

No. 1699

**UNITED STATES OF AMERICA
and
CANADA**

**Convention modifying and supplementing the Convention
of 8 June 1944 for the avoidance of double taxation
and the prevention of fiscal evasion in the case of
estate taxes and succession duties. Signed at Ottawa,
on 12 June 1950**

Official text: English.

Registered by the United States of America on 15 April 1952.

**ÉTATS-UNIS D'AMÉRIQUE
et
CANADA**

**Convention tendant à modifier et à compléter la Convention
du 8 juin 1944 en vue d'éviter la double imposition et
de prévenir l'évasion fiscale en matière de droits de
succession. Signée à Ottawa, le 12 juin 1950**

Texte officiel anglais.

Enregistrée par les États-Unis d'Amérique le 15 avril 1952.

No. 1699. CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA MODIFYING AND SUPPLEMENTING THE CONVENTION OF 8 JUNE 1944² FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION IN THE CASE OF ESTATE TAXES AND SUCCESSION DUTIES. SIGNED AT OTTAWA, ON 12 JUNE 1950

The Government of the United States of America and the Government of Canada, being desirous of modifying and supplementing in certain respects the Convention for the avoidance of double taxation and the prevention of fiscal evasion in the case of estate taxes and succession duties, signed at Ottawa on June 8, 1944,² have decided to conclude a supplementary Convention for that purpose and have appointed as their respective Plenipotentiaries :

The Government of the United States of America :

Julian F. Harrington, Chargé d'Affaires ad interim of the United States of America at Ottawa, and

The Government of Canada :

Douglas Charles Abbott, Minister of Finance in the Government of Canada

who, having communicated to one another their respective full powers, found in good and due form, have agreed as follows :

Article I

The provisions of Articles II to VI, inclusive, of the Convention of June 8, 1944, between the United States of America and Canada, are hereby abrogated with respect to estates of decedents dying on or after the day of the entry into force of the present Convention, and are replaced by the provisions of Articles II to VI, inclusive, of the present Convention.

Article II

Where a person dies a citizen of the United States of America or domiciled in the United States of America or Canada, the situs of any rights or interests, legal or equitable, in or over any of the following classes of property, which

¹ Came into force on 21 November 1951 by the exchange of the instruments of ratification at Washington, in accordance with article VII.

² United Nations, *Treaty Series*, Vol. 124, p. 297.

for the purposes of tax 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 tax 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 other contracting State :

- (a) Immovable property (otherwise than by way of security) shall be deemed to be situated at the place where such property is located;
- (b) Tangible movable property (otherwise than by way of security and other than such property for which specific provision is hereinafter made), bank or currency notes and other forms of currency recognized as legal tender in the place of issue, shall be deemed to be situated at the place where located at the time of death, or, if in transitu, at the place of destination;
- (c) Debts (including bills of exchange and promissory notes, whether negotiable or not), secured or unsecured and whether under seal or not, excluding the forms of indebtedness for which specific provision is hereinbefore or hereinafter made, shall be deemed to be situated at the place where the debtor was resident at the time of death, or, if the debtor is a company, at the place where the company is incorporated;
- (d) Bank accounts shall be deemed to be situated at the place where the bank or branch thereof, at which the account was kept, is located;
- (e) Securities issued by any government, municipality or public authority shall be deemed, if in bearer form, to be situated at the place where located at the time of death and, if inscribed or registered, to be situated at the place where inscribed or registered as provided by the issuing authority;
- (f) Shares, stock, bonds, 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 is incorporated;
- (g) Moneys, payable under a policy of assurance or insurance, or under an annuity contract, whether under seal or not, shall be deemed to be situated where the policy or annuity contract provides that the moneys shall be payable, or, in the absence of any such provision, at the place of residence of the issuer, or, if a company, at the place where the company is incorporated;
- (h) Shares in a partnership shall be deemed to be situated at the place where its 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 licenses 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 this Article shall not be construed as increasing the liability of the estate of any person under the estate tax laws of the United States of America.

Article III

1. Allowance for debts shall be determined in accordance with the laws of the contracting State imposing the tax.

2. Domicile shall be determined in accordance with the laws in the contracting State imposing the tax on the basis of domicile.

Article IV

Where one of the contracting States imposes taxes by reason of the property's being situated therein such State shall, if the decedent was domiciled in the other contracting State :

- (a) for the purpose of determining the tax rate or rates, take into account only property situated in such State, and
- (b) allow as an exemption an amount not less than an amount which bears the same ratio to the specific exemption that would be allowed if such State were imposing the tax by reason of the decedent's being domiciled therein, as the value of the property situated in such State bears to the entire value of the property wherever situated.

Article V

1. Where either contracting State imposes taxes by reason of a decedent's being domiciled therein or being a citizen thereof, that contracting State shall

allow against so much of its taxes (as otherwise computed) as is attributable to property situated in the other contracting State a credit (not exceeding the amount of the taxes so attributable) equal to so much of the taxes imposed by the other contracting State as is attributable to such property.

2. Where each contracting State imposes taxes on any property situated outside both contracting States, each contracting State shall allow against so much of its taxes (as otherwise computed) as is attributable to such property a credit which bears the same proportion to the amount of its taxes so attributable or to the amount of the other contracting State's taxes attributable to the same property, whichever is the less, as the former amount bears to the sum of both amounts.

3. For the purposes of this Article, the amount of the taxes of a contracting State attributable to any property shall be ascertained after taking into account any credit, allowance or relief, or any remission or reduction of taxes, other than the credit authorized by this Article.

Article VI

1. Any claim for a credit or for a refund of taxes founded on the provisions of the Convention signed on June 8, 1944, or of the present supplementary Convention, shall be made within six years from the date of death of the decedent in respect of whose estate the claim is made, or, in the case of a reversionary interest where payment of taxes 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 present supplementary Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. The present supplementary Convention shall enter into force on the day of the exchange of the instruments of ratification and shall be applicable to estates or successions in the case of persons who die on or after that date, except as otherwise provided in Article VI. It shall continue effective indefinitely as though it were an integral part of the Convention of June 8, 1944, subject to the provisions of Article XIV of that Convention with respect to termination.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Convention and have affixed thereto their respective seals.

DONE in duplicate, at Ottawa this 12th day of June 1950.

For the Government of the United States of America :

Julian F. HARRINGTON

For the Government of Canada :

D. C. ABBOTT