

§ 521.7

26 CFR Ch. I (4-1-00 Edition)

521.4, where tax at the rate of 30 percent has been withheld on or after January 1, 1948, there shall be released by the withholding agent and paid over to the person from whom withheld an amount equal to the amount so withheld in the case of interest (as to coupon bond interest, see paragraph (4) of this paragraph), patent royalties, copyright royalties, film rentals and the like.

(4) In the case of every such taxpayer who furnishes to the withholding agent Form 1001-D, in duplicate, where tax at the rate of 28 percent or 30 percent, as the case may be, has been withheld on or after January 1, 1948, from coupon bond interest, there shall be released by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax withheld from such interest. Form 1001-D used for this purpose should be clearly marked "Substitute" in order to replace Forms 1001 previously filed. One Form 1001-D, in duplicate, may be used to replace two or more Forms 1001. The form marked "Substitute" is to be used solely for the release of excess tax withheld in 1948. The use of Form 1001-D for the purpose of exemption upon presentation of interest coupons is set forth in § 521.3 (b).

(b) *Private pensions and life annuities paid in 1948 or subsequent years.* (1) In order to bring the convention into force and effect at the earliest practicable date, the exemption from tax otherwise withheld at the source on private pensions and life annuities is made effective beginning January 1, 1948, in any case in which such pensions and life annuities are derived from sources within the United States by a nonresident alien individual who is a resident of Denmark.

(2) The person paying such income should be notified by letter from the resident of Denmark that the income is exempt from taxation under the provisions of Article X(2) of the convention. See § 521.5. Such letter will constitute authorization to the payor of the income to release the tax withheld on or after January 1, 1948, with respect to such pensions or life annuities.

(c) *Subsidiary's dividends.* With respect to a dividend paid on or after January 1, 1948, by a domestic corpora-

tion to a Danish corporation whose address is in Denmark, tax shall be withheld in accordance with the provisions of § 521.2 unless 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 scope of Article VI (3) of the convention. As soon as practicable after information required under § 521.2 (b) is filed, the Commissioner of Internal Revenue will determine whether the dividend involved falls within the scope of Article VI (3) and may authorize the release of the excess tax withheld with respect to dividends which come within the scope of such provision.

§ 521.7 Addressee not actual owner.

(a) If the recipient in Denmark of any dividend from sources within the United States is a nominee or representative through whom the dividend flows to a person other than a person described in § 521.2(a) as being entitled to the reduced rate of 15 percent provided in Article VI of the convention, such recipient in Denmark will withhold an additional amount of United States tax equivalent to the difference between the United States tax which would have been withheld had the convention not been in effect (30 percent as at the date of approval of this subpart) and the 15 percent withheld at the source with respect to such dividend pursuant to § 521.2.

(b) In any case in which a fiduciary or a partnership with an address in Denmark receives, otherwise than as a nominee or representative, a dividend from a United States corporation, if a beneficiary of such fiduciary or a partner in such partnership is not entitled to the reduced rate of tax provided in Article VI of the convention, the fiduciary or partnership will withhold an additional amount of United States tax with respect to the portion of such dividend included in such beneficiary's or partner's net distributive share of the income of such fiduciary or partnership, as the case may be. The rate of the additional tax is calculated in the same manner as under paragraph (a) of this section.

(c) The amounts so withheld by the withholding agent in Denmark will, on

or before the 15th day after the close of the calendar year quarter in which such withholding has taken place, be deposited with the Danish National Bank (Danmarks Nationalbank) without converting such amounts into dollars. Each withholding agent making such deposit will accompany such deposit with the appropriate Danish form executed as required by the Danish National Bank. The Danish National Bank has arranged to remit, on or before the end of the calendar month in which such deposit is so made, by draft in United States dollars, the amounts so deposited to the District Director of Internal Revenue, Baltimore, Maryland, U.S.A., forwarding with such draft the appropriate Danish form filed by the withholding agents.

§ 521.8 Beneficiaries of a domestic estate or trust.

A nonresident alien who is a resident of Denmark and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption, or reduction in the rate of tax, as the case may be, provided in Articles VI, VII and VIII if the convention with respect to dividends, interest and royalties to the extent such item or items are included in his distributive share of income of such estate or trust. In such case such beneficiary must, in order to be entitled to the exemption or reduction in the rate of tax, in the case of interest or royalties, execute Form 1001A-D and file such form with the fiduciary of such estate or trust in the United States.

Subpart—General Income Tax

SOURCE: Treasury Decision 5777, 15 FR 1595, Mar. 22, 1950, unless otherwise noted. Redesignated at 25 FR 14022, Dec. 31, 1960.

TAXATION OF NONRESIDENT ALIENS WHO ARE RESIDENTS OF DENMARK AND OF DANISH CORPORATIONS

§ 521.101 Introductory.

The income tax convention between the United States and the Kingdom of Denmark, signed May 6, 1948, proclaimed (with reservations thereto) by the President of the United States on December 8, 1948, and effective for taxable years beginning on and after Janu-

ary 1, 1948 (referred to in this subpart as the convention), provides in part as follows:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income tax, including surtaxes.

(b) In the case of Denmark:

The national income tax, including the war profits tax.

The intercommunal income tax.

The communal income tax.

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term "United States" means the United States of America, and when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term "Denmark" means the Kingdom of Denmark; the provisions of the Convention shall not, however, extend to the Faroe Islands; nor do they apply to Greenland.

(c) The term "permanent establishment" means a branch office, factory, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and exercises a general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a bona fide commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(d) The term "enterprise of one of the contracting States" means, as the case may be,