

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

Sec.

- 513.1 Introductory.
- 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: Treasury Decision 5897, 17 FR 3633, Apr. 24, 1952, unless otherwise 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

Internal Revenue Service, Treasury

§513.1

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.

* * * * *

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

§513.1

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.

26 CFR Ch. I (4-1-00 Edition)

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