

Tax conventions

Administrative

478.1 Alien students; exemption from withholding and tax. Procedures are provided under which a withholding agent may ensure that it will not be liable for failure to withhold and pay over federal taxes on compensation paid to a foreign student who is entitled to benefit under an Income Tax Convention between the United States and a Contracting State. §1.894-1. (Secs. 894, 1441, 3402; '86 Code.)

Rev. Proc. 87-8, 1987-1 C.B. 366.

478.2 Citizen in foreign country; treaties or international agreements. The income tax exemption provided in a treaty or other international agreement will not in itself prevent a U.S. citizen from being a resident of the foreign country. Rev. Ruls. 68-553 and 69-449 superseded. §1.911-2. (Sec. 911, '86 Code.)

Rev. Rul. 72-497, 1972-2 C.B. 448.

478.3 Code of Federal Regulations; redesignated. Regulations under tax conventions appearing in 26 CFR are transferred to Subchapter G and redesignated as Part 500 et seq.

1961-1 C.B. 863.

478.4 Competent authority. Procedures are set forth concerning requests for assistance of the U.S. competent authority in resolving instances of taxation in contravention of the provisions of an income, estate or gift tax treaty to which the U.S. is a party. Rev. Procs. 77-16 and 82-29 superseded; Rev. Procs. 65-17, 65-17 Amendment I, 65-17 Amendment H, 70-23, 71-35, 72-48, and 72-53 modified; Rev. Ruls. 72-437, 76-508, and 82-80 modified. (Sec. 601.201, S.P.R.)

Rev. Proc. 91-23, 1991-1 C.B. 534.

478.5 Competent authority. This procedure clarifies Rev. Proc. 91-23 as it relates to the procedures for requesting competent authority assistance when the case is either pending in a U.S. court or has been designated for litigation. (Sec. 601.201, S.P.R.)

Rev. Proc. 91-26, 1991-1 C.B. 543.

478.6 Competent authority assistance. Additional procedures are prescribed with regard to requests by U.S. taxpayers for assistance under the provisions of Rev. Proc. 77-16. Rev. Proc. 77-16 amplified. §1.894-1. (Sec. 601.201, S.P.R.; Sec. 894, '86 Code.)

Rev. Proc. 79-32, 1979-1 C.B. 599.

478.7 Definition; "day". The word "day" as used in relation to Article XI(1) of the U.S.-United Kingdom income tax convention means a day during any portion of which a resident of the U.K. was physically present within the U.S. This definition will apply equally to all income tax conventions containing similar provisions. Modified by Rev. Rul. 57-330 to state that it is not intended to apply to Canadian resident transportation service work-

ers who touch points in the U.S. and Canada. (Sec. 871, '86 Code.)

Rev. Rul. 56-24, 1956-1 C.B. 851.

478.8 Educational institution. The amendment made to section 151(e)(4)(A) by the Tax Reform Act of 1976 does not affect the definition of "educational institution," "educational establishments," or "other educational institutions" as used in the income tax conventions with the United Kingdom, Japan, Germany, and Switzerland. Rev. Rul. 58-433 distinguished and Rev. Ruls. 70-196 and 72-106 amplified. §§1.151-3, 1.170A-9. (Secs. 151, 170; '86 Code.)

Rev. Rul. 81-79, 1981-1 C.B. 605.

478.9 Extension of the March 10, 1990, reporting deadline in temp. reg. 301.6114-1T(e). The deadline of March 10, 1990, for the reporting of information concerning treaty-based return positions set forth in temp. reg. section 301.6114-1T(e) is extended to a date that is 90 days after the date of publication of the final regulation in the Federal Register.

Notice 90-19, 1990-1 C.B. 328.

478.10 Foreign tax credit; inconsistent provisions. The enactment of sections 901(f) and 907 by the Tax Reduction Act of 1975 supersedes inconsistent provisions of all income tax treaties. §§1.894-1, 1.901-1. (Secs. 894, 901, 907, 7852; '86 Code.)

Rev. Rul. 80-223, 1980-2 C.B. 217.

478.11 Foreign tax credit; limitation. The foreign tax credit per-country limitation provided in United States income tax treaties is superseded for taxable years beginning after 1976 by section 1031 of the Tax Reform Act of 1976, which provides for computation of the limitation using only the overall method. §§1.894-1, 1.901-1, 1.904-1. (Secs. 894, 901, 904, 7852; '86 Code.)

Rev. Rul. 80-201, 1980-2 C.B. 221.

478.12 Form 1042 Supplement. Countries with which the U.S. has entered into a tax convention with respect to which information returns on Form 1042 Supplement, relating to fixed or determinable annual or periodical income derived from sources within the U.S., must be filed by with holding agents. Further, the filing of such returns will be required with respect to any country with which the U.S. in the future enters into convention. §39.143-7. (Sec. 143, '39 Code; Sec. 1461, '86 Code.)

Rev. Rul. 54-242, 1954-1 C.B. 144.

478.13 Immigrant status of aliens. Aliens, employed by foreign governments and international organizations, who file the waiver provided by section 247(b) of the Immigration and Nationality Act will lose their exemption from Federal income tax provided under section 893. However, for aliens whose exemption stems from treaties or consular agreements with the listed countries, or from employment by certain international organizations, the filing of the waiver may have no effect. Rev. Ruls. 54-397 superseded and 71-566 clarified. §1.893-1. (Sec. 893, '86 Code.)

Rev. Rul. 75-425, 1975-2 C.B. 291.

478.14 Income-producing real estate; situated in foreign country. Even though the income tax conventions to which the U.S. is a party contain a provision that income from real property shall be subjected to tax only in the country in which the property is situated, a U.S. citizen or an alien resident thereof is, by reason of a saving clause in the convention, liable for U.S. tax on the income from such property. However, double taxation is substantially avoided through a foreign tax credit. §§1.901-1, 1.904-1. (Secs. 901, 904; '86 Code.)

Rev. Rul. 59-56, 1959-1 C.B. 737.

478.15 Liquidations; application of treaty provisions. Notice 87-5 concerning the application of tax treaty provisions to certain liquidations of foreign-owned corporations is modified.

Notice 87-66, 1987-2 C.B. 376.

478.16 NIH Visiting Fellows Program. Amounts received from the National Institutes of Health under the Visiting Fellows Program by residents of the following countries are exempt from federal income tax under the respective countries' tax conventions with the U.S.: Belgium, Finland, France, Iceland, Japan, the Netherlands, Norway, Poland, Romania, and Trinidad and Tobago. Rev. Rul. 80-36 amplified. Supplemented by Rev. Rul. 83-11. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 80-98, 1980-1 C.B. 368.

478.17 Nonresident visiting professors; withholding. Remuneration paid in 1970 to nonresident alien individuals from Germany, Switzerland, and Great Britain participating in a visiting professorship program in the education department of a medical research organization, which qualifies as an "educational institution" for purposes of Art. XII of the Swiss and German Conventions and Art. XVIII of the U.K. Convention, is not subject to withholding of income tax. However, remuneration paid to visiting professors from India and Chile, not treaty countries, is subject to withholding. Amplified by Rev. Rul. 81-79. §1.1441-4. (Sec. 1441, '86 Code.)

Rev. Rul. 72-106, 1972-1 C.B. 277.

478.18 Period of exemption; teachers and professors. Remuneration received by foreign professors or teachers who are residents of tax treaty countries temporarily visiting the U.S. for purposes of teaching is exempt from United States income tax for the period stated in the treaty, even though their total presence extends beyond such period, provided that during the period for which the exemption is claimed, they are considered to be nonresidents temporarily visiting the U.S. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 69-236, 1969-1 C.B. 193.

478.19 Private foundations; tax on investment income. The tax imposed under section 4940(a) is an excise tax and not an income tax. Unless an income tax treaty provides otherwise, excise taxes in general or the section 4940(a) excise tax in particular will not be treated as a covered tax under that United States income tax treaty. §53.4940-1. (Sec. 4940, '86 Code.)

Rev. Rul. 84-169, 1984-2 C.B. 216.

478.20 Refunds and credits; closing agreements. A creditor refund otherwise barred by the statute of limitations is allowable and an executed closing agreement can be reopened to carry out a mutual agreement between competent authorities under provisions of tax conventions with the following countries: France, Finland, Federal Republic of Germany, Great Britain and Northern Ireland, Japan, Netherlands, and Trinidad and Tobago. §§301.6511(a)-1, 301.7121-1. (Secs. 6511, 7121; '86 Code.)

Rev. Rul. 72-437, 1972-2 C.B. 660.

478.21 Standard tax on dividends. Taxpayer received dividends "free of standard tax" from wholly owned U.K. subsidiaries and treated such tax appropriate to the dividends under article XIII of the U.S.-U.K. Income Tax Convention by including the tax amount plus net cash dividend in gross income for purposes of computing indirect foreign tax credit. *Held*, the credit was properly computed using the "grossed up" amount rather than the amount actually received as the numerator of the pertinent fraction. (Sec. 902, '86 Code.)

Carborundum Co., 58 T.C. 909, Acq., 1974-2 C.B. 1.

478.22 Teachers and researchers; exempt income; first day of exemption. The first day of the period of exemption is the date of the individual's last entry into the U.S. before beginning the teaching or research services.

Rev. Rul. 89-5, 1989-1 C.B. 353.

478.23 Teachers and researchers; exemption from withholding and tax. Procedures are provided under which a withholding agent may ensure that it will not be liable for failure to withhold and pay over federal taxes on compensation paid to a teacher or researcher who is entitled to benefit under an Income Tax Convention between the United States and a Contracting State. §1.894-1. (Secs. 894, 1441, 3402; '86 Code.)

Rev. Proc. 87-9, 1987-1 C.B. 368.

478.24 Withholding exemption for income exempt under treaty. Alien teachers, students, and researchers may claim a withholding exemption for income exempt under treaty. Rev. Procs. 87-8 and 87-9 modified. §1.894-1. (Sec. 601.104, S.P.R.; Secs. 894, 1441, 3402, '86 Code.)

Rev. Proc. 93-22, 1993-1 C.B. 535.

478.25 Withholding exemption for income exempt under treaty. This procedure modifies sections 4 and 5 of Rev. Proc. 93-22. §1.894-1. (Sec. 601.104, S.P.R.; Secs. 894, 1441, 3402, '86 Code.)

Rev. Proc. 93-22A, 1993-2 C.B. 343.

478.26 Withholding exemption notification. A letter of notification of exemption from withholding of U.S. tax filed by nonresident aliens pursuant to a tax convention is required to be renewed and filed for each successive three-calendar-year period during which the income is payable. §39.143-3. (Sec. 143, '39 Code; Sec. 1441, '86 Code.)

Rev. Rul. 55-106, 1955-1 C.B. 102.

478.27 Withholding requirements; Form 1001 misrepresenting circumstances of payees. A domestic corporation is not liable for failure to withhold Federal income tax on interest and commitment commissions paid to foreign banks that have provided the corporation with completed Forms 1001 stating that they have complied with all the requirements for a reduced rate of, or exemption from, tax under a tax convention, provided the corporation does not have any reason to know of any changes in the circumstances of the owners of the income that may have since rendered the Forms ineffective. §§1.861-1, 1.881-1, 1.894-1, 1.1441-6, 1.1442-1. (Secs. 861, 881, 894, 1441, 1442; '86 Code.)

Rev. Rul. 76-224, 1976-1 C.B. 268.

478.28 Withholding tax rates. A revised schedule has been published of withholding tax rates under conventions, to which the U.S. is a party, to be applied by withholding agents within the U.S. with respect to payments of dividends, interest, royalties, and real estate rentals made to nonresident aliens and nonresident foreign corporations. Rev. Rul. 57-391 superseded. Clarified by Rev. Rul. 66-55. §§1.1441-1, 1.1442-1. (Secs. 1441, 1442; '86 Code.)

Rev. Rul. 60-288, 1960-2 C.B. 265.

Australia

478.29 Copyright royalties; use of film strips. Royalties paid by a domestic corporation to an Australian citizen who is not engaged in a trade or business in the U.S. for the use of film strips, not reproduced from motion picture films, of individual pictures or slides he owns and has copyrighted in Australia and for which he has no interest in a U.S. copyright, each frame of the film being shown in sequence on a screen with pertinent narrative contained on a separate phonograph record, are exempt from U.S. income tax as provided under Article X of the U.S.-Australia Income Tax Convention.

Rev. Rul. 74-541, 1974-2 C.B. 411.

Tax conventions

478.30 Employees' trust; total distributions.

A total distribution from a qualified employees' trust paid in one taxable year to an alien residing in Australia, to the extent it exceeds the amounts contributed by the employee, reduced by any previous distributions not includible in gross income, is considered a capital gain. The U.S.-Australia Tax Convention contains no provisions for the exemption of capital gains. Therefore, such distribution is subject to a tax of not less than 30 percent and to withholding. §§1.402(a)-1, 1.871-7, 1.1441-1. (Secs. 402, 871, 1441; '86 Code.)

Rev. Rul. 58-248, 1958-1 C.B. 621.

478.31 Obsolete aircraft; spare engines and parts sold.

Gain from the sale in the U.S. of obsolete aircraft, spare engines, and spare parts by an Australian corporation operating an international airline is exempt from U.S. tax under Article V(1) of the U.S.-Australia Tax Convention as profit derived from operating aircraft registered in Australia.

Rev. Rul. 72-624, 1972-2 C.B. 659.

478.32 Permanent establishment; U.S. subsidiary.

An Australian corporation that sells its products on consignment to its wholly owned U.S. subsidiary for resale, at prices the subsidiary determines, to independent retailers and wholesalers does not thereby have a permanent establishment in the U.S.

Rev. Rul. 76-322, 1976-2 C.B. 487.

478.33 Teacher; profession not previously practiced in Australia.

Australian residents are exempt from tax on remuneration received for teaching in the United States under Article XIII of the U.S.-Australia Tax Convention even though they have not previously taught in Australia.

Rev. Rul. 70-382, 1970-2 C.B. 331.

Austria

478.34 Situs of nonprofit organization. The exemption from tax provided under Article XIII(3) of the U.S.-Austria Income Tax Convention for a recipient of a grant, allowance, or award from a nonprofit religious, charitable, scientific, literary, or educational organization shall be allowed without regard to the situs of the nonprofit organization.

Rev. Rul. 80-304, 1980-2 C.B. 391.

478.35 Interest paid to Austrian bank. Payments of interest by U.S. citizens on mortgage loans secured by personal property are exempt from United States income taxation under Article VII of the United States-Austrian Income Tax Convention.

Rev. Rul. 84-84, 1984-1 C.B. 307.

Belgium

478.36 Agent in U.S. A Belgian corporation constituting a Belgian enterprise selling its goods in the U.S. through a commission agent, but which has no permanent establishment in the U.S., is exempt from U.S. income tax with respect to its industrial and commercial profits from sources within the U.S. notwithstanding that such corporation is engaged in trade or business within the U.S. (Sec. 894, '86 Code.)

Rev. Rul. 55-617, 1955-2 C.B. 774.

478.37 Dividends received; foreign tax credit.

The Belgian tax *mobiliere* on dividends paid by a Belgian corporation prior to 1963 is an income tax paid by the shareholder and is creditable under section 901(a). The Belgian tax *professionnelle* paid with respect to the profits out of which the dividends were paid may be claimed as an indirect credit under section 902 and, in accordance with section 78, is includable in gross income. Rev. Rul. 63-51 modified. §§1.61-9, 1.78-1, 1.901-1, 1.902-1. (Secs. 61, 78, 901, 902; '86 Code.)

Rev. Rul. 74-525, 1974-2 C.B. 411.

478.38 Dividends received; foreign tax credit.

The recipient of dividends paid by a Belgian corporation may not claim credit against the U.S. income tax for the Belgian tax *mobiliere* paid by the corporation and withheld from the dividend payment and the *contribution nationale de crise* which, under Belgian law, could not be recouped, since those taxes are imposed upon the Belgian corporation and not upon the shareholder. However, only the amount of dividend actually received is includable in gross income. Modified by Rev. Rul. 74-525. §§1.61-9, 1.901-1. (Secs. 61, 901; '86 Code.)

Rev. Rul. 63-51, 1963-1 C.B. 407.

478.39 Dividends received by nonresidents; foreign tax credit.

The *l'impôt des nonrésidents* as enacted by Article 153 of the Belgian tax law of November 20, 1962, and as amended, and the *pre-compte mobiliere*, a prepayment of the *l'impôt des nonrésidents* imposed on Belgian-source dividends of nonresidents, are creditable taxes. §§1.901-1, 1.904-1. (Secs. 901, 904; '86 Code.)

Rev. Rul. 74-526, 1974-2 C.B. 412.

478.40 Investment income; Belgian private foundation.

A Belgian private foundation, whose only business activities in the U.S. are investments from which it derives interest income, is not exempt from the excise tax on gross investment income. §§1.881-2, 1.894-1. (Secs. 881, 894, 4940, 4948; '86 Code.)

Rev. Rul. 76-330, 1976-2 C.B. 488.

478.41 Obtaining treaty benefits.

Procedures to be followed by residents of the United States to obtain treaty benefits under the dividend, interest, royalty, and private pension and annuity provisions of the U.S.-Belgium Income Tax Convention entered into force on October 13, 1972. (Sec. 601.701, S.P.R.)

Rev. Proc. 73-18, 1973-2 C.B. 467.

478.42 Tax on profits. Pursuant to the authority granted by Articles I(3) and XX(2) of the U.S.-Belgium Income Tax Convention, an agreement on application of Article XX(3) of the Convention provides that, under the Belgian law of November 20, 1962, the profits of United States companies having permanent establishments in Belgium will (except for a minor difference in the surtax in some cases) be taxed at no higher rates than the profits of resident Belgian companies.

Rev. Rul. 69-326, 1969-1 C.B. 365.

478.43 Teachers and professors. Remuneration received by a professor of a Belgian university invited to teach at a U.S. branch of a Belgian university, which is an accredited institution of the U.S., is exempt from Federal income tax under Article 20 of the U.S.-Belgium Income Tax Convention.

Rev. Rul. 73-606, 1973-2 C.B. 434.

Canada

478.44 Beneficiary of Canadian registered retirement savings plan. Guidance is provided on how to make the election to defer U.S. income tax on the earnings in a Canadian registered retirement savings plan. (Sec. 601.602, S.P.R.)

Rev. Proc. 89-45, 1989-2 C.B. 596.

478.45 Charitable contributions; exempt organizations. Procedures for use in establishing the tax-exempt status of charitable organizations created or organized under the laws of Canada, and determining the deductibility of contributions made to such organizations pursuant to a tax convention entered into between Canada and the U.S. §§1.170-1, 1.501(a)-1. (Sec. 601.201, S.P.R.; Secs. 170, 501, '86 Code.)

Rev. Proc. 59-31, 1959-2 C.B. 949.

478.46 Community income; nonresident's spouse. A husband, who is a resident alien of the

U.S. domiciled in a community property state, received salary derived from the performance of personal services in the U.S. Under the laws of the state, this is community income. The wife is a non-resident alien residing in Canada. The community income does not lose its identity in her hands as compensation for personal services derived from sources within the U.S. regardless of the fact that she does not perform any services in the U.S. for such income. Therefore, her share of such community income is not exempt from Federal income taxation under Article VII of the U.S.-Canada Income Tax Convention, as amended.

Rev. Rul. 66-239, 1966-2 C.B. 563.

478.47 Contract carrier; waiver of exemption.

A Canadian corporation engaged in business as a contract carrier of goods between points in the U.S. and Canada through a permanent establishment in the U.S. may annually choose whether to include in gross income service income that is effectively connected with its U.S. business and deduct the allocable expenses, even though income is exempt under a reciprocal provision of Article V. §§1.861-8, 1.882-1, 1.864-1. (Secs. 861, 882, 894; '86 Code.)

Rev. Rul. 80-147, 1980-1 C.B. 168.

478.48 Definition; "day". Where Canadian resident transportation workers perform services within the U.S. during eight hours, or a period considered a full work day in the transportation job involved, such period constitutes a "day" for purposes of Article VII of the U.S.-Canada Income Tax Convention. Hours worked which do not constitute a full workday on the job will be totaled and divided by eight to determine the number of days present in the U.S. Rev. Rul. 56-24 modified. (Sec. 871, '86 Code.)

Rev. Rul. 57-330, 1957-2 C.B. 1013.

478.49 Dividends paid. In the case of dividends paid after December 20, 1960, U.S. income tax and the withholding of tax at source will apply without regard to the five percent rate specified in Article XI, paragraph 2, of the U.S.-Canada Income Tax Convention but will apply at the 15 percent rate prescribed in paragraph 1 of such article if the taxpayer qualifies. §1.881-2. (Sec. 881, '86 Code.)

Rev. Rul. 61-103, 1961-1 C.B. 853.

478.50 Entertainer; personal appearance in U.S. Income of a Canadian corporation derived from sources within the U.S. attributable to personal appearances in the U.S. of an entertainer constitutes industrial and commercial profits exempt from tax under Article 1 of the U.S.-Canada Income Tax Convention, provided the corporation has no permanent establishment in the U.S. §39.231-1. (Sec. 231, '39 Code; Sec. 881, '86 Code.)

Rev. Rul. 54-119, 1954-1 C.B. 156.

478.51 Foreign corporations; goods consigned to company in U.S. A Canadian corporation which ships goods to a company in the U.S. on a consignment basis, retaining title until goods are purchased by the company just prior to the company's sale of the goods, the corporation having no employees in, and conducting no other business in the U.S., does not have a permanent establishment in the U.S. under the provisions of the U.S.-Canada Income Tax Convention. Income derived from sale of the goods to the company is not subject to tax. §1.882-1. (Sec. 882, '86 Code.)

Rev. Rul. 63-113, 1963-1 C.B. 410.

478.52 Foreign corporations; permanent establishment. A Canadian consulting engineering corporation engaged in the planning and design of a manufacturing plant in the U.S. for a U.S. client and performing the preponderance of its services in Canada is not maintaining a permanent establishment in the U.S., under Article I of the Income Tax Convention and Protocol, by virtue of the presence, in work space provided by the

client at the construction site of the plant, of its employees who inspect contractor work performance and quality of materials, make minor changes in plans, check contractor billings, keep account of job progress, and prepare reports for the home office.

Rev. Rul. 77-45, 1977-1 C.B. 413.

478.53 Foreign corporations; "permanent establishments." A Canadian corporation maintaining offices in the U.S. for the express purpose of soliciting business for the corporation involving services to be performed in Canada results in the corporation having a "permanent establishment" in the U.S. within the meaning of the U.S.-Canada Income Tax Convention. §1.861-1. (Sec. 861, '86 Code.)

Rev. Rul. 65-263, 1965-2 C.B. 561.

478.54 Freight car per diem receipts. Freight car per diem payments received from sources within the U.S. by a foreign corporation resident in the U.S., a common carrier by rail, are rental income rather than industrial and commercial profits for purposes of the U.S.-Canada Income Tax Convention. §1.861-5. (Sec. 861, '86 Code.)

Rev. Rul. 73-278, 1973-1 C.B. 336.

