United States for the purposes of study or for acquiring business experience, such remittances being for the purpose of his maintenance or studies (Article XIII);

(8) Remuneration derived from teaching in the United States for a period of not more than two years by a professor or teacher who is a resident of Denmark but who is temporarily present in the United States (Article XIV).

(c) The convention also reduces to 15 percent the rate of tax otherwise imposed upon dividends derived by a nonresident alien who is a resident of Denmark, or by a Danish corporation, if such alien or corporation has no permanent establishment in the United States (Article VI).

(d) As to exemption from withholding of the tax at the source in the case of interest, royalties, pensions and life annuities, and reduction in the rate of tax from 30 percent to 15 percent in the case of dividends, see Treasury Decision 5692, approved March 8, 1949 (§§ 521.1 to 521.8).

(e) The convention does not affect the liability to United States income taxation of citizens of Denmark who are residents of the United States except that such individuals are entitled to the benefits of Article XV (relating to credit for Danish income tax), and of Article XVI (relating to equality of taxation). Except as provided in Article XV, relating to the credit for income tax, the convention does not affect taxation by the United States of a citizen of the United States or of a domestic corporation, even though such citizen is resident in Denmark and such corporation is engaged in trade or business in Denmark.

EFFECTIVE DATE NOTE: By T.D. 8732, 62 FR 53498, Oct. 14, 1997, § 521.103 was amended by removing and reserving paragraph (d), effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

§ 521.104 Definitions.

(a) As used in §§ 521.101 to 521.117, unless the context otherwise requires, the terms defined in the convention shall have the meanings so assigned to them. Any term used in §§ 521.101 to 521.117, which is not defined in the convention but which is defined in the Internal Revenue Code shall be given the definition contained therein unless the context otherwise requires.

(b) As used in §§ 521.101 to 521.117.

(1) The term ''permanent establishment'' means a branch office, factory, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities. The fact that a Danish corporation has a domestic subsidiary corporation or a foreign subsidiary corporation having a branch in the United States, does not of itself constitute either subsidiary corporation a permanent establishment of the parent Danish enterprise. The fact that a Danish enterprise has business dealings in the United States through a bona fide commission agent, broker, or custodian, acting in the ordinary course of his business as such, or maintains in the United States an office or other fixed place of business used exclusively for the purchase of goods or merchandise, does not mean that such Danish enterprise has a permanent establishment in the United States. If, however, a Danish enterprise carries on business in the United States through an agent who has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or if it has an agent who maintains within the United States a stock of merchandise from which he regularly fills orders on behalf of his principal, then such enterprise shall be deemed to have a permanent establishment in the United States. However, an agent having power to contract on behalf of his principal but only at fixed prices and under conditions determined by the principal does not necessarily constitute a permanent establishment of such principal. The mere fact that an agent (assuming he has no general authority to contract on behalf of his employer or principal) maintains samples or occasionally fills orders from incidental stocks of goods maintained in the United States will not constitute a permanent establishment within the United States. The mere fact that salesmen, employees of a Danish enterprise, promote the sale of their employer's products in the United States or that such enterprise transacts business in the United States by means of mail order activities, does not mean such enterprise has a permanent establishment therein. The term ''permanent establishment'' as used in the convention implies the active conduct therein of a business enterprise. The mere ownership, for example, of timberlands or a warehouse in the United States by a Danish enterprise does not mean that such enterprise has a permanent establishment therein. As to the effect of the maintenance of a permanent establishment within the United States upon exemption from United States tax in the case of interest and royalties and reduction in the

rate of United States tax in the case of dividends, see § 521.108.

(2) The term ''enterprise'' means any commercial or industrial undertaking whether conducted by an individual, partnership, corporation, or other entity. It includes such activities as manufacturing, merchandising, mining, processing, and banking. It does not include the rendition of personal services. Hence, a non resident alien who is a resident of Denmark and who renders personal services is not, merely by reason of such services, engaged in an enterprise within the meaning of the convention and his liability to United States tax is not affected by Article III of the convention.

(3) The term ''Danish enterprise'' means an enterprise carried on in Denmark by a resident of Denmark or by a Danish corporation or other entity. The term ''Danish corporation or other entity'' means a partnership, corporation or other entity created or organized in Denmark or under the laws of Denmark.

(4) The term ''industrial or commercial profits'' means profits arising from industrial, commercial, mercantile, manufacturing, and like activities of a Danish enterprise as defined in this section. Such term does not include rentals, royalties, interest, dividends, fees, compensation for personal services, nor gains derived from the sale or exchange of capital assets. Such enumerated items of income are not governed by the provisions of Article III of the convention.

§ 521.105 Scope of convention with respect to determination of "industrial or commercial profits".

(a) *General.* Article III of the convention adopts the principle that an enterprise of one of the contracting States shall not be taxable by the other contracting State upon its industrial or commercial profits unless it has a permanent establishment in the latter State. Hence, a Danish enterprise is subject to United States tax upon its industrial and commercial profits to the extent of such profits from sources within the United States only if it has a permanent establishment within the United States. From the standpoint of Federal income taxation, the article has application only to a Danish enterprise and to the industrial and commercial income thereof from sources within the United States. It has no application for example, to compensation for labor or personal services performed in the United States nor to income derived from real property located in the United States, including rentals and royalties therefrom, nor to gains from the sale or disposition of such property, nor to interest, dividends, royalties, other fixed or determinable annual or periodical income and gains derived from the sale or exchange of capital assets.

(b) *No United States permanent establishment.* A nonresident alien (including a nonresident alien individual, fiduciary and partnership) who is a resident of Denmark or a Danish corporation, carrying on an enterprise in Denmark and having no permanent establishment in the United States, is not for taxable years beginning on or after January 1, 1948, subject to United States income tax upon industrial or commercial profits from sources within the United States. For example, if the Danish enterprise carried on by such alien or corporation sells, in 1948, merchandise, such as silverware, dairy products, or liquors, through a bona fide commission agent or broker in the United States acting in the ordinary course of his business as such agent or broker, the resulting profits are, under the terms of Article III of the convention, exempt from United States income tax. Likewise no permanent establishment exists and no United States income tax attaches to such profits if such enterprise, through its sales agents in the United States, secures orders for its products, the sales being made in Denmark.

(c) *United States permanent establishment.* A nonresident alien (including a nonresident alien individual, fiduciary and partnership), who is a resident of Denmark, or a Danish corporation, whether or not carrying on a Danish enterprise, having a permanent establishment in the United States, is subject to tax upon industrial or commercial profits from sources within the United States to the same extent as are nonresident aliens and foreign corporations engaged in trade or business

therein. In the determination of the income taxable to such alien or foreign corporation all industrial and commercial profits from sources within the United States shall be deemed to be allocable to the permanent establishment in the United States. Hence, for example, if a Danish enterprise having a permanent establishment in the United States sells in the United States, through a commission agent therein goods produced in Denmark, the resulting profits derived from United States sources from such transactions are allocable to such permanent establishment even though such transactions were carried on independently of such establishment. In determining industrial and commercial profits no account shall be taken of the mere purchase of merchandise within the United States by the Danish enterprise. The industrial or commercial profits of the permanent establishment shall be determined as if the establishment were an independent enterprise engaged in the same or similar activities and dealing at arm's length with the enterprise of which it is a permanent establishment.

§ 521.106 Control of a domestic enterprise by a Danish enterprise.

Article IV of the convention provides, in effect, that if a Danish corporation by reason of its control of a domestic enterprise imposes on such later enterprise conditions different from those which would result from normal business relations between independent enterprises, the accounts between the enterprises may be adjusted so as to ascertain the true net income of each enterprise. The purpose is to place the controlled domestic enterprise on a tax parity with an uncontrolled domestic enterprise by determining, according to the standard of an uncontrolled enterprise, the true net income from the property and business of the controlled enterprise. The basic objective of the article is that if the accounting records do not truly reflect the net income from the property and business of such domestic enterprise the Commissioner of Internal Revenue may intervene and, by making such distributions, apportionments, or allocations as he may deem necessary of gross income or deductions of any item or element affecting net income as between such domestic enterprise and the Danish enterprise by which it is controlled or directed, determine the true net income of the domestic enterprise. The provisions of § 29.45–1 of Regulations 111 (26 CFR 1949 ed. Supps. 29.45–1) [and § 39.45–1 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)] shall, insofar as applicable, be followed in the determination of the net income of the domestic business.

§ 521.107 Income from operation of ships or aircraft.

The income derived from the operation of ships or aircraft registered in Denmark by a nonresident alien who is a resident of Denmark, or by a Danish corporation, and carrying on an enterprise in Denmark, is, for taxable years beginning on or after January 1, 1948, exempt from United States income tax under the provisions of Article V of the convention.

§ 521.108 Exemption from, or reduction in rate of, United States tax in the case of dividends, interest and royalties.

(a) *Dividends*—(1) *General.* The tax imposed by the Internal Revenue Code in the case of dividends received from sources within the United States by (i) a nonresident alien (including a nonresident alien individual, fiduciary and partnership) who is a resident of Denmark, or (ii) a Danish corporation is, for taxable years beginning on and after January 1, 1948, limited to 15 percent under the provisions of Article VI (relating to dividends) if such alien or corporation, at no time during the taxable year in which such dividends were so derived, had a permanent establishment within the United States. Thus, if a nonresident alien who is a resident of Denmark, performs personal services within the United States during the calendar year 1948 but has at no time during such year a permanent establishment within the United States, he is entitled to the reduced rate of tax with respect to such dividends derived in that year from United States sources, as provided in Article VI of the convention, even though by reason

of his having rendered personal services within the United States he is engaged in trade or business therein in that year within the meaning of section 211(b) of the Internal Revenue Code. If, for example, A, a nonresident alien who is a resident of Denmark, derives in 1948, $5,000 compensation for such personal services and his only other income from sources within the United States consists of dividends, the dividends are subject to tax at a rate not to exceed 15 percent and his earned income is subject to normal tax and surtax without taking the dividends into account in determining the tax on such earned income.

(2) *Dividends paid by a United States subsidiary corporation.* Under the provisions of Article VI(3) of the convention, dividends paid by a domestic corporation to a Danish corporation are subject to tax at the rate of only 5 percent if (i) such Danish corporation controls, directly or indirectly, at the time the dividend is paid 95 percent or more of the voting power in such domestic corporation, (ii) not more than 25 percent of the gross income of the domestic corporation for the three-year period immediately preceding the taxable year in which the dividend is paid consists of dividends and interest (other than dividends and interest paid to such domestic corporation by its own subsidiary corporations, if any), and (iii) the relationship between such domestic corporation and such Danish corporation has not been arranged or maintained primarily with the intention of securing such reduced rate of 5 percent.

