ARTICLE 32—TERMINATION

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least 6 months before the end of any calendar year after the year 1969. In such event, the Convention shall cease to have effect:

(1) In the case of France:

(a) As respects withholding taxes, on January 1 of the year following the year in which notice is given.

(b) As respects other income taxes, for any year of assessment beginning on or after January 1 of the year following the year in which notice is given; and

(c) As respects the tax on stock exchange transactions, for any transactions occurring on or after January 1 of the year following the year in which notice is given.

(2) In the case of the United States:

(a) As respects withholding taxes, on January 1 of the year following the year in which notice is given;

(b) As respects other income taxes, for any taxable year beginning on or after January 1 of the year following the year in which notice is given; and

(c) As respects taxes referred to in paragraph (2) of Article 1, for any transactions occurring on or after January 1 of the year following the year in which notice is given.

(b) *Definitions.* 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 of the United States.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, § 514.20 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.

§ 514.21 Dividends.

(a) *Exemption from or reduction in rate of United States tax*—(1) *Exempt from U.S. tax.* Except as provided in subparagraph (2) of this paragraph, dividends paid by a French corporation on or after August 11, 1968, to a nonresident alien individual or foreign corporation are exempt from tax by the United States under the provisions of Article 13(1)(a) of the convention. Such dividends are, therefore, not subject to the withholding of U.S. tax at source.

(2) *Exemption and reduced rate of withholding not applicable.* Dividends paid by a French corporation on or after August 11, 1968, to a nonresident alien individual or foreign corporation (other than a resident of France or a French corporation) are subject to U.S. tax in accordance with the provisions of section 871(a) or 881(a) of the Internal Revenue Code and the regulations thereunder if the paying corporation has a permanent establishment in the United States and more than 80 percent of its gross income was taxable to such permanent establishment for a 3-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such portion of that period as the corporation has been in existence). Such dividends are not eligible for the reduced rate of withholding under Article 9(2) of the convention or to exemption from tax under Article 13(1)(a) of the convention.

(3) *Application of reduced rate*—(i) *Rate of 15 percent.* Except as provided in subdivision (ii) of this subparagraph, and subparagraph (4) of this paragraph the rate of U.S. tax imposed upon dividends derived from sources within the United States on or after August 11, 1968, and received by a nonresident alien individual who is a resident of France or a French corporation or a person resident in France for French tax purposes shall not exceed 15 percent of the gross amount actually distributed as provided for in Article 9(2) of the convention. For the purposes of this section the gross amount actually distributed includes amounts constructively received.

(ii) *Rate of 5 percent.* The rate of U.S. tax imposed upon dividends derived from sources within the United States on or after August 11, 1968, and received by a French corporation shall not exceed 5 percent of the gross amount actually distributed if—

(*a*) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 percent of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation, and (*b*) Not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consisted of interest and dividends (other than interest derived in the conduct of a banking, insurance, or financing business and dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which was owned by the paying corporation at the time such dividends or interest were received).

(iii) *Information to be filed with the Commissioner when claiming a 5-percent rate.* Any paying corporation which claims or contemplates claiming that dividends paid or to be paid by it on or after August 11, 1968, are subject to United States tax at the rate of 5 percent under Article 9 of the convention shall file the following information with the Commissioner of Internal Revenue, Washington, D.C. 20224, as soon as practicable:

(*a*) The date and place of its organization;

(*b*) The number and a brief description of outstanding shares of stock of the paying corporation and the voting power thereof;

(*c*) The number of shares of each class of voting stock of the paying corporation owned by the recipient corporation and the date the recipient corporation acquired such stock;

(*d*) The amount of the gross income of the paying corporation for its taxable year immediately preceding the taxable year in which the dividends are paid;

(*e*) The amount of the interest and dividends included in such gross income, the amount of such interest derived in the conduct of a banking, insurance, or financing business, if any, and the amount of such interest and dividends received from a subsidiary corporation in which the paying corporation owns at least 50 percent of the voting stock on the date of receipt.

(iv) *Notification by Commissioner—5 percent rate.* As soon as practicable after such information is filed, the Commissioner of Internal Revenue will determine whether the dividends concerned qualify under Article 9 of the convention for the reduced rate of 5 percent and will notify the paying corporation of his determination. If the dividends qualify for such reduced rate, this notification may also authorize the release, pursuant to § 514.28(a)(1)(ii), of excess tax withheld from the dividends concerned. A duplicate copy of such notification shall be attached to the Form 1042S filed by the paying corporation for the first year of payment. There shall be attached to Form 1042S filed by the paying corporation for each subsequent year of payment a statement that the conditions upon which the notification was issued are applicable to such subsequent year.

(4) *Dividends effectively connected with a permanent establishment.* The reduction in rate of tax provided in subparagraph (3) of this paragraph shall not apply if the owner of the dividends has a permanent establishment in the United States and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment. Such dividends are subject to tax in accordance with the provisions of Article 6 of the convention.

(b) *Withholding of tax from dividends*—(1) *15 percent rate*—(i) *Reduction based on address in France.* Except as provided in subparagraph (2) of this paragraph, withholding of United States tax at source on or after August 11, 1968, from dividends derived from sources within the United States by a person whose address is in France, shall be at the reduced rate of 15 percent in every case except that in which, prior to the date of payment of such dividends, the Commissioner of Internal Revenue or the owner of the dividends has notified the withholding agent that such reduced rate of withholding shall not apply.

(ii) *Reduced rate of 15 percent applicable only to owner of capital stock.* The reduced rate of 15 percent is available only to the real owner of the capital stock from which the dividend is derived. As to action by a French addressee who is not the real owner of the capital stock, see § 514.22(c).

(iii) *Evidence of rate of tax withheld.* The rate at which U.S. tax has been withheld from a dividend paid on or after August 11, 1968, to a person whose address is in France on the date the dividend is paid to such person shall be shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment, or on an accompanying statement.

(2) *5-percent rate*—(i) *Reduction based on notification by Commissioner.* If, in accordance with paragraph (a)(3)(iv) of this section, the Commissioner of Internal Revenue has notified the paying corporation that the dividends qualify under Article 9 of the convention for the reduced rate of 5 percent, the reduced withholding rate of 5 percent, to the extent withholding of U.S. tax is required, shall apply to any dividends paid by the paying corporation on or after August 11, 1968.

(ii) *Dividends cease to qualify for 5-percent rate.* If, after receipt of notification from the Commissioner of Internal Revenue that the dividends qualify for the reduced rate of 5 percent, the French recipient corporation ceases to be eligible for the reduction in rate because one or more of the conditions of subdivision (ii) (*a*) or (*b*) of paragraph (a)(3) of this section are not satisfied, the reduction in the rate of withholding of U.S. tax shall no longer apply. When any change occurs in the ownership of stock as recorded on the books of the paying corporation or in the percentage of dividends and interest included in gross income of the paying corporation, the paying corporation shall notify the Commissioner of Internal Revenue as soon as possible.

(iii) *Evidence of tax withheld.* The rate at which U.S. tax has been withheld from a dividend paid on or after August 11, 1968, to a French corporation shall be shown either in writing or by appropriate stamp on the check, draft, or other evidence of payment, or on an accompanying statement.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, § 514.21 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.

§ 514.22 Dividends received by persons not entitled to reduced rate of tax.

(a) *General.* Article 27(1) of the convention provides that each Contracting State shall undertake to lend assistance and support to the other Contracting State in the collection of taxes covered by the convention.

(b) *Additional French tax to be withheld in the United States*—(1) *By a nominee or representative.* The recipient in the United States of any dividend from which French tax has been withheld at the reduced rate of 15 percent, who is a nominee or representative through whom the dividend is received by a person who is not a resident of the United States, shall withhold an additional amount of French tax equivalent to the French tax which would have been withheld if the convention had not been in effect (25 percent as of the date of approval of this Treasury decision) minus the 15 percent which has been withheld at the source.

(2) *By a fiduciary or partnership.* A fiduciary or partnership with an address in the United States which receives, otherwise than as a nominee or representative, a dividend from sources within France from which French tax has been withheld at the reduced rate of 15 percent, shall withhold an additional amount of French tax from the portion of the dividend included in the gross income from sources within France of any beneficiary or partner, as the case may be, who is not entitled to the reduced rate of tax in accordance with the applicable provisions of the convention. The amount of the additional tax is to be calculated in the same manner as under subparagraph (1) of this paragraph.

(3) *Withholding additional French tax from amounts released or refunded.* If any amount of French tax is released by the withholding agent in France with respect to a dividend received by a nominee, representative, fiduciary, or partnership in the United States, the recipient shall withhold from such released amount any additional amount of French tax otherwise required to be withheld from the dividend by the provisions of subparagraphs (1) and (2) of this paragraph, in the same manner as if at the time of payment of the dividends French tax at the rate of 15 percent had been withheld therefrom.

(4) *Return of French tax by U.S. withholding agents.* Amounts of French tax withheld pursuant to this paragraph by withholding agents in the United