478.55 Hockey player; allocation of income. The salary paid to a professional hockey player, a Canadian citizen and resident, by a U.S. professional hockey club, that trains and plays part of its games in Canada, is earned from sources partly within and partly without the U.S. and may be allocated on the basis of services performed during the regular season. Distinguished by Rev. Rul. 77-167. §§1.861-4, 1.862-1. (Secs. 861, 862; '86 Code.)

Rev. Rul. 76-66, 1976-1 C.B. 189.

478.56 Interest received by Canadian bank. Interest received from borrowers in the U.S. by a Canadian bank as part of its ordinary income from the conduct of its Canadian banking business, that is not effectively connected with its banking business in the U.S. through a permanent establishment, does not qualify as "industrial and commercial" profits exempt from tax under Article I of the U.S.-Canada Income Tax Convention. Such interest income is subject to tax at the rate of 15 percent, to be withheld at the source, under Article XI as modified by section 894(b) of the Code. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 73-562, 1973-2 C.B. 434.

478.57 Investment company. A Canadian investment company, with an agent in the U.S. who has a discretionary power of attorney to purchase and sell securities in the U.S., will be treated as a resident foreign corporation and no reduction of the tax rate under the U.S.-Canada Income Tax Convention is permissible. (Sec. 882, '86 Code.)

Rev. Rul. 55-282, 1955-1 C.B. 634.

478.58 NIH Visiting Fellows Program. Amounts received by residents of Egypt, Korea, and Morocco from the National Institutes of Health under the Visiting Fellows Program are exempt from Federal income tax pursuant to the respective countries' tax conventions with the United States. Rev. Rul. 80-98 supplemented. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 83-11, 1983-1 C.B. 367.

478.59 Nondiscrimination clause; dual status Canadian citizen. The nondiscrimination clause of Paragraph 11 of the Protocol to the U.S.-Canada Income Tax Convention, as amended, providing in effect, that citizens of Canada residing in the U.S. may not be subjected to more burdensome taxes than U.S. citizens, does not prevent the U.S. from denying a Canadian citizen who is both a resident and a nonresident of the U.S. during the taxable year the benefits of using the head of household tax rate schedules, optional tax tables, standard

deduction, or joint return. §§1.1-1, 1.2-2, 1.4-1, 1.142-2, 1.6013-1. (Secs. 1, 2, 4, 142, 6013; '86 Code.)

Rev. Rul. 74-239, 1974-1 C.B. 372.

478.60 Private foundations; investment income. A Canadian private foundation, exempt from the Canadian income tax and exempt from U.S. income tax under section 501(c)(3), is also exempt from the tax imposed on gross investment income by section 4948(a) by virtue of Article X of the U.S.-Canada Income Tax Convention. §53.4948-1. (Sec. 4948, '86 Code.)

Rev. Rul. 74-183, 1974-1 C.B. 328.

478.61 Rental income and deductions; election. The election by a resident of Canada to treat rentals of real property from U.S. sources on a net basis, as if it was income from a trade or business, under Article XIII A (1) is an annual election.

Rev. Rul. 77-174, 1977-1 C.B. 414.

478.62 Supplemental annuity payments. Supplemental annuity payments to annuitants, residents of Canada, in excess of guaranteed minimum amounts under retirement annuity contracts issued by a domestic non-profit life insurance company are "pensions" within the meaning of Article VI A of the U.S.-Canada Income Tax Convention and are not subject to income tax withholding. §§1.1441-1. (Sec. 1441, '86 Code.)

Rev. Rul. 72-460, 1972-2 C.B. 659.

478.63 Teacher; profession not previously practiced in Canada. Canadian residents are exempt from tax on remuneration received for teaching in the U.S. under article VIII A of the U.S.-Canada Income Tax Convention even though they have not taught in Canada prior to that time.

Rev. Rul. 69-46, 1969-1 C.B. 365.

478.64 Teachers or professors. Remuneration for teaching, for a school year at a university in the U.S., paid to a professor from Canada who entered the U.S. on a student visa to pursue graduate studies leading to a doctorate degree and whose duties as a teaching assistant during this period required at least 60 percent of his time, is exempt from Federal income tax under Article VIII A of the U.S.-Canada Income Tax Convention. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 74-174, 1974-1 C.B. 371.

478.65 Temporary assignment in U.S. for training. Salary received from a Canadian oil corporation by employees experienced in oil well drilling who are assigned to the U.S. for one year of training in off-shore drilling is not exempt from Federal income tax under Article IX and is subject to the FICA and income tax withholding. §1.871-1. (Secs. 871, 3401; '86 Code.)

Rev. Rul. 76-19, 1976-1 C.B. 441.

478.66 Trusts; employees'; total distributions. The total distribution from an employees' qualified trust or annuity paid in one taxable year to an alien resident in Canada is exempt from tax in the U.S. under Article VIII of the Canadian convention, inasmuch as such distribution is a gain from the sale or exchange of a capital asset. Modified to provide that Article VI A of the Convention does not apply. §§1.402(a)-1, 1.871-7. (Secs. 402, 871; '86 Code.)

Rev. Rul. 56-446, 1956-2 C.B. 1065; Rev. Rul. 58-247, 1958-1 C.B. 623.

478.67 U.S.-Canada Income Tax Treaty; beneficiary of Canadian registered retirement savings plan. Guidance is provided as to how the roll over from registered retirement savings plan (RRSP) to a registered retirement income fund (RRIF) is treated. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 89-95, 1989-2 C.B. 131.

478.68 U.S. Government reward; personal services. An amount paid by the U.S. Government to a Canadian resident, present in the U.S. for 10 days during the taxable year, as a reward for supplying information relating to violations of Internal Revenue Laws is exempt from Federal income tax under Article VII(1) of the U.S.-Canada Income Tax Convention. §301.7623-1. (Sec. 7623, '86 Code.)

Rev. Rul. 70-576, 1970-2 C.B. 331.

478.69 U.S. real property transactions. Gain realized on the sale of real property in the U.S. by a Canadian resident, whose annual accounting period is the calendar year, on transactions occurring before January 1, 1986, is exempt from U.S. income tax under Article VIII of the 1942 U.S.-Canada Income Tax Convention.

Rev. Rul. 85-76, 1985-1 C.B. 409.

478.70 Waiver of treaty benefits under Article XIII(9). The final regulations under section 1.897-5T(d)(1)(ii)(B) will contain an exception in certain instances where the waiver of treaty benefits under Article XIII(9) of the United States-Canada Income Tax Convention is not required.

Notice 89-64, 1989-1 C.B. 720.

478.71 Withholding; earnings in U.S. of Canadian trust. A Canadian pension trust established by a Canadian corporation, which also covers U.S. employees of a U.S. subsidiary, does not qualify as an exempt pension trust, even though a U.S. bank acts as agent for the Canadian trustee with respect to the U.S. employees. The earnings from within the U.S. are subject to tax in the U.S. and to the withholding of tax at source, subject to the income tax convention between the U.S. and Canada. Distinguished by Rev. Rul. 70-242. (Sec. 1441, '86 Code.)

Rev. Rul. 55-200, 1955-1 C.B. 633.

478.72 Withholding; nonresident Canadian corporations; interim rule. In view of the 1966 Supplementary Convention modifying the 1942 U.S.-Canada Income Tax Convention with respect to income paid on or after April 15, 1968, a recipient Canadian corporation will not be entitled to any reduction of the statutory 30 percent withholding rate if the withholding agent has actual knowledge that such corporation is not a resident of Canada for purposes of Canadian income tax. However, until further notice, withholding agents may continue to withhold U.S. income tax at a rate of 15 percent from dividends paid to a corporation having an address in Canada and from interest, natural resource royalties, or real property rentals paid to a Canadian corporation that files Form 1001-C or 1001A-C. §1.1442-1. (Sec. 1442, '86 Code.)

Rev. Rul. 68-173, 1968-1 C.B. 626.

478.73 Withholding; nonresident Canadian racehorse owners. A domestic corporation operating a racetrack must withhold tax at the rate of 30 percent on any purse paid to a nonresident alien racehorse owner in the absence of definite information filed on Form 1001 that such owner has not raced, or does not intend to enter, a horse in another race during the taxable year. Rev. Rul. 60-249 amplified. §1.1441-6. (Sec. 1441, '86 Code.)

Rev. Rul. 85-4, 1985-1 C.B. 294.

China

478.74 Foreign corporations; shipping; equivalent exemption. The type of tax from which a foreign country must exempt U.S. citizens and corporations that operate ships or aircraft in order for such foreign country to satisfy the equivalent exemption requirement may encompass a tax on earnings that does not qualify as an income tax within the meaning of section 901(b). Rev. Rul. 73-69 modified. §§1.883-1, 1.901-1. (Secs. 883, 901; '86 Code.)

Rev. Rul. 78-355, 1978-2 C.B. 195.

Tax conventions

478.75 Foreign corporations; shipping; exemption on U.S. source income. For taxable years beginning after 1970, shipping corporations organized and domiciled in the Republic of China are entitled to income tax exemption on earnings from cargos and passengers taken on or discharged in U.S. ports. Modified by Rev. Rul. 78-355. §1.883-1. (Sec. 883, '86 Code.)
Rev. Rul. 73-69, 1973-1 C.B. 340.

Denmark

478.76 Permanent establishment; restaurant in U.S. A foreign corporation which operates a restaurant at a single, fixed location in the U.S. and carries on normal restaurant operations for a period of six months in each of two consecutive years is carrying on a trade or business in the U.S. through a "permanent establishment" for purposes of Articles II and III of the U.S.-Denmark Income Tax Convention, and the profits derived therefrom are subject to tax. §1.894-1. (Sec. 894, '86 Code.)
Rev. Rul. 67-322, 1967-2 C.B. 469.

478.77 Withholding; pensions. Pension payments made from a qualified employees' trust to a Danish citizen residing in Denmark are exempt from withholding under applicable treaty provisions; such payments, however, are subject to withholding if the Danish citizen resides in South Africa. (Sec. 1441, '86 Code.)
Rev. Rul. 56-325, 1956-2 C.B. 1125.

Dominican Republic

478.78 Notice on the agreement to exchange tax information. The U.S. and the Dominican Republic have signed an agreement to exchange tax information.
Notice 89-114, 1989-2 C.B. 451.

Finland

478.79 Industrial royalties. Article VIII of the U.S.-Finland Income Tax Convention exempting royalties does not apply to industrial royalties. Therefore, tax is to be withheld at the prescribed statutory rate. Rev. Rul. 60-288 clarified. §§1.1441-1, 1.1442-1. (Secs. 1441, 1442; '86 Code.)
Rev. Rul. 66-55, 1966-1 C.B. 360.

France

478.80 Amounts paid through Netherlands bank; withholding. The reduced rates of tax provided by the U.S.-France Income Tax Convention are applicable with respect to dividends and interest from sources within the U.S. derived through a Netherlands bank or other custodian by a resident of France only where certain disclosures are made to the Revenue Service. Where such disclosures are made, the withholding agent may withhold tax at the reduced rate. §§1.871-7, 1.1441-1, 1.1461-1. (Secs. 871, 1441, 1461; '86 Code.)
Rev. Rul. 68-230, 1968-1 C.B. 629.

478.81 Boxers, managers, and trainers. Examples illustrate the tax treatment of amounts earned from prize fights in the U.S. by alien boxers, managers, and trainers who are residents of either the United Kingdom or France. §§1.861-4, 1.864-2, 1.871-8, 1.1441-4. (Secs. 861, 864, 871, 1441; '86 Code.)
Rev. Rul. 75-503, 1975-2 C.B. 352.

478.82 Concert tour in U.S.; fixed base. A citizen and resident of France who entered into a contract with an unrelated domestic corporation to represent him in connection with his U.S. concert appearances does not maintain a fixed base in the U.S. as that term is used in Article 14. §1.882-1. (Sec. 882, '86 Code.)
Rev. Rul. 75-131, 1975-1 C.B. 389.

