

derived the owner (a) if an individual, is neither a citizen nor a resident of the United States but is a resident of France or, if a corporation or other entity is resident in France for French tax purposes, and (b) has no permanent establishment in the United States or, if the owner does have such a permanent establishment, a statement that the property or right giving rise to such royalty is not effectively connected with such permanent establishment. If the royalty is exempt from U.S. tax, the letter of notification may also authorize the release, pursuant to § 514.28 of excess tax withheld from the royalty concerned.

(ii) *Manner of filing letter of notification.* The provisions of § 514.23(c)(2)(ii) and (iii) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest, including its use for the release of excess tax withheld and § 514.23(c)(3) relating to change of circumstances, are equally applicable with respect to the income falling within the scope of this section.

(b) *Reduction in rate of United States tax—(1) Industrial royalties.* Except as provided in subparagraph (3) of this paragraph, the rate of U.S. tax imposed on royalties, derived from sources within the United States on or after August 11, 1968, by a nonresident alien individual who is a resident of France, or by a French corporation shall not, under Article 11(2) of the convention, exceed 5 percent of the gross amount paid.

(2) *Definitions.* As used in this paragraph, the term “royalty” means royalties, rentals, or other amounts (other than royalties described in paragraph (a)(1) of this section) paid as consideration for the use of or the right to use patents, designs or models, plans, secret processes or formulae, trademarks, or other like property or rights, or for knowledge, experience, or skill (know-how) and gains derived from the sale or exchange of such right or property if payment is contingent, in whole or in part, on the productivity use, or disposition of the property or rights sold. The term “royalty” does not include natural resource royalties which are subject to tax in accordance with

the provisions of Article 5 of the convention.

(3) *Industrial royalties effectively connected with a permanent establishment.* The reduction in rate of tax provided in subparagraph (1) of this paragraph shall not apply if the owner of the royalties or of the gain from the sale or exchange of the property or right giving rise to such royalties has a permanent establishment in the United States and the property or right giving rise to such royalties or gain is effectively connected with such permanent establishment. Such royalties are subject to tax in accordance with the provisions of Article 6 of the convention.

(4) *Withholding of U.S. tax from industrial royalties.* In order to secure the reduced rate of U.S. tax at source as provided in subparagraph (1) of this paragraph, the nonresident alien individual who is a resident of France or French corporation or person resident in France for French tax purposes shall notify the withholding agent by letter in duplicate that the royalty qualifies for the reduced rate of U.S. tax granted by Article 11(2) of the convention. The letter of notification shall be signed by the owner of the royalty, or by the trustee or agent of such owner, and shall show the name and address of the owner. The provisions of subparagraph (3) of paragraph (a) of this section relating to the form, content, execution, filing, and effective period of the letter of notification prescribed therein with respect to copyright royalties, including its use for the release of excess tax withheld and relating to change of circumstances, are equally applicable with respect to industrial royalties.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, § 514.24 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.

#### § 514.25 Private pensions, alimony, and annuities.

(a) *Exemption from U.S. tax—(1) Requirements.* Any pension (other than one paid by the United States or a political subdivision or a local authority

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thereof to an individual who is a citizen of the United States for the discharge of governmental functions), alimony, or annuity derived from sources within the United States by a non-resident alien individual who is a resident of France and received in a taxable year of the recipient beginning after December 31, 1966, shall be exempt from U.S. tax under the provisions of Article 19 of the convention.

(2) *Definitions*—(i) *Pension*. As used in this paragraph, the term “pension” means periodic payments made after retirement in consideration of past employment or as compensation for injuries received in connection with past employment. The term “pension” does not include retirement pay or pensions paid by the United States or by any State or local authority of the United States which are subject to tax in accordance with the provisions of Article 16 of this convention.

(ii) *Annuity*. The term “annuity” means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered), but not including retirement pay or pensions paid by the United States or by any State or territory of the United States.

(b) *Exemption from withholding tax*—(1) *Use of letter of notification*. To avoid withholding of U.S. tax at source with respect to pensions, alimony, or annuities which are exempt from U.S. tax in accordance with paragraph (a) of this section, the nonresident alien individual who is a resident of France shall notify the withholding agent by letter in duplicate that the pension, alimony, or annuity is exempt from U.S. tax under Article 19 of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that at the time the income is received, the owner is neither a citizen nor a resident of the United States but is a resident of France.

(2) *Manner of filing letter*. The provisions of § 514.23(c)(2)(ii) and (iii) relating to the execution, filing, and effective

period of the letter of notification prescribed therein with respect to interest, including its use for the release of excess tax withheld and § 514.23(c)(3) relating to change of circumstances, are equally applicable with respect to the income falling within the scope of this section.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, § 514.25 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.

### § 514.26 Income covered by convention.

(a) *Exemption from or reduction in rate of tax*—(1) *Request for ruling*. If a non-resident alien individual who is a resident of France or French corporation or person resident in France for French tax purposes claims or contemplates claiming that an item of income (including income referred to in §§ 514.21 through 514.25) is exempt from, or subject to a reduced rate of, U.S. tax under the convention, such owner of the income may request a ruling to that effect from the Commissioner of Internal Revenue, Washington, D.C. 20224, by filing a statement setting forth all the facts pertinent to a determination of the question.

(2) *Notification of applicant*. As soon as practicable after such information is filed, the Commissioner will determine whether the income concerned qualifies under the convention for exemption from or reduced rate of, U.S. tax and will notify the applicant of his ruling. If income qualifies for such benefit, this notification may also authorize the release, pursuant to § 514.28(a)(2), of excess tax withheld from the income concerned.

(b) *Exemption from, or reduction in rate of, withholding*—(1) *Notification of withholding agent*. If the Commissioner rules that income received by such applicant qualifies for exemption from, or reduction in rate of, U.S. tax under the convention, and the applicant sends a copy of such ruling to the withholding agent, the income designated in such ruling shall be exempt, or subject to a reduced rate of, withholding of U.S. tax