

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

performed as an employee of, or under contract with, a resident of Sweden or a Swedish corporation or other entity; or

(ii) Not exceeding 90 days during the taxable year and the compensation received for such services does not exceed \$3,000 in the aggregate for such taxable year even though such compensation is paid by a United States resident or by a domestic corporation or other domestic entity.

(b) If, therefore, such nonresident alien individual (1) is temporarily present in the United States for a period or periods in excess of 90 days during the taxable year, or (2) receives more than \$3,000 in the aggregate during the taxable year for labor or personal services performed within the United States he is not exempt under paragraph (a)(2)(ii) of this section, and his right to exemption under the convention will depend on his meeting both tests prescribed under paragraph (a)(2)(i) of this section.

(c) These exceptions, however, do not extend to the professional earnings of actors, artists, musicians, professional athletes and those engaged in like activities. The professional earnings of such individuals resident in Sweden for services rendered within the United States are subject to the provisions of the Internal Revenue Code applicable generally to the taxation of nonresident alien individuals.

**§ 520.114 Remittances.**

Under Article XII nonresident alien individuals residents of Sweden who are temporarily residing in the United States exclusively for the purposes of study or acquiring business experience and receiving remittances from Sweden for the purposes of their maintenance and studies in the United States are exempt from Federal income tax upon such amounts if and to the extent that such amounts constitute gross income.

**§ 520.115 Scope of Article XIV.**

(a) *General.* Article XIV (a) has an important bearing upon other articles of the convention. While many preceding articles provide in effect that items of income derived by citizens or residents of the United States or by domestic corporations from sources in

Sweden are subject to tax only in Sweden, Article XIV(a) nevertheless permits the imposition of Federal income tax upon such income in the hands of such taxpayers. For example, Article V provides that income from real property, including gains derived from the sale or exchange of such property, shall be taxable only in the contracting State in which such property is situated. Hence, looking at such article without reference to Article XIV a United States citizen realizing such income from real property situated within Sweden would not be subject to Federal income tax upon such income. Article XIV(a), however, prescribes that, notwithstanding Article V or any other article of the convention, the Federal income tax may apply to all items of income without regard to other provisions of the convention and hence all items of income from sources within Sweden, regardless of their treatment in the articles dealing respectively with such items of income, must be included in gross income of United States citizens, residents and corporations for the purposes of the Federal income tax.

(b) *Credit for Swedish income taxes.* (1) Article XIV(a), for the purposes of avoidance of double taxation, further provides that a citizen or resident of the United States or a domestic corporation deriving income from sources within Sweden shall be entitled to a credit against the Federal income tax liability for the amount of Swedish national income and property tax, including surtax, and for the Swedish communal income tax. Such credit is, however, subject to the limitations prescribed in section 131, Internal Revenue Code (relating to the credit for foreign taxes) in that it cannot exceed the same proportion of the tax against which the credit is taken which the taxpayer's net income from sources within Sweden bears to the entire net income, in the case of a taxpayer other than a corporation, or to the normal tax net income, in the case of a corporation, for the same taxable year.

(2) In the application of Article XIV(a), the provisions of section 131, Internal Revenue Code, are in general applicable. See paragraph 6 of the protocol to the convention.