

Constitutionally Exempt

Regs 45:

ART. 71. What excluded from gross income.— Gross income excludes the items of income specifically exempted by the statute and also certain other kinds of income by statute or fundamental law free from tax. Such tax-free income should not be included in the return of income and need not be mentioned in the return, unless information regarding it is specifically called for, as in the case, for example, of interest on municipal bonds. See article 402.

Regs 62:

ART. 71. What excluded from gross income.— Gross income excludes the items of income specifically exempted by the statute and also certain other kinds of income by statute or fundamental law free from tax. Such tax-free income should not be included in the return of income and need not be mentioned in the return. The exclusion of such income should not be confused with the reduction of taxable income by the application of allowable deductions. See section 212 of the statute and article 21.

Regs 65:

ART. 71. Exclusions from gross income.— The term "gross income" as used in the Act does not include those items of income exempted by statute or by fundamental law. The exemption of such income should not be confused with the reduction of taxable income by the application of allowable deductions.

Regs 69:

ART. 71. Exclusions from gross income.— The term "gross income" as used in the Act does not include those items of income exempted by statute or by fundamental law. The exemption of such income should not be confused with the reduction of taxable income by the application of allowable deductions.

Regs 74:

ART. 81. Exclusions from gross income.— The term "gross income" as used in the

Act does not include those items of income exempted by statute or by fundamental law.

Regs 77:

ART. 81. Exclusions from gross income.— The term "gross income" as used in the Act does not include those items of income exempted by statute or by fundamental law.

Regs 86:

ART. 21-1. Meaning of net income.— The tax imposed by Title I is upon income. Neither income exempted by statute or fundamental law, nor expenses incurred in connection therewith, other than interest, enter into the computation of net income as defined by section 21.

ART. 22 (b) -1. Exemptions— Exclusions from gross home.— Certain items of income specified in section 22(b) are exempt from tax and may be excluded from gross income. These items, however, are exempt only to the extent and in the amount specified. No other items are exempt from gross income except (1) those items of income which are, under the Constitution, not taxable by the Federal Government; (2) those items of income which are exempt from tax on income under the provisions of any Act of Congress not inconsistent with or repealed by the Act; (3) the income exempted under the provisions of section 116.

ART. 24-4. Amounts allocable to exempt income, other than interest.—

(a) Class of exempt income.— As used in this article, the term "class of exempt income" means any class of income, other than interest (whether or not any amount of income of that class or classes is received or accrued), wholly exempt from the taxes imposed by Title I of the Act. Included are any item or class of income, other than interest, constitutionally exempt from the taxes imposed by Title I; any item or class, other than interest, excluded from gross income under any provision of section 22 or section 116 of the Act; and any item or class of income, other than interest, exempt under the provisions of any other law from the taxes imposed by Title I. Thus the income derived from the operation of a lease of State lands, constituting such an instrumentality of the State as to render the income constitutionally exempt from the tax, is a class of exempt income. The expenses or other items referable to the operation of such a lease are allocable to a class of

exempt income, even though no income was received or accrued from such operations during the year.

The object of section 24 (a) (5) is to segregate the exempt income from the taxable income, in order that a double exemption may not be obtained through the reduction of taxable income by expenses and other items incurred in the production of item of income wholly exempt from tax. Accordingly, just as exempt items of income are excluded from the computation of gross income under section 22, so this provision of the Act excludes from the computation of deductions under section 23 all items referable to the production of exempt income. Only one exception is made, namely, in the case of exempt interest. (See section 23 (b).)

ART. 115-1. Dividends.— The term “dividends” for the purpose of Title I (except when used in sections 203 (a) (4) and 207 (c) (1)) comprises any distribution in the ordinary course of business, even though extraordinary in amount, made by a domestic or foreign corporation to its shareholders out of its earnings or profits accumulated since February 28, 1913. Among the items entering into the computation of corporate “earnings or profits” for a particular period are all income exempted by statute, income not taxable by the Federal Government under the Constitution, as well all items includable in gross income under section 22 (a) of the Act or corresponding provisions of prior Acts.

Regs 94:

ART. 21-1. Meaning of net income.— The tax imposed by Title I is upon income. Neither income exempted by statute or fundamental law, nor expenses incurred in connection therewith, other than interest, enter into the computation of net income as defined by section 21.

ART. 22(a)-8. Sale of stock and rights.

In the case of stock in respect of which were issued stock subscription rights which did not constitute income under the Constitution, and in the case of such rights, the following rules are to be applied:

ART. 24-4. Amounts allocable to exempt income, other than interest.—

(a) **Class of exempt income.**—As used in this article, the term “class of exempt income” means any class of income, other than interest (whether or not any amount

of income of that class or classes is received or accrued), wholly exempt from the taxes imposed by Title I of the Act. Included are any item or class of income, other than interest, constitutionally exempt from the taxes imposed by Title I; any item or class, other than interest, excluded from gross income under any provision of section 22 or section 116 of the Act; and any item or class of income, other than interest, exempt under the provisions of any other law from the taxes imposed by Title I. Thus the income derived from the operation of a lease of State lands, constituting such an instrumentality of the State as to render the income constitutionally exempt from the tax, is a class of exempt income. The expenses or other items referable to the operation of such a lease are allocable to a class of exempt income, even though no income was received or accrued from such operations during the year.

Section 115.

(f) Stock dividends—

(1) GENERAL RULE.— A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution.

(h) Effect on Earnings and Profits of distribution of stock.

(2) if the distribution was not subject to tax in the hands of such distributee because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution or because exempt to him under section 115(f) of the Revenue Act of 1934 or a corresponding provision of the prior Revenue Act.

ART. 115-7. Stock dividends.— A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall be treated as a dividend to the full extent that it constitutes income to the shareholders within the meaning of the sixteenth amendment to the Constitution.

See also ART. 115-8, ART. 351-2.

Regs 101:

ART. 21-1. Meaning of net income.— The tax imposed by Title I is upon income. Neither income exempted by statute or fundamental law, nor expenses incurred in

connection therewith, other than interest, enter into the computation of net income as defined by section 21.

ART. 22 (b) -1. Exemptions— Exclusions from gross income. — Certain items of income specified in section 22(b) are exempt from tax and may be excluded from gross income. These items, however, are exempt only to the extent and in the amount specified. No other items are exempt from gross income except (1) those items of income which are, under the Constitution, not taxable by the Federal Government; (2) those items of income which are exempt from tax on income under the provisions of any Act of Congress not inconsistent with or repealed by the Act; and (3) the income exempted under the provisions of section 116.

ART. 22(a)-8. Sale of stock and rights.

In the case of stock in respect of which were issued stock subscription rights which did not constitute income under the Constitution, and in the case of such rights, the following rules are to be applied:

ART. 24-4. Amounts allocable to exempt income, other than interest.—

(a) Class of exempt income.— As used in this article, the term "class of exempt income" means any class of income, other than interest (whether or not any amount of income of that class or classes is received or accrued), wholly exempt from the taxes imposed by Title I of the Act. Included are any item or class of income, other than interest, constitutionally exempt from the taxes imposed by Title I; any item or class, other than interest, excluded from gross income under any provision of section 22 or section 116 of the Act; and any item or class of income, other than interest, exempt under the provisions of any other law from the taxes imposed by Title I.

See also ART. 27(i)-1, ART. 115-3, ART. 115-7, ART. 115-8, ART. 116-2 (state employees are immune).

ART. 212-1:

(b) United States business office. — The gross income of a nonresident alien individual who at any time within the taxable year was engaged in trade or business within the United States or had an office or place of business therein is not limited to the items of gross income specified in section 211(a), but includes any item of

gross income which is treated as income from sources within the United States, except those items which are exempt from taxation by statute or treaty or which are not taxable by the Federal Government under the Constitution. (See sections 22(b), 112, 116, 119, and 212(b) .)

ART. 231-2:

(b) Resident foreign corporation.--The gross income from sources within the United States of a resident foreign corporation is not limited to the items of fixed or determinable annual or periodical income referred to in section 231 (a), but includes every item of gross income which is treated as income from sources within the United States, except those items which are specifically exempt from taxation by statute or treaty or which are not taxable by the Federal Government under the Constitution.

See also ART. 332-1, ART. 403-1,

Regs 103:

SEC. 19.21-1. Meaning of net income.— The tax imposed by Title I is upon income. Neither income exempted by statute or fundamental law, nor expenses incurred in connection therewith, other than interest, enter into the computation of net income as defined by section 21.

SEC. 19.22(a)-8. Sale of stock and rights.

In the case of stock in respect of which were issued stock subscription rights which did not constitute income under the Constitution, and in the case of such rights, the following rules are to be applied:

SEC. 19.22 (b) -1. Exemptions— Exclusions from gross income. — Certain items of income specified in section 22(b) are exempt from tax and may be excluded from gross income. These items, however, are exempt only to the extent and in the amount specified. No other items are exempt from gross income except (1) those items of income which are, under the Constitution, not taxable by the Federal Government; (2) those items of income which are exempt from tax on income under the provisions of any Act of Congress still in effect; and (3) the income exempted under the provisions of section 116.

SEC. 19.24-4. Amounts allocable to exempt income, other than interest.—

(a) **Class of exempt income.**— As used in this section, the term "class of exempt income" means any class of income, other than interest (whether or not any amount of income of that class or classes is received or accrued), wholly exempt from the taxes imposed by chapter 1. Included are any item or class of income, other than interest, constitutionally exempt from the taxes imposed by chapter 1; any item or class, other than interest, excluded from gross income under any provision of section 22 or section 116; and any item or class of income, other than interest, exempt under the provisions of any other law from the taxes imposed by chapter 1.

See also SEC. 19.27(i)-1, SEC. 19.113(a)(19)-1, SEC. 19.115-3, SEC. 19.115-7, SEC. 19.115-8, SEC. 116-2 (state employees are immune).

SEC. 19.212-1:

(b) **United States business office.** — The gross income of a nonresident alien individual who at any time within the taxable year was engaged in trade or business within the United States or had an office or place of business therein is not limited to the items of gross income specified in section 211(a), but includes any item of gross income which is treated as income from sources within the United States, except those items which are exempt from taxation by statute or treaty or which are not taxable by the Federal Government under the Constitution. (See sections 22(b), 112, 116, 119, and 212(b) .)

SEC. 19.231-2:

(b) **Resident foreign corporation.**— The gross income from sources within the United States of a resident foreign corporation is not limited to the items of fixed or determinable annual or periodical income referred to in section 231 (a), but includes every item of gross income which is treated as income from sources within the United States, except those items which are specifically exempt from taxation by statute or treaty or which are not taxable by the Federal Government under the Constitution.

See also SEC. 19.332-1, SEC. 19.502-1.