

Internal Revenue Service, Treasury

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unless the Commissioner or the applicant notifies the withholding agent that such income ceases to qualify for such benefit. A duplicate copy of such notification shall be attached to the Form 1042S filed by the withholding agent with respect to the income concerned.

(2) *Change in circumstances.* If during the period covered by the ruling letter, any fact upon which the ruling letter is based materially changes, the applicant shall immediately notify the withholding agent and the Commissioner of such change.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, § 514.26 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.

§ 514.27 Beneficiaries of domestic estate and trust.

A nonresident alien individual who is a resident of France and a beneficiary of a domestic estate or trust shall be entitled to the exemption from, or reduction in rate of, United States tax granted by Articles 9, 10, 11, 13(1)(a), and 19 of the convention with respect to dividends, interest, royalties, and pensions, annuities, and alimony if he otherwise satisfies the requirements for exemption or reduction specified in the articles concerned, to the extent that (a) any amount paid, credited, or required to be distributed by the estate or trust to the beneficiary is deemed to consist of those items and (b) the items so deemed to be included in such amount would, without regard to the convention, be includible in his gross income. However, such beneficiary is not entitled to the exemption from, or reduction in the rate of, U.S. tax granted by such articles to the extent that the trust conduit rules are not applicable to any payment received by the beneficiary such as, for example, a payment made out of the income of a trust established for the support and maintenance of a wife pursuant to a divorce decree. To obtain the exemption from, or reduction in the rate of, withholding of U.S. tax where permitted by this section, the beneficiary must, where applicable, execute and submit to the

fiduciary of the estate or trust in the United States the appropriate letter of notification in the form prescribed in § 514.23(c) (2) and (3), modified where necessary to indicate the type of income involved.

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§ 514.28 Release of excess tax withheld at source.

(a) *Amounts to be released—*(1) *Tax withheld from dividends—*(i) *Dividends subject to 15-percent rate.* If U.S. tax has been withheld on or after August 11, 1968, at a rate in excess of 15 percent from dividends described in § 514.21(a)(3)(i) received by a nonresident alien individual who is a resident of France or French corporation or person resident in France for French tax purposes whose address at the time of payment was in France, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 514.21(b)(1).

(ii) *Dividends subject to 5-percent rate.* If U.S. tax has been withheld at a rate in excess of 5 percent on or after August 11, 1968, from dividends which qualify for the reduced rate of 5 percent under § 514.21(a)(3)(ii), the withholding agent shall, if so authorized in accordance with § 514.21(a)(3)(iv) release and pay over to the corporation from which the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to § 514.21(b)(2)(i).

(2) *Tax withheld from coupon bond interest—*(i) *Substitute ownership certificate.* If U.S. tax has been withheld at a rate in excess of 10 percent on or after August 11, 1968, from coupon bond interest described in § 514.23(c)(1), the owner of the interest shall furnish the withholding agent a Form 1001-F clearly marked "Substitute" and executed in accordance with § 514.23(c). Upon receipt of such substitute Form 1001-F

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the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §514.23(b)(1).

(ii) *Filing and disposition of substitute ownership certificate.* One substitute Form 1001-F shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 or 1001-F previously filed by the owner of the interest in the calendar year in which the excess tax was withheld and with respect to which the excess is released. Such forms shall be disposed of in accordance with the rules of §514.23(c)(1)(iii).

(3) *Tax withheld from other income covered by convention.* If the owner of the other income furnishes to the withholding agent the letter of notification prescribed in §514.24(a)(3) or (b)(4), §514.25(b)(1), or the authorization for release of tax prescribed in §514.26(a)(2), and U.S. tax has been withheld at a rate in excess of the rate provided in the convention with respect to payments of income to which such letter of authorization is applicable, made on or after August 11, 1968, or received in the taxable year of the owner beginning after December 31, 1966 (whichever is applicable), the withholding agent shall release and pay to the person from whom the tax was withheld an amount which is equal to the tax so withheld from such income, or to the difference between the tax so withheld and the tax required to be withheld, as the case may be.

(b) *Amounts not to be released.* The provisions of this section do not apply to any excess tax withheld at the source subsequent to the due date for filing Form 1042.

(c) *Statutory rate.* As used in this paragraph, the term "statutory rate" means the rate of tax (30 percent as of the date of approval of this Treasury decision) prescribed by subchapter A of chapter 3 (relating to the withholding of tax on nonresident alien individuals and foreign corporations) of the Internal Revenue Code as though the convention has not come into effect.

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§514.29 Refund of excess tax paid to Director of International Operations.

(a) *In general.* Where U.S. tax withheld at the source on items of income covered by the convention is in excess of the tax imposed under subtitle A (relating to the income tax) of the Internal Revenue Code, as modified by the convention, and such withheld amounts have been paid to the Director of International Operations, a claim by the owner of such income for refund of any resulting overpayment may be made under section 6402 of such Code, and the regulations thereunder.

(b) *Form of claim—(1) Where return previously filed.* If the owner of the income has previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 843 or an amended return.

(2) *Where no return previously filed.* If the owner of the income has not previously filed an income tax return with the Internal Revenue Service for the taxable year in which an overpayment has resulted because of the application of the convention, he should make a claim for refund of the overpayment by filing Form 1040NR or Form 1120-F, whichever is applicable, showing the overpayment. Such return will serve as a claim for refund, and it is not necessary for the taxpayer to file Form 843.

(c) *Information required.* If the owner's total gross income (including every item of capital gain subject to tax) from sources within the United States for the taxable year in which such overpayment resulted has not been disclosed in an income tax return filed with the Internal Revenue Service prior to the time the claim for refund is made, such owner shall disclose such total gross income with his claim. In the event that securities are held in the name of a person other than the actual or beneficial owner, the name and