(b) *Interest and royalties.* (1) Interest, whether on bonds, securities, notes, debentures, or any other form of indebtedness (including interest on obligations of the United States and on obligations of instrumentalities of the United States), and royalties for the right to use copyrights, patents, designs, secret processes and formulae, trade-marks, and other analogous property and royalties (including rentals and like payments in respect of motion picture films) received from sources within the United States by (i) a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Denmark, or (ii) a Danish corporation, are, for taxable years beginning on and after January 1, 1948, exempt from United States tax under the provisions of Articles VII and VIII of the convention if such alien or corporation at no time during the taxable year in which such interest or royalty was so derived had a permanent establishment situated within the United States.

(2) Such interest and royalties are, therefore, not subject to the withholding provisions of the Internal Revenue Code.

(c) *Beneficiaries of an estate or trust.* (1) A nonresident alien who is a resident of Denmark and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption, or reduction in the rate of tax, as the case may be, provided in Articles VI, VII and VIII of the convention with respect to dividends, interest and royalties to the extent that such item or items are included in his distributive share of income of such estate or trust if he at no time during the taxable year had a permanent establishment in the United States. In such case such beneficiary must, in order to be entitled to the exemption or reduction in the rate of tax execute Form 101–D or Form 1001A–D (modified to show dividends where applicable) and file such form with the fiduciary of such estate or trust in the United States.

(2) In any case in which dividends, interest or royalties are derived from United States sources by a Danish estate or trust, any beneficiary of such estate or trust who is not a resident of Denmark, or who has a permanent establishment in the United States, is not entitled to any exemption under the convention with respect to such income included in his distributive share of the income of the estate or trust.

§ 521.109 Real property income, natural resource royalties.

Under Article IX of the convention, a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Denmark, or a Danish corporation, who derives from sources within the United States in any taxable year beginning on or after January 1, 1948, income

from real property (not including interest derived from mortgages or bonds secured by real property) or royalties from the operation of mines, quarries, oil wells or other natural resources may, for such taxable year, elect to be subject to Federal income tax as if such alien or corporation were engaged in trade or business within the United States by reason of having a permanent establishment therein during such taxable year. Such election shall be made by so signifying on the return for such year. The election so signified shall be irrevocable for the taxable year for which such election is made. In such case a return may be filed by the nonresident alien or foreign corporation even though the sole income of such alien or corporation from sources within the United States is fixed or determinable annual or periodical income upon which the tax has been fully satisfied at the source and there exists no necessity for the filing of the return except for the purposes of securing the benefits of Article IX of the convention. See §29.217–2 of Regulations 111 (26 CFR 1949 ed. Supps. 29.217–2) [and §39.217–2 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)]

§ 521.110 Government wages, salaries, pensions and similar remuneration.

Under Article X (1) of the convention any wage, salary, similar compensation or pension paid by the Government of Denmark or by any other public authority within Denmark to an individual in the United States is exempt from Federal income tax for taxable years beginning on and after January 1, 1948. By reason, however, of the application of Article XV (a) of the convention, such exemption does not apply to recipients of such income who are either citizens of the United States or alien residents therein. As to the taxation generally of compensation of alien employees of foreign governments, see section 116(h) of the Internal Revenue Code and §29.116–2 of Regulations 111 (26 CFR 1949 ed. Supps. 29.116–2) [and §39.116–2 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)].

§ 521.111 Pensions and life annuities.

Under the provisions of Article X(2) of the convention, private pensions and life annuities derived from sources within the United States by nonresident alien individuals who are residents of Denmark are exempt from Federal income tax for taxable years beginning on and after January 1, 1948. The term ''life annuities'' is defined in Article X(3). The term ''private pensions'' does not include pensions or retired pay paid by the United States or by any State or Territory of the United States; it does include periodic payments made in consideration for services rendered or by way of compensation for injuries received.

§ 521.112 Compensation for labor or personal services.

Article XI of the convention adopts the principle that compensation for labor or personal services, including the practice of the liberal professions, is subject to tax only in the contracting State in which such services are rendered. Hence, in general, such compensation derived by a nonresident alien individual residing in Denmark for services rendered in the United States is subject to Federal income tax. Under Article XI of the convention this general rule is subject to the following exceptions:

(a) Where such individual is temporarily present in the United States for a period or periods not exceeding a total of 90 days during the taxable year, compensation received for labor or personal services within the United States during such year is exempt from Federal income tax provided such compensation does not exceed $3,000 in the aggregate.

(b) Where such individual is temporarily present in the United States for a period or periods not exceeding a total of 180 days during the taxable year, compensation for labor or personal services within the United States during such year is exempt from Federal income tax provided such compensation is received for services performed as a worker or employee of, or under contract with, a resident or corporation of Denmark (even though such resident or corporation is engaged in trade or business in the United

States) which resident or corporation actually bears the expense of such compensation and is not reimbursed therefor by another person.

As to the source of compensation for labor or personal services, see section 119(a)(3) of the Internal Revenue Code.

§ 521.113 Students and apprentices; remittances.

Under Article XIII of the convention, citizens of Denmark who are temporarily present in the United States as students or apprentices exclusively for the purposes of study or for acquiring business experience, are exempt for taxable years beginning on or after January 1, 1948, from Federal income tax upon amounts representing remittances from sources outside the United States for the purposes of their maintenance or studies.

§ 521.114 Visiting professors or teachers.

Under Article XIV of the convention, an alien who is a resident of Denmark but who is temporarily present within the United States for the purpose of teaching, lecturing, or instructing at any university, college, school, or other educational institution, situated within the United States, is, for a period not exceeding two years from the date of his arrival in the United States, exempt for taxable years beginning on or after January 1, 1948, from Federal income tax on remuneration received for such services. It shall be deemed that such alien coming to the United States for the purposes indicated has, for a period of not more than two years immediately succeeding the date of his arrival within the United States for such purposes, the tax status of a nonresident alien in the absence of proof of his intention to remain indefinitely in the United States.

§ 521.115 Credit against United States tax liability for Danish tax.

For the purpose of avoidance of double taxation, Article XV provides that, on the part of the United States, there shall be allowed against the United States income tax a credit for the amount of Danish taxes described in Article I of the convention imposed on income derived from sources within Denmark for taxable years beginning on and after January 1, 1948. Such credit, however, is subject to the limitations provided in section 131 of the Internal Revenue Code (relating to the credit for foreign taxes). See §§ 29.131–1 to 29.131–10 of Regulations 111 (26 CFR 1949 ed. Supps. 29.131–1 to 29.131–10) [and §§ 39.131(a) 1 to 39.131(j)–1 of Regulations 118 (26 CFR, Rev. 1953, Parts 1–79, and Supps.)].

§ 521.116 Reciprocal administrative assistance.

(a) *General.* (1) By Article XVII of the convention, the United States and Denmark adopt the principle of exchange of such information as is necessary for carrying out the provisions of the convention or for the prevention of fraud or for the detection of practices which are aimed at reduction of the revenues of either country, but not including information which would disclose a trade, business, industrial or professional secret or trade process.

(2) The information and correspondence relative to exchange of information may be transmitted directly by the Commissioner of Internal Revenue to the Chief of the Taxation Department of the Ministry of Finance (Generaldirektoren for Skattevaesenet) of Denmark.

(b) *Information to be furnished in due course.* (1) Pursuant to such principle, withholding agents shall, in the preparation of withholding returns, Form 1042, report on such returns, for the calendar year 1949 and each subsequent calendar year, in addition to the items of income upon which tax has been withheld at the source, those items of income paid to a nonresident alien individual resident in Denmark, or to a Danish corporation, upon which tax has not been withheld at the source. Such return shall show the same information with respect to such items of income upon which tax has not been withheld at the source as is shown with respect to items of income upon which the tax has been withheld at the source.

(2) In accordance with the provisions of Article XVII of the convention, the Commissioner of Internal Revenue will transmit to the Chief of the Taxation Department of the Ministry of Finance

of Denmark, as soon as practicable after the close of the calendar year 1949, and of each calendar year thereafter during which the convention is in effect, the following information relating to such calendar year: The names and addresses of all persons whose addresses are in Denmark as disclosed on such withholding return, Form 1042, deriving from sources within the United States dividends interest (other than coupon bond interest), rents, royalties, salaries, wages, pensions, annuities and other fixed or determinable annual or periodical profits or income, and the amount of such income with respect to such persons as disclosed on such return, together with ownership certificate, Form 1001–D, filed in connection with coupon bond interest. Such transmission shall constitute compliance with Article XVII of the convention and of §§ 521.101 to 521.117.

(c) *Information in specific cases.* Under the provisions and limitations of Article XVII of the convention, and subject to the provisions of Article XIX and Article XXII of the convention, and upon the request of the Chief of the Taxation Department of the Ministry of Finance of Denmark, the Commissioner of Internal Revenue shall furnish to the Chief of the Taxation Department information available to or obtainable by the Commissioner of Internal Revenue relative to the tax liability of any person under the revenue laws of Denmark in any case in which such information is necessary to the administration of the provisions of the convention or for the prevention of fraud or the administration of statutory provisions against tax avoidance.

§ 521.117 Claims in cases of double taxation.

Under Article XX of the convention, where the action of the revenue authorities of the contracting States has resulted in double taxation in respect of any of the taxes to which the convention relates, the taxpayer is entitled to lodge a claim with the country of which he is a citizen or, if he is not a citizen of either country, with the country of which he is a resident, or if the taxpayer is a corporation or other entity, with the country in which it is created or organized. Article XX further provides that should the claim be upheld, the competent authority of the country with which the claim is lodged may come to an agreement with the competent authority of the other country with a view to equitable avoidance of the double taxation. Such a claim on behalf of a United States citizen or corporation or other entity, or on behalf of a resident of the United States who is not a Danish citizen, shall be filed with the Commissioner of Internal Revenue, Washington, D.C. The claim should be set up in the form of a letter and should show fully all facts on the basis of which the claimant alleges that such double taxation has resulted. If the Commissioner of Internal Revenue determines that there is an appropriate basis for the claim under the convention, he will take the matter up with the Chief of the Taxation Department of the Ministry of Finance of Denmark with a view to arranging an agreement of the character contemplated by Article XX.

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Table of OMB Control Numbers

The OMB control numbers for chapter I of title 26 were consolidated into §§ 601.9000 and 602.101 at 50 FR 10221, Mar. 14, 1985. At 61 FR 58008, Nov. 12, 1996, § 601.9000 was removed. Section 602.101 is reprinted below for the convenience of the user.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

§ 602.101 OMB Control numbers.

(a) *Purpose.* This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this part comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 CFR part 1320 (OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations. This part does not display control numbers assigned by the Office of Management and Budget to collections of information of the Bureau of Alcohol, Tobacco, and Firearms.

