

No. 704

BELGIUM
and
FRANCE

Convention for the avoidance of double taxation in regard to taxes on capital (with exchange of letters). Signed at Paris, on 29 December 1947

Official text : French.
Registered by Belgium on 24 January 1950.

BELGIQUE
et
FRANCE

Convention tendant à éviter les doubles impositions en matière d'impôts sur le capital (avec échange de lettres). Signée à Paris, le 29 décembre 1947

Texte officiel français.
Enregistrée par la Belgique le 24 janvier 1950.

TRANSLATION — TRADUCTION

No. 704. FRANCO-BELGIAN CONVENTION¹ FOR THE AVOIDANCE OF DOUBLE TAXATION IN REGARD TO TAXES ON CAPITAL. SIGNED AT PARIS, ON 29 DECEMBER 1947

The Belgian Government and the French Government,

Desiring as far as possible to avoid that property belonging to natural or juridical persons who are domiciled or established in one of the two States and whose corporeal or incorporeal assets are situated in the other State, should be subjected both to the tax on capital instituted by the Belgian act of 17 October 1945 and to the national solidarity tax instituted by the French ordinance of 15 August 1945,

Have agreed upon the following provisions :

Natural persons

Article 1. The following property belonging to natural persons shall be taxable :

(a) immovable and movable property other than gold bullion or coin and bank-notes, situated in one of the two States, in that State ;

(b) commercial or industrial businesses conducted in one of the two States, in that State.

In that connexion, commercial or industrial businesses shall be deemed to include, in particular, equipment, stock in trade, leaseholds, goodwill, patents and trade marks and other incorporeal assets, as well as claims, securities and bank deposits connected therewith.

Article 2. All other property belonging to natural persons shall be taxable in the State where such persons have their fiscal domicile, within the meaning of the laws on succession duties.

Subject to the provisions of the last paragraph of Article 1, the above stipulation shall apply in particular to claims, Government stock, shares, debentures and profit-making rights issued by any companies, corporations or organizations of any kind, gold, bullion and coin, and bank-notes.

¹ Came into force provisionally by signature, on 29 December 1947, in accordance with Article 10. The exchange of instruments of ratification took place at Brussels on 30 November 1949.

Article 3. Notwithstanding the above provisions, taxes shall be levied by Belgium on the assets referred to in Articles 7 and 9 of the Belgian act of 17 October 1945, without prejudice to their taxation in France.

Article 4. Persons domiciled in Belgium who have taken refuge in France as a result of the war shall be deemed to have retained their domicile in Belgium, unless it is proved that they have acquired a domicile in France.

The two Administrations shall consult together in order to settle disputed cases by common agreement.

Juridical persons other than companies

Article 5. Juridical persons other than companies shall be treated as natural persons for the purposes of the present Convention.

Belgian juridical persons having the same nature and character as the French juridical persons referred to in Article 42, paragraph 3, of the French ordinance of 15 August 1945, shall have the benefit, in France, of the exemptions laid down in that text.

Similarly, French juridical persons having the same nature and character as the Belgian juridical persons referred to in Article 2, paragraph 1, of the Belgian Act of 17 October 1945, shall have the benefit, in Belgium, of the exemptions laid down in that text.

Companies

Article 6. Subject to the exceptions provided for in the law in force in each of the two States, companies shall be taxed in the State in which their head office is situated.

Article 7. Furthermore, in the State other than that in which their head office is situated, companies shall be taxable on the property they possess in that State, under the conditions defined above for natural persons. Nevertheless, such taxation shall be reduced by half in the case of the property referred to in Article 1.

Article 8. If it is established that, on the date fixed for the assessment of the tax, at least 30 per cent of the capital of a company having its head office in one of the two States belongs to one or more natural or juridical persons domiciled or established in the other State, and that each of these persons holds at least 7 per cent of such Capital, a refund on the tax paid by the company shall be made for the benefit of such partners.

Such refund shall be equal to half the amount of tax payable in respect of the fraction of the capital represented by the holdings of the said partners.

The benefit of the above provisions shall apply only to shares of profit-sharing rights registered or declared in accordance with the Belgian decree-laws of 6 October 1944.

Article 9. The two Governments shall jointly fix the methods and time-limits for the payment of the refund provided for in Article 8, shall settle by common agreement any difficulties which may arise in regard to the application of the present Convention and shall afford each other mutual assistance with a view to the efficient collection of the taxes referred to in the present Convention and to the transfer of the funds necessary for their payment.

Article 10. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible.

The Convention shall enter into force provisionally on the date of its signature.

DONE in duplicate, at Paris, on 29 December 1947.

(Signed) GUILLAUME
[L. S.]

(Signed) BIDAULT
[L. S.]

(Signed) MAYER
[L. S.]

