

N° 4240.

HONGRIE ET SUÈDE

Convention en vue d'éviter la double imposition dans le domaine des droits de succession, et protocole final. Signés à Budapest, le 20 novembre 1936.

HUNGARY AND SWEDEN

Convention for the Avoidance of Double Taxation in the Matter of Death Duties, and Final Protocol. Signed at Budapest, November 20th, 1936.

¹ TRADUCTION. — TRANSLATION.

No. 4240. — CONVENTION ² BETWEEN THE KINGDOM OF HUNGARY AND THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION IN THE MATTER OF DEATH DUTIES. SIGNED AT BUDAPEST, NOVEMBER 20TH, 1936.

French official text communicated by the Swedish Minister for Foreign Affairs and by the Head of the Royal Hungarian Delegation to the League of Nations. The registration of this Convention took place January 1st, 1938.

HIS MAJESTY THE KING OF SWEDEN and HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY, being desirous of preventing double taxation in the case of death duties, have decided to conclude a Convention and have appointed for that purpose as their Plenipotentiaries :

HIS MAJESTY THE KING OF SWEDEN :

His Excellency Monsieur Ulf Torsten UNDÉN, Envoy Extraordinary and Minister Plenipotentiary ;

HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY :

His Excellency Baron Gabriel APOR, Envoy Extraordinary and Minister Plenipotentiary, Permanent Substitute of the Royal Minister for Foreign Affairs of Hungary, and

Monsieur Alexandre KNEPPO, Head of Department at the Royal Hungarian Ministry of Finance ;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following provisions :

Article I.

(1) Immovable property and accessories thereto, passing on the death of a national of one of the two contracting States, shall be liable to death duties only within the State in which such property is situate.

(2) Rights to which the provisions of civil law relating to immovable property are applicable, and rights of user in respect of immovable property, shall rank as immovable property.

(3) The question whether any given object of the kind to which paragraphs (1) and (2) above relate is to rank as immovable property shall be determined in conformity with the law of the State in which the object is situate. The meaning of the term " accessories " shall be determined by the law of the State in which the immovable property is situate.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at Stockholm, December 2nd, 1937. Came into force January 1st, 1938.

Article 2.

(1) In the case of property left by a national of one of the two States and invested in a commercial, industrial or other enterprise, including enterprises engaged in maritime, river, lake or air navigation, the procedure shall be as follows :

(a) If the enterprise has a permanent establishment in only one of the two States, the property shall be liable to succession duty only in such State.

(b) If the enterprise has a permanent establishment in both States, the property shall be liable to succession duty in each State to the extent to which such property appertains to the establishment situate in such State.

(2) In the case of immovable property belonging to an enterprise of the kind to which paragraph (1) relates, the procedure shall be as provided in Article 1.

Article 3.

(1) Property left by a national of one of the two States, to which Articles 1 and 2 do not apply, shall be subject to the following provisions :

(a) If the deceased at the time of this decease was domiciled in only one of the two States, the property shall be liable to death duties only in such State.

(b) If the deceased at the time of his decease had a domicile in both States, the property shall be liable to death duties only in the State in which the supreme revenue authorities of the two States agree that his interests were centred. In default of agreement as to the centre of the deceased's interests, he shall be deemed to have been domiciled only in the State of which he was a national ; if at the time of his decease he was a national of both States, the supreme revenue authorities of the two States shall come to a special agreement in regard to each particular case.

(c) In all other cases, the property shall be liable to death duties only in the State of which the deceased was a national at the time of his decease ; the provision contained in the latter half of the second sentence of paragraph (b) above shall be applicable by analogy.

(2) For the purposes of the present Convention, the term domicile shall be deemed to mean the place in which the property concerned has his habitual residence, that is to say, his permanent home.

Article 4.

(1) Debts specifically encumbering the property to which Articles 1 and 2 relate, or debts secured thereon, shall be chargeable against such property. Other debts shall be charged against the property to which the provisions of Article 3 are applicable.

(2) If in any particular case property of the kind to which Articles 1 and 2 relate is liable to death duties in both States, debts specifically encumbering property dutiable in one State, or debts secured thereon, shall be chargeable in the first instance against such property. The balance thus remaining uncovered shall be charged against the rest of the property liable to succession duty in the State in question. Should there be no other dutiable property in the said State, or should there still be a balance outstanding after all the dutiable property in the said State has been so charged, such balance shall be charged against the property liable to death duties in the other State.

(3) Should the provision contained in the second sentence of paragraph (1) above give rise to a balance, the provisions of the second and third sentences of paragraph (2) above shall be applicable by analogy.

FINAL PROTOCOL

In proceeding to sign the Convention for the Avoidance of Double Taxation in the Matter of Death Duties, concluded this day between the Kingdom of Sweden and the Kingdom of Hungary, the undersigned Plenipotentiaries are agreed as to the following provisions, which shall form an integral part of the Convention.

1. It is understood that each of the two States shall proceed in conformity with its own legal procedure in the matter of claims secured by mortgages.

2. It is understood that successional property of the kind referred to by Article 1 which is not situate in either of the two States, and successional property of the kind referred to by Article 2 which does not appertain to an establishment situate in one or other of the two States, shall be treated in accordance with the provisions of Article 3.

3. It is understood that participation in enterprises, other than mining shares (*Kuxe*) or other shares, partnership shares, or similar securities, shall rank as property invested in a commercial or industrial enterprise or other professional activity within the meaning of Article 2, paragraph 1.

4. It is further agreed that the expression " permanent establishment " in Article 2, paragraph 1, shall be interpreted in accordance with the provisions of the Convention¹ concluded between the two contracting States for the Avoidance of Double Taxation in the Matter of Direct Taxes (Article 5 and point 8 of the Final Protocol).

5. It is understood that debts (Article 4) shall not be charged against entailed estates (*majorats*) or other property of a like nature, save in so far as they constitute specific encumbrances thereof or are specifically secured thereon.

6. It is understood that the tax on property passing by reason of decease shall be assimilated to any duties that may hereafter be substituted for the succession duties specified in Article 7 and now levied in the two States ; and further that the present Convention does not apply to existing rights in respect of donations.

7. Nothing in the present Convention shall affect such immunities from taxation as are or may hereafter be accorded to diplomatic or consular officials in virtue of the general rules of international law. Where by reason of such immunities such officials are not liable to succession duties in the country in which they exercise their functions, the country by which they are accredited or appointed shall be empowered to levy such duties.

Done at Budapest in duplicate, in French, this 20th day of November, 1936.

(L. S.) APOR, *m. p.*

(L. S.) UNDÉN, *m. p.*

(L. S.) KNEPPO, *m. p.*

¹ See page 11 of this Volume.