

No. 1704

**UNITED STATES OF AMERICA
and
NORWAY**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates and inheritances. Signed at Washington, on 13 June 1949

Protocol of exchange of the instruments of ratification of the above-mentioned Convention. Signed at Washington, on 11 December 1951

Official texts: English and Norwegian.

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

**ÉTATS-UNIS D'AMÉRIQUE
et
NORVÈGE**

Convention tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière de droits de succession. Signée à Washington, le 13 juin 1949

Protocole relatif à l'échange des instruments de ratification de la Convention susmentionnée. Signé à Washington, le 11 décembre 1951

Textes officiels anglais et norvégien.

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

No. 1704. CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON ESTATES AND INHERITANCES. SIGNED AT WASHINGTON, ON 13 JUNE 1949

The President of the United States of America and His Majesty the King of Norway, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates and inheritances, have appointed for that purpose as their respective Plenipotentiaries :

The President of the United States of America :

James E. Webb, Acting Secretary of State of the United States of America, and

His Majesty the King of Norway :

Wilhelm Munthe Morgenstjerne, Ambassador Extraordinary and Plenipotentiary of Norway at Washington,

who, having communicated to one another their full powers, found in good and due form, have agreed upon the following Articles :

Article I

(1) The taxes referred to in this Convention are the following taxes asserted upon death :

(a) In the case of the United States of America : the Federal estate tax, and

(b) In the case of Norway : the tax on inheritances, including death gifts.

(2) The present Convention shall also apply to any other estate or inheritance taxes of a substantially similar character imposed by either contracting State subsequently to the date of the present Convention.

¹ Came into force on 11 December 1951 by the exchange of the instruments of ratification, in accordance with article XIV.

Article II

(1) As used in this Convention :

(a) The term " United States " means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term " Norway " means the Kingdom of Norway; the provisions of the Convention shall not, however, extend to Svalbard and Jan Mayen, nor do they apply to the Norwegian dependencies outside Europe.

(c) The term " competent authorities " means, in the case of the United States, the Commissioner of Internal Revenue or his authorized representatives; and in the case of Norway, the Ministry of Finance and Customs.

(2) In the application of the provisions of the present Convention by one of the contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own laws.

Article III

(1) For the purposes of the present Convention, the question whether a decedent was domiciled in one of the contracting States at the time of his death, shall be determined in accordance with the law in force in that State.

(2) In the case of the death of a person who was a citizen of or domiciled in one of the contracting States, the situs of any of the following property or property rights shall, for the purposes of the imposition of the tax and for the purposes of the credit, be determined exclusively in accordance with the following rules :

(a) Real property shall be deemed to be situated at the place where the land involved is located. The question whether any property or right in property constitutes real property shall be determined in accordance with the law of the place where the land involved is located.

(b) Tangible movable property (other than such property for which specific provision is hereinafter made) and 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 such property or currency are located at the time of death, or, if *in transitu*, at the place of destination.

(c) Debts (including insurance but not including the forms of indebtedness for which specific provision is herein made) shall be deemed to be situated at the place where the debtor resides, or if the debtor is a corporation, at the place in or under the laws of which such corporation was created or organized.

(*d*) Bonds, promissory notes, and bills of exchange shall be deemed to be situated in accordance with the laws of the contracting State imposing the tax on the basis of situs of property, and if neither contracting State imposes the tax on the basis of situs they shall be deemed to be situated at the place of the decedent's domicile.

(*e*) Shares or stock in a corporation (including shares or stock held by a nominee where the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place in or under the laws of which such corporation was created or organized.

(*f*) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration or documentation of the ship or aircraft.

(*g*) 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.

(*h*) Patents, trademarks and designs shall be deemed to be situated at the place where they are registered or used.

(*i*) Copyrights, franchises, rights to artistic, and scientific works and rights or licenses to use any copyrighted material, artistic, and scientific works, patents, trade-marks or designs shall be deemed to be situated at the place where the rights arising therefrom are exercisable.

