

**§517.3 Patent and copyright royalties.**

(a) *Exemption from United States tax—*

(1) *In general.* Any royalty paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trademark, or other like property, and received from sources within the United States in a taxable year beginning on or after January 1, 1959, by a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax, or by a foreign company whose business is managed and controlled in Pakistan, is exempt from United States tax under the provisions of Article VIII of the convention if such alien or company has not had a permanent establishment in the United States at any time during the taxable year in which the royalty is received. Notwithstanding the preceding sentence, no exemption from United States tax shall be granted under Article VIII of the convention in respect of royalties or rentals from motion picture films.

(2) *Exemption applicable to reasonable consideration only.* If any royalty exceeds a fair and reasonable consideration for the rights in respect of which it is paid, the exemption under this paragraph shall apply to only so much of the royalty as represents the fair and reasonable consideration.

(3) *Personal services.* If a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax were to perform personal services within the United States during the taxable year but not have a permanent establishment in the United States at any time during the year, he would be entitled to the exemption granted by Article VIII of the convention even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he had engaged in trade or business within the United States during that year by reason of his having performed personal services therein.

(b) *Exemption from withholding of tax—*

(1) *Notification by letter.* To avoid withholding of United States tax on or after January 1, 1959, from a royalty which is exempt in accordance with paragraph (a) of this section, the nonresident alien individual who is resident in Pakistan for the purposes of Pakistan

tax, or the foreign company whose business is managed and controlled in Pakistan, shall notify the withholding agent by letter in duplicate that the royalty is exempt from United States tax under the provisions of Article VIII of the convention. The letter of notification shall be signed by the owner of the royalty, 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 royalty. The letter shall contain a statement that (i) the owner is neither a citizen nor a resident of the United States but is a resident of Pakistan for the purposes of Pakistan tax, or, in the case of a corporation, the owner is a foreign company whose business is managed and controlled in Pakistan, and (ii) the owner has at no time during the current taxable year had a permanent establishment in the United States. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.

(2) *Use of letter for release of excess tax.*

If the letter is also to be used as authorization for the release, pursuant to §517.7(a)(3), of excess tax withheld from the royalty, it shall also contain a statement that (i) at the time when the royalty 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 Pakistan for the purposes of Pakistan tax, or, in the case of a corporation, the owner was a foreign company whose business was managed and controlled in Pakistan, and (ii) the owner at no time during the taxable year in which the royalty was received had a permanent establishment in the United States. The dates of the beginning and ending of the taxable year of the taxpayer in which the royalty was received shall also be indicated.

(3) *Manner of filing letter.* The letter of notification, which shall constitute authorization for the payment of the royalty 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 royalty is paid. For this purpose, the first of such periods shall commence with the beginning of the calendar year in which the royalty is

first paid on or after January 1, 1959. 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 VIII of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the royalty 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.

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

(5) *Reasonableness of consideration.* For purposes of this paragraph, the withholding agent may, unless he has information to the contrary, presume that the royalty represents a fair and reasonable consideration for the rights in respect of which it is paid.

#### §517.4 Private pensions and annuities.

(a) *Exemption from United States tax—*  
(1) *Pensions and annuities which are exempt.* Except as provided in subparagraph (2) of this paragraph, a pension or annuity which is derived from sources within the United States and received in a taxable year beginning on or after January 1, 1959, by a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax shall be exempt from United States tax under the provisions of Article X of the convention.

(2) *Pensions and annuities which are not exempt.* The following pensions or

annuities are not exempt from United States tax under the provisions of Article X of the convention or under this section—

(i) A pension or annuity paid by or on behalf of the Government of the United States or its political subdivisions, for services rendered to that Government in the discharge of governmental functions; and

(ii) A pension or annuity paid by or on behalf of the Government of Pakistan or the Government of a Province in Pakistan or any local authority thereof, for services rendered in the discharge of functions of that Government or of local authority, as the case may be; and

(iii) A pension or annuity payable from a fund, under an employees' pension or annuity plan, contributions to which are deductible under the tax law of the United States in determining taxable income of the employer.

(b) *Definition of annuity.* As used in this section, the term "annuity" means a stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

(c) *Exemption from withholding of tax—*

(1) *Notification by letter.* To avoid withholding of United States tax on or after January 1, 1959, from pensions or annuities which are exempt from tax in accordance with paragraph (a) of this section, the nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax shall notify the withholding agent by letter in duplicate that the pensions or annuities are exempt from United States tax under the provisions of Article X of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Pakistan for the purposes of Pakistan tax. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.