

## § 509.121

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 non-resident 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

## 26 CFR Ch. I (4-1-20 Edition)

the Internal Revenue Code of 1954, and the regulations thereunder.

### PARTS 510-512 [RESERVED]

#### PART 513—IRELAND

##### Subpart—Withholding of Tax

Sec.

513.2 Dividends.

513.3 Interest.

513.4 Patent and copyright royalties and film rentals.

513.5 Natural resource royalties and real property rentals.

513.6 Pensions and life annuities.

513.7 Release of excess tax withheld at source.

513.8 Addressee not actual owner.

513.9 Information to be furnished in ordinary course.

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: T.D. 5897, 17 FR 3633, Apr. 24, 1952, unless otherwise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

##### Subpart—Withholding of Tax

#### § 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.

[T.D. 8734, 62 FR 53497, Oct. 14, 1997; 63 FR 2723, Jan. 16, 1998]

#### § 513.3 Interest.

The provisions of § 513.2 relating to the degree of liability to Irish tax in

## Internal Revenue Service, Treasury

## §513.7

the case of dividends are equally applicable with respect to the income falling within the scope of this section.

[T.D. 8734, 62 FR 53497, Oct. 14, 1997]

### §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.

[T.D. 8734, 62 FR 53498, Oct. 14, 1997]

### §513.5 Natural resource royalties and real property 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.

[T.D. 8734, 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 In-

ternal 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

## §513.7

## 26 CFR Ch. I (4-1-20 Edition)

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 ex-

cess 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

## § 513.10

## 26 CFR Ch. I (4-1-20 Edition)

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).