

## § 509.110

under the provisions of Article VII of the convention, if such alien, corporation, or other entity at no time during the taxable year in which such interest is derived has a permanent establishment in the United States.

### **§ 509.110 Patent and copyright royalties and film rentals.**

Royalties and other amounts representing consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trademarks, and other like property and rights, including rentals and like payments in respect to motion picture films or for the use of industrial, commercial, or scientific equipment, which are derived from sources within the United States by a nonresident alien individual who is a resident of Switzerland, or by a Swiss corporation or other entity, are exempt from United States tax under the provisions of Article VIII of the convention if such alien, corporation, or other entity at no time during the taxable year in which such items of income are derived has a permanent establishment in the United States.

### **§ 509.111 Real property income and natural resource royalties.**

(a) *General.* Income of whatever nature derived by a nonresident alien who is a resident of Switzerland, or by a Swiss corporation or other entity, from real property situated in the United States, including gains derived from the sale or exchange of such property, rentals from such property, and royalties in respect of the operation of mines, quarries, or other natural resources situated in the United States, is not exempt from United States tax by the convention. Such items of income are subject to taxation under the provisions of the Internal Revenue Code of 1954 generally applicable to the taxation of nonresident alien individuals and foreign corporations. See Article IX of the convention. Interest derived from mortgages and bonds secured by real property does not constitute income from real property for purposes of this section but is subject to the provisions applicable to interest generally. See § 509.109.

## 26 CFR Ch. I (4-1-10 Edition)

(b) *Net basis*—(1) *General.* Notwithstanding the provisions of paragraph (a) of this section, a nonresident alien who is a resident of Switzerland, or a Swiss corporation or other entity, who during the taxable year derives from sources within the United States any income from real property as described in such paragraph may elect for such taxable year to be subject to United States tax on a net basis as though such alien, corporation, or other entity were engaged in trade or business in the United States during such year through a permanent establishment situated therein.

(2) *Manner of electing.* Such nonresident alien (including an individual, fiduciary, and member of a partnership) shall signify his election to be subject to tax on such a basis by filing Form 104B clearly marked at the top of the first page thereof as follows: “Return of Resident of Switzerland Electing to File on a Net Basis Pursuant to Article IX of Swiss Income Tax Convention”. Such corporation shall signify its election to be subject to tax on such a basis by filing Form 1120 clearly marked at the top of the first page thereof as follows: “Return of Swiss Corporation Electing to File on a Net Basis Pursuant to Article IX of Swiss Income Tax Convention”. The election so signified shall be irrevocable for the taxable year for which such election is made. All income from sources within the United States, including gains from the sale or exchange of capital assets or of other property, shall be disclosed on the return so filed. See sections 871 and 882 of the Internal Revenue Code of 1954 and the regulations thereunder.

### **§ 509.112 Compensation for labor or personal services.**

(a) *Exemption from tax.* Under Article X of the convention compensation received by a nonresident alien individual who is a resident of Switzerland for labor or personal services, including the practice of the liberal professions and the rendition of services as a director, performed in the United States shall not be included in gross income and shall be exempt from United States tax in either of the following situations: