

U. S. TREASURY DEPARTMENT
BUREAU OF INTERNAL REVENUE

REGULATIONS 74

RELATING TO THE

INCOME TAX

UNDER THE

REVENUE ACT OF 1928

ALSO TREASURY DECISIONS AMENDING
OR RELATING TO REGULATIONS 74

(DECEMBER 1, 1931)



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PART II—COMPUTATION OF NET INCOME

SEC. 21. NET INCOME.

"Net income" means the gross income computed under section 22, less the deductions allowed by section 23.

ART. 41. Meaning of net income.—The tax imposed by the Act is upon income. In the computation of the tax various classes of income must be considered:

(a) Income (in the broad sense), meaning all wealth which flows in to the taxpayer other than as a mere return of capital. It includes the forms of income specifically described as gains and profits, including gains derived from the sale or other disposition of capital assets. Cash receipts alone do not always accurately reflect income, for the Act recognizes as income-determining factors other items, among which are inventories, accounts receivable, property exhaustion, and accounts payable for expenses incurred. (See sections 22, 23, and 101 and the articles thereunder.)

(b) Gross income, meaning income (in the broad sense) less income which is by statutory provision or otherwise exempt from the tax imposed by the Act. (See section 22 and the articles thereunder.)

(c) Net income, meaning gross income less statutory deductions. The statutory deductions are in general, though not exclusively, expenditures, other than capital expenditures, connected with the production of income. (See sections 23 and 24 and the articles thereunder.)

(d) Net income less credits. (See sections 25 and 26 and the articles thereunder.)

The surtax on individuals is imposed upon net income; the normal tax on individuals and the tax upon corporations is imposed upon net income less credits. Although taxable net income is a statutory conception, it follows, subject to certain modifications as to exemptions and as to deductions for partial losses in some cases, the lines of commercial usage. Subject to these modifications statutory net income is commercial net income. This appears from the fact that ordinarily it is to be computed in accordance with the method of accounting regularly employed in keeping the books of the taxpayer. (See section 41.)

The net income of corporations is determined in general in the same manner as the net income of individuals, but the deductions allowed corporations are not precisely the same as those allowed individuals. (See sections 23, 24, 117, 118, 203, 204, 208, and 232 and the articles thereunder.)

Art. 41

§ 21

SEC. 22. GROSS INCOME.

(a) **General definition.**—"Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever.

ART. 51. What included in gross income.—Gross income includes in general compensation for personal and professional services, business income, profits from sales of and dealings in property, interest, rent, dividends, and gains, profits, and income derived from any source whatever, unless exempt from tax by law. (See sections 22 (b) and 116.) In general, income is the gain derived from capital, from labor, or from both combined, provided it be understood to include profit gained through a sale or conversion of capital assets. Profits of citizens, residents, or domestic corporations derived from sales in foreign commerce must be included in their gross income; but special provisions are made for nonresident aliens by sections 212-215 and in certain cases for citizens and domestic corporations deriving income from sources within possessions of the United States by section 251. Income may be in the form of cash or of property. As to dividends, whether in cash or in property, see section 115 and articles 621-629.

Where property is sold by a corporation to a shareholder, or by an employer to an employee, for an amount substantially less than its fair market value, such shareholder of the corporation or such employee shall include in gross income the difference between the amount paid for the property and the amount of its fair market value. In computing the gain or loss from the subsequent sale of such property its cost shall be deemed to be its fair market value at the date of acquisition by the shareholder or the employee. This paragraph does not apply, however, to the issuance by a corporation to its shareholders of the right to subscribe to its stock, as to which see article 58.

In the case of stock sold between dividend dates, the entire amount of the dividend is income to the vendee and must be reported in his gross income when the dividend becomes due and payable. The amount advanced by the vendee to the vendor in contemplation of the next dividend payment is an investment of capital and may not be claimed as a deduction from gross income. As to the amount of income tax paid for a bondholder by the obligor pursuant to a so-called tax-free covenant, see section 144 (a) (4). As to the determi-

Art. 51

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§ 22 (a)

SEC. 144. WITHHOLDING OF TAX AT SOURCE.**(a) Tax-free covenant bonds.—**

(1) **REQUIREMENT OF WITHHOLDING.**—In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per centum of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods, if payable to an individual, a partnership, or a foreign corporation not engaged in trade or business within the United States and not having any office or place of business therein: *Provided*, That if the liability assumed by the obligor does not exceed 2 per centum of the interest, then the deduction and withholding shall, after the date of the enactment of this Act, be at the following rates: (A) 5 per centum in the case of a nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (B) 12 per centum in the case of such a foreign corporation, and (C) 2 per centum in the case of other individuals and partnerships: *Provided further*, That if the owners of such obligations are not known to the withholding agent the Commissioner may authorize such deduction and withholding to be at the rate of 2 per centum, or, if the liability assumed by the obligor does not exceed 2 per centum of the interest, then at the rate of 5 per centum.

(2) **BENEFIT OF CREDITS AGAINST NET INCOME.**—Such deduction and withholding shall not be required in the case of a citizen or resident entitled to receive such interest, if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefit of the credits provided in section 25 (c) and (d); nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Commissioner under section 215.

(3) **WITHHOLDING AT LOWER RATE.**—Such deduction and withholding shall be at the rate of 1½ per centum instead of at the rate of 2 per centum in the case of a citizen or resident entitled to receive such interest if he files with the withholding agent on or before February 1 a signed notice in writing that his net income in excess of the credits against net income provided in section 25 does not exceed \$4,000.

