

nominee or representative through whom the dividend is received by a person other than one described in §516.2(b), such nominee or representative shall withhold an additional amount of United States tax equivalent to the United States tax which would have been withheld if the convention had not been in effect (30 percent as of the date of approval of §§516.1 to 516.12) minus the amount which has been withheld at the source.

(2) *Fiduciary or partnership.* If a fiduciary or a partnership with an address in Austria receives, otherwise than as a nominee or representative, a dividend from which United States tax has been withheld at a reduced rate pursuant to §516.2(d)(2), such fiduciary or partnership shall withhold an additional amount of United States tax from the portion of the dividend included in the gross income from sources within the United States of any beneficiary or partner, as the case may be, who is not entitled to the reduced rate of tax in accordance with §516.2(b). The amount of the additional tax is to be calculated in the same manner as under subparagraph (1) of this paragraph.

(3) *Released amounts of tax.* If any amount of United States tax is released pursuant to §516.9(a)(2) by the withholding agent in the United States with respect to a dividend paid to such a person (nominee, representative, fiduciary, or partnership) with an address in Austria, the latter shall withhold from such released amount any additional amount of United States 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 dividend United States tax at the reduced rate prescribed by §516.2(d)(2) had been withheld at source from such dividend.

(b) *Returns filed by Austrian withholding agents.* The amounts withheld pursuant to paragraph (a) of this section by any withholding agent in Austria shall be deposited, without converting the amounts into United States dollars, with the Austrian Federal Ministry of Finance on or before the 15th day after the close of the quarter of the calendar year in which the withholding in Austria occurs. The withholding

agent making the deposit shall render therewith such appropriate Austrian form as may be prescribed by the Federal Ministry of Finance. The amounts so deposited should be remitted by the Federal Ministry of Finance by draft in United States dollars, on or before the end of the calendar month in which the deposit is made, to the Director of International Operations, Internal Revenue Service, Washington, D.C., U.S.A. The remittance should be accompanied by such Austrian forms as may be required to be rendered by the withholding agent in Austria in connection with the deposit.

§516.4 Interest.

(a) *Paid by Austrian corporation.* Interest paid on or after January 1, 1957, by an Austrian corporation which is not a United States corporation is exempt from United States tax under the provisions of Article XIV(1) of the convention if the recipient is a nonresident alien or a foreign corporation. Such exempt interest is not subject to the withholding of United States tax at source.

(b) *Other interest.* Interest on bonds, notes, debentures, securities, or on any other form of indebtedness, including interest on obligations of the United States and its instrumentalities but not including interest on debts secured by mortgages, which is received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Austria, or by an Austrian corporation or other entity, is exempt, in an amount not exceeding a fair and reasonable consideration on the indebtedness, from United States tax under the provisions of Article VII of the convention if such alien, corporation, or other entity at no time during the taxable year in which such interest is received has a permanent establishment in the United States. This paragraph does not apply to the interest which is exempt from United States tax in accordance with paragraph (a) of this section.

(c) *Personal services.* If a nonresident alien individual who is a resident of Austria performs personal services within the United States during the taxable year, but has at no time during such year a permanent establishment

in the United States, he is entitled to the interest exemption prescribed by paragraph (b) of this section even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he has engaged in trade or business within the United States during such year by reason of his having performed personal services therein.

(d) *Exemption from withholding of United States tax*—(1) *Coupon bond interest*—(i) *Form to use*. To avoid withholding of United States tax at source on or after January 1, 1958, in the case of coupon bond interest to which paragraph (b) of this section applies, the nonresident alien individual who is a resident of Austria, or the Austrian corporation or other entity, shall, for each issue of bonds, file Form 1001-A in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, or by his trustee or agent, and shall show the information required by §1.1461-1(d) of this chapter. It shall contain a statement that the owner (a) is a resident of Austria, or is an Austrian corporation or other entity, and (b) has no permanent establishment in the United States.