(b) *Display.*

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1.280F–3T	1545–0074
1.281–4	1545–0123
1.302–4	1545–0074
1.305–3	1545–0123
1.305–5	1545–1438
1.307–2	1545–0074
1.312–15	1545–0172
1.316–1	1545–0123
1.331–1	1545–0074
1.332–4	1545–0123
1.332–6	1545–0123
1.337(d)–1	1545–1160
1.337(d)–2	1545–1160
1.337(d)–4	1545–1633
1.337(d)–5T	1545–1672
1.338–2T	1545–1658
1.338–5T	1545–1658
1.338–10T	1545–1658
1.338(h)(10)–1T	1545–1658
1.341–7	1545–0123
1.351–3	1545–0074
1.355–5	1545–0123
1.362–2	1545–0123
1.367(a)–1T	1545–0026
1.367(a)–2T	1545–0026
1.367(a)–3	1545–0026
	1545–1478
1.367(a)–6T	1545–0026
1.367(a)–8	1545–1271
1.367(b)–1	1545–1271
1.367(b)–3T	1545–1666
1.367(d)–1T	1545–0026
1.367(e)–1	1545–1487
1.367(e)–2	1545–1487
1.368–3	1545–0123
1.371–1	1545–0123
1.371–2	1545–0123
1.374–3	1545–0123
1.381(b)–1	1545–0123
1.381(c)(4)–1	1545–0123
	1545–0152
	1545–0879
1.381(c)(5)–1	1545–0123
	1545–0152
1.381(c)(6)–1	1545–0123
	1545–0152
1.381(c)(8)–1	1545–0123
1.381(c)(10)–1	1545–0123
1.381(c)(11)–1(k)	1545–0123
1.381(c)(13)–1	1545–0123
1.381(c)(17)–1	1545–0045

CFR part or section where identified and described	Current OMB control No.
1.381(c)(25)–1	1545–0045
1.382–1T	1545–0123
1.382–2	1545–0123
1.382–2T	1545–0123
1.382–3	1545–1281
	1545–1345
1.382–4	1545–1120
1.382–6	1545–1381
1.382–8	1545–1434
1.382–9	1545–1260
	1545–1120
	1545–1275
	1545–1324
1.382–91	1545–1260
	1545–1324
1.383–1	1545–0074
	1545–1120
1.401(a)–11	1545–0710
1.401(a)–20	1545–0928
1.401(a)–31	1545–1341
1.401(a)–50	1545–0710
1.401(a)(31)–1	1545–1341
1.401(b)–1	1545–0197
1.401(f)–1	1545–0710
1.401(k)–1	1545–1039
	1545–1069
1.401–1	1545–0020
	1545–0197
	1545–0200
	1545–0534
	1545–0710
1.401–12(n)	1545–0806
1.401–14	1545–0710
1.402(c)–2	1545–1341
1.402(f)–1	1545–1341
	1545-1632
1.403(b)–1	1545–0710
1.403(b)–2	1545–1341
1.404(a)–4	1545–0710
1.404(a)–12	1545–0710
1.404A–2	1545–0123
1.404A–6	1545–0123
1.408–2	1545–0390
1.408–5	1545–0747
1.408–6	1545–0203
	1545–0390
1.408–7	1545–0119
1.408A–2	1545–1616
1.408A–4	1545–1616
1.408A–5	1545–1616
1.408A–7	1545–1616
1.410(a)–2	1545–0710
1.410(d)–1	1545–0710
1.411(a)–11	1545–1471
	1545–1632
1.411(d)–4	1545–1545
1.411(d)–6	1545–1477
1.412(b)–5	1545–0710
1.412(c)(1)–2	1545–0710
1.412(c)(2)–1	1545–0710
1.412(c)(3)–2	1545–0710
1.414(c)–5	1545–0797
1.414(r)–1	1545–1221
1.415–2	1545–0710
1.415–6	1545–0710
1.417(e)–1	1545–1471
1.417(e)–1T	1545–1471
1.441–3T	1545–0134
1.442–1	1545–0074
	1545–0123
	1545–0134
	1545–0152
1.442–2T	1545–0134
1.442–3T	1545–0134
1.443–1	1545–0123
1.444–3T	1545–1036
1.446–1	1545–0074
	1545–0152
1.446–4(d)	1545–1412
1.448–1(g)	1545–0152
1.448–1(h)	1545–0152
1.448–1(i)	1545–0152
1.448–2T	1545–0152
1.451–1	1545–0091
1.451–3	1545–0152
	1545–0736
1.451–4	1545–0123
1.451–5	1545–0074
1.451–6	1545–0074
1.451–7	1545–0074
1.453–1	1545–0152
1.453–2	1545–0152
1.453–8	1545–0152
	1545–0228
1.453–10	1545–0152
1.453A–1	1545–0152
	1545–1134
1.453A–2	1545–0152
	1545–1134
1.453A–3	1545–0963
1.454–1	1545–0074
1.455–2	1545–0152
1.455–6	1545–0123
1.456–2	1545–0123
1.456–6	1545–0123
1.456–7	1545–0123
1.458–1	1545–0879
1.458–2	1545–0152
1.460–6	1545–1031
	1545–1572
1.461–1	1545–0074
1.461–2	1545–0096
1.461–4	1545–0917
1.461–5	1545–0917
1.463–1T	1545–0916
1.465–1T	1545–0712
1.466–1T	1545–0152
1.466–4	1545–0152
1.468A–3	1545–1269
	1545–1378
	1545–1511
1.468A–4	1545–0954
1.468A–7	1545–0954
1.468A–8	1545–1269
1.468B–1(j)	1545–1299
1.468B–2(k)	1545–1299
1.468B–2(l)	1545–1299
1.468B–3(b)	1545–1299
1.468B–3(e)	1545–1299
1.468B–5(b)	1545–1299
1.469–1	1545–1008
1.469–2T	1545–0712
	1545–1091
1.469–4T	1545–0985
	1545–1037
1.471–2	1545–0123
1.471–5	1545–0123
1.471–6	1545–0123
1.471–8	1545–0123
1.471–11	1545–0123
	1545–0152
1.472–1	1545–0042
	1545–0152
1.472–2	1545–0152

CFR part or section where identified and described	Current OMB control No.
1.472–3	1545–0042
1.472–5	1545–0152
1.472–8	1545–0028
	1545–0042
1.475(b)–4	1545–1496
1.481–4	1545–0152
1.481–5	1545–0152
1.482–1	1545–1364
1.482–4	1545–1364
1.482–7	1545–1364
1.501(a)–1	1545–0056
	1545–0057
1.501(c)(3)–1	1545–0056
1.501(c)(9)–5	1545–0047
1.501(c)(17)–3	1545–0047
1.501(e)–1	1545–0814
1.503(c)–1	1545–0047
	1545–0052
1.505(c)–1T	1545–0916
1.507–1	1545–0052
1.507–2	1545–0052
1.508–1	1545–0052
	1545–0056
1.509(a)–3	1545–0047
1.509(a)–5	1545–0047
1.509(c)–1	1545–0052
1.512(a)–1	1545–0687
1.512(a)–4	1545–0047
	1545–0687
1.521–1	1545–0051
	1545–0058
1.527–2	1545–0129
1.527–5	1545–0129
1.527–6	1545–0129
1.527–9	1545–0129
1.528–8	1545–0127
1.533–2	1545–0123
1.534–2	1545–0123
1.542–3	1545–0123
1.545–2	1545–0123
1.545–3	1545–0123
1.547–2	1545–0045
	1545–0123
1.547–3	1545–0123
1.551–4	1545–0074
1.552–3	1545–0099
1.552–4	1545–0099
1.552–5	1545–0099
1.556–2	1545–0704
1.561–1	1545–0044
1.561–2	1545–0123
1.562–3	1545–0123
1.563–2	1545–0123
1.564–1	1545–0123
1.565–1	1545–0043
	1545–0123
1.565–2	1545–0043
1.565–3	1545–0043
1.565–5	1545–0043
1.565–6	1545–0043
1.585–1	1545–0123
1.585–3	1545–0123
1.585–8	1545–1290
1.586–2	1545–0123
1.593–1	1545–0123
1.593–6	1545–0123
1.593–6A	1545–0123
1.593–7	1545–0123
1.595–1	1545–0123
1.597–2	1545–1300
1.597–4	1545–1300
1.597–6	1545–1300
1.597–7	1545–1300
1.611–2	1545–0099
1.611–3	1545–0007
	1545–0099
1.612–4	1545–0074
1.612–5	1545–0099
1.613–3	1545–0099
1.613–4	1545–0099
1.613–6	1545–0099
1.613–7	1545–0099
1.613A–3	1545–0919
1.613A–3(e)	1545–1251
1.613A–3(l)	1545–0919
1.613A–5	1545–0099
1.613A–6	1545–0099
1.614–2	1545–0099
1.614–3	1545–0099
1.614–5	1545–0099
1.614–6	1545–0099
1.614–8	1545–0099
1.617–1	1545–0099
1.617–3	1545–0099
1.617–4	1545–0099
1.631–1	1545–0007
1.631–2	1545–0007
1.641(b)–2	1545–0092
1.642(c)–1	1545–0092
1.642(c)–2	1545–0092
1.642(c)–5	1545–0074
1.642(c)–6	1545–0020
	1545–0074
	1545–0092
1.642(g)–1	1545–0092
1.642(i)–1	1545–0092
1.663(b)–2	1545–0092
1.664–1	1545–0196
1.664–1(a)(7)	1545–1536
1.664–2	1545–0196
1.664–3	1545–0196
1.664–4	1545–0020
	1545–0196
1.665(a)–0A through	
1.665(g)–2A	1545–0192
1.666(d)–1A	1545–0092
1.671–4	1545–1442
1.701–1	1545–0099
1.702–1	1545–0074
1.703–1	1545–0099
1.704–2	1545–1090
1.706–1	1545–0099
	1545–0074
	1545–0134
1.706–1T	1545–0099
1.707–3(c)(2)	1545–1243
1.707–5(a)(7)(ii)	1545–1243
1.707–6(c)	1545–1243
1.707–8	1545–1243
1.708–1	1545–0099
1.732–1	1545–0099
	1545–1588
1.736–1	1545–0074
1.743–1	1545–0074
	1545–1588
1.751–1	1545–0074
	1545–0099
	1545–0941
1.752–5	1545–1090
1.754–1	1545–0099
1.755–1	1545–0099
1.755–2T	1545–1021
1.761–2	1545–1338
1.801–1	1545–0123

