

N° 448.

**ALLEMAGNE
ET TCHECOSLOVAQUIE**

Traité en vue de la suppression de
la double imposition dans le do-
maine des droits de succession,
signé à Berlin le 18 mars 1922.

**GERMANY
AND CZECHOSLOVAKIA**

Treaty for the purpose of preventing
double taxation in respect of death
duties, signed at Berlin, March 18,
1922.

TEXTE TCHÈQUE. — CZECH TEXT.

No. 448. — SMLOUVA¹ UJEDNANÁ MEZI ČESKOSLOVENSKOU REPUBLIKOU A NĚMECKOU ŘÍŠÍ A NODEPSANÁ V BERLINE 18 BŘEZNA 1922 K TOMU, ABY BYLO ZAMEZENO DVOJI ZDANĚNÍ V OBORU DÁVEK PRO PŘÍPAD SMRTI.

Official German and Czech texts communicated by the Permanent Delegate of Czechoslovakia accredited to the League of Nations. The registration of this Treaty took place June 30, 1923.

ČESKOSLOVENSKÁ REPUBLIKA a NĚMECKÁ ŘÍŠE, přejíce si, aby bylo zamezeno dvoji zdanění v oboru dávek propřípad smrti, ujednaly následující smlouvu.

Za tou příčinou byli jmenováni zmocněnci :

ČESKOSLOVENSKOU REPUBLIKOU :

odborový přednosta v ministerstvu financí Dr. Alfred NESVEDA,
ministrský rada v ministerstvu financí Benjamin HEIDE.

NĚMECKOU ŘÍŠÍ :

přednosta v zahraničním úřadě tajný vládní rada a přednášející legační rada Karl von LEWINSKI,
přednosta v říšském ministerstvu financí tajný vládní rada a ministrský rada Ernst PEIFFER.

Zmocněnci vyměňvše si své plné moci a shledavše je správnými, dohodli se takto :

SMLOUVA MEZI ČESKOSLOVENSKOU REPUBLIKOU A NĚMECKOU ŘÍŠÍ, UJEDNANÁ K TOMU, ABY BYLO ZAMEZENO DVOJI ZDANĚNÍ V OBORU DÁVEK PRO PŘÍPAD SMRTI.

Článek 1.

1. Nemovité pozůstalostní jmění po příslušnicích toho kterého z obou smluvních států čítajíc v to příslušenství jest podrobena dávkám pro případ smrti jen v tom státě, ve kterém leží.

2. Oprávnění, pro něž platí předpisy vztahující se na pozemky, práva požitečná na nemovitém jmění, jakož i práva, která na nemovitém jmění jsou zajištěna nebo je zatěčují, budtež posuzována jako nemovité jmění.

¹ The exchange of ratifications took place at Berlin, April 21, 1923.

¹ TRANSLATION.

No. 448. — TREATY BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE GERMAN REICH FOR THE PURPOSE OF PREVENTING DOUBLE TAXATION IN RESPECT OF DEATH DUTIES, SIGNED AT BERLIN, MARCH 18, 1922.

The CZECHOSLOVAK REPUBLIC and the GERMAN REICH, being desirous of preventing double taxation in respect of death duties, have concluded the Treaty set out hereinafter.

For this purpose they have appointed as their Plenipotentiaries :

The CZECHOSLOVAK REPUBLIC :

Dr. Alfred NESVEDA, Head of Department in the Ministry of Finance ;
Benjamin HEIDE, Councillor in the Ministry of Finance.

The GERMAN REICH :

Karl VON LEWINSKI, Privy Councillor and Councillor of Legation, Director in the Foreign Office ;
Ernst PEIFFER, Privy Councillor and Ministerial Councillor, Director in the Ministry of Finance of the Reich ;

who, having communicated their full powers, found in good and due form, have agreed upon the following provisions :

TREATY BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE GERMAN REICH FOR THE PURPOSE OF PREVENTING DOUBLE TAXATION IN RESPECT OF DEATH DUTIES.

Article I.

(1) Immovable property bequeathed by a national of one of the two Contracting Parties, including appurtenances and accessories thereto, shall be liable to death duties only within the State in which such property is situate.

(2) Rights, to which the regulations referring to landed estates are applicable, rights of usufruct over immovable property and rights, which are secured by, or constitute, a charge upon immovable property, shall be regarded as equivalent to immovable property.

(3) The question whether any object is to be regarded as immovable property shall be settled in conformity with the laws of the State in which the object is situate. The decision as to what constitutes accessories or appurtenances shall be taken in accordance with the laws of the State in which the immovable property is situate.

