

Internal Revenue Service, Treasury

§516.9

§516.7 Sources of income.

For determining the sources of income for purposes of §§516.1 to 516.12 see sections 861 to 864, inclusive, of the Internal Revenue Code of 1954 and Article II (2) of the convention.

§516.8 Beneficiaries of an estate or trust.

(a) *Entitled to benefit of convention.* If he otherwise satisfies the requirements of the respective articles concerned, a nonresident alien who is a beneficiary of an estate or trust shall be entitled to the exemption from, or reduction in the rate of, United States tax granted by Articles VI, VII, VIII, and XIV of the convention with respect to dividends, interest, and copyright royalties and other like amounts, to the extent that (1) any amount paid, credited, or required to be distributed by such estate or trust to such beneficiary is deemed to consist of such items, and (2) such items would, without regard to the convention, be includible in his gross income.

(b) *Withholding of United States tax.* In order to be entitled in such instance to the exemption from, or reduction in rate of, withholding of United States tax, the beneficiary must otherwise satisfy such requirements and shall, where applicable, execute and submit to the fiduciary of the estate or trust in the United States the appropriate letter of notification prescribed in §§516.4(d)(2), 516.5(a)(2) and (b)(2).

(c) *Amounts otherwise includible in gross income of beneficiary.* For the determination of amounts which, without regard to the convention, are includible in the gross income of the beneficiary, see subchapter J of chapter 1 of the Internal Revenue Code of 1954, and the regulations thereunder (§§1.641-1 to 1.692-1 of this chapter).

§516.9 Release of excess tax withheld at source.

(a) *Amounts to be released—(1) Dividends and interest paid by Austrian corporation.* If United States tax at the statutory rate has been withheld on or after January 1, 1958, from dividends and interest paid by an Austrian corporation (other than a United States corporation) to a recipient who is a nonresident alien or a foreign corpora-

tion, 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.

(2) *Dividends subject to 50 percent of statutory rate.* If United States tax at the statutory rate has been withheld on or after January 1, 1958, from dividends described in §516.2(b) and received from sources within the United States by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) or by a foreign corporation or other entity, whose address at the time of payment was in Austria, 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 §516.2(d)(2).

(3) *Dividends subject to 5 percent rate.* If United States tax at the statutory rate has been withheld on or after January 1, 1958, from dividends which qualify under §516.2(c)(1) for a rate of tax not in excess of 5 percent, the withholding agent shall, if so authorized in accordance with §516.2(c)(3), 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 §516.2(d)(3).

(4) *Coupon bond interest—(i) Substitute form.* In the case of every taxpayer who furnishes to the withholding agent Form 1001-A clearly marked "Substitute" and executed in accordance with §516.4(d)(1)(i), where United States tax has been withheld at the statutory rate on or after January 1, 1958, from coupon bond interest exempt under §516.4(b), 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, if the taxpayer also attaches to such form a letter in duplicate, signed by the owner, or by his trustee or agent, and containing the following:

(a) The name and the address of the obligor;

(b) The name and the address of the owner of the interest from which the excess tax was withheld;