CFR part or section where identified and described	Current OMB control No.
	1545–0128
1.801–3	1545–0123
1.801–5	1545–0128
1.801–8	1545–0128
1.804–4	1545–0128
1.811–2	1545–0128
1.812–2	1545–0128
1.815–6	1545–0128
1.818–4	1545–0128
1.818–5	1545–0128
1.818–8	1545–0128
1.819–2	1545–0128
1.821–1	1545–1027
1.821–3	1545–1027
1.821–4	1545–1027
1.822–5	1545–1027
1.822–6	1545–1027
1.822–8	1545–1027
1.822–9	1545–1027
1.823–2	1545–1027
1.823–5	1545–1027
1.823–6	1545–1027
1.825–1	1545–1027
1.826–1	1545–1027
1.826–2	1545–1027
1.826–3	1545–1027
1.826–4	1545–1027
1.826–6	1545–1027
1.831–3	1545–0123
1.831–4	1545–0123
1.832–4	1545–1227
1.832–5	1545–0123
1.848–2(g)(8)	1545–1287
1.848–2(h)(3)	1545–1287
1.848–2(i)(4)	1545–1287
1.851–2	1545–1010
1.851–4	1545–0123
1.852–1	1545–0123
1.852–4	1545–0123
	1545–0145
1.852–6	1545–0123
	1545–0144
1.852–7	1545–0074
1.852–9	1545–0074
	1545–0123
	1545–0144
	1545–0145
1.852–11	1545–1094
1.853–3	1545–0123
1.853–4	1545–0123
1.854–2	1545–0123
1.855–1	1545–0123
1.856–2	1545–0123
	1545–1004
1.856–6	1545–0123
1.856–7	1545–0123
1.856–8	1545–0123
1.857–8	1545–0123
1.857–9	1545–0074
1.858–1	1545–0123
1.860–2	1545–0045
1.860–4	1545–0045
	1545–1054
	1545–1057
1.860E–2(a)(5)	1545–1276
1.860E–2(a)(7)	1545–1276
1.860E–2(b)(2)	1545–1276
1.861–2	1545–0089
1.861–3	1545–0089
1.861–8	1545–0126
1.861–8(e)(6) and (g)	1545–1224
1.861–9T	1545–0121
	1545–1072
1.861–18	1545–1594
1.863–1	1545–1476
1.863–3	1545–1476
	1545–1556
1.863–3A	1545–0126
1.863–4	1545–0126
1.863–7	1545–0132
1.864–4	1545–0126
1.871–1	1545–0096
1.871–6	1545–0795
1.871–7	1545–0089
1.871–10	1545–0089
	1545–0165
1.874–1	1545–0089
1.881–4	1545–1440
1.882–4	1545–0126
1.884–0	1545–1070
1.884–1	1545–1070
1.884–2	1545–1070
1.884–2T	1545–0126
	1545–1070
1.884–4	1545–1070
1.884–5	1545–1070
1.892–1T	1545–1053
1.892–2T	1545–1053
1.892–3T	1545–1053
1.892–4T	1545–1053
1.892–5T	1545–1053
1.892–6T	1545–1053
1.892–7T	1545–1053
1.897–2	1545–0123
	1545–0902
1.897–3	1545–0123
1.897–5T	1545–0902
1.897–6T	1545–0902
1.901–2	1545–0746
1.901–2A	1545–0746
1.901–3	1545–0122
1.902–1	1545–0122
	1545–1458
1.904–1	1545–0121
	1545–0122
1.904–2	1545–0121
	1545–0122
1.904–3	1545–0121
1.904–4	1545–0121
1.904–5	1545–0121
1.904(f)–1	1545–0121
	1545–0122
1.904(f)–2	1545–0121
1.904(f)–3	1545–0121
1.904(f)–4	1545–0121
1.904(f)–5	1545–0121
1.904(f)–6	1545–0121
1.904(f)–7	1545–1127
1.905–2	1545–0122
1.905–3T	1545–1056
1.905–4T	1545–1056
1.905–5T	1545–1056
1.911–1	1545–0067
	1545–0070
1.911–2	1545–0067
	1545–0070
1.911–3	1545–0067
	1545–0070
1.911–4	1545–0067
	1545–0070
1.911–5	1545–0067
	1545–0070
1.911–6	1545–0067
	1545–0070

CFR part or section where identified and described	Current OMB control No.
1.911–7	1545–0067
	1545–0070
1.913–13	1545–0067
1.921–1T	1545–0190
	1545–0884
	1545–0935
	1545–0939
1.921–2	1545–0884
1.921–3T	1545–0935
1.923–1T	1545–0935
1.924(a)–1T	1545–0935
1.925(a)–1T	1545–0935
1.925(b)–1T	1545–0935
1.926(a)–1T	1545–0935
1.927(a)–1T	1545–0935
1.927(b)–1T	1545–0935
1.927(d)–1	1545–0884
1.927(d)–2T	1545–0935
1.927(e)–1T	1545–0935
1.927(e)–2T	1545–0935
1.927(f)–1	1545–0884
1.931–1	1545–0074
	1545–0123
1.934–1	1545–0782
1.935–1	1545–0074
	1545–0087
	1545–0803
1.936–1	1545–0215
	1545–0217
1.936–4	1545–0215
1.936–5	1545–0704
1.936–6	1545–0215
1.936–7	1545–0215
1.936–10(c)	1545–1138
1.952–2	1545–0126
1.953–2	1545–0126
1.954–1	1545–1068
1.954–2	1545–1068
1.955–2	1545–0123
1.955–3	1545–0123
1.955A–2	1545–0755
1.955A–3	1545–0755
1.956–1	1545–0704
1.956–2	1545–0704
1.959–1	1545–0704
1.959–2	1545–0704
1.960–1	1545–0122
1.962–2	1545–0704
1.962–3	1545–0704
1.962–4	1545–0704
1.964–1	1545–0126
	1545–0704
	1545–1072
1.964–3	1545–0126
1.970–2	1545–0126
1.985–2	1545–1051
	1545–1131
1.985–3	1545–1051
1.988–0	1545–1131
1.988–1	1545–1131
1.988–2	1545–1131
1.988–3	1545–1131
1.988–4	1545–1131
1.988–5	1545–1131
1.992–1	1545–0190
	1545–0938
1.992–2	1545–0190
	1545–0884
	1545–0938
1.992–3	1545–0190
	1545–0938
1.992–4	1545–0190
	1545–0938
1.993–3	1545–0938
1.993–4	1545–0938
1.994–1	1545–0938
1.995–5	1545–0938
1.1012–1	1545–0074
	1545–1139
1.1014–4	1545–0184
1.1015–1	1545–0020
1.1017–1	1545–1539
1.1031(d)–1T	1545–1021
1.1033(a)–2	1545–0184
1.1033(g)–1	1545–0184
1.1034–1	1545–0072
1.1039–1	1545–0184
1.1041–1T	1545–0074
1.1042–1T	1545–0916
1.1044(a)–1	1545–1421
1.1060–1T	1545–1658
1.1071–1	1545–0184
1.1071–4	1545–0184
1.1081–4	1545–0028
	1545–0046
	1545–0123
1.1081–11	1545–0074
	1545–0123
1.1082–1	1545–0046
1.1082–2	1545–0046
1.1082–3	1545–0046
	1545–0184
1.1082–4	1545–0046
1.1082–5	1545–0046
1.1082–6	1545–0046
1.1083–1	1545–0123
1.1092(b)–1T	1545–0644
1.1092(b)–2T	1545–0644
1.1092(b)–3T	1545–0644
1.1092(b)–4T	1545–0644
1.1092(b)–5T	1545–0644
1.1211–1	1545–0074
1.1212–1	1545–0074
1.1221–2	1545–1403
1.1221–2(d)(2)(iv)	1545–1480
1.1221–2(e)(5)	1545–1480
1.1221–2(g)(5)(ii)	1545–1480
1.1221–2(g)(6)(ii)	1545–1480
1.1221–2(g)(6)(iii)	1545–1480
1.1221–2T(c)	1545–1403
1.1231–1	1545–0177
	1545–0184
1.1231–2	1545–0177
	1545–0184
1.1231–2	1545–0074
1.1232–3	1545–0074
1.1237–1	1545–0184
1.1239–1	1545–0091
1.1242–1	1545–0184
1.1243–1	1545–0123
1.1244(e)–1	1545–0123
	1545–1447
1.1245–1	1545–0184
1.1245–2	1545–0184
1.1245–3	1545–0184
1.1245–4	1545–0184
1.1245–5	1545–0184
1.1245–6	1545–0184
1.1247–1	1545–0122
1.1247–2	1545–0122
1.1247–4	1545–0122
1.1247–5	1545–0122
1.1248–7	1545–0074
1.1250–1	1545–0184