(4) **INCOME OF OBLIGOR AND OBLIGEE.**—The obligor shall not be allowed a deduction for the payment of the tax imposed by this title, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

(b) **Nonresident aliens.**—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries,

employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest (except interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, of any nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (other than income received as dividends of the class allowed as a credit by section 25 (a)) shall (except in the cases provided for in subsection (a) of this section and except as otherwise provided in regulations prescribed by the Commissioner under section 215) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to 5 per centum thereof: *Provided*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

(c) **Return and payment.**—Every person required to deduct and withhold any tax under this section shall make return thereof on or before March 15 of each year and shall on or before June 15, in lieu of the time prescribed in section 56, pay the tax to the official of the United States Government authorized to receive it. Every such person is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this section.

(d) **Income of recipient.**—Income upon which any tax is required to be withheld at the source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

(e) **Tax paid by recipient.**—If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

(f) **Refunds and credits.**—Where there has been an overpayment of tax under this section any refund or credit made under the provisions of section 322 shall be made to the withholding agent unless the amount of such tax was actually withheld by the withholding agent.

ART. 761. Withholding tax at source.—Withholding of a tax of 5 per cent is required in the case of fixed or determinable annual or periodical income paid to a nonresident alien or to a nonresident partnership (see article 1319) composed in whole or in part of nonresident alien individuals, except (1) income from sources without the United States, including interest on deposits with persons carry-

ing on the banking business paid to persons not engaged in business in the United States and not having any office or place of business therein, (2) dividends of a class allowed as a credit by section 25(a), and (3) interest upon bonds or other obligations of a corporation containing a tax-free covenant. A tax of 5 per cent must be withheld from interest on bonds or securities not containing a tax-free covenant where the owner is unknown to the withholding agent, except where such interest represents income from sources without the United States. For withholding purposes the benefit of the reduced rates of normal tax imposed by section 211(b) upon the compensation of nonresident aliens who are residents of Canada or Mexico may be procured only by filing claim therefor on Form 1115 as provided in article 1072. (See sections 119, 148, 212, 215, 231, 233, 251 (f), and 701 (a) (6) and articles 671-684, 811-818, 1041, 1042, 1071, 1072, 1101, 1102, and 1134.)

A tax of 12 per cent is required to be withheld in the case of fixed or determinable annual or periodical income (with the exceptions stated in the first paragraph of this article) paid after 8 a. m., eastern standard time, May 29, 1928, to a nonresident foreign corporation (see article 1319). (See also section 145 and article 781.)

Withholding of a tax of 2 per cent is required in the case of interest paid to an individual or a partnership, whether resident or nonresident (see article 1319), or to a nonresident foreign corporation upon bonds or other obligations of domestic corporations or resident foreign corporations (see article 1319) containing a tax-free covenant, except that if the liability assumed by the obligor in connection with such a covenant does not exceed 2 per cent of the interest, withholding is required at the rate of 5 per cent in the case of a nonresident alien or a nonresident partnership composed in whole or in part of nonresident alien individuals, and at the rate of 12 per cent in the case of a nonresident foreign corporation. However, withholding is not required in the case of interest payments on such bonds or obligations of a domestic or resident foreign corporation qualifying under section 119 (a) (1) (B), if made to a nonresident alien, to a partnership composed in whole of nonresident aliens, or to a nonresident foreign corporation. A nonresident foreign corporation having a fiscal or paying agent in the United States is required to withhold a tax of 2 per cent upon the interest on its tax-free covenant bonds paid to a citizen or resident of the United States or a partnership any member of which is a citizen or resident. A tax of only 1½ per cent instead of 2 per cent is required to be withheld from interest on tax-free covenant bonds in the case of a citizen or resident if he files with the

withholding agent on or before February 1 a signed notice in writing that his net income in excess of the credits to which he is entitled under section 25 and articles 291-295 does not exceed \$4,000. Such notice shall be made on Form 1000. If the owner of bonds or other obligations of a corporation containing a tax-free covenant is unknown to the withholding agent a tax of 2 per cent must be withheld from interest thereon unless the liability assumed by the obligor does not exceed 2 per cent of the interest, in which case withholding must be at the rate of 5 per cent.

Bonds issued under a trust deed containing a tax-free covenant are treated as if they contained such a covenant. Where neither the bonds nor the trust deeds given by the obligor to secure them contain a tax-free covenant, supplemental agreements executed by the obligor corporation and the trustee containing a tax-free covenant which modify the original trust deeds to that extent are of the same effect from the date of their proper execution as if they had been part of the original deeds of trust, and the bonds from such date are subject to the provisions of section 144 (a), provided appropriate authority exists for the modification of the trust deeds in this manner. The authority must be contained in the original trust deeds or actually secured from the bondholders.

A debtor corporation having an issue of bonds or other similar obligations which appoints a duly authorized agent to act in its behalf under the withholding provisions of the Act, is required to file notice of such appointment with the Commissioner of Internal Revenue, Sorting Section, Washington, D. C., giving the name and address of the agent.

Where in connection with the sale of its property, payment of the bonds or other obligations of a corporation is assumed by the assignee, such assignee, whether an individual, partnership, or corporation, must deduct and withhold such taxes as would be required to be withheld by the assignor had no such sale or transfer been made.

A fiduciary is not required to withhold tax and render a withholding return with respect to income of a nonresident alien beneficiary, as a complete return thereof will be included in Form 1040 B. (See articles 745 and 768.)

In the case of corporate bonds or other obligations containing a tax-free covenant, the corporation paying a Federal tax, or any part of it, for some one else pursuant to its agreement is not entitled to deduct such payment from gross income on any ground, nor shall the tax so paid be included in the gross income of the bondholder. The amount of the tax may nevertheless be claimed by the bondholder as a credit against the total amount of tax due in accordance

with section 144 (d). In the case, however, of corporate bonds or obligations containing an appropriate tax-free covenant, the corporation paying for some one else, pursuant to its agreement, a State tax or any tax other than a Federal tax may deduct such payment as interest paid on indebtedness.

ART. 762. Fixed or determinable annual or periodical income.—Only fixed or determinable annual or periodical income is subject to withholding. The Act specifically includes in such income, interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, and emoluments. But other kinds of income may be included, as for instance, royalties.

