

applicable generally to the taxation of nonresident alien individuals and foreign corporations.

(e) Except insofar as concerns dividends, the convention makes no reference to rates of taxation imposed by the United States.

**§ 520.103 Definitions.**

(a) Any word or term used in this subpart which is defined in the convention shall be given the definition assigned to such word or term in such convention. Any word or term used in this subpart which is not defined in the convention but is defined in the Internal Revenue Code shall be given the definition contained therein.

(b) As used in this subpart:

(1) The term “permanent establishment” includes branches, mines and oil wells, plantations, factories, workshops, warehouses, offices, agencies, installations and other fixed places of business of an enterprise but does not include the casual or temporary use of merely storage facilities. A Swedish parent corporation having a subsidiary corporation which latter corporation has a permanent establishment in the United States will not be deemed, by reason of such fact, to have itself a permanent establishment in the United States. A Swedish enterprise as defined in the convention carrying on business in the United States through an employee or agent, established in the United States, who has general authority to contract for his employer or principal, shall be deemed to have a permanent establishment in the United States. However, business dealings in the United States by a Swedish enterprise through a bona fide commission agent, broker or custodian do not constitute a permanent establishment in the United States.

(2) The term “enterprise” means any commercial or industrial undertaking whether conducted by an individual, partnership, corporation or any other entity. It includes such activities as manufacturing, merchandising, mining, banking and insurance. It does not include the operation of, or the trading in, real property located in the United States. It does not include the rendition of personal services. Hence, a nonresident alien individual, a resident

of Sweden, rendering personal services within the United States, is not merely by reason of such services, engaged in an enterprise within the meaning of the convention and his liability to Federal income tax is unaffected by Article II of the convention.

(3) The term “Swedish enterprise” means an enterprise carried on in Sweden by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity. The term “Swedish corporation or other entity” means a partnership, corporation or other entity created or organized in Sweden or under the laws of Sweden. For example, an enterprise carried on wholly without Sweden by a nonresident alien individual resident in Sweden is not a Swedish enterprise within the meaning of the convention.

(4) The term “industrial and commercial profits” means the profits arising from the industrial, mercantile, manufacturing or like undertakings of a Swedish enterprise as defined in this section. Such term does not include dividends, interest, compensation for labor or personal services, or income derived from real property or from any interest in such property, including rentals and royalties therefrom and gain from the sale or disposition thereof. Such latter items of income are not governed by the provisions of Article II but are subject to the rules elsewhere set forth in the convention and in this subpart with respect to such specific items of income. As to gains from the sale or exchange of capital assets, see § 520.111.

**§ 520.104 Scope of convention with respect to determination of “industrial and commercial profits” of a nonresident alien individual resident of Sweden or of a Swedish corporation or other entity carrying on a Swedish enterprise in the United States.**

(a) *General.* Article II of the convention adopts the principle that an enterprise of one of the contracting States shall not be taxable in the other contracting State in respect of its industrial and commercial profits unless it has a permanent establishment in the latter State. Hence, a Swedish enterprise is subject to tax upon its industrial and commercial profits from