CFR part or section where identified and described	Current OMB control No.
1.1250–2	1545–0184
1.1250–3	1545–0184
1.1250–4	1545–0184
1.1250–5	1545–0184
1.1251–1	1545–0184
1.1251–2	1545–0074
	1545–0184
1.1251–3	1545–0184
1.1251–4	1545–0184
1.1252–1	1545–0184
1.1252–2	1545–0184
1.1254–1(c)(3)	1545–1352
1.1254–4	1545–1493
1.1254–5(d)(2)	1545–1352
1.1258–1	1545–1452
1.1272–3	1545–1353
1.1273–2(h)(2)	1545–1353
1.1274–3(d)	1545–1353
1.1274–5(b)	1545–1353
1.1274A–1(c)	1545–1353
1.1275–2	1545–1450
1.1275–3	1545–0887
	1545–1353
	1545–1450
1.1275–4	1545–1450
1.1275–6	1545–1450
1.1287–1	1545–0786
1.1291–9	1545–1507
1.1291–10	1545–1507
	1545–1304
1.1294–1T	1545–1002
	1545–1028
1.1295–1	1545–1555
1.1295–3	1545–1555
1.1297–3T	1545–1028
1.1311(a)–1	1545–0074
1.1361–1	1545–0731
1.1361–3	1545–1590
1.1361–5	1545–1590
1.1362–1	1545–1308
1.1362–2	1545–1308
1.1362–3	1545–1308
1.1362–4	1545–1308
1.1362–5	1545–1308
1.1362–6	1545–1308
1.1362–7	1545–1308
1.1362–8	1545–1590
1.1366–1	1545–1613
1.1367–1(f)	1545–1139
1.1368–1(f)(2)	1545–1139
1.1368–1(f)(3)	1545–1139
1.1368–1(f)(4)	1545–1139
1.1368–1(g)(2)	1545–1139
1.1374–1A	1545–0130
1.1377–1	1545–1462
1.1383–1	1545–0074
1.1385–1	1545–0074
	1545–0098
1.1388–1	1545–0118
	1545–0123
1.1398–1	1545–1375
1.1398–2	1545–1375
1.1402(a)–2	1545–0074
1.1402(a)–5	1545–0074
1.1402(a)–11	1545–0074
1.1402(a)–15	1545–0074
1.1402(a)–16	1545–0074
1.1402(b)–1	1545–0171
1.1402(c)–2	1545–0074
1.1402(e)(1)–1	1545–0074
1.1402(e)(2)–1	1545–0074
1.1402(e)–1A	1545–0168
1.1402(e)–2A	1545–0168
1.1402(e)–3A	1545–0168
1.1402(e)–4A	1545–0168
1.1402(e)–5A	1545–0168
1.1402(f)–1	1545–0074
1.1402(h)–1	1545–0064
1.1441–1	1545–1484
1.1441–2	1545–0795
1.1441–3	1545–0165
	1545–0795
1.1441–4	1545–1484
1.1441–5	1545–0096
	1545–0795
1.1441–6	1545–0055
	1545–0795
1.1441–7	1545–0795
1.1441–8	1545–1053
	1545–1484
1.1441–8T	1545–1053
1.1441–9	1545–1484
1.1443–1	1545–0096
1.1445–1	1545–0902
1.1445–2	1545–0902
	1545–1060
1.1445–3	1545–0902
	1545–1060
1.1445–4	1545–0902
1.1445–5	1545–0902
1.1445–6	1545–0902
	1545–1060
1.1445–7	1545–0902
1.1445–8	1545–0096
1.1445–9T	1545–0902
1.1445–10T	1545–0902
1.1451–1	1545–0054
1.1451–2	1545–0054
1.1461–1	1545–0054
	1545–0055
	1545–0795
1.1461–2	1545–0054
	1545–0055
	1545–0096
	1545–0795
1.1461–3	1545–0054
	1545–0055
	1545–0096
	1545–0795
1.1461–4	1545–0054
	1545–0055
	1545–0096
1.1462–1	1545–0795
1.1492–1	1545–0026
1.1494–1	1545–0026
1.1502–5	1545–0257
1.1502–9	1545–1634
1.1502–9A	1545–0121
1.1502–13	1545–0123
	1545–0885
	1545–1161
	1545–1433
1.1502–16	1545–0123
1.1502–18	1545–0123
1.1502–19	1545–0123
1.1502–20	1545–1160
	1545–1218
1.1502–21	1545–1237
1.1502–31	1545–1344
1.1502–32	1545–1344
1.1502–33	1545–1344
1.1502–47	1545–0123
1.1502–75	1545–0025
	1545–0123

CFR part or section where identified and described	Current OMB control No.
	1545–0133
	1545–0152
1.1502–76	1545–1344
1.1502–77	1545–0123
1.1502–77T	1545–1046
1.1502–78	1545–0582
1.1502–95	1545–1218
1.1502–95A	1545–1218
1.1502–96	1545–1218
1.1503–2A	1545–1083
1.1552–1	1545–0123
1.1561–3	1545–0123
1.1563–1	1545–0123
	1545–0797
1.1563–3	1545–0123
1.6001–1	1545–0058
	1545–0074
	1545–0099
	1545–0123
	1545–0865
1.6011–1	1545–0055
	1545–0074
	1545–0085
	1545–0089
	1545–0090
	1545–0091
	1545–0096
	1545–0121
	1545–0458
	1545–0666
	1545–0675
	1545–0908
1.6011–2	1545–0055
	1545–0938
1.6011–3	1545–0238
	1545–0239
1.6011–4T	1545–1685
1.6012–1	1545–0067
	1545–0085
	1545–0089
	1545–0675
	1545–0074
1.6012–2	1545–0047
	1545–0051
	1545–0067
	1545–0123
	1545–0126
	1545–0130
	1545–0128
	1545–0175
	1545–0687
	1545–0890
	1545–1023
	1545–1027
1.6012–3	1545–0047
	1545–0067
	1545–0092
	1545–0196
	1545–0687
1.6012–4	1545–0067
1.6012–5	1545–0067
	1545–0967
	1545–0970
	1545–0991
	1545–0936
	1545–1023
	1545–1033
	1545–1079
1.6012–6	1545–0067
1.6012–7T	1545–1348
	1545–0089
	1545–0129
1.6013–1	1545–0074
1.6013–2	1545–0091
1.6013–6	1545–0074
1.6013–7	1545–0074
1.6015(a)–1	1545–0087
1.6015(b)–1	1545–0087
1.6015(d)–1	1545–0087
1.6015(e)–1	1545–0087
1.6015(f)–1	1545–0087
1.6015(g)–1	1545–0087
1.6015(h)–1	1545–0087
1.6015(i)–1	1545–0087
1.6017–1	1545–0074
	1545–0087
	1545–0090
1.6031(a)–1	1545–1583
1.6031(b)–1T	1545–0099
1.6031(c)–1T	1545–0099
1.6032–1	1545–0099
1.6033–2	1545–0047
	1545–0049
	1545–0052
	1545–0092
	1545–0687
	1545–1150
1.6033–3	1545–0052
1.6034–1	1545–0092
	1545–0094
1.6035–1	1545–0704
1.6035–2	1545–0704
1.6035–3	1545–0704
1.6037–1	1545–0130
	1545–1023
1.6038–2	1545–1617
1.6038–3	1545–1617
1.6038A–2	1545–1191
1.6038A–3	1545–1191
	1545–1440
1.6038B–1	1545–1617
1.6038B–1T	1545–0026
1.6038B–2	1545–1617
1.6039–2	1545–0820
1.6041–1	1545–0008
	1545–0108
	1545–0112
	1545–0115
	1545–0120
	1545–0295
	1545–0350
	1545–0367
	1545–0387
	1545–0441
	1545–0957
1.6041–2	1545–0008
	1545–0119
	1545–0350
	1545–0441
1.6041–3	1545–1148
1.6041–4	1545–0115
	1545–0295
	1545–0367
	1545–0387
	1545–0957
1.6041–5	1545–0295
	1545–0367
	1545–0387
	1545–0957
1.6041–6	1545–0008
	1545–0115
1.6041–7	1545–0112
	1545–0295
	1545–0350

CFR part or section where identified and described	Current OMB control No.
	1545–0367
	1545–0387
	1545–0441
	1545–0957
1.6042–1	1545–0110
1.6042–2	1545–0110
	1545–0295
	1545–0367
	1545–0387
	1545–0957
1.6042–3	1545–0295
	1545–0367
	1545–0387
	1545–0957
1.6042–4	1545–0110
1.6043–1	1545–0041
1.6043–2	1545–0041
	1545–0110
	1545–0295
	1545–0387
1.6043–3	1545–0047
1.6044–1	1545–0118
1.6044–2	1545–0118
1.6044–3	1545–0118
1.6044–4	1545–0118
1.6044–5	1545–0118
1.6045–1	1545–0715
1.6045–2	1545–0115
1.6045–4	1545–1085
1.6046–1	1545–0704
	1545–0794
	1545–1317
1.6046–2	1545–0704
1.6046–3	1545–0704
1.6046A	1545–1646
1.6047–1	1545–0119
	1545–0295
	1545–0387
1.6049–1	1545–0112
	1545–0117
	1545–0295
	1545–0367
	1545–0387
	1545–0597
	1545–0957
1.6049–2	1545–0117
1.6049–3	1545–0117
1.6049–4	1545–0096
	1545–0112
	1545–0117
	1545–1018
	1545–1050
1.6049–5	1545–0096
	1545–0112
	1545–0117
1.6049–6	1545–0096
1.6049–7	1545–1018
1.6049–7T	1545–0112
	1545–0117
	1545–0118
1.6050A–1	1545–0115
1.6050B–1	1545–0120
1.6050D–1	1545–0120
	1545–0232
1.6050E–1	1545–0120
1.6050H–1	1545–0901
	1545–1380
1.6050H–2	1545–0901
	1545–1339
	1545–1380
1.6050H–1T	1545–0901
1.6050I–2	1545–1449
1.6050J–1T	1545–0877
1.6050K–1	1545–0941
1.6050P–1	1545–1419
1.6050P–1T	1545–1419
1.6052–1	1545–0008
1.6052–2	1545–0008
1.6060–1	1545–0074
1.6061–1	1545–0123
1.6061–2T	1545–1348
1.6062–1	1545–0123
1.6063–1	1545–0123
1.6065–1	1545–0123
1.6071–1	1545–0123
	1545–0810
1.6072–1	1545–0074
1.6072–2	1545–0123
	1545–0807
1.6073–1	1545–0087
1.6073–2	1545–0087
1.6073–3	1545–0087
1.6073–4	1545–0087
1.6074–1	1545–0123
1.6074–2	1545–0123
1.6081–1	1545–0066
	1545–0148
	1545–0233
	1545–1057
	1545–1081
1.6081–2	1545–0148
	1545–1054
	1545–1036
1.6081–3	1545–0233
1.6081–4	1545–0188
	1545–1479
1.6081–6	1545–0148
	1545–1054
1.6081–7	1545–0148
	1545–1054
1.6091–3	1545–0089
1.6107–1	1545–0074
1.6109–1	1545–0074
1.6109–2	1545–0074
1.6115–1	1545–1464
1.6151–1	1545–0074
1.6152–1	1545–0135
	1545–0233
1.6153–1	1545–0087
1.6153–4	1545–0087
1.6154–2	1545–0257
1.6154–3	1545–0135
1.6154–5	1545–0976
1.6161–1	1545–0087
1.6162–1	1545–0087
1.6164–1	1545–0135
1.6164–2	1545–0135
1.6164–3	1545–0135
1.6164–5	1545–0135
1.6164–6	1545–0135
1.6164–7	1545–0135
1.6164–8	1545–0135
1.6164–9	1545–0135
1.6302–1	1545–0257
1.6302–2	1545–0098
	1545–0257
1.6411–1	1545–0098
	1545–0135
	1545–0582
1.6411–2	1545–0098
	1545–0582
1.6411–3	1545–0098
	1545–0582
1.6411–4	1545–0582