¹ Translated by the Secretariat of the League of Nations.

Article 2.

(1) With regard to such property bequeathed by a national of one of the two Contracting States as is not dealt with in accordance with the terms of Article 1, the following provisions shall apply :

- (a) Such property shall in principle be liable to death duties in the State of which the testator or devisor was a national at the time of his death ;
- (b) If, however, at the time of his death the testator or devisor had his domicile or, failing such domicile, his permanent residence within the other State, the property bequeathed which is situate in such State shall be liable to death duties in that State.

(2) The method of dealing with property bequeathed by persons who were nationals of both States shall be the subject of a special agreement in each particular case.

(3) For the purposes of this Treaty a domicile is the place where a person has a habitation, provided that there are good grounds for assuming that it is his intention to continue to occupy such habitation permanently.

(4) For the purposes of this Treaty a permanent residence is the place where a person resides, provided that there is good ground for assuming that it is not his intention merely to remain temporarily at the place or within the country in question.

Article 3.

(1) The question as to where the articles referred to in Article 2 are situate shall be decided in accordance with the following principles :

- (a) In the case of debts due to the estate, the decisive principle shall be the domicile or, in default of such, the permanent residence of the deceased to creditor. The same principle shall apply *mutatis mutandis* to shares in companies, syndicates, or other partnerships unless the claim to such shares be conditional upon possession of documentary proof (sub-paragraph *b*).

Property owned *communi manu* (Gesamthandsvermögen) which is partitioned for purposes of inheritance upon the death of the testator or devisor, shall likewise be regarded as situate in the place of domicile or, in default of such, of permanent residence of the testator or devisor.

- (b) The decisive principle in the case of securities shall be the place where the securities were deposited at the time of the testator's or devisor's death.
- (c) In the case of objects or rights which are entered in a book or register kept by a State official for the registration of persons holding such rights, the decisive principle shall be the place in which such book or register is kept.

Article 4.

Legacies which do not concern a definite object shall in the first place be deducted from property specified in Article 2, if necessary in proportion to the value of the parts of the property of this nature situate in the two States.

Article 5.

Debts which constitute a charge upon property mentioned in Article 1 or are secured thereon shall be debited to such property. In all other cases debts shall in the first place be deducted

from property specified in Article 2, if necessary in proportion to the value of the parts of the property of this nature situate in the two States.

Article 6.

For the purposes of this Treaty, the following duties shall be considered death duties :

In the Czechoslovak Republic :

Duties which are levied in respect of transfers of property by reason of death in accordance with the fiscal regulations in force or in accordance with the provisions which have been substituted or which may subsequently be substituted therefor.

In the German Reich :

Estate duties, inherited property duty, and any duties which may subsequently be substituted for them.

Article 7.

(1) This Treaty, which has been drawn up in German and in Czechoslovak, shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Berlin. It shall come into force on the day on which it is ratified and shall be applicable to all cases in which the testator or deviser has died after that date. This Treaty shall continue in force until it is denounced by one of the Contracting Parties ; such denunciation shall take place not later than six months before the expiration of any calendar year. If it is duly denounced as described above, the Treaty shall cease to apply in any cases in which the testator or deviser has died after the expiration of the calendar year in which the Treaty was denounced.

(2) Both texts of the Treaty are authentic. When the Treaty is ratified, the two authentic texts shall be published in each country in the official Statute Book.

In faith whereof the Plenipotentiaries of the two States have signed the Treaty and have thereto affixed their seals.

BERLIN, *March 18, 1922.*

For the German Reich :

KARL VON LEWINSKI.
ERNST PEIFFER.

For the Czechoslovak Republic :

Dr. ALFRED NESVEDA.
BENJAMIN HEIDE.

FINAL PROTOCOL.

On signing the Treaty concluded this day between the Czechoslovak Republic and the German Reich for the prevention of double taxation in respect of death duties, the undersigned Plenipotentiaries made the following joint declarations, which shall form an integral part of the present Treaty.

(1) Nothing in this Treaty shall affect the right of either of the Contracting Parties to apply its own statutory regulations, more especially those which make liability to pay duties dependent upon the person of the transferee, to any property which, under the terms of the present Treaty, is not liable to death duties in the other State.

(2) Doubtful cases which arise in the execution of this Treaty shall be decided by agreement between the chief finance officials of the two States.

BERLIN, *March* 18, 1922.

For the German Reich :

KARL VON LEWINSKI.
ERNST PEIFFER.

For the Czechoslovak Republic :

Dr. ALFRED NESVEDA.
BENJAMIN HEIDE.