

No. 1147

UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
CANADA

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to duties on the estates of deceased persons. Signed at London, on 5 June 1946

Official text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 10 April 1951.

ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
CANADA

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière de droits de succession. Signée à Londres, le 5 juin 1946

Texte officiel anglais.

Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 10 avril 1951.

No. 1147. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO DUTIES ON THE ESTATES OF DECEASED PERSONS. SIGNED AT LONDON, ON 5 JUNE 1946

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Canada, desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to duties on the estates of deceased persons, have agreed as follows :—

Article I

(1) The duties which are the subject of the present agreement are :—
(a) In the United Kingdom, the estate duty imposed in Great Britain, and

(b) In Canada, the succession duty imposed by Canada.

(2) The present Agreement shall also apply to any other duties of a substantially similar character imposed by either Contracting Government subsequent to the date of signature of the present Agreement or by the Government of any territory to which the present Agreement is extended under Article VIII or applies under Article IX.

Article II

(1) In the present Agreement, unless the context otherwise requires—

(a) The term “ United Kingdom ” means Great Britain and Northern Ireland.

(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 Government means Great Britain or Canada, as the context requires.

¹ Came into force on 6 November 1946, date on which the Agreement was given force of law by both Contracting Governments, in accordance with article X.

- (d) The term "duty" means the estate duty imposed in Great Britain or the succession duty imposed by Canada, as the context requires.

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

Article III

Where a person dies domiciled in any part of the territory of one Contracting Government, the situs of any of the following rights or interests, legal or equitable, which for the purposes of duty form or are deemed to form part of the estate of such person or pass or are deemed to pass on his death, shall, for the purposes of the imposition of duty 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 or interests shall be determined for these purposes in accordance with the laws in force in the territory of the other Contracting Government :—

- (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 recognised 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 and whether under seal or not, excluding the forms of indebtedness for which specific provision is made herein, shall be deemed to be situated at the place where the debtor was resident at the time of death;
- (d) Bank accounts shall be deemed to be situated at the branch at which the account was kept;
- (e) Securities issued by any government, municipality or public authority shall be deemed, if in bearer form, to be situated at the place where they are located at the time of death and, if inscribed or registered, to be situated at the place of inscription or registration;

- (f) Shares, stock, debentures or debenture stock in a company (including any such property held by a nominee, whether the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place where the company was incorporated;
- (g) Monies payable under a policy of assurance or insurance, whether under seal or not, shall be deemed to be situated at the place where the policy provided that the monies shall be payable or, in the absence of any such provision, at the head office of the company;
- (h) Shares in a partnership shall be deemed to be situated at the place where the business is principally carried on;
- (i) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft;
- (j) 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;
- (k) Patents, trade marks and designs shall be deemed to be situated at the place where they are registered;
- (l) Copyright, franchises, and rights or licences to use any copyrighted material, patent, trade mark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable;
- (m) Rights or causes of action *ex delicto* surviving for the benefit of an estate of a deceased person shall be deemed to be situated at the place where such rights or causes of action arose;
- (n) Judgment debts shall be deemed to be situated at the place where the judgment is recorded;

Provided that if, apart from this paragraph, duty would be imposed by one Contracting Government 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, duty is imposed or would but for some specific exemption be imposed thereon by the other Contracting Government.

Article IV

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

(2) Where duty is imposed by one Contracting Government on the death of a person who was not domiciled at the time of his death in any part of the territory of that Contracting Government but was domiciled in some part of the territory of the other Contracting Government, no account shall be taken, in determining the amount or rate of the duty so imposed, of property situated outside the former territory : provided that this paragraph shall not apply as respects duty imposed 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 Government imposes duty by reason of a deceased person being domiciled in some part of its territory at the time of his death, that Contracting Government shall allow against so much of its duty (as otherwise computed) as is attributable to property situated in the territory of the other Contracting Government a credit (not exceeding the amount of the duty so attributable) equal to so much of the duty imposed in the territory of the other Contracting Government as is attributable to such property.

(2) Where Great Britain imposes duty on property passing under a disposition governed by its law, that Contracting Government shall allow a credit similar to that provided by the preceding paragraph of this Article.

(3) Where each Contracting Government imposes duty on any property which is deemed under Article III to be situated outside the territories of both Contracting Governments, each Contracting Government shall allow against so much of its duty (as otherwise computed) as is attributable to the property a credit which bears the same proportion to the amount of its duty so attributable or to the amount of the other Contracting Government's duty attributable to the same property, whichever is the less, as the former amount bears to the sum of both amounts.

(4) For the purposes of this Article, the amount of the duty of a Contracting Government attributable to any property shall be ascertained after taking into account any credit, allowance or relief, or any remission or reduction of duty, otherwise than in respect of duty payable in the territory of the other Contracting Government.

Article VI

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

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 Governments shall exchange such information (being information available under the respective taxation laws of the Contracting Governments) as is necessary for carrying out the provisions of the present Agreement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the duties which are the subject of the present Agreement. 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 duties which are the subject of the present Agreement. 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 Great Britain, the Commissioners of Inland Revenue or their authorised representative; in the case of Canada, the Minister of National Revenue or his authorised representative; in the case of Northern Ireland (to which the present Agreement applies under Article IX) the Minister of Finance or his authorised representative; and, in the case of any territory to which the present Agreement is extended under Article VIII, the competent authority for the administration in such territory of the duties to which the present Agreement applies.

Article VIII

(1) Either of the Contracting Governments may, on the coming into force of the present Agreement or at any time thereafter while it continues in force, by a written notification of extension given to the other Contracting Government, declare its desire that the operation of the present Agreement shall extend, subject to such modifications as may be necessary, to all or any of its colonies, overseas territories, protectorates, or territories in respect of which it exercises a mandate or trusteeship, which impose duties substantially similar in character to those which are the subject of the present Agreement. The present Agreement shall, subject to such modifications (if any) as may be specified in the notification, 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 Agreement would otherwise become applicable to a particular territory, the Contracting Government to whom notification is given shall have informed the other Contracting Government in writing that it does not accept the notification as to that territory. In the absence of such extension, the present Agreement 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 Governments may, by written notice of termination given to the other Contracting Government, terminate the application of the present Agreement to any territory to which it has been extended under paragraph (1), and in that event the present Agreement 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 of territories named therein, but without affecting its continued application to Great Britain, Canada, or to any other territory to which it has been extended under paragraph (1) hereof.

(3) In the application of the present Agreement in relation to any territory to which it is extended by the United Kingdom or Canada, references to "Great Britain" or, as the case may be, "Canada", or to the territory of one (or of the other) Contracting Government, shall be construed as references to the first mentioned 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 Agreement shall apply in relation to the estate duty imposed in Northern Ireland as it applies in relation to the 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

The present Agreement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and Canada

as are necessary to give the Agreement the force of law in the United Kingdom and Canada respectively, and the Agreement shall be effective only as to—

- (a) the estates of persons dying on or after that date; and
- (b) the estate of any person dying before that 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 Agreement shall be applied to his estate.

Article XI

(1) The present Agreement 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 Governments shall have given to the other Contracting Government written notice of its intention to terminate the present Agreement, the Agreement shall remain in force after such period of three years until either of the Contracting Governments shall have given written notice of such intention, in which event the present Agreement 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 the undersigned, duly authorised thereto, have signed the present Agreement and have affixed thereto their seals.

DONE at London, in duplicate, on the fifth day of June, one thousand nine hundred and forty-six.

[L. S.]

For the Government of the United Kingdom :
Hugh DALTON

[L. S.]

For the Government of Canada :
W. L. MACKENZIE KING
