

SUBCHAPTER G—REGULATIONS UNDER TAX CONVENTIONS

PARTS 500–501 [RESERVED]

PART 502—GREECE

Subpart—Withholding of Tax

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

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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

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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.

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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 for-

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mulae, 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.

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ARTICLE XI

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(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.

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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

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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.

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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.

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ARTICLE XX

(1) In no case shall the provisions of Article XVIII and XIX be construed so as to im-

pose 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.

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(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