(*j*) All property other than hereinbefore mentioned shall be deemed to be situated in the State in which the deceased person was domiciled at the time of his death.

Article IV

The contracting State which imposes tax in the case of a decedent who at the time of his death was not a citizen of such State and was not domiciled in that State but was a citizen of or domiciled in the other State—

(*a*) shall allow a specific exemption which would be allowable under its law if the decedent had been domiciled in that State in an amount not less than the proportion thereof which the value of the property subjected to its tax bears to the value of the property which would have been subjected to its tax if the decedent had been domiciled in that State; and

(*b*) shall (except for the purposes of sub-paragraph (*a*) of this Article and for the purpose of any other proportionate allowance otherwise provided) take no account of property situated according to Article III outside that State in determining the amount or rate of tax.

Article V

(1) The contracting State imposing tax in the case of a deceased person, who, at the time of his death, was domiciled in such State or was a citizen thereof, shall allow against its tax (as otherwise computed) a credit for the amount of the tax imposed by the other contracting State with respect to property situated in such other contracting State and included for tax purposes by both States, but the amount of the credit shall not exceed the portion of the tax imposed by the former State which is attributable to such property. The provisions of this paragraph shall not apply with respect to any property referred to in paragraph (2) of this Article.

(2) If the decedent is regarded by each of the contracting States as being domiciled therein or a citizen thereof or one State imposes tax by reason of the decedent's being domiciled therein and the other State imposes tax by reason of the decedent being its citizen, each State shall, in addition to the credit authorized by paragraph (1) of this Article, allow against its tax (as otherwise computed) a credit for the part of the tax imposed by the other State with respect to property included for tax purposes by both States and situated or deemed to be situated

(a) in both contracting States, or

(b) outside of both States.

The total of the credits authorized by this paragraph shall be equal to the amount of tax imposed with respect to such property by the State imposing the smaller tax, and shall be divided between the two States in proportion to the amount of tax imposed by each of the two contracting States with respect to such property.

(3) For the purpose of this Article, the amount of the tax of each contracting State attributable to any designated property shall be ascertained after taking into account any applicable abatement, remittance, diminution or credit, as provided by its law other than any credit authorized by this Article.

Article VI

(1) Any claim for credit or for a refund of tax founded on the provisions of the present Convention shall be made within six years from the date of death of the decedent.

(2) Any refund shall be made without payment of interest on the amount so refunded.

Article VII

With a view to the more effective imposition of the taxes to which the present Convention relates, each of the contracting States undertakes, subject to reciprocity, to furnish such information in the matter of taxation, which the autho-

rities of the State concerned have at their disposal or are in a position to obtain under their own law, as may be of use to the authorities of the other State in the assessment of the taxes in question and to lend assistance in the service of documents in connection therewith. Any information so exchanged shall be treated as secret and shall only be disclosed to persons (including a court) concerned with the assessment, determination and collection of the taxes which are the subject of the present Convention, or the determination of appeals in relation thereto. No information shall be exchanged which would disclose a trade, business, industrial or professional secret. Information and correspondence relating to the subject matter of this Article shall be exchanged between the competent authorities of the contracting States in the ordinary course or on request.

Article VIII

(1) In accordance with the preceding Article, the competent authorities of the contracting States shall furnish information to each other without special request as follows :

(a) In the case of the United States : information disclosed by the United States estate tax records relative to estates of deceased persons who were domiciled in, or citizens of, Norway, and such information as is available, in the estates of deceased persons who were domiciled in, or citizens of, the United States, with respect to property situated in Norway.

(b) In the case of Norway : information disclosed by the Norwegian inheritance tax records relative to estates of deceased persons who were domiciled in or citizens of the United States and such information as is available in the estates of deceased persons who were domiciled in or citizens of Norway with respect to property situated in the United States.

(2) The information referred to in this Article shall be transmitted as soon as practicable in the course of audit of the estate and inheritance tax records.