Income is fixed when it is to be paid in amounts definitely predetermined. Income is determinable whenever there is a basis of calculation by which the amount to be paid may be ascertained. The income need not be paid annually if it is paid periodically; that is to say, from time to time, whether or not at regular intervals. That the length of time during which the payments are to be made may be increased or diminished in accordance with some one's will or with the happening of an event does not make the payments any the less determinable or periodical. A salesman working by the month for a commission on sales which is paid or credited monthly receives determinable periodical income. The income derived from the sale in the United States of property, whether real or personal, is not fixed or determinable annual or periodical income.

ART. 763. Exemption from withholding.—Withholding from interest on corporate bonds or other obligations containing a tax-free covenant shall not be required in the case of a citizen or resident if he files with the withholding agent when presenting interest coupons for payment, or not later than February 1 following the taxable year, an ownership certificate on Form 1000 stating that his net income does not exceed his personal exemption and other credits allowed by section 25. (See articles 291–295.) To avoid inconvenience a resident alien should file a certificate of residence on Form 1078 with withholding agents, who shall forward such certificates to the Commissioner with a letter of transmittal. (See article 1026.) The income of domestic corporations and of resident foreign corporations is free from withholding. No withholding from corporate dividends is required unless the dividends are treated as income from sources within the United States under section 119 and are distributed by a corporation organized under the China Trade Act, 1922, to—

(a) A nonresident alien individual other than a resident of China at the time of such distribution;

(b) A nonresident partnership composed in whole or in part of nonresident aliens (other than a partnership resident in China); or

(c) A nonresident foreign corporation (other than a corporation resident in China).

In the case of (a) and (b) the rate of withholding applicable is 5 per cent and in the case of (c) 12 per cent. (See further sections 116 (f) and 261.)

ART. 764. Exemption certificates of nonresident aliens.—When the gross income of a nonresident alien, which is derived from sources within the United States, does not exceed \$10,000 and, exclusive of dividends, is not in excess of the personal exemption of \$1,500 (and the credit for dependents in the case of a resident of Canada or Mexico), an exemption certificate, Form 1002, may be executed and filed with the withholding agent, if any part of such gross income is derived from interest upon bonds or similar obligations of a corporation, whether or not such bonds or obligations contain a tax-free covenant.

The withholding agent, upon receipt of the exemption certificates, Form 1002, should make proper record thereof on the retained copies of Form 1012 (see article 768) and forward the exemption certificates with a letter of transmittal to the Commissioner of Internal Revenue, Sorting Section, Washington, D. C., where they will be examined. In those cases in which the total income of the bondholder from sources within the United States is found to exceed \$10,000, or, exclusive of dividends, to be in excess of the personal exemption (and the credit for dependents in the case of residents of Canada and Mexico), the claim on Form 1002 for the benefit of the personal exemption and such credit will be disallowed. A letter containing a list of the exemption certificates covering the claims disallowed and stating the reason for their disallowance will be mailed to the withholding agent. This letter will also state the portion of the total tax assessed against the withholding agent on the basis of the annual return on Form 1013 (see article 768) to be abated by reason of the exemption certificates covering the claims allowed. A copy of the letter to the withholding agent will be forwarded to the collector of internal revenue as the basis for the acceptance of an amount of tax less than that assessed. No portion of the tax withheld from nonresident aliens should be released on the basis of the exemption certificates, Form 1002, until such letter has been received by the withholding agent. The tax assessed on the basis of the return on Form 1013 less the amount of tax to be abated as shown by the letter to the withholding agent must be paid to the collector on or before June 15. Where

Forms 1002 are received after the tax has been paid, the tax shown to have been overpaid shall be credited or refunded as provided in sections 144 (f) and 322.

The exemption certificate, Form 1002, properly executed, should be filed with the withholding agent at any time after the close of the calendar year, but not later than May 1 of the succeeding year. Notwithstanding the fact that Form 1002 is filed, ownership certificates must be filed as provided in articles 765 and 767.

Art. 765. Ownership certificates for bond interest.—The owners (except domestic and resident foreign corporations) of bonds or other obligations containing a tax-free covenant, issued by a domestic corporation, a resident foreign corporation, or a nonresident foreign corporation having a fiscal agent or a paying agent in the United States, when presenting interest coupons for payment shall file an ownership certificate for each issue of bonds, showing the name and address of the debtor corporation, the name and address of the owner of the bonds, a description of the obligations, the amount of interest and its due date, the rate at which tax is to be withheld, and the date upon which the interest coupons were presented for payment. However, ownership certificates need not be filed by a nonresident alien, a partnership composed in whole of nonresident aliens, or a nonresident foreign corporation in connection with interest payments on such bonds or similar obligations of a domestic or resident foreign corporation qualifying under section 119 (a) (1) (B) or of a nonresident foreign corporation. In case of interest on corporate bonds or similar obligations not containing a tax-free covenant, issued by a domestic or resident foreign corporation, other than a corporation qualifying under section 119 (a) (1) (B), ownership certificates are required if the owner of such bonds is a nonresident alien, a nonresident partnership composed in whole or in part of nonresident aliens, or a nonresident foreign corporation. Ownership certificates are required in the case of such bonds, whether or not containing a tax-free covenant, if the owner is unknown to the withholding agent. Ownership certificates need not be filed in the case of interest payments on bonds or similar obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or securities issued under the provisions of the Federal Farm Loan Act, or under the provisions of such Act as amended; or the obligations of the United States or its possessions. (See section 22 (b) (4) and articles 84–88.) Ownership certificates are not required to be filed in connection with interest payments on bonds or similar obligations issued by an individual or a partnership, whether or not such obligations contain a tax-free covenant.

