PART 514—FRANCE

Subpart—Withholding of Tax

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

§ 514.22 Dividends received by persons not entitled to reduced rate of tax.


Subpart—Withholding of Tax

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

§ 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) 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."

§ 514.1 (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:

§ 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 a 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...