CFR part or section where identified and described	Current OMB control No.
1.6414–1	1545–0096
1.6425–1	1545–0170
1.6425–2	1545–0170
1.6425–3	1545–0170
1.6654–1	1545–0087
	1545–0140
1.6654–2	1545–0087
1.6654–3	1545–0087
1.6654–4	1545–0087
1.6655–1	1545–0142
1.6655–2	1545–0142
1.6655–3	1545–0142
1.6655–7	1545–0123
1.6655(e)–1	1545–1421
1.6661–3	1545–0988
	1545–1031
1.6661–4	1545–0739
1.6662–3(c)	1545–0889
1.6662–4(e) and (f)	1545–0889
1.6662–6	1545–1426
1.6694–1	1545–0074
1.6694–2	1545–0074
1.6694–2(c)	1545–1231
1.6694–3(e)	1545–1231
1.6695–1	1545–0074
	1545–1385
1.6695–2T	1545–1570
1.6696–1	1545–0074
	1545–0240
1.6851–1	1545–0086
	1545–0138
1.6851–2	1545–0086
	1545–0138
1.7476–1	1545–0197
1.7476–2	1545–0197
1.7519–2T	1545–1036
1.7520–1	1545–1343
1.7520–2	1545–1343
1.7520–3	1545–1343
1.7520–4	1545–1343
1.7701(l)–3	1545–1642
1.9100–1	1545–0074
1.9101–1	1545–0008
2.1–4	1545–0123
2.1–5	1545–0123
2.1–6	1545–0123
2.1–10	1545–0123
2.1–11	1545–0123
2.1–12	1545–0123
2.1–13	1545–0123
2.1–20	1545–0123
2.1–22	1545–0123
2.1–26	1545–0123
3.2	1545–0123
4.954–1	1545–1068
4.954–2	1545–1068
5.6411–1	1545–0098
	1545–0582
	1545–0042
	1545–0074
	1545–0129
	1545–0172
	1545–0619
5c.44F–1	1545–0619
5c.128–1	1545–0123
5c.168(f)(8)–1	1545–0123
5c.168(f)(8)–2	1545–0123
5c.168(f)(8)–6	1545–0123
5c.168(f)(8)–8	1545–0123
5c.305–1	1545–0110
5c.442–1	1545–0152
5f.103–1	1545–0720
5f.103–3	1545–0720
5f.6045–1	1545–0715
6a.103A–2	1545–0123
	1545–0720
6a.103A–3	1545–0720
7.465–1	1545–0712
7.465–2	1545–0712
7.465–3	1545–0712
7.465–4	1545–0712
7.465–5	1545–0712
7.936–1	1545–0217
7.999–1	1545–0216
7.6039A–1	1545–0015
7.6041–1	1545–0115
11.410–1	1545–0710
11.412(c)–7	1545–0710
11.412(c)–11	1545–0710
12.7	1545–0190
12.8	1545–0191
12.9	1545–0195
14a.422A–1	1545–0123
15A.453–1	1545–0228
16.3–1	1545–0159
16A.126–2	1545–0074
16A.1255–1	1545–0184
16A.1255–2	1545–0184
18.1371–1	1545–0130
18.1378–1	1545–0130
18.1379–1	1545–0130
18.1379–2	1545–0130
20.2011–1	1545–0015
20.2014–5	1545–0015
	1545–0260
20.2014–6	1545–0015
20.2016–1	1545–0015
20.2031–2	1545–0015
20.2031–3	1545–0015
20.2031–4	1545–0015
20.2031–6	1545–0015
20.2031–7	1545–0020
20.2031–10	1545–0015
20.2032–1	1545–0015
20.2032A–3	1545–0015
20.2032A–4	1545–0015
20.2032A–8	1545–0015
20.2039–4	1545–0015
20.2051–1	1545–0015
20.2053–3	1545–0015
20.2053–9	1545–0015
20.2053–10	1545–0015
20.2055–1	1545–0015
20.2055–2	1545–0015
	1545–0092
20.2055–3	1545–0015
20.2056(b)–4	1545–0015
20.2056(b)–7	1545–0015
	1545–1612
20.2056A–2	1545–1443
20.2056A–3	1545–1360
20.2056A–4	1545–1360
20.2056A–10	1545–1360
20.2106–1	1545–0015
20.2106–2	1545–0015
20.2204–1	1545–0015
20.2204–2	1545–0015
20.6001–1	1545–0015
20.6011–1	1545–0015
20.6018–1	1545–0015
	1545–0531
20.6018–2	1545–0015
20.6018–3	1545–0015
20.6018–4	1545–0015

CFR part or section where identified and described	Current OMB control No.
	1545–0022
20.6036–2	1545–0015
20.6061–1	1545–0015
20.6065–1	1545–0015
20.6075–1	1545–0015
20.6081–1	1545–0015
	1545–0181
20.6091–1	1545–0015
20.6161–1	1545–0015
	1545–0181
20.6161–2	1545–0015
	1545–0181
20.6163–1	1545–0015
20.6166–1	1545–0181
20.6166A–1	1545–0015
20.6166A–3	1545–0015
20.6324A–1	1545–0754
20.7520–1	1545–1343
20.7520–2	1545–1343
20.7520–3	1545–1343
20.7520–4	1545–1343
22.0	1545–0015
25.2511–2	1545–0020
25.2512–2	1545–0020
25.2512–3	1545–0020
25.2512–5	1545–0020
25.2512–9	1545–0020
25.2513–1	1545–0020
25.2513–2	1545–0020
	1545–0021
25.2513–3	1545–0020
25.2518–2	1545–0959
25.2522(a)–1	1545–0196
25.2522(c)–3	1545–0020
	1545–0196
25.2523(a)–1	1545–0020
	1545–0196
25.2523(f)–1	1545–0015
25.2701–2	1545–1241
25.2701–4	1545–1241
25.2701–5	1545–1273
25.2702–5	1545–1485
25.2702–6	1545–1273
25.6001–1	1545–0020
	1545–0022
25.6011–1	1545–0020
25.6019–1	1545–0020
25.6019–2	1545–0020
25.6019–3	1545–0020
25.6019–4	1545–0020
25.6061–1	1545–0020
25.6065–1	1545–0020
25.6075–1	1545–0020
25.6081–1	1545–0020
25.6091–1	1545–0020
25.6091–2	1545–0020
25.6151–1	1545–0020
25.6161–1	1545–0020
25.7520–1	1545–1343
25.7520–2	1545–1343
25.7520–3	1545–1343
25.7520–4	1545–1343
26.2601–1	1545–0985
26.2632–1	1545–0985
26.2642–1	1545–0985
26.2642–2	1545–0985
26.2642–3	1545–0985
26.2642–4	1545–0985
26.2652–2	1545–0985
26.2662–1	1545–0015
	1545–0985
26.2662–2	1545–0985
31.3102–3	1545–0029
	1545–0059
	1545–0065
31.3121(b)(19)–1	1545–0029
31.3121(d)–1	1545–0004
31.3121(i)–1	1545–0034
31.3121(k)–4	1545–0137
31.3121(r)–1	1545–0029
31.3121(s)–1	1545–0029
31.3121(v)(2)–1	1545–1643
31.3302(a)–2	1545–0028
31.3302(a)–3	1545–0028
31.3302(b)–2	1545–0028
31.3302(e)–1	1545–0028
31.3306(c)(18)–1	1545–0029
31.3401(a)–1	1545–0029
31.3401(a)(6)	1545–1484
31.3401(a)(6)–1	1545–0029
	1545–0096
	1545–0795
31.3401(a)(7)–1	1545–0029
31.3401(a)(8)(A)–1	1545–0029
	1545–0666
31.3401(a)(8)(C)–1	1545–0029
31.3401(a)(15)–1	1545–0182
31.3401(c)–1	1545–0004
31.3402(b)–1	1545–0010
31.3402(c)–1	1545–0010
31.3402(f)(1)–1	1545–0010
31.3402(f)(2)–1	1545–0010
	1545–0410
31.3402(f)(3)–1	1545–0010
31.3402(f)(4)–1	1545–0010
31.3402(f)(4)–2	1545–0010
31.3402(f)(5)–1	1545–0010
	1545–1435
31.3402(h)(1)–1	1545–0029
31.3402(h)(3)–1	1545–0010
31.3402(h)(3)–1	1545–0029
31.3402(h)(4)–1	1545–0010
31.3402(i)–(1)	1545–0010
31.3402(i)–(2)	1545–0010
31.3402(k)–1	1545–0065
31.3402(l)–(1)	1545–0010
31.3402(m)–(1)	1545–0010
31.3402(n)–(1)	1545–0010
31.3402(o)–2	1545–0415
31.3402(o)–3	1545–0008
	1545–0010
	1545–0415
	1545–0717
31.3402(p)–1	1545–0415
	1545–0717
31.3402(q)–1	1545–0238
	1545–0239
31.3404–1	1545–0029
31.3405(c)–1	1545–1341
31.3406(a)–1	1545–0112
31.3406(a)–2	1545–0112
31.3406(a)–3	1545–0112
31.3406(a)–4	1545–0112
31.3406(b)(2)–1	1545–0112
31.3406(b)(2)–2	1545–0112
31.3406(b)(2)–3	1545–0112
31.3406(b)(2)–4	1545–0112
31.3406(b)(2)–5	1545–0112
31.3406(b)(3)–1	1545–0112
31.3406(b)(3)–2	1545–0112
31.3406(b)(3)–3	1545–0112
31.3406(b)(3)–4	1545–0112
31.3406(b)(4)–1	1545–0112
31.3406(c)–1	1545–0112