When interest coupons detached from corporate bonds are received unaccompanied by ownership certificates, unless the owner of the bonds is known to the first bank to which the coupons are presented for payment, and the bank is satisfied that the owner is a person who is not required to file an ownership certificate, the bank shall require of the payee a statement showing the name and address of the person from whom the coupons were received by the payee, and alleging that the owner of the bonds is unknown to the payee. Such statement shall be forwarded to the Commissioner with the monthly return on Form 1012. The bank shall also require the payee to prepare a certificate on Form 1001 crossing out "owner" and inserting "payee" and entering the amount of the interest on line 3, and shall stamp or write across the face of the certificate "Statement furnished," adding the name of the bank.

Ownership certificates are required in connection with interest payments on registered bonds as in the case of coupon bonds, except that if ownership certificates are not furnished by the owner of such bonds, ownership certificates must be prepared by the withholding agent.

Art. 766. Form of certificate for citizens or residents.—For the purpose of article 765, Form 1000 shall be used by citizens or residents of the United States (individual or fiduciary), resident partnerships, and nonresident partnerships all of the members of which are citizens or residents, in connection with interest payments received on bonds containing a tax-free covenant. If such bonds are issued by a nonresident foreign corporation having a fiscal or paying agent in the United States, Form 1000 should be modified to show the name and address of the fiscal agent or the paying agent in addition to the name and address of the debtor corporation. The amount of interest received on such bonds shall be entered on line 3 of Form 1000, except that in the case of a citizen or resident the interest should be entered on line 2 if the tax to be withheld is at the rate of 1½ per cent as provided in article 761, or on line 1 if the net income does not exceed the personal exemption and other credits allowed by section 25. (See article 763.)

Art. 767. Form of certificate for nonresident aliens, nonresident foreign corporations, and unknown owners.—For the purpose of article 765, Form 1001 shall be used in connection with interest payments on bonds, regardless of whether or not such bonds contain a tax-free covenant, (a) by nonresident aliens (individual or fiduciary), (b) by nonresident partnerships composed in whole or in part of nonresident aliens, (c) by nonresident foreign corporations, and (d) where the owner is unknown.

ART. 768. Return and payment of tax withheld.—Every withholding agent shall make on or before March 15 an annual return on Form 1013 of the tax withheld from interest on corporate bonds or other obligations. This return should be filed with the collector for the district in which the withholding agent is located. The withholding agent shall also make a monthly return on Form 1012 on or before the 20th day of the month following that for which the return is made. The ownership certificates, Forms 1000 and 1001, must be forwarded to the Commissioner with the monthly return. Such of the forms as report interest from which the tax is to be withheld should be listed on the monthly return. While the forms reporting interest from which no tax is to be withheld need not be listed on the return, the number of such forms submitted should be entered in the space provided. Where Form 1000 is modified to show the name and address of a fiscal or paying agent in the United States (see article 766), Forms 1012 and 1013 should be likewise modified.

Every person required to deduct and withhold any tax from income other than such bond interest shall make an annual return thereof to the collector on or before March 15 on Form 1042, showing the amount of tax required to be withheld for each nonresident alien (individual or fiduciary), nonresident partnership composed in whole or in part of nonresident aliens, or nonresident foreign corporation to which income other than bond interest was paid during the previous taxable year. Form 1042 should be filed with the collector for the district in which the withholding agent is located. In every case of both classes the tax withheld must be paid on or before June 15 of each year to the collector. For penalties and additions to the tax attaching upon failure to make such returns or such payment, see sections 146 and 291 and articles 791 and 1211.

ART. 769. Ownership certificates in the case of fiduciaries and joint owners.—When fiduciaries have the control and custody of more than one estate or trust, and such estates and trusts have as assets bonds of corporations and other securities, a certificate of ownership shall be executed for each estate or trust, regardless of the fact that the bonds are of the same issue. When bonds are owned jointly by two or more persons, a separate ownership certificate must be executed in behalf of each of the owners.

ART. 770. Return of income from which tax was withheld.—The entire amount of the income from which the tax was withheld shall be included in gross income without deduction for such payment of the tax. But any tax so withheld shall be credited against the total tax as computed in the taxpayer's return. If the tax is paid by the recipient of the income or by the withholding agent it shall

not be recollected from the other, regardless of the original liability therefor, and in such event no penalty will be asserted against either person for failure to return or pay the tax where no fraud or purpose to evade payment is involved.

SEC. 145. PAYMENT OF CORPORATION INCOME TAX AT SOURCE.

In the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 144 a tax equal to 13½ per centum thereof in respect of all payments of income made before the enactment of this Act, and equal to 12 per centum thereof in respect of all payments of income made after the enactment of this Act, and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subsection (a) of that section (relating to tax-free covenant bonds) the deduction and withholding shall be at the rate specified in such subsection.

ART. 781. Withholding in the case of nonresident foreign corporations.—In general, with respect to payments to nonresident foreign corporations (see article 1319) withholding is required of a tax of 2 per cent in the case of interest representing income from sources within the United States paid upon corporate bonds or other obligations containing a tax-free covenant except that such withholding is required at the rate of 12 per cent if the liability assumed by the obligor does not exceed 2 per cent of the interest. Withholding of a tax of 12 per cent is also required in the case of payments of other fixed or determinable annual or periodical income from sources within the United States made after the enactment of the Revenue Act of 1928 to nonresident foreign corporations, except corporate dividends other than dividends distributed by a corporation organized under the China Trade Act, 1922, to a nonresident foreign corporation which is not a resident of China. (See also section 144 and articles 761-770.)

