

§ 521.2

States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

(3) The term "life annuities" as used herein means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in consideration of a gross sum paid for such obligation.

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ARTICLE XXII

The competent authorities of the two contracting States may prescribe regulations necessary to interpret and carry out the provisions of this Convention. With respect to the provisions of this Convention relating to exchange of information and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, minimum amounts subject to collection and related matters.

ARTICLE XXIII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) Upon the exchange of instruments of ratification, the present Convention shall have effect.

(a) in the case of United States tax, for the taxable years beginning on or after the first day of January of the year in which such exchange takes place;

(b) in the case of Danish tax, for the taxable years beginning on or after the first day of April of the year in which such exchange takes place.

(3) The present Convention shall continue effective for a period of five years and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective.

(a) As respects United States tax, for the taxable years beginning on or after the first day of January next following the expiration of the six-month period;

(b) As respects Danish tax, for the taxable years beginning on or after the first day of April next following the expiration of the six-month period.

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(b) As used in this subpart, unless the context otherwise requires, the terms defined in the above articles of the con-

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vention shall have the meanings so assigned to them.

§ 521.2 Dividends.

(a) *General.* The rate of tax imposed by section 211(a) of the Internal Revenue Code (relating to nonresident alien individuals not engaged in trade or business within the United States) and by section 231(a) of the Internal Revenue Code (relating to foreign corporations not engaged in trade or business within the United States) is 30 percent. Such rate is reduced under Article VI of the convention to 15 percent in the case of dividends received on or after January 1, 1948, from sources within the United States by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Denmark or by a Danish corporation if such alien or corporation at no time during the taxable year had a permanent establishment within the United States. As to what is a Danish corporation, see Article II(1)(g) of the convention. Thus, if a nonresident alien who is a resident of Denmark performs personal services within the United States during the calendar year 1948, but has at no time during such year a permanent establishment within the United States, he is entitled to the reduced rate of tax with respect to dividends derived in that year from United States sources, as provided in Article VI of the convention, even though by reason of his having rendered personal services within the United States he is engaged in trade or business therein in that year within the meaning of section 211(b) of the Internal Revenue Code. As to what constitutes a permanent establishment, see Article II(1)(c) of the convention.

(b) *Dividends paid by a United States subsidiary corporation.* (1) Under the provisions of Article VI (3) of the convention, dividends paid by a domestic corporation to a Danish corporation controlling, directly or indirectly, at the time the dividend is paid, 95 percent or more of the entire voting power in such domestic corporation, are subject to tax at the rate of only 5 percent, if (i) not more than 25 percent of

the gross income of such paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid consists of dividends and interest (other than dividends and interest paid to such domestic corporation by its own subsidiary corporations, if any, and (ii) the relationship between such domestic corporation and such Danish corporation has not been arranged or maintained primarily with the intention of securing such reduced rate of 5 percent.

(2) Any domestic corporation which claims or contemplates claiming that dividends paid or to be paid by it on or after January 1, 1948, are subject only to the 5 percent rate shall file, as soon as practicable, with the Commissioner of Internal Revenue, the following information: (i) the date and place of its organization; (ii) the number of outstanding shares of stock of the domestic corporation having voting power and the voting power thereof; (iii) the person or persons beneficially owning such stock of the domestic corporation and their relationship to the Danish corporation; (iv) the amount of gross income, by years, of the paying corporation for the three-year period immediately preceding the taxable year in which the dividend is paid; (v) the amount of interest and dividends, by years, included in the gross income of such domestic corporation and the amount of interest and dividends, by years, received by such corporation from its subsidiary corporations, if any; and (vi) the relationship between the domestic corporation and the Danish corporation to which it pays the dividend.

(3) As soon as practicable after such information is filed, the Commissioner of Internal Revenue will determine whether the dividends concerned fall within the provisions of Article VI (3) of the convention and may authorize the release of excess tax withheld with respect to dividends which come within such provision. In any case in which the Commissioner of Internal Revenue has notified such domestic corporation that the dividends come within such provision, the reduced rate of 5 percent applies to any dividends subsequently paid by such corporation to the Danish corporation unless the stock ownership

of the domestic corporation, or the character of its income, materially changes, and, if such change or changes occur, such corporation shall promptly notify the Commissioner of Internal Revenue of the then existing facts with respect to such stock ownership or income.

(c) *Effect on withholding in case of dividends of address in Denmark.* For the purposes of withholding of the tax in the case of dividends, every non-resident alien (including a nonresident alien individual, fiduciary or partnership) whose address is in Denmark shall be deemed by United States withholding agents to be a resident of Denmark not having a permanent establishment in the United States and every corporation whose address is in Denmark shall be deemed by such withholding agents to be a Danish corporation not having a permanent establishment in the United States.

(d) *Rate of withholding.* (1) On and after January 1, 1949, withholding in the case of dividends paid to non-resident aliens (including a non-resident alien individual, fiduciary or partnership) and to foreign corporations, whose addresses are in Denmark, shall (except (i) in any case in which prior to the date of payment of such dividend, the Commissioner of Internal Revenue has notified the paying corporation that such dividend falls within the provisions of Article VI (3) of the convention, and (ii) in any case in which the Commissioner notifies the withholding agent that the reduced rate shall not apply), be at the rate of 15 percent.

(2) The preceding provisions relative to residents of Denmark and to Danish corporations are based upon the assumption that the payee of the dividend is the actual owner of the capital stock from which the dividend is derived and consequently is the person liable to the tax upon such dividend. As to action by the recipient who is not the owner of the dividend, see § 521.7.

§ 521.3 Interest.

(a) *General.* Interest, whether on bonds, securities, notes, debentures, or any other form of indebtedness (including interest on obligations of the