(ii) *Exemption applicable only to owner*. The exemption from United States tax contemplated by Article VII of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of the interest. The person presenting the coupon, or on whose behalf it is presented, shall, for the purpose of the exemption from United States tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001-A, shall be executed.

(iii) *Disposition of form*. The original and duplicate of Form 1001-A shall be forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C., in accordance with §1.1461-2(b)(2) of this chapter.

(2) *Interest on noncoupon bonds*—(i) *Notification by letter*. To avoid withholding of United States tax at source

on or after January 1, 1958, in the case of interest (other than coupon bond interest) to which paragraph (b) of this section applies, the nonresident alien individual who is a resident of Austria, or the Austrian corporation or other entity, shall notify the withholding agent by letter in duplicate that the interest is exempt from United States tax under the provisions of Article VII of the convention. The letter of notification shall be signed by the owner of the interest, or by his trustee or agent, and shall show the name and address of the obligor and the name and address of the owner of the interest. It shall contain a statement (a) that the owner is neither a citizen nor a resident of the United States but is a resident of Austria, or, in the case of a corporation or other entity, that the owner is an Austrian corporation or other entity, and (b) that the owner has at no time during the current taxable year had a permanent establishment in the United States.

(ii) *Use of letter for release of excess tax*. If the letter is also to be used as authorization for the release, pursuant to §516.9(a)(5), of excess tax withheld from such interest, it shall also contain a statement (a) 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 (b) that the owner at no time during the taxable year in which such interest was received had a permanent establishment in the United States.

(iii) *Manner of filing letter*. The letter of notification, which shall constitute authorization for the payment of the interest without withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which the interest is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which the interest is first paid on or after January 1, 1958. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment

within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by Article VII of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(iv) *Disposition of letter.* Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

(3) *Reasonableness of consideration.* For purposes of this paragraph, the withholding agent may, unless he has information to the contrary, presume that the interest represents a fair and reasonable consideration on the indebtedness involved.

§516.5 Patent and copyright royalties and film rentals.

(a) *Items exempt from tax—(1) In general.* Royalties and other amounts received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Austria or by an Austrian corporation or other entity, as consideration for the right to use literary, musical or other copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trademarks, and other like property and rights (including rentals and like payments for the use of industrial, commercial, or scientific equipment but not including motion picture film rentals) are, in an amount not exceeding a fair and reasonable consideration for such right, exempt from United

States tax under the provisions of Article VIII(1) of the convention if such alien, corporation, or other entity has not had a permanent establishment in the United States at any time during the taxable year in which such items are received.

(2) *Exemption from withholding of United States tax—(i) Notification by letter.* To avoid withholding of United States tax at source on or after January 1, 1958, in the case of the items of income to which this paragraph applies, the nonresident alien individual who is a resident of Austria, or the Austrian corporation or other entity, shall notify the withholding agent by letter in duplicate that the income is exempt from United States tax under the provisions of Article VIII(1) of the convention.

(ii) *Manner of filing letter.* The provisions of §516.4(d)(2) relating to the execution, filing, effective period, and disposition of the letter of notification prescribed therein, including its use for the release of excess tax withheld, are equally applicable with respect to the income falling within the scope of this paragraph.

(iii) *Reasonableness of consideration.* For purposes of this subparagraph, the withholding agent may, unless he has information to the contrary, presume that the royalty or other like amount represents a fair and reasonable consideration for the right involved.

(b) *Motion picture film rentals—(1) Reduced rate.* Under Article VIII(2) of the convention, the rate of United States tax imposed upon motion picture film rentals received from sources within the United States on or after January 1, 1957, by a nonresident alien individual who is a resident of Austria, or by an Austrian corporation or other entity, shall not exceed the lesser of (i) 50 percent of the statutory rate of tax imposed on such rentals by the United States or (ii) 10 percent of the gross amount of such rentals, if such alien, corporation, or other entity at no time during the taxable year in which such rentals are received has a permanent establishment in the United States.

(2) *Reduction in rate of withholding of United States tax—(i) Notification by letter.* To secure withholding of United