478.83 Dividend paid by a U.S. corporation to its French corporate shareholder. A dividend received from a U.S. corporation by a French corporate shareholder that owns, directly, at least ten percent of the outstanding shares of the voting stock of the U.S. corporation during the part of the paying corporation's taxable year that precedes the date of payment of the dividend and during the whole of its prior taxable year (if any) is subject to a tax not exceeding 5 percent of the amount actually distributed in accordance with Article 9(2)(b) of the U.S.-France Income Tax Convention.
Rev. Rul. 84-21, 1984-1 C.B. 307.

478.84 Domestic corporation wholly owned by France; exemption for wages paid to a French national. Pursuant to Article 16(1) of the United States-France Income Tax Convention, wages paid to a national of France by a U.S. corporation organized by the French government to perform activities of a governmental nature for services rendered in connection with the performance of these activities are exempt from United States taxation.
Rev. Rul. 84-174, 1984-2 C.B. 339.

478.85 Floor show in U.S. hotel. A French corporation which produces theatrical shows in France and which also, pursuant to a contract, presents a floor show in a United States hotel is an "enterprise" which derives industrial and commercial profits from within the U.S. Since the corporation does not have an office or other permanent facility in the U.S. and does not maintain an employee or agent here who has a general authority to negotiate and conclude contracts on its behalf, and the contract involved is for a relatively short period, the corporation does not have a "permanent establishment" in the U.S. and the income derived under the contract is exempt from U.S. income tax under the provisions of Article 3 of the U.S.-France Income Tax Convention. (Sec. 894, '86 Code.)
Rev. Rul. 67-321, 1967-2 C.B. 470.

478.86 French social security payments; U.S. nonresident citizens. Social security payments by the Republic of France to two nonresident citizens of the U.S., one of whom is a resident of France maintaining a permanent home only in France and the other a resident of a foreign country other than France, are not exempt from Federal income tax.
Rev. Rul. 75-489, 1975-2 C.B. 511.

478.87 Insurance companies; "reinsurance premiums". The phrase "reinsurance premiums", as used in Article 4 of the Exchange of Notes between the U.S. and France dated July 28, 1967, includes investment income derived in connection with the conduct of a reinsurance business in one of the Contracting States by an insurance company that is a resident of the other Contracting State and is exempt from tax in the latter Contracting State, whether or not the insurance company maintains a permanent establishment therein. §1.882-1. (Sec. 882, '86 Code.)
Rev. Rul. 77-62, 1977-1 C.B. 414.

478.88 Interest; domestic bearer coupon bonds; withholding. Withholding of tax at the source on interest from domestic bearer coupon bonds owned by a nonresident alien, resident of France with no permanent establishment in the U.S., is imposed at the rate of 15 percent on interest received before August 11, 1968, and 10 percent on interest received on or after that date.
Rev. Rul. 71-174, 1971-1 C.B. 174.

478.89 Liberal professions. A French resident is considered as engaged in a liberal profession, income from which is exempt from tax under Article XI(1) of the U.S.-France Income Tax Convention, when performing services of a noncommercial nature (such as medical, legal, engineering, scientific, teaching, research, and

entertaining) on his own account and not as an employee of another person or under an employment contract. This provision will be applied without retroactive effect to persons rendering services pursuant to a contract entered into prior to March 23, 1964. Rev. Ruls. 55-508 and 60-313, relating to research assistants and public entertainers, modified. Modified by Rev. Rul. 66-357. §1.894-1. (Secs. 871, 894; '86 Code.)
Rev. Rul. 55-508, 1955-2 C.B. 775; Rev. Rul. 60-313, 1960-2 C.B. 627; Rev. Rul. 64-92, 1964-1 (Part 1) C.B. 599.

478.90 Partnership; U.S. citizen resident of France; income source; foreign tax credit. A procedure to be followed by partnerships in making the election provided in Article 23(3)(c) of the U.S.-France Income Tax Convention as amended by the Protocol of Nov. 24, 1978, is set forth. The application of this election to partnerships reporting income on the basis of taxable years begun before Jan. 1, 1979, and ended after Jan. 1, 1979, with the distributive shares of the partners being reported on the basis of taxable years begun on or after Jan. 1, 1979, is clarified. §§1.702-1, 1.901-1, 1.904-1, 5b.911-1, 5b.913-1. (Sec. 601.701, S.P.R.; Secs. 702, 901, 904, 911, 913, '86 Code.)
Rev. Proc. 80-16, 1980-1 C.B. 619.

478.91 Purse won in horse race. The amount of a purse won by a horse entered in a single race in the U.S. by a nonresident alien individual owning and operating a racing stable in France is exempt from tax under the French convention where the owner maintains no permanent establishment in the U.S. Amplified to provide that in the absence of definite information that the owner does not intend to enter a horse in more than one race during the taxable year, tax must be withheld, even though such winnings may be exempt under the provisions of a tax convention. Modified by Rev. Rul. 70-543. §§1.871-8, 1.1441-1. (Secs. 871, 1441; '86 Code.)
Rev. Rul. 58-63, 1958-1 C.B. 624; Rev. Rul. 60-249, 1960-2 C.B. 264.

478.92 Refund of French tax on French dividends. Procedures to be followed by U.S. residents in applying for refund of the French tax on dividends received from French corporations, effective for dividends declared and distributed after 1969, pursuant to the U.S.-France Income Tax Convention as amended by the Protocol of October 12, 1970. Amended to provide that claims for refund of the tax on dividends declared and distributed during calendar years 1970-73 must be filed by December 31, 1974. §1.901-1. (Sec. 601.701, S.P.R.; Sec. 901, '86 Code.)
Rev. Proc. 73-34, 1973-2 C.B. 489, Amendment I, 1974-2 C.B. 465.

478.93 Rental income and deductions; election. The election by a resident of France to treat rentals of real property from U.S. sources on a net basis, as if it was income from a trade or business, under Article 5(3) is an annual election.
Rev. Rul. 77-174, 1977-1 C.B. 414.

478.94 Research fellow. A French resident appointed as a research fellow to the faculty of an accredited university's medical school in the U.S. conducts basic research in the public interest under the school's direction and control in a laboratory located in a hospital associated with the school. The individual's compensation, although paid through the hospital under grants awarded by the National Institutes of Health, is exempt from federal income tax under Article 17 of the U.S.-France Income Tax Convention for a period not exceeding two years from the date of the individual's arrival in the U.S.
Rev. Rul. 80-51, 1980-1 C.B. 333.

478.95 Teachers or professors. The exemption provided by Article 10 of the U.S.-France Income Tax Convention is applicable to a teacher or pro-

fessor who practices his profession in the U.S. and, at the time his stay in the U.S. begins, is neither a citizen nor a resident of the U.S. but is a resident of France, provided he does not maintain an office or other fixed place in the U.S. incident to the practice of his profession. Amplified to provide that the exemption applies to a professor who is a resident of France engaged in research at a university in the U.S. Rev. Rul. 64-92 modified. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 66-357, 1966-2 C.B. 564; Rev. Rul. 68-353, 1968-2 C.B. 705.

Germany

478.96 Bank representative's office in U.S.; permanent establishment. A German bank conducting informational, advertising and investigative activities through a representative's office in the U.S. does not have a permanent establishment in the U.S. within the meaning of Article II(1)(c) of the U.S.-Federal Republic of Germany Income Tax Convention. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 72-418, 1972-2 C.B. 661.

478.97 Compensation paid; political persecution under National Socialism. Effective for taxable years on or after January 1, 1965, amounts paid by the German Government to U.S. citizens or residents because of political persecution under National Socialism pursuant to the Federal Law for the Compensation of Victims of National Socialist Persecution are exempt from tax under Article XI(1)(c) of the U.S.-Federal Republic of Germany Income Tax Convention. §1.61-1. (Sec. 61, '86 Code.)

Rev. Rul. 71-477, 1971-2 C.B. 479.

478.98 Dividends, interest, and royalties; claim for refund. Filing procedures to be followed by residents, corporations, or other U.S. entities to obtain German treaty benefits under the dividend, interest, or royalty provisions of the U.S.-Federal Republic of Germany Income Tax Convention, as modified by the Protocol of December 27, 1965. (Sec. 601.701, S.P.R.)

Rev. Proc. 74-14, 1974-1 C.B. 436.

478.99 Exemption; allowance, award, or grant from nonprofit organization. Competent authorities have agreed that the exemption provided to a recipient of a grant, allowance, or award from a nonprofit organization under Article XIII(3) of the U.S.-Federal Republic of Germany Convention shall be allowed without regard to situs.

Rev. Rul. 77-289, 1977-2 C.B. 490.

478.100 Operation of ships; containers. Income of shipping companies from certain ancillary activities connected with use of the container method of ocean transportation for which no special charge is made is exempt from tax as income from the "operation of ships" under Article V of the U.S.-Federal Republic of Germany Income Tax Convention.

Rev. Rul. 74-92, 1974-1 C.B. 373.

478.101 Partnership distribution treated as dividend; withholding. A domestic limited partnership taxable as a corporation for U.S. tax purposes is a corporation for purposes of the U.S.-Federal Republic of Germany Income Tax Convention and distributions from current and accumulated earnings and profits to the German resident limited partners, who are nonresident aliens of the U.S. not engaged in a trade or business in the U.S., are dividends under the Convention taxable at the reduced rate of 15 percent. §§1.316-1, 1.871-1, 1.1441-6, 301.7701-2. (Secs. 316, 871, 1441, 7701; '86 Code.)

Rev. Rul. 76-435, 1976-2 C.B. 490.

478.102 Release of excess tax withheld; withholding. Interim rules give effect to the reduced rate of withholding of United States income tax

from dividends paid by U.S. corporations to residents or companies of Germany under the protocol brought into force December 27, 1965, and provide for the release of excess tax withheld or for refund where the withheld tax has been paid to the Government. (Sec. 1441, '86 Code.)

Rev. Proc. 67-24, 1967-1 C.B. 625.

478.103 Surcharge on income and corporation taxes. The surcharge imposed by Germany on income and corporation taxes under the Law of December 21, 1967, is a creditable tax within the meaning of Article XV(1) of the U.S.-Federal Republic of Germany Income Tax Convention.

Rev. Rul. 69-593, 1969-2 C.B. 277.

478.104 Tax on insurance policies; overpayment. Instructions are provided for claiming a refund of an overpayment of excise tax on insurance policies when the claim is based on the U.S.-Germany Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital and to certain other taxes. (Sec. 601.403, S.P.R.)

Rev. Proc. 92-14, 1992-1 C.B. 669.

478.105 U.S. Government pensions. Article XV(2) of the U.S.-Federal Republic of Germany Income Tax Convention does not preclude the Federal Republic from including pensions paid by the U.S. Government to its citizens who are residents of Germany in determining the tax rates applicable to such citizen's taxable income.

Rev. Rul. 70-102, 1970-1 C.B. 359.

Honduras

478.106 Charitable contributions; exempt organizations. Procedures for use in establishing the tax-exempt status of charitable organizations created or organized under the laws of Honduras, and determining the deductibility of contributions made to such organizations pursuant to a tax convention entered into between Honduras and the U.S. §§1.1701, 1.501(a)-1. (Sec. 601.201, S.P.R.; Secs. 170, 501, '86 Code.)

Rev. Proc. 59-31, 1959-2 C.B. 949.

India

478.107 U.S.-Indian Income Tax Treaty. This procedure sets forth the exemptions, reliefs or reductions in respect of taxes on income from grants, scholarships, and employment that are available, under Article 21(2) of the United States-India Income Tax Treaty, to an Indian student or business apprentice who is present in the United States for educational or training purposes. (Sec. 601.105, S.P.R.; Sec. 894, '86 Code.)

Rev. Proc. 93-20, 1993-1 C.B. 528.

Ireland

478.108 Interest on U.S. savings bonds. Interest on U.S. savings bonds Series E held as surviving coowner by a citizen and resident of Ireland not engaged in business in the U.S. and subject to Irish tax on such interest is exempt from Federal income tax under Article VIII(1) of the U.S.-Republic of Ireland Income Tax Convention.

Rev. Rul. 55-356, 1955-1 C.B. 673.

Italy

478.109 Domestic trust created by foreign corporation; suit to recover U.S. royalties. An Italian corporation set up a domestic trust to commence and conduct a civil suit against a domestic corporation to recover patent royalties payable by the domestic corporation. The trust agreement limits the authority of the trustee, a U.S. citizen and resident, to commencing and maintaining the legal action, settling the claim, and receiving all sums of money due as a result of the claim. The trustee received and remitted to the Italian corporation a sum of money in settlement of the claim. The trust is not a permanent establishment under

Article II(1)(c) of the United States-Italy Income Tax Convention, and the payment to the trust is treated as royalties within the meaning of Article VIII. §§1.671-1, 1.676(a)-1. (Secs. 671, 676; '86 Code.)

Rev. Rul. 80-15, 1980-1 C.B. 365.

Japan

478.110 Compensation paid in dollars or yen. The limitation for tax exemption of \$3,000 paid for personal services, as provided in article IX(b) of the U.S.-Japan Income Tax Convention, applies equally to compensation paid in dollars or in yen. The current official rate of exchange is to be used as a measure of dollar equivalent when compensation is paid in yen. (Sec. 861, '86 Code.)

Rev. Rul. 55-472, 1955-2 C.B. 776.

478.111 Dividends received from Japanese corporation; 1965. A domestic corporation receiving dividends from a Japanese corporation in which it owned at least 10 percent of the voting stock cannot utilize for 1965 the credit provisions of both section 902 of the Code and Article XIV(c)(i) of the U.S.-Japan Income Tax Convention. §1.902-3. (Sec. 902, '86 Code.)

Rev. Rul. 69-327, 1969-1 C.B. 375.

478.112 Foreign bank; within U.S.; world wide interest expense. Regulations 1.882-5 will apply to the determination of a foreign bank's worldwide interest expenses as a deduction under Art. 8(3) of the U.S.-Japan Income Tax Treaty for purposes of computing the U.S. taxable income of the bank's U.S. permanent establishment. Rev. Rul. 78-423 obsoleted. §§1.861-8, 1.882-5. (Secs. 861, 882; '86 Code.)

Rev. Rul. 85-7, 1985-1 C.B. 188.

478.113 Foreign tax credit; American Depository Receipt. A holder of an American Depository Receipt issued under an agreement between a U.S. bank and a Japanese corporation to deposit the common stock of the corporation sold to U.S. investors in a Japanese bank appointed an agent of the U.S. bank, will be treated, for the purposes of the foreign tax credit and for purposes of the benefits provided by the U.S.-Japan Income Tax Convention as if he held the underlying shares of the corporation stock directly. §§1.901-1, 1.904-1. (Secs. 901, 904; '86 Code.)

Rev. Rul. 65-218, 1965-2 C.B. 566.

478.114 Foreign tax credit; Japanese airline employee. Compensation received by a U.S. citizen residing in Japan for services performed as a flight crew member on international flights for a Japanese airline, including the portion attributable to services performed within the U.S., is treated as income from sources within Japan for purposes of computing the foreign tax credit provided in Article 5(1)(a) of the United States-Japan Income Tax Convention. Amplified by Rev. Rul. 79-206. §§1.861-4, 1.901-1. (Secs. 861, 901; '86 Code.)

Rev. Rul. 79-28, 1979-1 C.B. 457.

478.115 Foreign tax credit limitation; Japanese airline employee. Compensation received by a U.S. citizen residing in Japan for personal services performed in the U.S. as a flight crew member on international flights for a Japanese airline is treated as sourced in Japan in computing the foreign tax credit limitation provided in section 904(a), which is incorporated in the formula provided in section 911(a) applying to individuals who elect to be taxed under the law in effect before the Foreign Earned Income Act of 1978 for taxable years beginning in 1978. Rev. Rul. 79-28 amplified. §§1.861-4, 1.904-1, 1.911-2. (Secs. 861, 904, 911; '86 Code.)

Rev. Rul. 79-206, 1979-2 C.B. 279.

478.116 Interest; interest on Export-Import Bank obligations. Interest derived from sources within Japan by any resident of the U.S. with respect to debt obligations financed under the

Tax conventions

Medium Term Discount Program of the Export-Import Bank of the U.S. is exempt from Japanese tax as provided by Article 13(3).

Rev. Rul. 76-170, 1976-1 C.B. 470.

478.117 Medical research. Examples are set forth in which amounts paid to a citizen of Japan for performing research at a heart research foundation in the U.S. are either compensation for services rendered or payments made under a "grant, allowance, or award" within the meaning of Article 20(1) of the U.S.-Japan Income Tax Convention. Rev. Rul. 76-567 superseded. §§1.117-4, 1.894-1. (Secs. 117, 894; '86 Code.)

Rev. Rul. 80-36, 1980-1 C.B. 366.

478.118 National Institutes of Health; visiting scientist; Japan and certain other countries. Payments made to visiting scientists and associates under the NIH Visiting Scientist and Visiting Associate programs are not exempt from federal tax under Article 20(1)(a) of the United States-Japan Income Tax Convention. Rev. Ruls. 80-36 and 80-98 amplified.

Rev. Rul. 87-40, 1987-1 C.B. 372.

478.119 National Institutes of Health fellowship. A U.S. nonresident alien Japanese scientist granted a fellowship to perform research at the National Institutes of Health, which do not maintain a regular faculty or established curriculum, have no organized student body, and do not have student education as their primary purpose, is not exempt from U.S. income tax by reason of Article 19.

Rev. Rul. 75-10, 1975-1 C.B. 389.

478.120 National temporarily in U.S.; personal exemptions. A Japanese national temporarily in the U.S. with his wife and children on an F or J-1 visa as result of a fellowship grant is entitled to additional deductions for exemptions as provided in Article XVI(1) of the U.S.-Japan Income Tax Convention. §1.871-8. (Sec. 871, '86 Code.)

Rev. Rul. 70-614, 1970-2 C.B. 150.

478.121 Research fellow at university hospital. Compensation paid to a citizen and resident of Japan who is employed as a research fellow by a university hospital, which has many administrative and functional ties to the university but is a separate corporation controlled by its own board of trustees and maintains no regular faculty and curriculum and has no regularly organized body of students, is not exempt from Federal income tax under Article 19.

Rev. Rul. 77-175, 1977-1 C.B. 415.

478.122 Teachers; educational terms defined. Definitions of the terms "educational establishments" and "other educational institutions" that the United States and Japan will use in applying Article XI of the U.S.-Japan Income Tax Convention relating to reciprocal exemption from tax of certain residents of each country who temporarily visit the other for the purpose of teaching, are set forth. Amplified by Rev. Rul. 81-79.

Rev. Rul. 70-196, 1970-1 C.B. 359.

478.123 Teachers or professors. Remuneration paid to visiting professors or teachers from Japan for engaging in research or further study at a university or other educational institution in the U.S. is exempt from Federal income tax under Article XI of the U.S.-Japan Income Tax Convention if the primary purpose in visiting the U.S. is to teach, lecture or instruct at an educational institution situated therein and his remuneration is chiefly for the time devoted to such teaching duties.

Rev. Rul. 60-23, 1960-1 C.B. 754.

478.124 Traveling expenses. Advances or reimbursements for travel expenses received by a

nonresident alien individual and properly accounted for to his employer do not constitute "compensation for labor or personal services" for purposes of the \$3,000 limitation provided by the U.S.-Japan Income Tax Convention or the dollar limitation specified in substantially identical treaty provisions relating to other countries which do not define the term "compensation for labor or personal services" for treaty purposes. Any part of the advances or reimbursements exceeding the expenses reported is includable as compensation for purposes of the convention. §§1.162-17, 1.274-5, 1.861-4, 1.871-8. (Secs. 162, 274, 861, 871; '86 Code.)

Rev. Rul. 65-48, 1965-1 C.B. 613.

Netherlands

478.125 Creditable taxes. Pursuant to the provisions of Article XIX(2) and Article I(1)(b)(i) of the U.S.-Netherlands Income Tax Convention, the taxes on income, corporations, property, and fees of directors and managers of corporations imposed by the Netherlands are allowable as credits against U.S. income tax.

Rev. Rul. 69-139, 1969-1 C.B. 375.

478.126 Dividend from domestic subsidiary to holding company. A dividend paid by a wholly owned domestic subsidiary to its Netherlands parent corporation will qualify for the reduced tax rate of 5 percent provided by Article VII, notwithstanding the status of the Netherlands corporation as a holding company owning stock of other U.S. and foreign corporations.

Rev. Rul. 75-118, 1975-1 C.B. 390.

478.127 Dividend from U.S. subsidiary. A Canadian corporation that had owned all the stock of S-1, a Netherlands corporation, and S-2, a U.S. corporation, transferred the S-2 stock to S-1. The S-2 stock owned by the parent will not be attributed to S-1 in determining whether a dividend paid later in the year of transfer is subject to the reduced tax rate of 5 percent provided by Article VII(1)(b) of the U.S.-Netherlands Tax Convention.

Rev. Rul. 81-132, 1981-1 C.B. 603.

478.128 Equipment rental payments; business profits. U.S. source payments for equipment rentals are exempt from U.S. income tax as business profits under Article 111 of the U.S.-Netherlands Income Tax Convention.

Rev. Rul. 86-156, 1986-2 C.B. 297.

478.129 Foreign corporation; wax figures furnished to museum. Foreign corporation agreed to furnish wax figures to U.S. corporation for museum display in exchange for 48-percent of the gross receipts. *Held*, the wax figures constitute commercial equipment for purposes of the exemption provided by the U.S.-Netherlands Income Tax Convention. (Sec. 881, '86 Code.)

London Displays Co., N.V., 46 T.C. 511, Acq., 1967-1 C.B. 2.

478.130 House tax (personelebelasting). The house tax (personelebelasting) imposed on household furniture and domestic commodities by a municipality in the Netherlands is not covered by the U.S.-Netherlands Income Tax Convention and is not a creditable tax under section 901. §1.901-1. (Sec. 901, '86 Code.)

Rev. Rul. 72-235, 1972-1 C.B. 439.

478.131 Industrial and commercial profits; interest rate swap. A cross border U.S. dollar denominated interest rate swap between a U.S. person and a Netherlands bank results in industrial and commercial profits to the bank that are exempt from U.S. tax under the U.S.-Netherlands Income Tax Convention. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 87-5, 1987-1 C.B. 180.

478.132 Interest; bond discount. Amounts representing original issue discount paid by a

domestic corporation to the Netherlands holders of its debentures on redemption are interest for purposes of Article VIII(1) of the U.S.-Netherlands Income Tax Convention for exemption from U.S. tax; however, amounts representing premiums payable by reason of redemption of the debentures prior to maturity do not constitute interest for purposes of Article VIII(1). §§1.871-1, 1.881-1, 1.894-1, 1.1232-1. (Secs. 871, 881, 894, 1232; '86 Code.)

Rev. Rul. 74-172, 1974-1 C.B. 178.

478.133 Netherlands Antilles; extension of deadline set in Notice 88-1. An extension is granted until September 1, 1988, of the May 2, 1988, deadline set forth in section 3 of Notice 88-1. Notice 88-1 provided guidance on the status of elections by Netherlands Antilles companies and certain other treaty country corporations under section 897(i) of the Code. Such elections provide that a foreign corporation will be treated as a domestic corporation for purposes of sections 897, 1445, and 6039C.