As no withholding of tax on bond interest or other income is required in the case of a resident foreign corporation (see article 1319) the person paying such income should be notified by a letter from the corporation that it is not subject to the withholding provisions of the Act. The letter from the corporation shall contain the address of its office or place of business in the United States, and be signed by an officer of the corporation giving his official title. Such letters of notification shall be immediately forwarded by the recipients to the Commissioner of Internal Revenue, Sorting Section, Washington, D. C., to be examined.

is presumptive evidence of the taxpayer's design. A taxpayer who is not in default in making the returns or in paying other taxes may procure the postponement until the usual time of the payment of taxes which are or may be due pursuant to this article by depositing with the Commissioner United States bonds of a principal amount double the estimated amount of taxes due for the taxable period, or by furnishing such other securities as may be approved by the Commissioner. (See section 1126 of the Revenue Act of 1926.)

Aliens departing from the United States will be required to file returns of income on Form 1040 C and to obtain certificates of compliance with income tax obligations from the collector or revenue agent in charge. A certificate of compliance is attached to and made a part of Form 1040 C. Aliens, whether resident or nonresident, who intend to depart from this country should appear before the collector or revenue agent in charge for the district in which they reside and satisfy all income tax obligations with respect to income received up to and including the calendar month next preceding that of their intended departure. Upon payment of such obligations, or upon satisfactory evidence that no tax is due and payable, the collector or revenue agent in charge will issue a certificate of compliance to the applicant. A properly executed certificate of compliance issued by the collector or revenue agent in charge must be presented at the pier. Aliens presenting themselves at the point of departure without such certificates of compliance will be examined by internal revenue officers at that point, and such taxes as appear to be due and owing will be collected. Citizens of the United States or of possessions of the United States departing from the United States will not be required to procure certificates of compliance or to present any other evidence of compliance with income tax obligations.

If a taxpayer violates or attempts to violate the provisions of section 147, there shall, in addition to all other penalties, be added as a part of the tax 25 per cent of the tax or deficiency in the tax, together with interest at the rate of 1 per cent a month from the time the tax became due.

SEC. 148. INFORMATION AT SOURCE.

(a) Payments of \$1,500 or more.—All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another person, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in section 149 (a) or 150), of \$1,600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United

States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) Returns regardless of amount of payment.—Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

(c) Recipient to furnish name and address.—When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) Obligations of United States.—The provisions of this section shall not apply to the payment of interest on obligations of the United States.

Art. 811.¹ Return of information as to payments of \$1,500.—All persons making payment to another person of fixed or determinable income of \$1,500 or more in any calendar year must render a return thereof to the Commissioner for such year on or before March 15 of the following year, except as specified in articles 813–815. The return shall be made in each case on Form 1099, accompanied by transmittal Form 1096 showing the number of returns filed. The street and number where the recipient of the payment lives should be stated, if possible. Where no present address is available, the last known post-office address must be given. Although to make necessary a return of information the income must be fixed or determinable, it need not be annual or periodical. (See article 762.)

Art. 812.¹ Return of information as to payments to employees.—The names of all employees to whom payments of \$1,500 or over a year are made, whether such total sum is made up of wages, salaries, commissions, or compensation in any other form, must be reported. (But see article 813.) Heads of branch offices and subcontractors employing labor, who keep the only complete record of payments therefor, should file returns of information in regard to such payments directly with the Commissioner. When both main office and branch office have adequate records, the return should be filed by the main office. (See article 53.)

¹ See T. D. 4302, p. 362.

ART. 813. Cases where no return of information required.—Payments of the following character, although over \$1,500, need not be reported in returns of information on Form 1099:

- (a) Payments of interest on obligations of the United States;
- (b) Payments by a broker to his customers;
- (c) Payments of any type made to corporations;
- (d) Bills paid for merchandise, telegrams, telephone, freight, storage, professional services, and similar charges;
- (e) Payments of rent made to real estate agents (but the agent must report payments to the landlord if the amount paid during the year was \$1,500 or more to a single person, a partnership, or a fiduciary, or \$3,500 or more to a married person);
- (f) Payments made by branches of business houses located in foreign countries to alien employees serving in foreign countries;
- (g) Payments made by the United States Government to sailors and soldiers and to its civilian employees;
- (h) Salaries and profits paid or distributed by a partnership to the individual partners; and
- (i) Payments of salaries, rents, royalties, interest (except bond interest required to be reported on ownership certificates), and other fixed or determinable income aggregating less than \$3,500 made to a married individual.

If the marital status of the payee is unknown to the payor, or if the marital status of the payee changed during the taxable year (see article 295), the payee will be considered a single person for the purpose of filing a return of information on Form 1099.

ART. 814. Return of information as to interest on corporate bonds.—In the case of payments of interest, regardless of amount, upon bonds and similar obligations of corporations, the ownership certificates, when duly filed, shall constitute and be treated as returns of information.

ART. 815. Return of information as to payments to other than citizens or residents.—In the case of payments of fixed or determinable annual or periodical income to nonresident aliens (individual or fiduciary), to nonresident partnerships composed in whole or in part of nonresident aliens, or to nonresident foreign corporations (see article 1319), the returns filed by withholding agents on Form 1042 shall constitute and be treated as returns of information. (See sections 144 and 145 and articles 761-770 and 781.)

ART. 816. Foreign items.—The term "foreign item," as used in these regulations, means any item of interest upon the bonds of a foreign country or of a nonresident foreign corporation not having a fiscal or

paying agent in the United States, or any item of dividends upon the stock of such corporation.

ART. 817.¹ Return of information as to foreign items.—In the case of foreign items, an information return on Form 1099 is required to be filed by the bank or collecting agent accepting the items for collection, if the foreign item is paid to a citizen or resident of the United States (individual or fiduciary), or a partnership any member of which is a citizen or resident, and if the amount of the foreign items paid in any taxable year to a single person, a partnership, or a fiduciary is \$1,500 or more, or to a married person is \$3,500 or more. Such forms accompanied by Form 1096 should be forwarded to the Commissioner of Internal Revenue, Sorting Section, Washington, D. C., on or before March 15 of each year. (See article 811.)