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31.3406(d)–1	1545–0112
31.3406(d)–2	1545–0112
31.3406(d)–3	1545–0112
31.3406(d)–4	1545–0112
31.3406(d)–5	1545–0112
31.3406(e)–1	1545–0112
31.3406(f)–1	1545–0112
31.3406(g)–1	1545–0096
	1545–0112
31.3406(g)–2	1545–0112
31.3406(g)–3	1545–0112
31.3406(h)–1	1545–0112
31.3406(h)–2	1545–0112
31.3406(h)–3	1545–0112
31.3406(i)–1	1545–0112
31.3501(a)–1T	1545–0771
31.3503–1	1545–0024
31.3504–1	1545–0029
31.6001–1	1545–0798
31.6001–2	1545–0034
	1545–0798
31.6001–3	1545–0798
31.6001–4	1545–0028
31.6001–5	1545–0798
31.6001–6	1545–0029
	1459–0798
31.6011(a)–1	1545–0029
	1545–0034
	1545–0035
	1545–0059
	1545–0074
	1545–0718
	1545–0256
31.6011(a)–2	1545–0001
	1545–0002
31.6011(a)–3	1545–0028
31.6011(a)–3A	1545–0955
31.6011(a)–4	1545–0034
	1545–0035
	1545–0718
	1545–1413
31.6011(a)–5	1545–0718
	1545–0028
31.6011(a)–6	1545–0028
31.6011(a)–7	1545–0074
31.6011(a)–8	1545–0028
31.6011(a)–9	1545–0028
31.6011(a)–10	1545–0112
31.6011(b)–1	1545–0003
31.6011(b)–2	1545–0029
31.6051–1	1545–0008
	1545–0182
	1545–0458
31.6051–2	1545–0008
31.6051–3	1545–0008
31.6053–1	1545–0029
	1545–0062
	1545–0064
	1545–0065
31.6053–2	1545–0008
31.6053–3	1545–0065
	1545–0714
31.6053–4	1545–0065
31.6065(a)–1	1545–0029
31.6071(a)–1	1545–0001
	1545–0028
	1545–0029
31.6071(a)–1A	1545–0955
31.6081(a)–1	1545–0008
	1545–0028
31.6091–1	1545–0028
	1545–0029
31.6157–1	1545–0955
31.6205–1	1545–0029
31.6301(c)–1AT	1545–0035
	1545–0112
	1545–0257
31.6302–1	1545–1413
31.6302–2	1545–1413
31.6302–3	1545–1413
31.6302–4	1545–1413
31.6302(c)–2	1545–0001
	1545–0257
31.6302(c)–2A	1545–0955
31.6302(c)–3	1545–0257
31.6402(a)–2	1545–0256
31.6413(a)–1	1545–0029
31.6413(a)–2	1545–0029
	1545–0256
31.6413(c)–1	1545–0029
	1545–0171
31.6414–1	1545–0029
32.1	1545–0029
	1545–0415
32.2	1545–0029
35a.3406–2	1545–0112
35a.9999–3	1545–0112
35a.9999–5	1545–0029
36.3121(l)(1)–1	1545–0137
36.3121(l)(1)–2	1545–0137
36.3121(l)(3)–1	1545–0123
36.3121(1)(7)–1	1545–0123
36.3121(1)(10)–1	1545–0029
36.3121(1)(10)–3	1545–0029
36.3121(1)(10)–4	1545–0257
40.6302(c)–3(b)(2)(ii)	1545–1296
40.6302(c)–3(b)(2)(iii)	1545–1296
40.6302(c)–3(e)	1545–1296
40.6302(c)–3(f)(2)(ii)	1545–1296
41.4481–1	1545–0143
41.4481–2	1545–0143
41.4483–3	1545–0143
41.6001–1	1545–0143
41.6001–2	1545–0143
41.6001–3	1545–0143
41.6071(a)–1	1545–0143
41.6081(a)–1	1545–0143
41.6091–1	1545–0143
41.6109–1	1545–0143
41.6151(a)–1	1545–0143
41.6156–1	1545–0143
41.6161(a)(1)–1	1545–0143
44.4401–1	1545–0235
44.4403–1	1545–0235
44.4412–1	1545–0236
44.4901–1	1545–0236
44.4905–1	1545–0236
44.4905–2	1545–0236
44.6001–1	1545–0235
44.6011(a)–1	1545–0235
	1545–0236
44.6071–1	1545–0235
44.6091–1	1545–0235
44.6151–1	1545–0235
44.6419–1	1545–0235
44.6419–1	1545–0235
44.6419–2	1545–0235
46.4371–4	1545–0023
46.4374–1	1545–0023
46.4701–1	1545–0023
	1545–0257
48.4041–4	1545–0023
48.4041–5	1545–0023
48.4041–6	1545–0023

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48.4041–7	1545–0023
48.4041–9	1545–0023
48.4041–10	1545–0023
48.4041–11	1545–0023
48.4041–12	1545–0023
48.4041–13	1545–0023
48.4041–18	1545–0023
48.4041–19	1545–0023
48.4041–20	1545–0023
48.4041–21	1545–1270
48.4042–2	1545–0023
48.4052–1	1545–1418
48.4061(a)–1	1545–0023
48.4061(a)–2	1545–0023
48.4061(b)–3	1545–0023
48.4064–1	1545–0014
	1545–0242
48.4071–1	1545–0023
48.4073–1	1545–0023
48.4073–3	1545–0023
	1545–1074
	1545–1087
48.4081–2	1545–1270
	1545–1418
48.4081–3	1545–1270
	1545–1418
48.4081–4(b)(2)(ii)	1545–1270
48.4081–4(b)(3)(i)	1545–1270
48.4081–4(c)	1545–1270
48.4081–6(c)(1)(ii)	1545–1270
48.4081–7	1545–1270
	1545–1418
48.4082–2	1545–1418
48.4082–6	1545–1418
48.4082–7	1545–1418
48.4091–3	1545–1418
48.4101–1	1545–1418
48.4101–2	1545–1418
48.4161(a)–1	1545–0723
48.4161(a)–2	1545–0723
48.4161(a)–3	1545–0723
48.4161(b)–1	1545–0723
	1545–0723
48.4216(a)–2	1545–0023
48.4216(a)–3	1545–0023
48.4216(c)–1	1545–0023
48.4221–1	1545–0023
48.4221–2	1545–0023
48.4221–3	1545–0023
48.4221–4	1545–0023
48.4221–5	1545–0023
48.4221–6	1545–0023
48.4221–7	1545–0023
48.4222(a)–1	1545–0023
	1545–0014
48.4223–1	1545–0023
	1545–0723
	1545–0723
	1545–0723
	1545–0257
48.6302(c)–1	1545–0023
	1545–0257
48.6412–1	1545–0723
48.6416(a)–1	1545–0023
	1545–0723
48.6416(a)–2	1545–0723
48.6416(a)–3	1545–0723
48.6416(b)(2)–3	1545–1087
48.6416(b)(1)–1	1545–0723
48.6416(b)(1)–2	1545–0723
48.6416(b)(1)–3	1545–0723
48.6416(b)(1)–4	1545–0723
48.6416(b)(2)–1	1545–0723
48.6416(b)(2)–2	1545–0723
48.6416(b)(2)–3	1545–0723
	1545–1087
48.6416(b)(2)–4	1545–0723
48.6416(b)(3)–1	1545–0723
48.6416(b)(3)–2	1545–0723
48.6416(b)(3)–3	1545–0723
48.6416(b)(4)–1	1545–0723
48.6416(b)(5)–1	1545–0723
48.6416(c)–1	1545–0723
48.6416(e)–1	1545–0023
	1545–0723
48.6416(f)–1	1545–0023
	1545–0723
48.6416(g)–1	1545–0723
48.6416(h)–1	1545–0723
48.6420(c)–2	1545–0023
48.6420(f)–1	1545–0023
48.6420–1	1545–0162
	1545–0723
48.6420–2	1545–0162
	1545–0723
48.6420–3	1545–0162
	1545–0723
48.6420–4	1545–0162
	1545–0723
48.6420–5	1545–0162
	1545–0723
48.6420–6	1545–0162
	1545–0723
48.6421–0	1545–0162
	1545–0723
48.6421–1	1545–0162
	1545–0723
48.6421–2	1545–0162
	1545–0723
48.6421–3	1545–0162
	1545–0723
48.6421–4	1545–0162
	1545–0723
48.6421–5	1545–0162
	1545–0723
48.6421–6	1545–0162
	1545–0723
48.6421–7	1545–0162
	1545–0723
48.6424–0	1545–0723
48.6424–1	1545–0723
48.6424–2	1545–0723
48.6424–3	1545–0723
48.6424–4	1545–0723
48.6424–5	1545–0723
48.6424–6	1545–0723
48.6427–0	1545–0723
48.6427–1	1545–0023
	1545–0162
	1545–0723
48.6427–2	1545–0162
	1545–0723
48.6427–3	1545–0723
48.6427–4	1545–0723
48.6427–5	1545–0723
48.6427–8	1545–1418
48.6427–9	1545–1418
48.6427–10	1545–1418
48.6427–11	1545–1418
49.4251–1	1545–1075
49.4251–2	1545–1075
49.4251–4(d)(2)	1545–1628
49.4253–3	1545–0023
49.4253–4	1545–0023

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49.4264(b)–1	1545–0023
	1545–0226
	1545–0226
	1545–0912
	1545–0912
	1545–0257
	1545–0230
	1545–0224
	1545–0225
	1545–0224
	1545–0230
49.4271–1(d)	1545–0685
52.4682–1(b)(2)(iii)	1545–1153
52.4682–2(b)	1545–1153
	1545–1361
52.4682–2(d)	1545–1153
	1545–1361
52.4682–3(c)(2)	1545–1153
52.4682–3(g)	1545–1153
52.4682–4(f)	1545–1153
	1545–0257
52.4682–5(d)	1545–1361
52.4682–5(f)	1545–1361
53.4940–1	1545–0052
	1545–0196
53.4942(a)–1	1545–0052
53.4942(a)–2	1545–0052
53.4942(a)–3	1545–0052
53.4942(b)–3	1545–0052
53.4945–1	1545–0052
53.4945–4	1545–0052
53.4945–5	1545–0052
53.4945–6	1545–0052
53.4947–1	1545–0196
53.4947–2	1545–0196
53.4948–1	1545–0052
53.4961–2	1545–0024
53.4963–1	1545–0024
53.6001–1	1545–0052
53.6011–1	1545–0049
	1545–0052
	1545–0092
	1545–0196
53.6065–1	1545–0052
53.6071–1	1545–0049
53.6081–1	1545–0066
	1545–0148
53.6161–1	1545–0575
54.4972–1	1545–0197
54.4975–7	1545–0575
54.4977–1T	1545–0771
54.4980B–6	1545–1581
54.4980B–7	1545–1581
54.4980B–8	1545–1581
54.4981A–1T	1545–0203
54.6011–1	1545–0575
54.6011–1T	1545–0575
54.9801–3T	1545–1537
54.9801–4T	1545–1537
54.9801–5T	1545–1537
54.9801–6T	1545–1537
55.6001–1	1545–0123
55.6011–1	1545–0999
	1545–0123
	1545–1016
55.6061–1	1545–0999
55.6071–1	1545–0999
56.4911–6	1545–0052
56.4911–7	1545–0052
56.4911–9	1545–0052
56.4911–10	1545–0052
56.6001–1	1545–1049
56.6011–1	1545–1049
56.6081–1	1545–1049
56.6161–1	1545–1049
	1545–0257
145.4051–1	1545–0745
145.4052–1	1545–0120
	1545–0745
	1545–1076
	1545–0745
	1545–1076
145.4061–1	1545–0745
	1545–0257
	1545–0230
	1545–0224
156.6001–1	1545–1049
156.6011–1	1545–1049
156.6081–1	1545–1049
156.6161–1	1545–1049
301.6011–2	1545–0225
	1545–0350
	1545–0387
	1545–0441
	1545–0957
301.6017–1	1545–0090
301.6034–1	1545–0092
301.6035–1	1545–0123
301.6036–1	1545–0013
	1545–0773
301.6047–1	1545–0367
	1545–0957
301.6057–1	1545–0710
301.6057–2	1545–0710
301.6058–1	1545–0710
301.6059–1	1545–0710
301.6103(c)–1	1545–0280
301.6104(a)–1	1545–0495
301.6104(a)–5	1545–0056
301.6104(a)–6	1545–0056
301.6104(b)–1	1545–0094
	1545–0742
301.6104(d)–1	1545–1655
301.6104(d)–2	1545–1655
301.6104(d)–3	1545–1655
301.6109–1	1545–0003
	1545–0295
	1545–0367
	1545–0387
	1545–0957
	1545–1461
301.6109–3	1545–1564
301.6110–3	1545–0074
301.6110–5	1545–0074
301.6111–1T	1545–0865
	1545–0881
301.6111–2T	1545–0865
	1545–1687
301.6112–1T	1545–0865
	1545–1686
301.6114–1	1545–1126
	1545–1484
301.6222(a)–2T	1545–0790
301.6222(b)–1T	1545–0790
301.6222(b)–2T	1545–0790
301.6222(b)–3T	1545–0790
301.6227(b)–1T	1545–0790
	1545–0790
301.6231(a)(7)–1	1545–0790
301.6241–1T	1545–0130
301.6316–4	1545–0074
301.6316–5	1545–0074
301.6316–6	1545–0074
301.6316–7	1545–0029