Notice 88-53, 1988-1 C.B. 538.

478.134 Netherlands Antilles; interest. Interest payments made by a wholly owned U.S. corporation to its Netherlands Antilles parent corporation are not exempt from U.S. income tax pursuant to Article VIII(1) of the Netherlands convention, as extended to the Netherlands Antilles. The provisions of that Article are not affected by the Protocol of October 23, 1963, where the interest payments are received by a Netherlands Antilles corporation from a U.S. subsidiary in which it owns 50 percent or more of the voting power. Therefore, income tax withholding on such interest is required. §1.1442-1. (Sec. 1442, '86 Code.)

Rev. Rul. 66-362, 1966-2 C.B. 565.

478.135 Netherlands Antilles; interest; bonds. Interest received by a Netherlands Antilles corporation, not engaged in a trade or business in the U.S. through a permanent establishment, on freely marketable Government National Mortgage Association "fully-modified pass-through" certificates that are issued in a registered serial form and secured by real property is exempt from federal income tax pursuant to Article VIII(1) of the U.S.-Netherlands Income Tax Convention. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 79-251, 1979-2 C.B. 271.

478.136 Netherlands Antilles; tax avoidance. A domestic corporation that does not provide information when requested by the Service to establish that its relationship with its Netherlands Antilles parent was not arranged or maintained primarily with the intention of securing the reduced tax rate on dividends provided by Article VII(1) of the U.S.-Netherlands tax convention as extended to the Netherlands Antilles has not satisfied all requirements for obtaining the 5 percent rate.

Rev. Rul. 79-65, 1979-1 C.B. 458.

478.137 Netherlands Antilles; tax avoidance. Interest payments by a U.S. subsidiary of a Swiss parent to that parent's Netherlands Antilles subsidiary, which arise from a financial arrangement whereby the Swiss parent loans funds to its Antilles subsidiary, which in turn loans those funds to the U.S. subsidiary, are not exempt from U.S. taxation under Article VIII(1) of the U.S.-Netherlands Income Tax Convention, as extended to the Netherlands Antilles.

Rev. Rul. 84-152, 1984-2 C.B. 381.

478.138 Netherlands Antilles; tax avoidance. Interest payments that a domestic subsidiary of a U.S. parent makes to that parent's Netherlands Antilles subsidiary, which arise from a financial arrangement where by the Antilles subsidiary issues bonds to foreign persons and loans the proceeds to the domestic subsidiary, are not exempt from U.S. taxation under Article VIII(1) of the

U.S.-Netherlands Income Tax Convention, as extended to the Netherlands Antilles.
Rev. Rul. 84-153, 1984-2 C.B. 383.

478.139 Netherlands Antilles; tax avoidance. The holdings of Revenue Rulings 84-152 and 84-153 will not be applied to interest payments made in connection with debt obligations issued prior to October 15, 1984, pursuant to a binding written agreement entered into prior to October 15, 1984. Rev. Ruls. 84-152 and 84-153 modified.

Rev. Rul. 85-163, 1985-2 C.B. 349.

478.140 Netherlands Antilles; tax avoidance. Article VIII(1) of the Convention continues to apply to certain interest payments made after December 31, 1987. (Sec. 894, '86 Code.)
Rev. Rul. 87-79, 1987-2 C.B. 334.

478.141 Netherlands Antilles; tax benefits. A Netherlands Antilles corporation may be entitled to benefits accorded by Articles VII, VIII, and IX of the tax convention between the U.S. and the Netherlands, as extended to the Netherlands Antilles by protocol. Amplified by Rev. Rul. 80-4.
Rev. Rul. 65-16, 1965-1 C.B. 626.

478.142 Netherlands Antilles; tax benefits; payment pursuant to legal liability. A payment to the Netherlands Antilles pursuant to the election described in Rev. Rul. 65-16 is a payment made pursuant to a legal liability for purposes of section 901(b). Rev. Rul. 65-16 amplified. §§1.901-1, 1.902-1. (Secs. 901, 902; '86 Code.)
Rev. Rul. 80-4, 1980-1 C.B. 169.

478.143 Netherlands Antilles; withholding. A protocol modifying and supplementing the U.S.-Netherlands tax convention, as extended to the Netherlands Antilles, provides that, with certain exceptions, Articles VII, VIII, and IX, relating to the taxation of dividends, interest, and royalties, shall not apply to U.S. source income derived by any corporation or other entity entitled to any of the special tax benefits provided under the Netherlands National Ordinance on Profit Tax of 1940, as in effect on September 1, 1963, or to substantially similar benefits granted under any law of the Netherlands Antilles enacted after that date. Interim and additional procedures supplement the withholding regulations, reflecting the protocol for years beginning after 1964. §1.1442-1. (Sec. 601.105, S.P.R.; Sec. 1442, '86 Code.)
1965-1 C.B. 624; Rev. Proc. 65-2, 1965-1 C.B. 715; Rev. Proc. 79-40, 1979-2 C.B. 504.

478.144 Netherlands Antilles; withholding; dividends. In determining whether a dividend paid to a Netherlands Antilles corporation by its wholly owned U.S. subsidiary qualifies for the 5 percent withholding rate under the withholding regulations for the U.S. -- Netherlands Income Tax Convention as extended to the Netherlands Antilles, the 60 percent gross income test in Article I(2)(a) of the Protocol of October 23, 1963, is to be applied, on an aggregate basis for the 36-month period immediately preceding the taxable year in which the dividend is paid, and dividends received by the payor corporation from its own wholly owned U.S. subsidiary are considered dividends for purposes of the computation.
Rev. Rul. 77-435, 1977-2 C.B. 491.

478.145 Netherlands Antilles corporation member of U.S. partnership. A foreign corporation formed under the laws of the Netherlands Antilles for the purpose of investing foreign capital in major commercial real estate projects in the U.S. through a limited U.S. partnership of which it is a limited partner is considered to be engaged in the business of the partnership and the distributive share of partnership income is taxable to it under section 882 of the Code and is not subject to U.S. withholding under section 1442. Further, pursuant to Article XII of the U.S.-Netherlands

Convention as extended to the Netherlands Antilles, dividends and interest paid by the corporation are not subject to U.S. tax unless the recipient is a citizen, resident, or corporation of the U.S. §§1.864-4, 1.875-1, 1.881-1, 1.882-1, 1.144-1, 1.1442-1. (Secs. 864, 875, 881, 882, 1441, 1442; '86 Code.)

Rev. Rul. 75-23, 1975-1 C.B. 290.

478.146 Netherland Antilles corporation; member of U.S. partnership. Rev. Rul. 75-23, 1975-1 C.B. 290, concerning the Netherlands Antilles is obsolete for taxable years beginning after December 31, 1986. §301.7805-1. (Sec. 7805, '86 Code.)

Rev. Rul. 87-80, 1987-2 C.B. 292.

478.147 Operation of ships; containers. Income of shipping companies from certain ancillary activities connected with use of the container method of ocean transportation for which no special charge is made is exempt from tax as income from the "operation of ships" under Article VI(1).
Rev. Rul. 76-568, 1976-2 C.B. 492.

478.148 Partial termination. This procedure involves the effect of the partial termination of the U.S.-Netherlands Income Tax Convention. Rev. Proc. 79-40 modified and clarified. §1.1442-1. (Sec. 601.105, S.P.R.; Sec. 1442, '86 Code.)
Rev. Proc. 89-53, 1989-2 C.B. 633.

478.149 Partial termination. Various revenue rulings are modified and clarified as a result of the partial termination of the U.S.-Netherlands Income Tax Convention. Rev. Ruls. 65-16, 77-435, 79-65, 84-152, 84-153, and 85-163 modified and clarified. §1.7805-1. (Sec. 7805, '86 Code.)
Rev. Rul. 89-110, 1989-2 C.B. 275.

478.150 Personal holding company. A Netherlands corporation, more than 50 percent of whose stock is owned by five nonresident alien individuals and whose capital is invested exclusively in domestic stocks and bonds is taxable as a personal holding company, since undistributed earnings are not specifically exempt under the U.S.-Netherlands Income Tax Convention. The corporation is entitled to a dividends paid deduction to the extent it distributed dividends, either actually or constructively, to its shareholders during the taxable year. §1.541-1. (Sec. 541, '86 Code.)
Rev. Rul. 60-34, 1960-1 C.B. 203.

478.151 Research fellow. A Netherlands resident who entered the U.S. as a research fellow at a university prior to January 1, 1967, is entitled to tax exemption under Article XVII of the U.S.-Netherlands Income Tax Convention, as amended.
Rev. Rul. 68-278, 1968-1 C.B. 632.

478.152 Visiting teacher. A resident of the Netherlands, whose income from teaching in the United States was exempt from U.S. income tax and who left the United States, may, upon his return, enter upon another exemption period of two years provided he has been absent from the U.S. for a period of not less than one year.
Rev. Rul. 56-164, 1956-1 C.B. 848.

Norway

478.153 Directors' fees received from Norwegian corporation. Directors' fees received solely for services as a director on the board of a Norwegian corporation are subject to Article 13 of the U.S.-Norway Income Tax Convention as income from independent personal services; however, any portion of the fees that represents compensation for employment is subject to Article 14 and any portion that represents distribution of profits is subject to either Article 8 as dividends or Article 5 as profits.
Rev. Rul. 74-163, 1974-II C.B. 374.

478.154 Partnerships; operation of ships and aircraft. Article V(1) of the U.S.-Norwegian Income Tax Convention, relating to the treatment of income derived from the operation of ships or aircraft, has been interpreted in the case of a partnership composed of both U.S. and Norwegian residents or corporations, to mean that income derived by such partnership will be taxed by the partner's resident country only and upon the income from his interest therein. Further, Norway will not tax the capital investment of the U.S. partners in the partnership.

Rev. Rul. 69-128, 1969-1 C.B. 376.

Pakistan

478.155 Medical training in U.S.; HEW program. A Pakistani resident invited to the U.S. for study and training at a hospital in the U.S. under a program sponsored and supported by the Department of Health, Education and Welfare is exempt from tax under Article XIII(3) of the U.S.-Pakistan Income Tax Convention on remuneration therefrom not exceeding \$10,000 for rendition of services directly related to such training and study.
Rev. Rul. 72-301, 1972-1 C.B. 439.

Philippines

478.156 Pension trust; permanent establishment. A Philippine pension trust that would, except for its foreign status, qualify under section 401(a) of the Code and thus be exempt from federal income tax under section 501(a), does not have a permanent establishment in the U.S. under Article 5 of the U.S.-Philippines Income Tax Convention and is not entitled to an exemption from federal income tax under Article 24(2). §§1.401-1, 1.501(a)-1, 1.864-2. (Secs. 401, 501, 864; '86 Code.)
Rev. Rul. 83-144, 1983-3 C.B. 295.

Poland

478.157 Election; gain and loss; business activities of permanent and nonpermanent establishment. A taxpayer cannot elect the provision of the United States-Polish People's Republic Income Tax Convention with respect to the taxability of business gain that is in part attributable to a permanent establishment and in part not attributable thereto, while in the same taxable year elect the provisions of the Code with respect to a nonattributable business loss. Rev. Rul. 81-78 amplified. §§1.864-4, 1.894-1. (Secs. 864, 894; '86 Code.)
Rev. Rul. 84-17, 1984-1 C.B. 308.

478.158 Sales not connected with permanent establishment. A Polish corporation that makes and sells a product through its permanent establishment in the U.S. is not taxed on the income it earns from selling another product through unrelated business activities that are not a separate permanent establishment in the U.S. §§1.864-4, 1.894-1. (Sec. 864, 894; '86 Code.)
Rev. Rul. 81-78, 1981-1 C.B. 604.