ART. 818. Information as to actual owner.—When the person receiving a payment falling within the provisions of the Act for information at the source is not the actual owner of the income received, the name and address of the actual owner shall be furnished upon demand of the individual, corporation, or partnership paying the income, and in default of a compliance with such demand the payee becomes liable to the penalties provided. (See section 146.) Dividends on stock are prima facie the income of the record owner of the stock. Upon receipt of dividends by a record owner, he should immediately execute Form 1087 to disclose the name and address of the actual owner. Form 1087 should be filed with the Commissioner of Internal Revenue, Sorting Section, Washington, D. C. Unless such a disclosure is made, the record owner will be held liable for any tax based upon such dividends. (See article 831.)

The filing of Form 1087 is not required (a) where stocks are registered in the name of a nominee for a fiduciary required to file a return on Form 1041 in which the dividends from such stocks are reported, and (b) where they are owned by a nonresident alien and are registered in the name of a nominee designated by a bank or trust company which is required to file returns of income for such nonresident alien.

SEC. 149. INFORMATION BY CORPORATIONS.

(a) **Dividend payments.**—Every corporation subject to the tax imposed by this title shall, when required by the Commissioner, render a correct return, duly verified under oath, of its payments of dividends, stating the name and address of each shareholder, the number of shares owned by him, and the amount of dividends paid to him.

(b) **Profits of taxable year declared as dividends.**—There shall be included in the return or appended thereto a statement of such facts as will enable the Commissioner to determine the portion of the earnings

¹ See T. D. 4302, p. 362.

the payment of expenses, losses, or reinsurance reserves, then such payment can not be separately deducted. The amount of premium deposits retained for the payment of expenses and losses, and the amount of such expenses and losses, may not both be deducted. A company which invests part of the premium deposits so retained by it in interest-bearing securities may nevertheless deduct such part, but not the interest received on such securities. A mutual fire insurance company which has a guaranty capital is taxed like other mutual fire insurance companies. A stock fire insurance company, operated on the mutual plan to the extent of paying dividends to certain classes of policyholders, may make a return on the same basis as a mutual fire insurance company with respect to its business conducted on the mutual plan.

Art. 1015. Returns of insurance companies.—Insurance companies transacting business in the United States or deriving any income from sources therein are required to file returns of income. The return shall be on Form 1120, except that life insurance companies shall make return on Form 1120 L. As an aid in auditing the returns, wherever possible a copy of the report to the State insurance department should be submitted with the return. Otherwise a copy of Schedule D, parts 1, 3, and 4, of the report should be attached to the return, showing the Federal, State, and municipal obligations from which the interest omitted from gross income was derived, and a copy of the complete report should be furnished as soon as ready for filing.

SUPPLEMENT H—NONRESIDENT ALIEN INDIVIDUALS

SEC. 211. NORMAL TAX.

(a) **General rule.**—In the case of a nonresident alien individual who is not a resident of a contiguous country, the normal tax shall be 5 per centum of the amount of the net income in excess of the credits against net income allowed to such individual.

(b) **Aliens resident in contiguous countries.**—In the case of an alien individual resident in a contiguous country, the normal tax shall be an amount equal to the sum of the following:

(1) $1\frac{1}{2}$ per centum of the amount by which the part of the net income attributable to wages, salaries, professional fees, or other amounts received as compensation for personal services actually performed in the United States, exceeds the personal exemption and credit for dependents; but the amount taxable at such $1\frac{1}{2}$ per centum rate shall not exceed \$4,000;

(2) 3 per centum of the amount by which such part of the net income exceeds the sum of (A) the personal exemption and credit for dependents, plus (B) \$4,000; but the amount taxable at such 3 per centum rate shall not exceed \$4,000; and

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(3) 5 per centum of the amount of the net income in excess of the sum of (A) the amount taxed under paragraphs (1) and (2) of this subsection plus (B) the total credits against net income allowed to such individual.

(c) **In lieu of normal tax under section 11.**—The tax imposed by this section shall be in lieu of the normal tax imposed by section 11.

Art. 1021. Normal tax in the case of nonresident alien individuals.—In the case of nonresident alien individuals, residents of countries other than Canada and Mexico, the normal tax is 5 per cent of the net income in excess of the credits provided in sections 25 and 214, there being no reduction in the rate upon any part of the net income subject to tax. In the case of nonresident alien individuals, residents of Canada or Mexico, the normal tax is (1) $1\frac{1}{2}$ per cent of that part of the net income attributable to compensation for personal services actually performed in the United States in excess of the personal exemption and credit for dependents, but not in excess of \$4,000; (2) 3 per cent of the amount by which such part of the net income exceeds the sum of (a) the personal exemption and credit for dependents plus (b) \$4,000, but the amount taxable at 3 per cent shall not exceed \$4,000; (3) 5 per cent of the amount of the net income in excess of the amounts taxed at $1\frac{1}{2}$ per cent and 3 per cent plus the total credits provided in sections 25 and 214.

Nonresident alien individuals are subject also to the surtax imposed by section 12. (See articles 21 and 22.)

Art. 1022. Definition.—A “nonresident alien individual” means an individual—

- (a) Whose residence is not within the United States; and
- (b) Who is not a citizen of the United States.

An alien actually present in the United States who is not a mere transient or sojourner is a resident of the United States for purposes of the income tax. Whether he is a transient or not is determined by his intentions with regard to the length and nature of his stay. A mere floating intention, indefinite as to time, to return to another country is not sufficient to constitute him a transient. If he lives in the United States and has no definite intention as to his stay, he is a resident. One who comes to the United States for a definite purpose which in its nature may be promptly accomplished is a transient; but if his purpose is of such a nature that an extended stay may be necessary for its accomplishment, and to that end the alien makes his home temporarily in the United States, he becomes a resident, though it may be his intention at all times to return to his domicile abroad when the purpose for which he came has been consummated or abandoned. An alien whose stay in

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the United States is limited to a definite period by the immigration laws is not a resident of the United States within the meaning of this article.

ART. 1023. Alien seamen, when to be regarded as residents.—In order to determine whether an alien seaman is a resident within the meaning of the income tax law, it is necessary to decide whether the presumption of nonresidence is overcome by facts showing that he has established a residence in the territorial United States, which consists of the States, the District of Columbia, and the Territories of Hawaii and Alaska, and excludes other places. Residence may be established on a vessel regularly engaged in coastwise trade, but the mere fact that a sailor makes his home on a vessel flying the United States flag and engaged in foreign trade is not sufficient to establish residence in the United States, even though the vessel, while carrying on foreign trade, touches at American ports. An alien seaman may acquire an actual residence in the territorial United States within the rules laid down in article 1024, although the nature of his calling requires him to be absent for a long period from the place where his residence is established. An alien seaman may acquire such a residence at a sailors' boarding house or hotel, but such a claim should be carefully scrutinized in order to make sure that such residence is bona fide. The filing of Form 1078 or taking out first citizenship papers is proof of residence in the United States from the time the form is filed or the papers taken out, unless rebutted by other evidence showing an intention to be a transient. The fact that a head tax has been paid on behalf of an alien seaman entering the United States is no evidence that he has acquired residence, because the head tax is payable unless the alien who is entering the country is merely in transit through the country.

ART. 1024. Proof of residence of alien.—The following rules of evidence shall govern in determining whether or not an alien within the United States has acquired residence therein within the meaning of the Act. An alien, by reason of his alienage, is presumed to be a nonresident alien. Such presumption may be overcome—

(1) In the case of an alien who presents himself for determination of tax liability prior to departure for his native country, by (a) proof that the alien, at least six months prior to the date he so presents himself, has filed a declaration of his intention to become a citizen of the United States under the naturalization laws, (b) proof that the alien, at least six months prior to the date he so presents himself, has filed Form 1078 or its equivalent, or (c) proof of acts and statements of the alien showing a definite intention to acquire residence

in the United States or showing that his stay in the United States has been of such an extended nature as to constitute him a resident;

(2) In other cases by (a) proof that the alien has filed a declaration of his intention to become a citizen of the United States under the naturalization laws, (b) proof that the alien has filed Form 1078 or its equivalent, or (c) proof of acts and statements of an alien showing a definite intention to acquire residence in the United States or showing that his stay in the United States has been of such an extended nature as to constitute him a resident.

In any case in which an alien seeks to overcome the presumption of nonresidence under (1) (c) or (2) (c), if the officer who examines the alien is in doubt as to the facts, such officer may, to assist him in determining the facts, require an affidavit or affidavits setting forth the facts relied upon, executed by some credible person or persons, other than the alien and members of his family, who have known the alien at least six months prior to the date of execution of the affidavit or affidavits.

ART. 1025. Loss of residence by alien.—An alien who has acquired residence in the United States retains his status as a resident until he abandons the same and actually departs from the United States. An intention to change his residence does not change his status as a resident alien to that of a nonresident alien. Thus an alien who has acquired a residence in the United States is taxable as a resident for the remainder of his stay in the United States.

ART. 1026. Duty of employer to determine status of alien employee.—If wages are paid to aliens without withholding the tax, except as permitted in article 1072, the employer should be prepared to prove the status of the alien as provided in the foregoing articles. An employer may rely upon the evidence of residence afforded by the fact that an alien has filed Form 1078, or an equivalent certificate of the alien establishing residence. An employer need not secure Form 1078 from the alien if he is satisfied that the alien is a resident alien. An employer who seeks to account for failure to withhold in the past, if he had not at the time secured Form 1078 or its equivalent, is permitted to prove the former status of the alien by any competent evidence. The written statement of the alien employee may ordinarily be relied upon by the employer as proof that the alien is a resident of the United States.

SEC. 212. GROSS INCOME.

(a) General rule.—In the case of a nonresident alien individual gross income includes only the gross income from sources within the United States.

(b) **Ships under foreign flag.**—The income of a nonresident alien individual which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States, shall not be included in gross income and shall be exempt from taxation under this title.

ART. 1041. Gross income of nonresident alien individuals.—In the case of nonresident alien individuals "gross income" means only the gross income from sources within the United States, determined under the provisions of section 119. (See articles 671-684.) The items of gross income from sources without the United States and therefore not taxable to nonresident aliens are described in section 119 (c) and article 677. As to who are nonresident alien individuals, see articles 1022-1026.

ART. 1042.¹ Exclusion of earnings of foreign ships from gross income.—So much of the income from sources within the United States of a nonresident alien individual as consists of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States nonresident in such foreign country and to corporations organized in the United States, shall not be included in gross income.

(a) The following is an incomplete list of the foreign countries which either impose no income tax, or, in imposing such tax, exempt from taxation so much of the income of a citizen of the United States nonresident in such foreign country and of a corporation organized in the United States as consists of earnings derived from the operation of a ship or ships documented under the laws of the United States: Argentina, Bulgaria, Canada, Denmark, Egypt, France, Germany, Great Britain and Northern Ireland, Iceland, Italy, Japan, the Netherlands, Norway, Paraguay, Persia, St. Lucia, Siam, Straits Settlements, Sweden, and Venezuela. The exemption accorded to Great Britain and Northern Ireland does not extend to the Irish Free State but is limited to residents of Great Britain and Northern Ireland, other than citizens of the United States, and to corporations organized under and existing by virtue of the laws of the United Kingdom.

(b) The following is an incomplete list of the foreign countries which, in imposing an income tax upon the income of citizens of the United States nonresident in such countries or of corporations organized in the United States, do not exempt from taxation the earnings derived from the operation of a ship or ships documented under the laws of the United States: Antigua, Belgium, Brazil, British

¹ See T. Ds. 4260, 4280, and 4290, pp. 365-366.

Honduras, Costa Rica, Dominica, Fiji, Finland, Greece, Grenada, India, Jamaica, New Zealand, Peru, St. Vincent, Spain, Trinidad, and Union of South Africa.

So much of the income from sources within the United States of a nonresident alien individual as consists of earnings derived from the operation of a ship or ships documented under the laws of any of the countries in the first list is not required to be included in the gross income of such nonresident alien individual for the purpose of Federal income tax. The income from sources within the United States of a nonresident alien individual which consists of earnings derived from the operation of a ship or ships documented under the laws of any of the countries in the second list is required to be included in the gross income of such nonresident alien individual and is subject to Federal income tax. If a nonresident alien individual receives income from sources within the United States consisting of earnings derived from the operation of a ship or ships documented under the laws of a foreign country which is in neither list, the amount so received must be included in gross income unless satisfactory proof is furnished either (a) that such foreign country imposes no income tax, or (b) if an income tax is imposed that the foreign statute grants an equivalent exemption to citizens of the United States nonresident in such country and to corporations organized in the United States.

SEC. 213. DEDUCTIONS.

(a) **General rule.**—In the case of a nonresident alien individual the deductions shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined as provided in section 119, under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(b) **Losses.**—

(1) The deduction, for losses not connected with the trade or business if incurred in transactions entered into for profit, allowed by section 23 (e) (2) shall be allowed whether or not connected with income from sources within the United States, but only if the profit, if such transaction had resulted in a profit, would be taxable under this title.

(2) The deduction for losses of property not connected with the trade or business if arising from certain casualties or theft, allowed by section 23 (e) (3), shall be allowed whether or not connected with income from sources within the United States, but only if the loss is of property within the United States.

(c) **Charitable, etc., contributions.**—The so-called "charitable contribution" deduction allowed by section 23 (n) shall be allowed whether or not connected with income from sources within the United States,

but only as to contributions or gifts made to domestic corporations or to community chests, funds, or foundations, created in the United States, or to the vocational rehabilitation fund.

ART. 1051. Deductions allowed nonresident alien individuals.—In the case of a nonresident alien individual the deductions allowed by section 23 for business expenses, interest, taxes, losses in trade, bad debts, depreciation, and depletion are allowed only if and to the extent that they are connected with income from sources within the United States. (See also section 215 and article 1071.) In the case of such taxpayers, however, (1) losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business, are deductible only if and to the extent that the profit, if such transaction had resulted in a profit, would have been taxable as income from sources within the United States; (2) losses sustained during the taxable year of property not connected with the trade or business if arising from fires, storms, shipwreck, or other casualty, or from theft, and if not compensated for by insurance or otherwise, are deductible only if the property was located within the United States; and (3) contributions or gifts made within the taxable year are deductible only if made to domestic corporations or to community chests, funds, or foundations, created in the United States of the type specified in section 23 (n) and article 261, or to the vocational rehabilitation fund, subject to the limitation provided in section 23 (n).

Losses embraced under clause (2) of the preceding paragraph are deductible in full from items of gross income specified as being derived in full from sources within the United States, and, if greater than the sum of such items, the unabsorbed loss may be deducted from the income apportioned to sources within the United States under the provisions of article 682. Losses embraced under clause (1) are deductible in full (as provided in article 680 or article 681) when the profit from the transaction, if it had resulted in a profit, would have been taxable in full as income from sources within the United States, but should be deducted under the provisions of article 682 when the profit from the transaction, if it had resulted in profit, would have been taxable only in part.

SEC. 214. CREDITS AGAINST NET INCOME.

In the case of a nonresident alien individual the personal exemption allowed by section 25 (c) of this title shall be only \$1,500. The credit for dependents allowed by section 25 (d) shall not be allowed in the case of a nonresident alien individual unless he is a resident of a contiguous country. These credits shall be determined by the status

of the taxpayer on the last day of the taxable year, except that in case of death the rule provided in section 25 (e) (3) shall be applied.

ART. 1061. Credits to nonresident alien individual.—The personal exemption allowed as a credit against net income by section 25 (c) shall be \$1,500 in the case of a nonresident alien individual irrespective of marital status. The credit for dependents provided by section 25 (d) is allowed to nonresident alien individuals only if they are residents of Canada or Mexico. The credit for dependents shall be determined by the status of the taxpayer at the end of the taxable year except that in case of death the rule provided in section 25 (e) (3) shall be applied.

SEC. 215. ALLOWANCE OF DEDUCTIONS AND CREDITS.

(a) **Return to contain information.**—A nonresident alien individual shall receive the benefit of the deductions and credits allowed to him in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources in the United States, in the manner prescribed in this title; including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits.

(b) **Tax withheld at source.**—The benefit of the personal exemption and credit for dependents, and of the reduced rate of tax provided for in section 211 (b), may, in the discretion of the Commissioner and under regulations prescribed by him with the approval of the Secretary, be received by a nonresident alien individual entitled thereto, by filing a claim therefor with the withholding agent.

ART. 1071. Allowance of deductions and credits to nonresident alien individuals.—Unless a nonresident alien individual shall file, or cause to be filed with the collector, a true and accurate return of income from sources within the United States, regardless of amount, the tax shall be collected on the basis of the gross income (not the net income) from sources within the United States. Where a nonresident alien has various sources of income within the United States, so that from any one source or from all sources combined the amount of income shall call for the assessment of a surtax, and a return of income shall not be filed by him or on his behalf, the Commissioner will cause a return of income to be made and include therein the income of such nonresident alien from all sources concerning which he has information, and he will assess the tax and collect it from one or more of the sources of income of such nonresident alien within the United States, without allowance for deductions or credits. The benefit of the credits allowed against net income for the purpose of the normal tax may be claimed by a nonresident alien only in his individual return, except that the personal exemption (and credit for dependents in the case of a resident of Canada or Mexico)