EXCHANGE OF LETTERS

No. 1

BELGIAN EMBASSY

Paris, 29 December 1947

Monsieur le Ministre,

With reference to Article 9 of the Franco-Belgian Convention of today's date for the avoidance of double taxation in regard to taxes on capital, in virtue of which the High Contracting Parties undertook to afford each other mutual assistance with a view to the efficient collection of the taxes referred to in the said Convention, and with reference to Article VI of the Agreement of 8 October 1945, I have the honour to inform you that, as far as it is concerned, the Belgian Government is prepared to transmit to the French Government the declarations made in Belgium in pursuance of the decree-laws of

6 October 1944 and of 31 January 1945 by natural persons of French nationality residing in the French monetary zone or by juridical persons of any nationality, in respect of their establishments in the French monetary zone, and relating to :

1. bank-notes of the National Bank of Belgium ;
2. monetary deposits in any currency, especially in banks, savings banks and deposit funds ;
3. entries in the Belgian or Congo Central Register of the Public Debt ;
4. registered securities of Belgian companies ;
5. Belgian bearer securities and foreign bearer securities held in Belgium ;
6. life insurance and endowment contracts concluded with an undertaking which has a branch in Belgium ;
7. holdings in gold or foreign currency, property situated abroad and bills drawn abroad belonging to French juridical persons and administered by a branch in Belgium.

The Belgian Government is also prepared to transmit to the French Government the above declarations made on behalf of persons, whatever their nationality, who, although residing in the French monetary zone, have been convicted or are being prosecuted in Belgium for collaboration or trading with the enemy or for foreign currency offences.

Natural persons who are not of French nationality, but on behalf of whom declarations have been made, shall state their nationality to the service and within the time-limit prescribed by the Belgian Government.

In the light of such communication, the French Government shall take the necessary steps to ensure that owners of assets falling within the above-mentioned categories whose position from the point of view of fiscal law or foreign exchange regulations is irregular, shall be exempted from any fiscal penalty in respect of such assets, subject to payment of tax arrears, and, in so far as the penalties laid down by the exchange control regulations are concerned, shall be allowed to compound on favourable terms, involving the payment of a fine not exceeding one fifth of the value of such assets if, in the absence of any administrative or legal proceedings and within a time-limit to be specified, they voluntarily regularize the position of the said assets.

The Belgian Government shall take similar steps in respect of assets declared in France on behalf of persons established or resident in Belgium,

the existence of which has been disclosed to it in communications transmitted to it by the French Government.

Furthermore, the Belgian Government proposes that it be decided that the competent authorities to determine the methods and time-limits for the payment of the refund provided for in Article 9 of the Convention and to arrange for the exchanges of information provided for above should be the following :

in the case of France, the *Administration de l'Enregistrement, des Domaines et du Timbre*, which is responsible for the application of the national solidarity tax, 32, rue Galilée, Paris.

in the case of Belgium, the Director-General of the *Office de l'Impôt sur le Capital*, 205, rue Belliard, Brussels.

I have the honour to be, etc.

(Signed) GUILLAUME

No. 2

Paris, 29 December 1947

Your Excellency,

In your letter of today's date, you were good enough to communicate to me the following :

[See letter No. 1]

I have the honour to inform you that the French Government notes the above communication and accepts the proposals contained therein.

In return, it declares its willingness to communicate to the Belgian Government the declarations made in France in pursuance of Order No. 45-85 of 15 January 1945 and the executory decree of 4 April 1945 on behalf of natural persons of Belgian nationality residing in Belgium or juridical persons of any nationality, in respect of their establishments in Belgium, and relating to :

1. French bank-notes ;
2. French and foreign transferable securities ;
3. gold ;
4. foreign and French instruments of payment ;

5. any claims arising out of endowment, insurance or savings contracts ;
6. accounts in foreign currency or accounts in French francs ;
7. real estate whether built up or not, and real estate rights in respect of buildings in France ;
8. miscellaneous movable property ;
9. claims in foreign currency and claims in French francs (commercial and financial claims, wages, fees, royalties, copyrights) ;
10. various rights (holdings in French companies, claims arising out of contracts or agreements with regard to participations, partnerships, endowments, insurance or savings) ;
11. assets of the establishments of Belgian companies, undertakings or individuals in France ;
12. safes and sealed deposits.

The French Government is also prepared to transmit to the Belgian Government the aforementioned declarations made on behalf of persons, whatever their nationality, who, although residing in Belgium, have been convicted or are being prosecuted in France for collaboration or trading with the enemy, or for foreign currency offences.

Natural persons who are not of Belgian nationality and on behalf of whom declarations have been made shall state their nationality to the service and within the time-limit prescribed by the French Government.

I have the honour to be, etc.

(Signed) BIDAULT

His Excellency Baron Guillaume
Belgian Ambassador in Paris