South Africa

478.159 Chief engineer training in U.S.; living expenses. Amounts representing remittances for living expenses received by a chief engineer of a South African corporation, who is a citizen and resident of South Africa, temporarily assigned by his employer to the U.S. for a period of training to gain experience on design and redesign of certain types of machines with the object of improving the efficiency of his employer, are not exempt from tax under Article X of the U.S.-Union of South Africa Income Tax Convention.
Rev. Rul. 66-384, 1966-2 C.B. 566.

478.160 Pensions; Danish citizen; withholding. Pension payments made from a qualified employees' trust to a Danish citizen residing in Denmark are exempt from withholding under applicable treaty provisions; however, such pay-

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ments are subject to withholding if the Danish citizen resides in South Africa. (Sec. 1441, '86 Code.) Rev. Rul. 56-325, 1956-2 C.B. 1125.

478.161 U.S. citizen employed in South Africa. Income of a U.S. resident that is exempt under section 911(a)(2) is not income "subject to United States of America tax" as that term is used in Article II(1) of the Protocol supplementing the U.S.-Union of South Africa Income Tax Convention. Therefore, such income is not exempt from South African tax. §1.911-2. (Sec. 911, '86 Code.) Rev. Rul. 69-122, 1969-1 C.B. 195.

Sweden

478.162 Pensions; social security and railroad retirement. For purposes of Article X of the U.S.-Sweden Income Tax Convention, benefit payments (other than lump sum payments) under the Social Security Act and the Railroad Retirement Tax Act paid to individuals residing in Sweden are exempt from taxation by Sweden. Similar benefits under Swedish law paid to individuals residing in the U.S. are exempt from taxation by the U.S.

Rev. Rul. 65-4, 1965-1 C.B. 630.

478.163 Private pension; dividends; trust income. Pensions paid either directly or through the medium of a trust, by private persons, as distinguished from one of the contracting States or political subdivisions or territories or possessions thereof, come within the meaning of the term "private pensions" in Article X of the U.S.-Sweden Income Tax Convention. Further, dividends received as income of a domestic trust, which are to be distributed currently by a fiduciary to a Swedish beneficiary, generally retain their character as dividends under Article VII of the Convention when distributed to the beneficiary. I.T. 3427 superseded. §§1.61-11, 1.401-1. (Secs. 61, 401; '86 Code.)

Rev. Rul. 72-12, 1972-1 C.B. 440.

478.164 Royalty; right to distribute motion picture films. A payment to a Swedish resident, corporation, or other entity for the right to distribute motion picture films in the U.S. is considered a royalty under Article VI of the U.S.-Sweden Income Tax Convention for Federal income tax purposes.

Rev. Rul. 70-134, 1970-1 C.B. 359.

Switzerland

478.165 Award for patent infringement. Damages for infringement of a U.S. patent awarded to a citizen and resident of Switzerland who does not maintain a place of business or conduct any business through a permanent establishment in the U.S. constitute amounts received as consideration for the right to use the patent and are exempt from tax under Article VIII of the U.S.-Swiss Confederation Income Tax Convention. The interest received is income from sources within the U.S. and is taxable at the rate of five percent under Article VII. §1.871-7. (Sec. 871, '86 Code.)

Rev. Rul. 64-206, 1964-2 C.B. 591.

478.166 Corporation engaged in business in U.S.; dividends received. Dividends received from a domestic corporation by a Swiss corporation that are not effectively connected with the Swiss corporation's conduct of a manufacturing business through a permanent establishment in the U.S. are subject to tax at the rate of 15 percent provided in Article VI(1) of the U.S.-Swiss Confederation Income Tax Convention. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 79-56, 1979-1 C.B. 459.

478.167 Dividends paid; passive gross income; grossed-up interest and dividends. In determining whether more than 25 percent of the

gross income of a controlled corporation paying dividends to its parent is derived from interest and dividends (other than interest and dividends received from its own subsidiary corporations) for purposes of Article VI of the U.S.-Swiss Confederation Income Tax Convention, the term "gross income of such corporation" will not be reduced by the taxes withheld at source from interest and dividends received by the paying corporation.

Rev. Rul. 72-131, 1972-1 C.B. 441.

478.168 Holding company's dividend from U.S. subsidiary. Dividends paid by a domestic insurance corporation, wholly owned by a Swiss holding company subsidiary of a Swiss insurance corporation that maintains a branch office in the U.S. and reinsures a portion of the domestic insurance corporation's risks, will be subject to withholding at the rate of five percent as provided in Article VI(2).

Rev. Rul. 75-454, 1975-2 C.B. 512.

478.169 Industry study in U.S. The salary paid to an executive of a Swiss corporation, who is a citizen and resident of Switzerland temporarily in the U.S. for the purpose of study of a particular industry for his employer, is not exempt from U.S. income tax under Article XIII of the U.S.-Swiss Confederation Income Tax Convention.

Rev. Rul. 62-203, 1962-2 C.B. 389.

478.170 Net profits interest in oil and gas mineral property. Payments received by a Swiss corporation from its net profits interest in oil and gas mineral property located in the U.S. are not industrial and commercial profits within the meaning of Article II(1)(h) of the U.S.-Swiss Confederation Income Tax Convention but are rents or royalties taxable by the U.S. pursuant to Article IX(1) of the Convention.

Rev. Rul. 73-419, 1973-2 C.B. 436.

478.171 Nonresident; visiting professor. Remuneration received by a citizen and resident of Switzerland serving as a visiting lecturer at a U.S. university during an academic year is exempt under Article XII of the U.S.-Swiss Confederation Income Tax Convention, even though he subsequently becomes a resident of the U.S. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 68-446, 1968-2 C.B. 706.

478.172 Resident engaged in trade or business in U.S. Dividend income from sources within the U.S. received by a nonresident alien individual, a Swiss resident engaged in a trade or business in the U.S., that was not effectively connected with the conduct of such trade or business, is taxable at the rate of 15 percent under Article VI(1) of the U.S.-Swiss Confederation Income Tax Convention. However, income received by him from sources without the U.S. is exempt from Federal tax under Article III(1) of the Convention even though that income may be effectively connected. §§1.864-2, 1.871-7, 1.894-1. (Sec. 864, 871, 894; '86 Code.)

Rev. Rul. 74-63, 1974-1 C.B. 374.

478.173 Resident selling equipment in U.S. The demonstration and selling of logging equipment by a Swiss resident who is in the U.S. for that purpose is a trade or business and the income derived therefrom is taxable under the tax convention. However, the compensation of a Swiss resident employed by such an enterprise in the U.S. may be exempt.

Rev. Rul. 56-165, 1956-1 C.B. 849.

478.174 Subsidiary corporation defined. For purposes of the tax on dividends under Article VI(2) of the U.S.-Swiss Confederation Income Tax Convention, a corporation whose sole class of outstanding stock is at least 50 percent owned by another corporation will be considered a "subsidi-

ary" corporation. §1.894-1. (Sec. 894, '86 Code.)

Rev. Rul. 67-143, 1967-1 C.B. 425.

478.175 Withholding; dividends paid to Swiss parent. A domestic securities broker-dealer corporation wholly owned by a Swiss bank is not required to be in existence for three full years before dividends it pays to its Swiss parent may qualify for the five percent rate of tax prescribed by Article VI(2) of the U.S.-Swiss Confederation Income Tax Convention.

Rev. Rul. 74-275, 1974-1 C.B. 376.

478.176 Withholding; dividends paid to Swiss parent. A Swiss corporation owning 90 percent of the stock of a U.S. corporation and owning all of the stock of a foreign corporation, which in turn owns 10 percent of the stock of the U.S. corporation, satisfies the 95 percent director indirect control test of the U.S.-Swiss Confederation Income Tax Convention; dividends paid by the U.S. corporation directly to its Swiss parent are subject to withholding and tax at the reduced rate of 5 percent. §§1.881-1, 1.894-1. (Secs. 881, 894; '86 Code.)

Rev. Rul. 74-171, 1974-1 C.B. 178.

478.177 Withholding interest paid to Swiss branch of Swiss bank controlled in U.K. The Swiss branch of a bank with no permanent establishment in the U.S., incorporated in Switzerland, managed and controlled in the United Kingdom, and carrying on business in both countries qualifies as a resident of both countries under the United States-Swiss Confederation Income Tax Convention and the United States-United Kingdom Income Tax Convention and may choose to apply the provisions of either convention to interest received on an indebtedness from a domestic bank located in the U.S. Rev. Rul. 72-378 distinguished.

Rev. Rul. 73-354, 1973-2 C.B. 435.

478.178 Withholding interest paid to U.K. branch of Swiss bank. Interest paid by a U.S. bank to a controlled United Kingdom branch of a Swiss bank is subject to the five percent withholding tax under Article VII of the U.S.-Swiss Confederation Income Tax Convention. Further, the U.S.-U.K. Income Tax Convention does not apply to exempt such interest. Distinguished by Rev. Rul. 73-354.

Rev. Rul. 72-378, 1972-2 C.B. 662.

United Kingdom

478.179 Advance Corporation Tax; foreign tax credit. Procedures are set forth for taxpayers to follow in applying certain provisions of the new United States-United Kingdom Income Tax Convention that concern the United Kingdom Advance Corporation Tax, foreign tax credits for United Kingdom taxes, and U.S. taxes on United Kingdom residents. Modified by Rev. Proc. 81-58. §§1.901-1, 1.902-1, 1.905-3. (Sec. 601.701, S.P.R.; Secs. 901, 902, 905, '86 Code.)

Rev. Proc. 80-18, 1980-1 C.B. 623.

478.180 Advance Corporation Tax; foreign tax credit. Additional procedures are set forth for taxpayers to follow in applying certain provisions of the new U.S.-United Kingdom Income Tax Convention that concern the United Kingdom Advance Corporation Tax, foreign tax credits for United Kingdom taxes, and U.S. taxes on United Kingdom residents. Rev. Proc. 80-18 modified. §§1.901-1, 1.902-1. (Sec. 601.701, S.P.R.; Secs. 901, 902, '86 Code.)

Rev. Proc. 81-58, 1981-47 I.R.B. 17.

478.181 Advance Corporation Tax; foreign tax credit. Rev. Proc. 80-18 is amplified and clarified with respect to the computation of the deemed paid foreign tax credit in the case of United Kingdom advance corporation tax.

§§1.901-1, 1.902-1, 1.905-3T. (Sec. 601.701, S.P.R.; Secs. 901, 902, 905, '86 Code.)
Rev. Proc. 90-61, 1990-2 C.B. 657.

478.182 Boxers, managers, and trainers. Examples illustrate the tax treatment of amounts earned from prize fights in the U.S. by alien boxers, managers, and trainers who are residents of either the United Kingdom or France. §§1.861-4, 1.864-2, 1.871-8, 1.1441-4. (Secs. 861, 864, 871, 1441; '86 Code.)
Rev. Rul. 75-503, 1975-2 C.B. 352.

478.183 British Corporation acting through U.S. agent. A British corporation is not engaged in trade or business in the U.S. through a permanent establishment situated therein, within the meaning of the U.S.-United Kingdom Income Tax Convention, where it engages an American commission agent or broker to solicit orders subject to its approval and acceptance in England and the product is shipped direct to the purchaser with title passing in England. Its profits from sales of merchandise will not be subject to U.S. income tax. (Sec. 894, '86 Code.)
Rev. Rul. 56-594, 1956-2 C.B. 1126.

