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

sources within the United States only if it has a permanent establishment within the United States. From the standpoint of Federal income taxation, the article has application only to a Swedish enterprise and to the industrial and commercial income thereof from sources within the United States. It has no application, for example, to compensation for labor or personal services performed in the United States nor to income derived from real property located in the United States nor to any interest in such property, including rentals and royalties therefrom, nor to gains from the sale or disposition thereof nor to dividends and interest. Such latter items of income are treated separately elsewhere in the regulations in this subpart and are subject to the rules laid down in the sections having specific reference to the respective items of income: As to what is a ''Swedish enterprise'', a ''permanent establishment'' and ''industrial and commercial profits,'' see § 520.103.

(b) *No United States permanent establishment.* A nonresident alien individual resident in Sweden or a Swedish corporation or other entity, carrying on a Swedish enterprise but having no permanent establishment in the United States is not subject to United States income tax upon industrial and commercial profits from sources within the United States. For example, if such Swedish corporation sells stock in trade such as iron ore or wood pulp through a bona fide commission agent or broker in the United States, the resulting profit is, under the terms of Article II of the convention, exempt from United States income tax. Such Swedish corporation, however, remains subject to tax upon all other items of income from sources within the United States and not expressly exempted from such tax under the convention. However, see §§ 520.109, 520.111, 520.112 and 520.113.

(c) *United States permanent establishment.* A nonresident alien individual resident in Sweden or a Swedish corporation or other entity, carrying on a Swedish enterprise having a permanent establishment in the United States is subject to tax upon his or its industrial and commercial profits from sources within the United States. In the determination of the income of such resident of Sweden or Swedish corporation or other entity from sources within the United States, all industrial and commercial profits from sources within the United States shall be deemed to be allocable to the permanent establishment within the United States. The net income from sources within the United States, including the industrial and commercial profits, shall be determined in accordance with the provisions of section 119, Internal Revenue Code, and regulations thereunder. In determining such income, no account shall be taken of the mere purchase of merchandise effected in the United States by such Swedish enterprise.

§ 520.105 Control of a domestic enterprise by a Swedish enterprise.

Article III of the convention provides that if a Swedish enterprise by reason of its control of a domestic business imposes conditions different from those which would result from normal bargaining between independent enterprises, the accounts between the enterprises will be adjusted so as to ascertain the true net income of the domestic enterprises. The purpose is to place the controlled domestic enterprise on a tax parity with an uncontrolled domestic enterprise by determining, according to the standard of an uncontrolled enterprise, the true net income from the property and business of the controlled enterprise. The convention contemplates that if the accounting records do not truly reflect the net income from the property and business of such domestic enterprise the Commissioner shall intervene and, by making such distributions, apportionments or allocations as he may deem necessary of gross income or deductions or of any item or element affecting net income as between such domestic enterprise and the Swedish enterprise by which it is controlled or directed, determine the true net income of the domestic enterprise. The provisions of Regulations 103 (26 CFR 1938 ed. Supps. 19.45–1), [Regulations 111 (26 CFR 1949 ed. Supps. 29.45–1) and Regulations 118 (§ 39.45–1, 26 CFR, Rev. 1953, Parts 1–79, and Supps.)] shall, insofar as applicable, be followed in the determination of the net income of the domestic business.