

§ 509.102

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.

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§ 509.102 Applicable provisions of law.

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

SUBTITLE A—INCOME TAXES

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SEC. 894. *Income exempt under treaty.* Income of any kind, to the extent required by any treaty obligation of the United States,

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shall not be included in gross income and shall be exempt from taxation under this subtitle.

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SUBTITLE F—PROCEDURE AND ADMINISTRATION

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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.

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(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) [Reserved]

(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.

[T.D. 6149, 20 FR 7587, Oct. 12, 1955; 25 FR 14022, Dec. 31, 1960, as amended by T.D. 8734, 62 FR 53497, Oct. 14, 1997]

§ 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.