

## §514.7

1001A-F, in duplicate, with the withholding agent in the United States.

(c) *Manner of filing.* The provisions of §514.4 relating to the execution, filing, effective period, and disposal of Form 1001A-F are equally applicable with respect to the income falling within the scope of this section.

(d) *Definition.* As used in this section, the term “pensions” means periodic payments made in consideration for services rendered or by way of compensation for injuries received, and the term “life annuities” 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 return for adequate and full consideration in money or money’s worth. Neither term includes retired pay or pensions paid by the United States or by any State or Territory of the United States.

### §514.7 Beneficiaries of a domestic estate or trust.

(a) *Entitled to benefits of convention.* If he otherwise satisfies the requirements of the respective articles concerned, a nonresident alien individual who is a resident of France and who is a beneficiary of a domestic estate or trust shall be entitled to the reduction in the rate of, or exemption from, United States tax granted by Articles 6A and 7 of the convention with respect to dividends, interest, and patent royalties and other like amounts to the extent that (1) any amount paid, credited, or required to be distributed by such estate or trust to such beneficiary is deemed to consist of such items, and (2) such items would, without regard to the convention, be includible in his gross income.

(b) *Withholding of United States tax.* In order to be entitled, because of the application of paragraph (a) of this section, to the reduction in rate of, or exemption from, withholding of United States tax the beneficiary must otherwise satisfy the requirements of the respective articles concerned, and shall, where applicable, execute and submit to the fiduciary of the estate or trust in the United States the appropriate form or forms prescribed in §§514.4(b) and 514.6(b).

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(c) *Amounts otherwise includible in gross income of beneficiary.* For the determination of amounts which, without regard to the convention, are includible in the gross income of the beneficiary, see subchapter J of chapter 1 of the Internal Revenue Code of 1954, and the regulations thereunder.

### §514.8 Release of excess tax withheld at source.

(a) *Amounts to be released—(1) Dividends derived from domestic corporation.* If United States tax has been withheld at the statutory rate on or after January 1, 1957, from dividends described in §514.2(a) and derived from a domestic corporation by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) or by a foreign corporation, whose address at the time of payment was in France, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §514.2(c).

(2) *Coupon bond interest—(i) Substitute form.* In the case of every taxpayer who furnishes to the withholding agent Form 1001-F clearly marked “Substitute” and executed in accordance with §514.4(b)(1), where United States tax has been withheld at the statutory rate on or after January 1, 1957, from coupon bond interest, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §514.4(b)(1) if the taxpayer also attaches to such form a letter in duplicate, signed by the owner, trustee, or agent and containing the following:

(a) The name and address of the obligor;

(b) The name and address of the owner from which the excess tax was withheld;

(c) A statement that, at the time when the interest was derived from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of France, or, in the case of a corporation, the owner was a French corporation; and

(d) A statement that the owner at no time during the taxable year in which the interest was derived was engaged in trade or business within the United States through a permanent establishment situated therein.

One such substitute form shall be filed, in duplicate, with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released. If the person presenting the coupon, or on whose behalf it is presented, is not the owner of the bond, Form 1001, and not Form 1001-F, shall be executed.

(ii) *Disposition of form.* The original and duplicate of substitute Form 1001-F (and letter) shall be forwarded by the withholding agent to the Director, International Operations Division, Internal Revenue Service, Washington, D.C., with the annual return on Form 1042. Substitute Form 1001-F need not be listed on Form 1042.

(3) *Noncoupon interest, royalties, private pensions, and life annuities.* (i) If a taxpayer furnishes to the withholding agent a Form 1001A-F, properly executed as prescribed by §514.4(b)(4), and United States tax has been withheld at the statutory rate on or after January 1, 1957, from noncoupon interest payments in respect of which the form is filed, the withholding agent should release and pay over to the person from whom the tax was withheld an amount which is equal to the difference between the tax so withheld and the tax required to be withheld pursuant to §514.4(b)(4).

(ii) If a taxpayer furnishes to the withholding agent a Form 1001A-F, properly executed as prescribed by §514.4(b)(4), and United States tax has been withheld at the statutory rate on or after January 1, 1957, from royalties, private pensions, and life annuities in respect of which the form is filed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the total tax so withheld.

(b) *Amounts not to be released.* The provisions of this section do not apply to excess tax withheld at source which has been paid by the withholding agent

to the internal revenue officer entitled to receive payment of the tax withheld under chapter 3 of the Internal Revenue Code of 1954.

(c) *Statutory rate.* As used in this section, the term "statutory rate" means the rate prescribed by chapter 3 of the Internal Revenue Code of 1954 and the regulations thereunder, as though the convention had not come into effect.

#### §514.9 Refund of excess tax withheld.

(a) *Years 1952, 1953, 1954, 1955, 1956.* Where the tax withheld at the source upon dividends and interest paid in any one or more of the calendar years 1952, 1953, 1954, 1955, and 1956 is in excess of the tax due from the taxpayer under the convention, supplemented as set forth above, it will be necessary for the taxpayer to file an income tax return (Form 1040NB France for individuals and Form 1120NB France for corporations) with respect to such taxable year or years. The return shall cover all years for which a refund is claimed. The return must be filed on or before June 13, 1959. One return shall cover all years for which a refund is claimed. The taxpayer's total fixed or determinable, annual or periodical income (other than royalties) from sources within the United States should be reported on the return, and the income for each taxable year should be shown separately. There shall also be shown on such returns the amounts, if any, received in any of such years of capital gains (other than gains from the sale or exchange of stocks, securities or commodities) from sources within the United States. For this purpose, beginning with the calendar year 1954, certain distributions from employees' trusts, and amounts received incident to disposal of timber or coal or patent rights shall be included in such capital gains. See section 871(a)(1) of the Internal Revenue Code of 1954 for provisions pertaining to individual taxpayers and section 881(a) for provisions pertinent to corporate taxpayers. There shall be included with the return the following statements:

(1) That the taxpayer was a non-resident alien (including a nonresident alien individual, fiduciary, or partnership) resident in France or was a