

§514.29

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

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.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.28 was removed, ef-

fective 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.

§514.29 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

Internal Revenue Service, Treasury

§514.101

address of such person shall be furnished with the claim. In addition to such other information as may be required to establish the overpayment, there shall also be included in such claim for refund:

(1) A statement that, at the time when the items of income were received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of France, a French corporation or person resident in France for French tax purposes.

(2) If the owner's claim is based on exemption from, or reduction in rate of, tax for dividends, interest, or royalties, a statement that the owner does not have a permanent establishment in the United States, or, if the owner does have such a permanent establishment, that the holding from which such income was derived was not effectively connected with such permanent establishment.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.29 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.

§514.30 Information furnished in ordinary course.

For provisions relating to the exchange of information under Article 30 of the convention, see paragraph (d) of §1.1461-2 of this chapter.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.30 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.

§514.31 Return required when liability not satisfied by withholding.

For action by a nonresident alien individual who is a resident of France or a French corporation or person resident in France for French tax purposes in a case where such individual's or corporation's or person's U.S. income tax liability is not satisfied by withholding of U.S. tax at source, see paragraph (b) of §1.6012-1 of this chapter and paragraph (b) of §1.6012-2 of this chapter.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.31 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.

§514.32 Effective date.

(a) *In general.* Except as provided in paragraph (b) of this section, the provisions of this Treasury decision shall be effective with respect to the rate of withholding tax, to amounts derived from sources within the United States on or after August 11, 1968, and with respect to all other taxes covered by the convention to amounts received in a taxable year of the recipient beginning after December 31, 1966.

(b) *Withholding of additional French tax.* The provisions of §514.22 shall be effective with respect to income derived from sources within France on or after August 11, 1968.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, §514.32 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.

Subpart—General Income Tax

AUTHORITY: 53 Stat. 32, 467; 26 U.S.C. 62, 3791.

SOURCE: Treasury Decision 5499, 11 FR 2154, Mar. 2, 1946, as amended by T.D. 6273, 22 FR 9529, Nov. 28, 1957, unless otherwise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53498, Oct. 14, 1997, Subpart—General Income Tax, consisting of §§514.101 through 514.117, 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.

REGULATIONS EFFECTIVE JAN. 1, 1945

§514.101 Introductory.

The tax convention and protocol between the United States and France (referred to in this subpart as the convention) proclaimed by the President of the United States on January 5, 1945, and effective January 1, 1945, provide in part as follows: