

DOUBLE TAXATION: ESTATE TAXES

Convention signed at Washington April 16, 1945

Ratified by the United Kingdom March 5, 1946

Senate advice and consent to ratification June 1, 1946

Ratified by the President of the United States June 26, 1946

Ratifications exchanged at Washington July 25, 1946

Entered into force July 25, 1946

Proclaimed by the President of the United States July 30, 1946

60 Stat. 1391; Treaties and Other
International Acts Series 1547

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland,

Desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons,

Have appointed for that purpose as their respective Plenipotentiaries:

The Government of the United States of America:

Mr. Edward R. Stettinius, Jr., Secretary of State, and

The Government of the United Kingdom of Great Britain and Northern Ireland:

The Right Honorable the Earl of Halifax, K.G., Ambassador Extraordinary and Plenipotentiary in Washington,

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the United States of America, the Federal estate tax, and

(b) In the United Kingdom of Great Britain and Northern Ireland, the estate duty imposed in Great Britain.

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Party subsequently

to the date of signature of the present Convention or by the government of any territory to which the present Convention applies under Article VIII or Article IX.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires:

(a) The term "United States" means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term "Great Britain" means England, Wales and Scotland, and does not include the Channel Islands or the Isle of Man.

(c) The term "territory" when used in relation to one or the other Contracting Party means the United States or Great Britain, as the context requires.

(d) The term "tax" means the estate duty imposed in Great Britain or the United States Federal estate tax, as the context requires.

(2) In the application of the provisions of the present Convention by one of the Contracting Parties, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party relating to the taxes which are the subject of the present Convention.

ARTICLE III

(1) For the purposes of the present Convention, the question whether a decedent was domiciled in any part of the territory of one of the Contracting Parties at the time of his death shall be determined in accordance with the law in force in that territory.

(2) Where a person dies domiciled in any part of the territory of one Contracting Party, the situs of any of the following rights or interests, legal or equitable, which for the purposes of tax form part of the estate of such person or pass on his death, shall, for the purposes of the imposition of tax and for the purposes of the credit to be allowed under Article V, be determined exclusively in accordance with the following rules, but in cases not within such rules the situs of such rights and interests shall be determined for those purposes in accordance with the law relating to tax in force in the territory of the other Contracting Party:

(a) Rights or interests (otherwise than by way of security) in or over immovable property shall be deemed to be situated at the place where such property is located;

(b) Rights or interests (otherwise than by way of security) in or over tangible movable property, other than such property for which specific provision is hereinafter made, and in or over bank or currency notes, other forms of currency recognized as legal tender in the place of issue, negotiable bills of

exchange and negotiable promissory notes, shall be deemed to be situated at the place where such property, notes, currency or documents are located at the time of death, or, if *in transitu*, at the place of destination;

(c) Debts, secured or unsecured, other than the forms of indebtedness for which specific provision is made herein, shall be deemed to be situated at the place where the decedent was domiciled at the time of death;

(d) Shares or stock in a corporation other than a municipal or governmental corporation (including shares or stock held by a nominee where the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place in or under the laws of which such corporation was created or organized;

(e) Monies payable under a policy of assurance or insurance on the life of the decedent shall be deemed to be situated at the place where the decedent was domiciled at the time of death;

(f) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration or documentation of the ship or aircraft;

(g) Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on;

(h) Patents, trademarks and designs shall be deemed to be situated at the place where they are registered;

(i) Copyright, franchises, and rights or licenses to use any copyrighted material, patent, trademark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable;

(j) Rights or causes of action *ex delicto* surviving for the benefit of an estate of a decedent shall be deemed to be situated at the place where such rights or causes of action arose;

(k) Judgment debts shall be deemed to be situated at the place where the judgment is recorded;

Provided that if, apart from this paragraph, tax would be imposed by one Contracting Party on any property which is situated in its territory and passes under a disposition not governed by its law, this paragraph shall not apply to such property unless, by reason of its application or otherwise, tax is imposed or would but for some specific exemption be imposed thereon by the other Contracting Party.

ARTICLE IV

(1) In determining the amount on which tax is to be computed, permitted deductions shall be allowed in accordance with the law in force in the territory in which the tax is imposed.

(2) Where tax is imposed by one Contracting Party on the death of a person who at the time of his death was not domiciled in any part of the territory of that Contracting Party but was domiciled in some part of the territory of the other Contracting Party, no account shall be taken in determining the

amount or rate of such tax of property situated outside the former territory: Provided that this paragraph shall not apply as respects tax imposed—

- (a) in the United States in the case of a United States citizen dying domiciled in any part of Great Britain; or
- (b) in Great Britain in the case of property passing under a disposition governed by the law of Great Britain.

ARTICLE V

(1) Where one Contracting Party imposes tax by reason of a decedent's being domiciled in some part of its territory or being its national, that Party shall allow against so much of its tax (as otherwise computed) as is attributable to property situated in the territory of the other Contracting Party, a credit (not exceeding the amount of the tax so attributable) equal to so much of the tax imposed in the territory of such other Party as is attributable to such property; but this paragraph shall not apply as respects any such property as is mentioned in paragraph (2) of this Article.

(2) Where each Contracting Party imposes tax by reason of a decedent's being domiciled in some part of its territory, each Party shall allow against so much of its tax (as otherwise computed) as is attributable to property which is situated, or is deemed under paragraph (2) of Article III to be situated,

- (a) in the territory of both Parties, or
- (b) outside both territories,

a credit which bears the same proportion to the amount of its tax so attributable or to the amount of the other Party's tax attributable to the same property, whichever is the less, as the former amount bears to the sum of both amounts.

(3) For the purposes of this Article, the amount of the tax of a Contracting Party attributable to any property shall be ascertained after taking into account any credit, allowance or relief or any remission or reduction of tax, otherwise than in respect of tax payable in the territory of the other Contracting Party or in any other country; and if, in respect of property situated outside the territories of both Parties, a Contracting Party allows against its tax a credit for tax payable in the country where the property is situated, that credit shall be taken into account in ascertaining, for the purposes of paragraph (2) of this Article, the amount of the tax of that Party attributable to the property.

ARTICLE VI

(1) Any claim for a credit or for a refund of tax founded on the provisions of the present Convention shall be made within six years from the date of the death of the decedent in respect of whose estate the claim is made, or, in the case of a reversionary interest where payment of tax is deferred until

on or after the date on which the interest falls into possession, within six years from that date.

(2) Any such refund shall be made without payment of interest on the amount so refunded.

ARTICLE VII

(1) The taxation authorities of the Contracting Parties shall exchange such information (being information available under the respective taxation laws of the Contracting Parties) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this Article, the term "taxation authorities" means, in the case of the United States, the Commissioner of Internal Revenue or his authorized representative; in the case of Great Britain, the Commissioners of Inland Revenue or their authorized representative; and, in the case of any territory to which the present Convention is extended under Article VIII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

ARTICLE VIII

(1) Either of the Contracting Parties may, on the coming into force of the present Convention or at any time thereafter while it continues in force, by a written notification of extension given to the other Contracting Party through diplomatic channels, declare its desire that the operation of the present Convention shall extend to all or any of its colonies, overseas territories, protectorates, or territories in respect of which it exercises a mandate, which impose taxes substantially similar in character to those which are the subject of the present Convention. The present Convention shall apply to the territory or territories named in such notification as to the estates of persons dying on or after the date or dates specified in the notification (not being less than sixty days from the date of the notification) or, if no date is specified in respect of any such territory, on or after the sixtieth day after the date of such notification, unless, prior to the date on which the Convention would otherwise become applicable to a particular territory, the Contracting Party to whom notification is given shall have informed the other Contracting Party in writing through diplomatic channels that it does not accept such notification as to that territory. In the absence of such extension, the present Convention shall not apply to any such territory.

(2) At any time after the expiration of one year from the entry into force of an extension under paragraph (1) of this Article, either of the Contracting Parties may, by written notice of termination given to the other Contracting Party through diplomatic channels, terminate the application of the present Convention to any territory to which it has been extended under paragraph (1), and in such event the present Convention shall cease to apply, as to the estates of persons dying on or after the date or dates (not being earlier than the sixtieth day after the date of such notice) specified in such notice, or, if no date is specified, on or after the sixtieth day after the date of such notice, to the territory or territories named therein, but without affecting its continued application to the United States, Great Britain or to any other territory to which it has been extended under paragraph (1) hereof.

(3) In the application of the present Convention in relation to any territory to which it is extended by the United States or the United Kingdom, references to "United States" or, as the case may be, "Great Britain", or to the territory of one (or of the other) Contracting Party, shall be construed as references to that territory.

(4) The provisions of the preceding paragraphs of this Article shall apply to the Channel Islands and the Isle of Man as if they were colonies of the United Kingdom.

ARTICLE IX

The present Convention shall apply in relation to estate duty imposed in Northern Ireland as it applies in relation to estate duty imposed in Great Britain, but shall be separately terminable in respect of Northern Ireland by the same procedure as is laid down in paragraph (2) of Article VIII.

ARTICLE X

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) The present Convention shall come into force on the date of exchange of ratifications and shall be effective only as to

(a) the estates of persons dying on or after such date; and

(b) the estate of any person dying before such date and after the 31st day of December, 1944, whose personal representative elects, in such manner as may be prescribed, that the provisions of the present Convention shall be applied to such estate.

ARTICLE XI

(1) The present Convention shall remain in force for not less than three years after the date of its coming into force.

(2) If not less than six months before the expiration of such period of three years, neither of the Contracting Parties shall have given to the other Contracting Party, through diplomatic channels, written notice of its inten-

tion to terminate the present Convention, the Convention shall remain in force after such period of three years until either of the Contracting Parties shall have given written notice of such intention, in which event the present Convention shall not be effective as to the estates of persons dying on or after the date (not being earlier than the sixtieth day after the date of such notice) specified in such notice, or, if no date is specified, on or after the sixtieth day after the date of such notice.

IN WITNESS WHEREOF of the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Washington, in duplicate, on the 16th day of April, 1945.

For the Government of the United States of America:

E. R. STETTINIUS, JR. [SEAL]

For the Government of the United Kingdom of Great Britain
and Northern Ireland:

HALIFAX [SEAL]