478.184 Dividend and interest; branch office of U.K. bank. Dividends and interest paid by U.K. corporations to a branch office of a U.K. bank that is operated as a permanent establishment in the U.S. are considered to be industrial or commercial profits within the meaning of Article III of the U.S.-U.K. Income Tax Convention and are not exempt from tax under Article XV.
Rev. Rul. 77-269, 1977-2 C.B. 490.

478.185 Dividend and interest; U.K. holding company. Dividend and interest paid after 1965 to a United Kingdom parent corporation by its wholly owned U.K. holding company owning a U.S. subsidiary and having its principal office in the U.S. are exempt from U.S. taxes, including withholding taxes, under Article XV of the U.S.-U.K. Income Tax Convention as amended by the Supplemental Protocol of September 9, 1966. §1.894-1. (Sec. 894, '86 Code.)
Rev. Rul. 72-21, 1972-1 C.B. 441.

478.186 Dividends paid; interest; banking partnership. In determining whether more than 25 percent of the gross income of a domestic corporation paying dividends is derived from interest and dividends (other than interest and dividends received from its own subsidiary corporations) for purposes of Article VI(1) of the U.S.-United Kingdom Income Tax Convention, the term "interest" does not include the corporation's distributive share of partnership income which represents interest which the partnership derives from loans made in the active conduct of a banking business. A domestic corporation claiming that dividends paid by it come within the provisions of Article VI(1) must furnish certain required information. §1.894-1. (Sec. 894, '86 Code.)
Rev. Rul. 65-78, 1965-1 C.B. 630.

478.187 Entertainers; "single loan-out" and "double loan-out" arrangements. Examples illustrate the income tax consequences, under various sections of the Code and the U.S.-United Kingdom Income Tax Convention, of contracts between a U.S. person and a United Kingdom corporation for the performance of services by a foreign entertainer, sometimes referred to as "single loan-out" arrangements, and of contracts between a Channel Islands corporation, a United Kingdom corporation, and a U.S. person for the performance of services by a foreign entertainer, sometimes referred to as "double loan-out" arrangements. §§1.61-1, 1.482-1, 1.543-1, 1.861-1, 1.864-2, 1.871-8, 1.882-1, 1.1442-1. (Secs. 61, 482, 543, 861, 864, 871, 882, 1442, 3401, 3402; '86 Code.)
Rev. Rul. 74-330, 1974-2 C.B. 278; Rev. Rul. 74-331, 1974-2 C.B. 281.

478.188 Exempt income; capital gains retained by trust. Article XIV of the U.S.-United Kingdom Income Tax Convention, exempting capital gains of a resident of the United Kingdom from the U.S. income tax, does not extend to capital gains realized by, and retained as part of the corpus of, an American trust, even though the trust grantor and all trust beneficiaries are residents and subjects of the United Kingdom. §§1.641(a)-2, 1.894-1. (Secs. 641, 894; '86 Code.)
Maximov, 373 U.S. 49, Ct. D. 1880, 1963-2 C.B. 689.

478.189 Foreign corporation; permanent U.S. establishment; deduction for tax paid on U.S. income. A United Kingdom corporation that has a permanent establishment in the U.S. paid U.K. income tax on business profits attributable to its U.S. operation only because the corporation was a resident of the U.K. Section 906(b)(1)(B) is not contrary to any treaty provisions, and the corporation may not deduct the U.K. income tax paid on U.S. profits. However, the corporation may deduct the U.K. income tax paid on effectively connected income from another foreign country. Rev. Ruls. 55-532, 58-310, and 65-234 obsolete. §§1.164-1, 1.882-1. (Secs. 164, 882, 906; '86 Code.)
Rev. Rul. 80-243, 1980-2 C.B. 413.

478.190 Foreign corporations; permanent U.S. establishment; employees; investment income. Certain officers and employees of a foreign corporation, managed and controlled in the United Kingdom, may be exempt under the U.S.-U.K. Income Tax Convention in respect of compensation for personal services rendered in the U.S., even though such foreign corporation has a permanent establishment in the U.S. I.T. 3876 superseded. Clarified to remove the implication that such foreign corporation is not entitled to the exemption or reduced rates on certain investment income provided by the convention. §1.871-7. (Sec. 871, '86 Code.)
Rev. Rul. 70-247, 1970-1 C.B. 156; Rev. Rul. 71-302, 1971-2 C.B. 267.

478.191 Foreign corporation; sales office in U.S. A sales office or showroom maintained in the U.S. by a foreign corporation, managed and controlled in the United Kingdom, for its salesmen for sales promotion of British merchandise constitutes engaging in trade or business in the U.S. through a permanent establishment within the meaning of the provisions of the U.S.-United Kingdom Income Tax Convention. Accordingly, income derived by the corporation from sources within the U.S. is subject to U.S. income tax. Rev. Rul. 54-588 revoked. §1.882-1. (Sec. 882, '86 Code.)
Rev. Rul. 62-31, 1962-1 C.B. 367.

478.192 Foreign source earned income; non-discrimination clause; resident aliens. Nationals of the United Kingdom who are residents of the United States within the meaning of section 7701(b) may qualify for the benefits provided by section 911 by satisfying the bonafide residence test of section 911(d)(1)(A). Rev. Ruls. 72-330 and 72-598 are obsolete. §§1.871-2, 1.911-2. (Secs. 871, 911, 7701; '86 Code.)
Rev. Rul. 91-58, 1991-2 C.B. 340.

478.193 Interest; overpayments. Interest on a refund made because of retroactive application of the United States-United Kingdom Income Tax Convention of 1975 will be paid from the date of payment and not from the effective date of the treaty. §301.6611-1. (Sec. 6611, '86 Code.)
Rev. Rul. 84-133, 1984-2 C.B. 309.

478.194 Interest; overpayments and underpayment. Interest on an underpayment or overpayment of U.S. tax caused by retroactive application of the United States-United Kingdom Income Tax Convention of 1975 runs from the due date of

the return or date of payment and not from the effective date of the treaty. Rev. Proc. 80-18 modified. §§1.901-1, 1.902-1, 301.6601-1, 301.6611-1. (Sec. 601.701, S.P.R.; Secs. 901, 902, 6601, 6611, '86 Code.)
Rev. Proc. 84-60, 1984-2 C.B. 504.

478.195 Interest paid to Swiss branch of Swiss bank controlled in U.K. The Swiss branch of a bank with no permanent establishment in the U.S., incorporated in Switzerland, managed and controlled in the United Kingdom, and carrying on business in both countries qualifies as a resident of both countries under the U.S.-Swiss Confederation Income Tax Convention and the U.S.-United Kingdom Income Tax Convention and may choose to apply the provisions of either convention to interest received on an indebtedness from a domestic bank located in the U.S. Rev. Rul. 72-378 distinguished.
Rev. Rul. 73-354, 1973-2 C.B. 435.

478.196 Nonresidents; rental property in U.S. The taxpayer, a resident of England, owned and leased a piece of real property in the U.S. Her sole activities in connection with this property, other than the receipt of rentals, consisted of payments of taxes, insurance, mortgage installments, and cost of minor repairs. *Held*, the taxpayer was not engaged in a trade or business in the U.S. (Secs. 211, 212, '39 Code; Secs. 871, 872, '86 Code.)
Elizabeth Herbert, 30 T.C. 26, Acq., 1958-2 C.B. 6.

478.197 Pensions; periodic bonus payments. The term "pensions" as used in Article XII of the U.S.-United Kingdom Income Tax Convention as amended, does not include periodic bonus payments by a U.S. corporation to one of its retirees who is a United Kingdom subject and resident.
Rev. Rul. 71-478, 1971-2 C.B. 490.

478.198 Standard tax on dividends. If a domestic corporation receiving dividends from a British corporation elects to include in gross income the standard tax paid on such dividends by the British corporation, it is entitled to a foreign tax credit for the amount of such tax. (Secs. 901, 902; '86 Code.)
Rev. Rul. 56-289, 1956-1 C.B. 321.

478.199 Standard tax on dividends. The recipient of dividends from a U.K. corporation who elects to itemize his deductions may claim credit against his U.S. income tax for the amount of U.K. standard income tax appropriate to such dividends, provided such amount is included in his gross income pursuant to Article XIII(1) of the U.S.-U.K. Income Tax Convention. A taxpayer who claims the optional standard deduction may not claim such credit against his U.S. income tax, but he is not required to include such amount of U.K. tax in his gross income. §39.23(aa)-1, 39.131(a)-1. (Secs. 23(aa), 131, '39 Code; Secs. 141, 901, '86 Code.)
Rev. Rul. 54-533, 1954-2 C.B. 210.

478.200 Tax information to bank. A domestic corporation may furnish data appearing on its income tax return for the use of a United Kingdom bank in behalf of the U.K. stockholders of the corporation in order to facilitate the recognition of the credit allowed under the U.K. tax laws for U.S. tax withheld or paid by the corporation. §39.211-7. (Sec. 211, '39 Code; Sec. 871, '86 Code.)
Rev. Rul. 55-9, 1955-1 C.B. 675.

478.201 Teacher; second assignment after arrival. Where a professor or teacher from the United Kingdom visits the U.S. for the purpose of teaching at a certain university, the salary derived from teaching at a second university within a period of two years from the date of his arrival in the U.S. will not be disqualified from the exemption allowed under Article XVIII of the U.S.-United Kingdom Income Tax Convention merely because all arrangements for the second teaching

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position were not effected until after his arrival in this country.

Rev. Rul. 59-230, 1959-2 C.B. 639.

478.202 Teacher or professor. Where the primary purpose of a professor or teacher from the United Kingdom in visiting the U.S. on an exchange visitor visa is to teach, lecture or instruct at a university for a period of not more than 2 years from the date of arrival, his entire remuneration is exempt from tax under Article XVIII of the conv. §39.22(a)-2. (Sec. 22(a), '39 Code; Sec. 61, '86 Code.)

Rev. Rul. 55-211, 1955-1 C.B. 676.

478.203 Teacher or professor; semiannual visits. A resident of the United Kingdom, a professor at a university in that country, who visits the U.S. to teach at universities for short periods twice a year qualifies for the exemption from tax on U.S. sourced income under Article XVIII during the initial two year period, but not during the third year of such visits.

Rev. Rul. 77-242, 1977-2 C.B. 489.

478.204 United Kingdom; withholding procedures. Rev. Proc. 67-17 and Rev. Proc. 68-7 provide procedures under the former U.S.-U.K. Income Tax Convention and are not determinative under the current Convention and are obsolete.

Rev. Proc. 87-44, 1987-2 C.B. 335.

478.205 United States-United Kingdom; Article 15(2)(a). The term "tax year concerned" refers to the tax year in which personal services are performed rather than to the tax year in which compensation for those services is received.

Rev. Rul. 86-145, 1986-2 C.B. 297.

478.206 Waiver of exemption; government employees. The execution and filing of a waiver provided by section 247(b) of the Immigration and Nationality Act by a resident alien employed by a covered by the U.S.-United Kingdom Income Tax Convention waives the exemption on compensation for official services provided by Article X(2) of the Convention and section 893 of the Code. Modified by Rev. Rul. 74-135; clarified by Rev. Rul. 75-425. §1.893-1. (Sec. 893, '86 Code.)

Rev. Rul. 71-566, 1971-2 C.B. 267.

478.207 Waiver of exemption; Jamaican Government employees. A Jamaican national, who is a permanent resident of the U.S. employed by the Jamaican Government, is entitled to the benefits of Article X(2) of the U.S.-United Kingdom Income Tax Convention in effect prior to the Supplementary Protocol to the Convention, and income received from such employment is exempt from income tax notwithstanding whether such individual has executed and filed the waiver provided by section 247(b) of the Immigration and Nationality Act. Rev. Rul. 71-566 modified. §1.893-1. (Sec. 893, '86 Code.)

Rev. Rul. 74-135, 1974-1 C.B. 177.