

§ 520.106 Income from operation of ships or aircraft.

The income derived by a Swedish enterprise from the operation of ships or aircraft registered in Sweden is exempt from United States income tax. However, the profits derived by such enterprise from the operation of ships or aircraft not so registered are treated as are industrial and commercial profits generally. See Article II of the convention and § 520.104.

§ 520.107 Income from real property.

Income of whatever nature derived by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity from real property situated in the United States, including gains derived from the sale of such property, is not exempt from taxation by the convention. The treatment of such income for taxation purposes is governed by those provisions of the Internal Revenue Code applicable generally to the taxation of nonresident aliens and foreign corporations. Interest derived from mortgages or bonds secured by real property does not constitute income from real property within the meaning of the convention but is subject to the provisions applicable to interest generally. See Article VIII of the convention and § 520.110.

§ 520.108 Mineral royalties.

Royalties derived by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity from real property or in respect of the operation of mines, quarries, timber or other natural resources situated in the United States are not exempt from taxation under the convention. Such items of income are subject to taxation under the provisions of the Internal Revenue Code applicable generally to the taxation of nonresident aliens and foreign corporations.

§ 520.109 Patent and copyright royalties.

(a) Royalties and amounts derived from sources within the United States by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity (if such corporation or entity is not a resident of the United States) as consideration for

the right to use copyrights, patents, secret processes and formulas, trademarks and other analogous rights are exempt from Federal income taxation under the provisions of Article VI of the convention. Such items are therefore not subject to the withholding provisions of the Internal Revenue Code. Such exemption does not, however, apply in the case of a Swedish corporation engaged in trade or business within the United States or having an office or place of business therein. Such corporation is a resident Swedish corporation and hence the provisions of Article XIV (a) are applicable.

(b) To obviate withholding of the tax at the source, the alien individual resident in Sweden or Swedish corporation or other entity should by letter, notify the payor of the income that such income is exempt from Federal income tax under the provisions of the convention. Such letter from such resident of Sweden shall contain his address and a statement that he is a resident of Sweden. The letter from such corporation or other entity shall contain the address of its office or place of business and a statement that it is a corporation or other entity organized under the laws of Sweden and shall be signed by an officer of the corporation or other entity giving his official title. The letter of notification of a copy thereof should be immediately forwarded by the recipient to the Commissioner of Internal Revenue, Withholding Returns Section, Washington 25, D.C., United States of America.

§ 520.110 Dividends and interest.

(a) In general dividends derived from sources within the United States by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity remain subject to taxation under the provisions of the Internal Revenue Code applicable generally to the taxation of nonresident alien individuals and foreign corporations. See Article XIV (a) of the convention. However, for a period of at least 2 years beginning on January 1, 1940, the tax in the case of such alien individual resident in Sweden or such Swedish corporation or other entity (nonresident

as to the United States) shall not exceed 10 percent of the amount of such dividends. See Article VII of the convention. Hence, the higher rates applicable generally in the case of nonresident alien individuals subject to the provisions of section 211 (c), Internal Revenue Code, are not applicable to dividends received by nonresident alien individuals who are residents of Sweden.

(b) The taxation of interest derived from sources within the United States by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity is not affected by the convention except that in the case of such individual such interest is subject only to the rate of tax imposed by section 211 (a), Internal Revenue Code. Hence, interest, like dividends, is excluded for the purposes of section 211(c), from the gross amount of fixed or determinable annual or periodical income of nonresident alien individuals who are residents of Sweden.

§ 520.111 Capital gains.

Under Article IX of the convention, gain derived from the sale or exchange of capital assets (other than real property) within the United States by a nonresident alien individual resident in Sweden or by a Swedish corporation or other entity is exempt from Federal income tax unless such individual, corporation or other entity has a permanent establishment in the United States. With respect to real property, see § 520.107.

§ 520.112 Wages, salaries and similar compensation, pensions and life annuities.

(a) Under Article X of the convention, wages, salaries and similar compensation and pensions paid by Sweden or by a political subdivision thereof to individuals temporarily residing in the United States are exempt from Federal income tax. By reason, however, of the application of Article XIV(a) of the convention, such exemption does not apply to recipients of such income who are either citizens of the United States or aliens resident therein. As to who are resident aliens, see Regulations 103 (26 CFR 1938 ed. Supps. 19.211-2 to 19.211-4), [Regulations 111 (26 CFR 1949

ed. Supps. 29.211-2 to 29.211-4) and Regulations 118 (§§ 39.211-2 to 39.211-4, 26 CFR, Rev. 1953, Parts 1-79, and Supps.)]. As to the taxation generally of the compensation of employees of foreign governments, see section 116(h) of the Internal Revenue Code and Regulations 103 (26 CFR 1938 ed. Supps. 19.116-2), [Regulations 111 (26 CFR 1949 ed. Supps. 29.116-2) and Regulations 118 (§ 39.116-2, 26 CFR Rev. 1953, Parts 1-79, and Supps.)].

(b) Under the provisions of the same article of the convention, private pensions and life annuities derived from sources within the United States by nonresident alien individuals residing in Sweden are exempt from the Federal income tax. Such items of income are, therefore, not subject to the withholding provisions of the Internal Revenue Code. See paragraph 5 of the protocol to the convention as to what constitutes life annuities. See also § 520.109 with respect to patent and copyright royalties as to requirements necessary to avoid withholding of the tax at the source, which requirements are here also applicable.

§ 520.113 Compensation for labor or personal services.

(a) Article XI of the convention adopts the principle that compensation for labor or personal services, including compensation realized in the practice of the liberal professions, is subject to tax only in the contracting State in which such services are rendered. Hence, in general such compensation derived by nonresident alien individuals residing in Sweden for services rendered in the United States is subject to Federal income tax. Such general rule is, however, subject to the following exceptions under the provisions of Article XI:

(1) Such nonresident alien individual is not subject to Federal income tax upon compensation for labor or personal services performed within the United States if the following conditions prescribed by subparagraph (2) (i) and (ii) of this paragraph are met.

(2) He is temporarily present in the United States for a period or periods:

(i) Not exceeding 180 days during the taxable year and his compensation is received for labor or personal services