Article IX

(1) The contracting States undertake to lend assistance and support to each other in the collection of the taxes which are the subject of the present Convention, together with interest, costs, and additions to the taxes.

(2) In the case of applications for enforcement of taxes, revenue claims of each of the contracting States which have been finally determined may be accepted for enforcement by the other contracting State and may be collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes.

(3) Any application shall include a certification that under the laws of the State making the application the taxes have been finally determined.

(4) The assistance provided for in this Article shall not be accorded with respect to the citizens or corporations or other entities or estates of citizens of the State to which application is made except where they are entitled under Article V of the present Convention to a credit for the avoidance of double taxation.

Article X

The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it except that such State may refuse to comply with a request for reasons of public policy or if compliance with the request would involve violation of a trade, business, industrial or professional secret.

Article XI

Where an estate of a decedent or a beneficiary thereof shows proof that the action of the revenue authorities of one of the contracting States has resulted or will result in double taxation contrary to the provisions of the present Convention, such estate or beneficiary shall be entitled to lodge a claim with either contracting State, but if the decedent was, or the beneficiary is, a citizen of or a corporation or other entity created or organized in one of the contracting States the claim must be filed with the latter State. Should the claim be upheld, the competent authority of such State shall undertake to come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

Article XII

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States. With respect to the provisions of this Convention relating to exchange of information, service of documents, and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, costs of collection, minimum amounts subject to collection and related matters.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

Article XIII

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the Contracting States in the determination of the tax imposed by such State.

(3) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

Article XIV

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) The present Convention shall become effective on the day of the exchange of instruments of ratification and shall be applicable to estates or inheritances in the case of persons who die on or after that date. It shall continue effective for a period of five years beginning with that date and indefinitely after that period, but may be terminated by either of the contracting States at the end of that five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given, the termination to become effective on the first day of January following the expiration of the six-month period.

DONE at Washington, in duplicate, in the English and Norwegian languages, the two texts having equal authenticity, this thirteenth day of June, 1949.

For the President of the United States of America :
[SEAL] James E. WEBB

For His Majesty the King of Norway :
[SEAL] Wilhelm MUNTHE MORGENSTIERNE

PROTOCOL OF EXCHANGE OF THE INSTRUMENTS OF RATIFICATION OF THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND NORWAY OF 13 JUNE 1949¹ FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON ESTATES AND INHERITANCES. SIGNED AT WASHINGTON, ON 11 DECEMBER 1951

The undersigned, James E. Webb, Acting Secretary of State of the United States of America, and Wilhelm Munthe de Morgenstierne, Ambassador Extraordinary and Plenipotentiary of the Kingdom of Norway to the United States of America, being duly authorized thereto by their respective Governments, have met for the purpose of exchanging the instruments of ratification by their respective Governments of the convention between the United States of America and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates and inheritances, signed at Washington on June 13, 1949, and, the respective instruments of ratification of the convention aforesaid having been compared and found in due form, the exchange took place this day.

As recited in the ratification on the part of the United States of America, the Senate of the United States of America, in its resolution of September 17, 1951, advising and consenting to the ratification of the convention aforesaid, expressed a certain reservation with respect thereto, as follows :

“ The Government of the United States of America does not accept Article IX of the convention, relating to reciprocal assistance in the collection of taxes.”

The text of the said reservation was communicated by the Government of the United States of America to the Government of Norway. The Government of Norway has accepted the said reservation. Accordingly, it is understood by the two Governments that the convention aforesaid, upon entry into force in accordance with its provisions, is modified in accordance with the said reservation, so that, in effect, Article IX of the convention aforesaid is deemed to be deleted.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Protocol of Exchange.

DONE in duplicate, in the English and Norwegian languages, at Washington this eleventh day of December 1951.

For the President of the United States of America :
James E. WEBB
For His Majesty the King of Norway :
Wilhelm MUNTHE MORGENSTIERNE

¹ See p. 164 of this volume.