

under Article 6 of the convention exempt from United States income tax. However, the profits derived by such enterprise from the operation of ships or aircraft, if any, not so documented or registered are treated as are industrial and commercial profits generally. See Article 3 of the convention and §514.105.

**§514.108 Income from real property, including mineral royalties.**

Income of whatever nature derived by a nonresident alien individual who is a resident of France, or by a French corporation or other French entity from real property situated in the United States, including gains derived from the sale of such property and royalties in respect of the operation of mines, quarries, or other natural resources situated in the United States, is not exempted from taxation by the convention. The treatment of such income for taxation purposes is governed by those provisions of the Internal Revenue Code applicable generally to the taxation of nonresident aliens and foreign corporations.

**§514.110 Government wages, salaries, and similar compensation, pensions, and life annuities.**

(a) Under Article 8 of the convention, wages, salaries, and similar compensation, and pensions paid by France, or by a political subdivision thereof, to individuals residing in the United States are exempt from Federal income tax. However, under the provisions of Article 14A of the convention, such exemption shall not be construed as applying to recipients of such income who are citizens of the United States or alien residents who are not citizens of France.

(b) Under the provisions of the same article of the convention private pensions and life annuities derived from sources within the United States by nonresident alien individuals who are residents of France are exempt from Federal income tax. Such items of income are therefore not subject to the withholding provisions of the Internal Revenue Code. See paragraph IV of the protocol to the convention as to what constitutes life annuities. See, also,

§514.109<sup>1</sup> with respect to patent and copyright royalties as to the requirements necessary to avoid withholding of the tax at the source, which requirements are also applicable for the purposes of this section.

**§514.111 Compensation for labor or personal services.**

(a) *General.* In general and subject to the provisions of Article 8 and Article 10 of the convention and paragraph (b) of this section, compensation for labor or personal services derived from sources within the United States by a nonresident alien who is a resident of France, is subject to tax in accordance with the provisions of the Internal Revenue Code applicable generally to nonresident aliens. The provisions of Article 9 do not disturb either the provisions of section 119(a)(3) of the Internal Revenue Code, relating to source of compensation for labor or personal services, or the provisions of the Internal Revenue Code relating to the taxation of such compensation in the hands of a nonresident individual who is a resident of France.

(b) *Professional earnings.* Article 10 of the convention provides a special rule of taxation with respect to professional fees constituting income derived from sources within the United States by a resident of France who is a nonresident alien. Under such rule, such nonresident alien rendering professional services, such as medical, legal, engineering, and scientific services, is not subject to United States tax with respect to such compensation unless he has an office or other fixed place situated in the United States during the taxable year. Thus, such alien present in the United States during any part of the taxable year and rendering professional advice as a medical doctor or as a lawyer or as an engineer, is not subject to Federal income tax on fees derived by him in such taxable year by reason of such services unless he maintains at some time during such taxable year an office or other fixed place in the United States incident to the practice of his profession. The exemption applies regardless of the length of time

<sup>1</sup>Section 514.109 (formerly §7.418) was revoked by T.D. 6273, 22 F.R. 9529, Nov. 28, 1957.

## §514.112

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

spent within the United States during the taxable year and regardless of the amount of the fees or professional charges resulting to such alien from such services. As to when an alien is regarded as a resident of the United States and hence outside the scope of the exemption, see §29.211-2 of Regulations 111 (26 CFR 1949 ed. Supps. 29.211-2) [and §39.211-2 of Regulations 118 (26 CFR, Rev. 1953, Parts 1-79, and Supps.)].

### §514.112 Stocks, securities, and commodities.

Under Article 11 of the convention, gains derived from the sale or exchange within the United States of stocks, securities, or commodities (if of a kind customarily dealt in on an organized commodity exchange) by a nonresident alien individual resident in France, or by a French corporation or other French entity, is exempt from Federal income tax unless such individual, corporation, or other entity has a permanent establishment in the United States. If, however, a permanent establishment is maintained in the United States, such gains are not so exempt even though the sales or exchanges resulting in such gains were carried on directly from the home office of the taxpayer and not through the permanent establishment in the United States. As to what constitutes a permanent establishment, see §514.104(b)(1).

### §514.113 Remittances to students.

Under Article 12 of the convention, nonresident alien individuals who are residents of France and who are temporarily residing in the United States for the purposes of studying or for acquiring business experience, are exempt from Federal income tax upon amounts representing remittances from France for the purposes of their maintenance and studies.

### §514.114 Credit against United States tax liability for income tax paid to France.

For the purpose of avoidance of double taxation, Article 14A of the convention provides that, on the part of the United States, there shall be allowed against the United States income and

excess profits tax liabilities a credit for any income, war-profits or excess profits taxes paid to France by United States citizens or domestic corporations. Such principle also applies in the case of a citizen of France residing in the United States. Such credit, however, is subject to the limitations provided in section 131 of the Internal Revenue Code (relating to the credit for foreign taxes) and section 729 of such Code (relating to laws applicable). See §§29.131-1 to 29.131-10 of Regulations 111 (26 CFR 1949 ed. Supps. 29.131-1 to 29.131-10), [§§39.131(a)-1 to 39.131(j)-1 of Regulations 118 (26 CFR, Rev. 1953, Parts 1-79, and Supps.)], and §§35.729-1 to 35.729-3 Regulations 112 (26 CFR 1938 ed. Supps. 35.729-1 to 35.729-3).

### §514.115 Adjustment of tax liability of residents of France and French corporations.

Article 18 of the convention confers upon the Commissioner authority to adjust under the Revenue Act of 1936 the tax liability for taxable years beginning prior to January 1, 1936, of nonresident alien residents of France, and French corporations, in any case in which such tax liability remained unpaid on January 1, 1945. Such provision, however, will not apply in any case unless:

(a) The Commissioner is satisfied that the additional income tax involved did not arise by reason of fraud with intent to evade the tax on the part of the taxpayer concerned; and

(b) The taxpayer files, prior to January 1, 1947, with the Commissioner a sworn statement showing for each year involved and for such other years as the Commissioner may require, (1) by items and classes of income the amounts of interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical income, gains, profits, and income derived from sources within the United States; (2) the business transactions, if any, carried on in the United States by or in behalf of the taxpayer during each of such years; and (3) such further information as the Commissioner may require in the particular case.