

N° 1105.

ALLEMAGNE ET HONGRIE

Traité en vue d'éviter la double imposition en matière de taxes successorales, avec Protocole final, signés à Berlin, le 26 novembre 1923.

GERMANY AND HUNGARY

Treaty for the Avoidance of Double Taxation in respect of Death Duties, with Final Protocol, signed at Berlin, November 26, 1923.

¹ TRANSLATION.

No. 1105. — TREATY BETWEEN GERMANY AND HUNGARY FOR THE AVOIDANCE OF DOUBLE TAXATION IN RESPECT OF DEATH DUTIES, SIGNED AT BERLIN NOVEMBER 26, 1923.

THE KINGDOM OF HUNGARY and THE GERMAN REICH, being desirous of preventing double taxation in respect of death duties, have concluded the following Treaty :

To this end they have appointed as their Plenipotentiaries :

THE KINGDOM OF HUNGARY :

Dr. Gustav EMICH VON EMÖKE, Envoy Extraordinary and Minister Plenipotentiary ;
Dr. Alexander KNEPPO, Ministerial Councillor at the Royal Hungarian Ministry of Finance ;

THE GERMAN REICH :

Baron Ago VON MALTZAN, Under-Secretary of State at the Ministry for Foreign Affairs ;
M. Ernst PEIFFER, Privy Councillor and Ministerial Councillor, Director in the Ministry of Finance of the Reich.

The Plenipotentiaries having communicated their full powers, found in good and due form, have agreed to the following provisions :

Article I.

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

(2) Rights which are governed by the provisions of the Civil Code referring to landed estates, 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 (paragraphs 1 and 2) is to be regarded as immovable property shall be settled in conformity with the legislation (fiscal laws) of the State in which the object is situate. Any question as to what constitutes accessories shall be decided in accordance with the laws of the State in which the immovable property is situate.

Article II.

(1) With regard to any property passing on the death of a national of one of the two countries, which is not covered by the terms of Article I, the following provisions shall apply :

(a) Such property shall in principle be liable to death duties in the State of which the testator or deviser was a national at the time of his death ;

¹ Translated by the Secretariat of the League of Nations.

(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 passing on the death of persons who are nationals of both States shall be the subject of a special agreement between the Ministers of Finance of the two countries 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 III.

(1) The question as to where the property referred to in Article II is situate shall be decided in accordance with the following principles :

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

(b) The decisive factor in the case of transferable securities shall be the place where they 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 factor shall be the place in which such book or register is kept.

Article IV.

Bequests which do not concern a definite object shall be deducted from the property specified in Article II, in so far as such property is adequate to pay them, if necessary in proportion to the value of the parts of the property of this nature situate in the two States. Any balance of such bequests, which cannot be met out of the property referred to in Article II, shall be made good out of the immovable property of the estate (Article I), if necessary in proportion to the value of the parts of the property of this nature situate in the territories of the respective States.

Article V.

(1) Debts and liabilities which constitute a charge upon the immovable estate mentioned in Article I, or are secured thereon, shall be met out of the said estate. Any balance shall, if the testator or devisor was also personally liable for the debt, be made good out of the property specified in Article II.

(2) The provisions of Article IV shall apply *mutatis mutandis* to any other debts and liabilities.

Article VI.

If, under the provisions of the present Treaty, an estate is liable to death duties partly in one State and partly in the other, the rate of such duties shall be assessed not on the total value of the estate but only on the value of the property liable to duty in each of the two countries.

Article VII.

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

In the Kingdom of Hungary :

The inheritance and estate duties which are levied in respect of transfers of property by reason of death, and any taxes which may subsequently be substituted therefor.

In the German Reich :

Inheritance duty and any taxes which may subsequently be substituted therefor.

Article VIII.

(1) The present Treaty, which has been drawn up in Hungarian and German, shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Budapest. It shall come into force on the date of the exchange of the instruments of ratification and shall be applicable in all cases in which a testator or devisor has died after that date. The present Treaty shall continue in force until it is denounced by one of the Contracting Parties, such denunciation to take place not later than six months before the expiration of any calendar year. If it is denounced within the prescribed time-limit, the Treaty shall cease to apply in any cases in which the testator or devisor has died after the expiration of the calendar year in which the Treaty was denounced.

(2) Both texts of the present Treaty are authentic. When the Treaty is ratified, the two authentic texts shall be published in each State in the official collection of laws.

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

BERLIN, *November 26, 1923.*

For the Kingdom of Hungary :

(Signed) EMICH.

(Signed) Dr. KNEPPO.

For the German Reich :

(Signed) MALTZAN.

(Signed) PEIFFER.

FINAL PROTOCOL.

On signing the Treaty concluded this day between the Kingdom of Hungary and the German Reich, for the prevention of double taxation in respect of death duties, the undersigned Plenipotentiaries have agreed to make the following joint declarations which shall form an integral part of the 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 settled by agreement between the Ministers of Finance of the two States.

BERLIN, *November 26, 1923.*

For the Kingdom of Hungary :

(Signed) EMICH.

(Signed) Dr. KNEPPO.

For the German Reich :

(Signed) MALTZAN.

(Signed) PEIFFER.