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301.6324A–1	1545–0015
301.6361–1	1545–0074
	1545–0024
301.6361–2	1545–0024
301.6361–3	1545–0074
301.6402–2	1545–0024
	1545–0073
	1545–0091
301.6402–3	1545–0055
	1545–0073
	1545–0091
	1545–0132
301.6402–5	1545–0928
301.6404–1	1545–0024
301.6404–2T	1545–0024
301.6404–3	1545–0024
301.6405–1	1545–0024
301.6501(c)–1	1545–1241
	1545–1637
301.6501(d)–1	1545–0074
	1545–0430
301.6501(o)–2	1545–0728
301.6511(d)–1	1545–0582
	1545–0024
301.6511(d)–2	1545–0582
	1545–0024
301.6511(d)–3	1545–0024
	1545–0582
301.6652–2	1545–0092
301.6656–1	1545–0794
301.6656–2	1545–0794
301.6685–1	1545–0092
301.6689–1T	1545–1056
301.6707–1T	1545–0865
	1545–0881
301.6708–1T	1545–0865
301.6712–1	1545–1126
301.6723–1A(d)	1545–0909
301.6903–1	1545–0013
301.6905–1	1545–0074
301.7001–1	1545–0123
301.7101–1	1545–1029
301.7207–1	1545–0092
301.7216–2	1545–0074
301.7216–2(o)	1545–1209
301.7425–3	1545–0854
301.7430–2(c)	1545–1356
301.7507–8	1545–0123
301.7507–9	1545–0123
301.7513–1	1545–0429
301.7517–1	1545–0015
301.7605–1	1545–0795
301.7623–1	1545–0409
	1545–1534
301.7654–1	1545–0803
301.7701–3	1545–1486
301.7701–4	1545–1465
301.7701–7	1545–1600
301.7701–16	1545–0795
301.7701(b)–1	1545–0089
301.7701(b)–2	1545–0089
301.7701(b)–3	1545–0089
301.7701(b)–4	1545–0089
301.7701(b)–5	1545–0089
301.7701(b)–6	1545–0089
301.7701(b)–7	1545–0089
	1545–1126
301.7701(b)–9	1545–0089
301.7805–1	1545–0805
301.9001–1	1545–0220
301.9100–2	1545–1488
301.9100–3	1545–1488
301.9100–4T	1545–0016
	1545–0042
	1545–0074
	1545–0129
	1545–0172
	1545–0619
301.9100–6T	1545–0872
301.9100–7T	1545–0982
301.9100–8	1545–1112
301.9100–11T	1545–0123
301.9100–12T	1545–0026
	1545–0074
	1545–0172
	1545–1027
301.9100–14T	1545–0046
301.9100–15T	1545–0046
301.9100–16T	1545–0152
302.1–7	1545–0024
305.7701–1	1545–0823
305.7871–1	1545–0823
404.6048–1	1545–0160
420.0–1	1545–0710
Part 502	1545–0844
Part 503	1545–0837
Part 509	1545–0846
Part 513	1545–0834
Part 514	1545–0845
Part 516	1545–0841
Part 517	1545–0849
Part 520	1545–0833
Part 521	1545–0848
601.104	1545–0233
601.105	1545–0091
601.201	1545–0019
	1545–0819
601.204	1545–0152
601.401	1545–0257
601.504	1545–0150
601.601	1545–0800
601.602	1545–0295
	1545–0387
	1545–0957
601.702	1545–0429

(26 U.S.C. 7805)

[T.D. 8011, 50 FR 10222, Mar. 14, 1985; 64 FR 15688, Apr. 1, 1999]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §602.101, see the List of CFR Sections Affected in the Findings Aids section of 26 CFR part 600–end.

EFFECTIVE DATE NOTES: 1. By T.D. 8734, 62 FR 53498, Oct. 14, 1997, the table in §602.101 was amended by removing the entries for 1.1441–8T, 1.1461–3, 1.1461–4, 35a.9999–3, part 502, part 503, part 516, part 517, and part 520; adding entries for 1.1441–1, 1.1441–4, 11.1441–8, 1.1441–9, 31.3401(a)(6), and 301.6114–1; and revising the entries for 1.1441–5, 1.1441–6, 1.1461–1, and 301.6402–3, effective Jan. 1, 1999. At 63 FR 2723, Jan. 16, 1998, the entry for ''11.1441–8'' was corrected to read ''1.1441–8'', effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed to Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed to Jan. 1, 2001.

For the convenience of the user, the revised text is set forth as follows:

§ 602.101 OMB Control numbers.

* * * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1441–5	1545–0096 1545–0795 1545–1484
1.1441–6	1545–0055 1545–0795 1545–1484
1.1461–1	1545–0054 1545–0055 1545–0795 1545–1484
* * * * *	
301.6402–3	1545–0055 1545–0073 1545–0091 1545–0132 1545–1484
* * * * *	

2. By T.D. 8859, 65 FR 2329, Jan. 14, 2000, the table in § 602.101, paragraph (b) was amended by revising the entry for 1.42–5 and by adding an entry for 1.42–17, effective Jan. 1, 2001. For the convenience of the user, the superseded text is set forth as follows:

§ 602.101 OMB control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	*
1.42–5	1545–1291
* * * * *	*

3. By T.D. 8873, 65 FR 6008, Feb. 8, 2000, § 602.101 was amended by adding contol number 1545–1632 for 1.402(f)–1 and 1.411(a)–11, effective Jan. 1, 2001.

List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the FEDERAL REGISTER since January 1, 1973, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to FEDERAL REGISTER pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 1973, see the ''List of Sections Affected, 1949–1963 and 1964–1972,'' published in three separate volumes.

1973–1987

(No regulations published)

1988

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501 Removed 35506
504—507 Removed 35506
511 Removed 35506
512 Removed 35506
518 Removed 35506
519 Removed 35506

1989

26 CFR

54 FR Page

Chapter I
510 Removed 37453
515 Removed 37453

1990–1996

(No regulations published)

1997

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502 Removed; eff. 1–1–99 53497
503 Removed; eff. 1–1–99 53497
509 Authority citation added 53497
509.1—509.10 (Subpart) Removed; eff. 1–1–99 53497
509.103 (e) removed; eff. 1–1–99 53497
509.117 (a) removed; eff. 1–1–99 53497
509.119 Removed; eff. 1–1–99 53497
509.122 Removed; eff. 1–1–99 53497
513 Authority citation revised 53497

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513.1 Removed; eff. 1–1–99 53497
513.2 Revised; eff. 1–1–99 53497
513.3 Revised; eff. 1–1–99 53497
513.4 Revised; eff. 1–1–99 53498
513.5 Revised; eff. 1–1–99 53498
514 Authority citation added 53498
514.1—514.32 (Subpart) Authority citation removed 53498
514.1—514.10 Undesignated center heading removed; eff. 1–1–99 53498
514.20 Removed; eff. 1–1–99 53498
514.21 Removed; eff. 1–1–99 53498
514.22 (c) removed; eff. 1–1–99 53498
514.23 Removed; eff. 1–1–99 53498
514.24 Removed; eff. 1–1–99 53498
514.25 Removed; eff. 1–1–99 53498
514.26 Removed; eff. 1–1–99 53498
514.27 Removed; eff. 1–1–99 53498
514.28 Removed; eff. 1–1–99 53498
514.29 Removed; eff. 1–1–99 53498
514.30 Removed; eff. 1–1–99 53498
514.31 Removed; eff. 1–1–99 53498
514.32 Removed; eff. 1–1–99 53498
514.101—514.117 (Subpart) Undesignated center heading and sections removed; eff. 1–1–99 53498
516 Removed; eff. 1–1–99 53498
517 Removed; eff. 1–1–99 53498
520 Removed; eff. 1–1–99 53498
521 Authority citation revised 53498
521.1—521.8 (Subpart) Removed; eff. 1–1–99 53498
521.103 (d) removed; eff. 1–1–99 53498

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503 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 72183
509.1—509.10 (Subpart) Regulation at 62 FR 53497 eff. date delayed to 1–1–00 72183
509.103 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 72183
509.117 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 72183
509.119 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 72183
509.122 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 72183
513.1 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 72183
513.2 Corrected 2723
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513.3 Regulation at 62 FR 53497 eff. date delayed to 1–1–00 72183
513.4 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 72183
513.5 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 72183
514.1—514.10 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 72183
514.20 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 72183
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520 Regulation at 62 FR 53498 eff. date delayed to 1–1–00 72183
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502 Regulation at 62 FR 53497 eff. date delayed to 1–1–01 73408
503 Regulation at 62 FR 53497 eff. date delayed to 1–1–01 73408
509–1—509.10 (Subpart) Regulation at 62 FR 53497 eff. date delayed to 1–1–01 73408
509.103 Regulation at 62 FR 53497 eff. date delayed to 1–1–01 73408
509.117 Regulation at 62 FR 53497 eff. date delayed to 1–1–01 73408
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509.122 Regulation at 62 FR 53497 eff. date delayed to 1–1–01 73408
513.1 Regulation at 62 FR 53497 eff. date delayed to 1–1–01 73408
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513.5 Regulation at 62 FR 53498 eff. date delayed to 1–1–01 73408
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514.26 Regulation at 62 FR 53498 eff. date delayed to 1–1–01 73408
514.27 Regulation at 62 FR 53498 eff. date delayed to 1–1–01 73408
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514.29 Regulation at 62 FR 53498 eff. date delayed to 1–1–01 73408
514.30 Regulation at 62 FR 53498 eff. date delayed to 1–1–01 73408
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521.1—521.8 (Subpart) Regulation at 62 FR 53498 eff. date delayed to 1–1–01 73408
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(No regulations published from January 1, 2000 through April 1, 2000)