

IX. The term "United States of America" as used in this Convention in a geographic sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

X. The term "France", when used in a geographic sense, indicates continental France, exclusive of Algeria and the Colonies.

XI. Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

Done in duplicate at Paris, this 25th day of July, 1939.

WILLIAM C. BULLITT
GEORGES BONNET

§514.102 Applicable provisions of the Internal Revenue Code.

(a) The Internal Revenue Code provides in part as follows:

SEC. 22. GROSS INCOME. * * *

(b) *Exclusions from gross income.* The following items shall not be included in gross income and shall be exempt from taxation under this chapter:

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(7) Income exempt under treaty.—Income of any kind, to the extent required by any treaty obligation of the United States;

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SEC. 62. RULES AND REGULATIONS.

The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

(b) Pursuant to section 62 of the Internal Revenue Code, Article 26 of the convention, and other provisions of the internal revenue laws, §§514.103-514.117 are hereby prescribed and all regulations inconsistent herewith are modified accordingly.

§514.103 Scope of the convention.

(a) The primary purposes of the convention are to avoid double taxation upon certain classes of income, and to inaugurate fiscal cooperation between the two States with respect to reciprocal disclosure of information and to the collection of the taxes enumerated in Article I of the convention.

(b) The specific classes of income from sources within the United States

exempt under the convention from United States income taxes are:

(1) Industrial and commercial profits of a French enterprise having no permanent establishment in the United States (Article 3);

(2) Income derived by a French enterprise from the operation of ships documented under the laws of, or aircraft registered in, France (Article 6);

(3) Royalties derived by a non-resident alien who is a resident of France or by a French corporation or other French entity (having no permanent establishment within the United States), for the right to use copyrights, patents, secret processes and formulae, trademarks and other analogous rights (Article 7);

(4) Compensation and pensions paid by France or by a political subdivision of France to individuals (other than citizens of the United States) for services rendered to France whether within or without the United States (Article 8);

(5) Private pensions and life annuities derived from within the United States and paid to nonresident alien individuals (whether or not such individuals are citizens of France) residing in France during the year in which such amounts are paid (Article 8);

(6) Earned income of a doctor, lawyer, engineer, or other member of a liberal profession who is a nonresident alien individual and is a resident of France and does not maintain within the United States an office, establishment, installation, or other fixed center related to the practice of his profession within the United States (Article 10);

(7) Gains from sources within the United States arising from the sale or exchange of stocks, securities, or commodities by a resident of France (other than a citizen of the United States) or a French corporation or other French entity unless such resident, corporation, or other entity has, at any time during the taxable year in which such sale takes place, a permanent establishment within the United States (Article 11).

(c) Except as expressly provided by the convention, the tax liability of nonresident aliens who are residents of France or of French corporations or

other French entities is determined in accordance with the provisions of the laws and of the regulations thereunder applicable generally to nonresident alien individuals and to foreign corporations.

(d) The convention shall not be construed to affect the liability to United States income taxation of citizens of France who are resident in the United States except to the extent that such individuals are entitled to the benefits of Articles 8, 14A, and 19 and to paragraph V of the protocol of the convention. The tax liability of a United States citizen or a resident of the United States, a member of a French partnership carrying on a French enterprise is not affected by Article 3 of the convention. Such citizen or resident is subject to United States income tax upon his distributive share of the net income of such partnership even though the other members of such partnership are not subject to tax upon their share of the partnership's industrial and commercial profits from sources within the United States where the enterprise has no permanent establishment within the United States. The convention shall not be construed to affect the liability to United States income taxation of citizens of the United States or residents of the United States who are not citizens of France.

(e) The convention has no reference to rates of taxation imposed by the respective States but is concerned with the exempting of income arising in one of the contracting States when such income is derived from sources within such contracting State by a resident or corporation or other entity of the other contracting State and meets the conditions upon which such exemption depends as prescribed in the convention. This subpart is not concerned with the provisions of Articles 14B, 15, 16, and 17 of the convention since such articles affect only the allowance against the taxes imposed by France of income and excess profits taxes paid to the United States or the application of French revenue laws and decrees.

§ 514.104 Definitions.

(a) Any word or term used in this subpart which is defined in the convention shall be given the definition as-

signed to such word or term in such convention. Any word or term used in this subpart which is not defined in the convention but is defined in the Internal Revenue Code shall be given the definition contained therein.

(b) As used in this subpart:

(1) 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. A French parent corporation having a domestic or foreign subsidiary corporation in the United States shall not be deemed by reason of such fact to have a permanent establishment in the United States. The mere fact that a foreign subsidiary corporation of a French parent corporation has a permanent establishment in the United States does not mean that such French parent corporation has a permanent establishment in the United States. The fact that a French enterprise carries on business dealings in the United States through a bona fide commission agent or broker shall not be held to mean that such enterprise has a permanent establishment in the United States. If, however, a French enterprise carries on business in the United States 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, such enterprise shall be deemed to have a permanent establishment in the United States. Thus, if a French enterprise has a full time employee or full time agent who for such enterprise maintains in the United States a stock of merchandise from which orders are filled, such enterprise has a permanent establishment in the United States even though such employee or agent has no general authority to negotiate and conclude contracts on behalf of such enterprise. However, the mere fact that a commission agent or broker through whom a French enterprise carries on business in the United States maintains a small stock of goods in the United States from which occasional orders are filled shall not be construed as meaning that such enterprise has a permanent establishment in the United States. The mere