

(c) A statement that, at the time when the interest was 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 Austria, or, in the case of a corporation or other entity, the owner was an Austrian corporation or other entity; and

(d) A statement that the owner at no time during the taxable year in which the interest was received had a permanent establishment in the United States. One such substitute form 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 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released.

(ii) *Disposition of form.* The original and duplicate of substitute Form 1001-A (and letter) shall be forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington, D.C., in accordance with §1.1461-2(b) of this chapter.

(5) *Interest on noncoupon bonds, royalties, pensions, and annuities.* If a taxpayer furnishes to the withholding agent the authorization of release prescribed in §516.4(d)(2)(ii), §516.5(a)(2)(ii), or §516.6(b)(2) and United States tax has been withheld at the statutory rate on or after January 1, 1958, from the interest, copyright royalties or other like amounts, pensions, or annuities in respect to which such authorization is prescribed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld.

(6) *Motion picture film rentals.* If a taxpayer furnishes to the withholding agent the authorization of release prescribed in §516.5(b)(2)(ii) and United States tax has been withheld at the statutory rate on or after January 1, 1958, from the motion picture film rentals in respect to which such authorization is prescribed, 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 §516.5(b)(2)(i).

(b) *Amounts not to be released.* The provisions of this section do not apply to excess tax withheld at source which has been paid by the withholding agent to the Director of International Operations.

(c) *Statutory rate.* As used in this section, the term "statutory rate" means the rate prescribed by chapter 3 of the Internal Revenue Code of 1954 as though the convention had not come into effect.

(d) *Amounts withheld during 1957.* For provisions respecting the refund of excess tax withheld during the calendar year 1957, see §516.10.

§516.10 Refund of excess tax withheld during 1957.

(a) *In general.* Where United States tax withheld at the source during the calendar year 1957 from dividends, interest, copyright royalties and the like, motion picture film rentals, private pensions or private life annuities is in excess of the tax imposed under subtitle A (relating to the income tax) of the Internal Revenue Code of 1954, as modified by the convention, a claim by the taxpayer for refund of any overpayment resulting therefrom may be made under section 6402 of such Code and the regulations thereunder.

(b) *Form of claim—(1) Where return previously filed.* If the taxpayer 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 taxpayer 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 1040NB, Form 1040NB-a, Form 1040B, Form 1120, or Form 1120NB, whichever is applicable, showing the overpayment. Such return will serve as a claim for refund, and it will not be necessary for the taxpayer to file Form 843.

(c) *Information required.* If the taxpayer's total gross income (including every item of capital gain subject to

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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, the taxpayer 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 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 item or items of income were received (or "paid", in the case of private pensions and private life annuities) from which the excess tax was withheld, (i) the taxpayer was neither a citizen nor a resident of the United States but was a resident of Austria, or, in the case of a corporation or other entity, (ii) the taxpayer was an Austrian corporation or other entity; and

(2) A statement that the taxpayer at no time during the taxable year in which the income was received had a permanent establishment within the United States.

(d) *Exceptions*—(1) *Private pensions and private life annuities*. If the taxpayer is an individual who during the taxable year of overpayment received income from United States sources consisting exclusively of private pensions or private life annuities entitled to the benefit of Article XI (2) of the convention, the statement specified in paragraph (c)(2) of this section shall not be required.

(2) *Dividends paid by a related corporation*. As to additional information required in the case of an Austrian corporation claiming the benefit of the 5 percent rate on dividends paid by a related corporation, see § 516.2(c).

§ 516.11 Information to be furnished in ordinary course.

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

§ 516.12 Taxable years beginning in 1956 and ending in 1957.

If, in the case of a taxable year beginning in 1956 and ending in 1957, a taxpayer has no permanent establishment in the United States at any time during that part of the taxable year which follows December 31, 1956, then he shall, for purposes of §§ 516.1 to 516.12 be deemed not to have had a permanent establishment in the United States at any time during the taxable year.

PART 517—PAKISTAN

Subpart—Withholding of Tax

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517.1 Introductory.

517.2 Dividends paid by, or to, a Pakistan company.

517.3 Patent and copyright royalties.

517.4 Private pensions and annuities.

517.5 Interest derived by the State Bank of Pakistan.

517.6 Beneficiaries of a domestic estate or trust.

517.7 Release of excess tax withheld at source.

517.8 Information to be furnished in ordinary course.

517.9 Application of the convention to fiscal years.

AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

SOURCE: Treasury Decision 6431, 24 FR 10100, Dec. 15, 1959; 25 FR 14022, Dec. 31, 1960, unless otherwise noted.

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Subpart—Withholding of Tax

§ 517.1 Introductory.

(a) *Pertinent provisions of the convention*. The income tax convention between the United States and Pakistan, signed on July 1, 1957, referred to in §§ 517.1 to 517.9 as the convention, provides in part as follows, effective for taxable years beginning on or after January 1, 1959:

ARTICLE I

(1) The taxes which are the subject of the present Convention are: