

(1) a nonresident alien, or

(2) a trust all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B).

(Added Pub. L. 111-152, title I, §1402(a)(1), Mar. 30, 2010, 124 Stat. 1061.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 111-152, title I, §1402(a)(4), Mar. 30, 2010, 124 Stat. 1063, provided that: “The amendments made by this subsection [enacting this chapter and amending section 6654 of this title] shall apply to taxable years beginning after December 31, 2012.”

CHAPTER 3—WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

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Editorial Notes

AMENDMENTS

1984—Pub. L. 98-369, div. A, title IV, §474(r)(29)(B), (C), July 18, 1984, 98 Stat. 844, struck out “AND TAX-FREE COVENANT BONDS” after “FOREIGN CORPORATIONS” in heading of chapter 3, and struck out item for subchapter B “Tax-free covenant bonds” and redesignated the item for subchapter C as B.

Subchapter A—Nonresident Aliens and Foreign Corporations

| Sec. | |
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| 1441. | Withholding of tax on nonresident aliens. |
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Editorial Notes

AMENDMENTS

1988—Pub. L. 100-647, title I, §1012(s)(1)(C), Nov. 10, 1988, 102 Stat. 3527, substituted “Withholding of tax on foreign partners' share of effectively connected income” for “Withholding tax on amounts paid by partnerships to foreign partners” in item 1446.

1986—Pub. L. 99-514, title XII, §1246(c), Oct. 22, 1986, 100 Stat. 2582, added item 1446.

1984—Pub. L. 98-369, div. A, title I, §129(a)(2), July 18, 1984, 98 Stat. 659, added item 1445.

1983—Pub. L. 97-455, §1(d)(2), Jan. 12, 1983, 96 Stat. 2498, added item 1444.

§ 1441. Withholding of tax on nonresident aliens

(a) General rule

Except as otherwise provided in subsection (c), 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 any of the items of income specified in subsection (b) (to the extent that any of such items

constitutes gross income from sources within the United States), of any nonresident alien individual or of any foreign partnership shall (except as otherwise provided in regulations prescribed by the Secretary under section 874) deduct and withhold from such items a tax equal to 30 percent thereof, except that in the case of any item of income specified in the second sentence of subsection (b), the tax shall be equal to 14 percent of such item.

(b) Income items

The items of income referred to in subsection (a) are interest (other than original issue discount as defined in section 1273), dividends, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, gains described in section 631(b) or (c), amounts subject to tax under section 871(a)(1)(C), and gains subject to tax under section 871(a)(1)(D). The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act and which are—

(1) incident to a qualified scholarship to which section 117(a) applies, but only to the extent includible in gross income; or

(2) in the case of an individual who is not a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), granted by—

(A) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

(B) a foreign government,

(C) an international organization, or a bi-national or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

(D) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia,

as a scholarship or fellowship for study, training, or research in the United States. In the case of a nonresident alien individual who is a member of a domestic partnership, the items of income referred to in subsection (a) shall be treated as referring to items specified in this subsection included in his distributive share of the income of such partnership.

(c) Exceptions

(1) Income connected with United States business

No deduction or withholding under subsection (a) shall be required in the case of any item of income (other than compensation for personal services) which is effectively connected with the conduct of a trade or business within the United States and which is included in the gross income of the recipient under section 871(b)(2) for the taxable year.

¹ Section numbers editorially supplied.