

No. 2316

**UNITED STATES OF AMERICA
and
FINLAND**

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 3 March 1952

Official texts: English and Finnish.

Registered by the United States of America on 22 October 1953.

**ÉTATS-UNIS D'AMÉRIQUE
et
FINLANDE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur les successions. Signée à Washington, le 3 mars 1952

Textes officiels anglais et finnois.

Enregistrée par les États-Unis d'Amérique le 22 octobre 1953.

No. 2316. CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON ESTATES AND INHERITANCES. SIGNED AT WASHINGTON, ON 3 MARCH 1952

The President of the United States of America and the President of the Republic of Finland, 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 :

Dean Acheson, Secretary of State of the United States of America,

and

The President of the Republic of Finland :

Johan A. Nykopp, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Finland to the United States of America,

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

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 the Republic of Finland : The inheritance tax, the communal tax on inheritances, bequests, or devises, and the "poors percentage."

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

¹ Came into force on 18 December 1952 by the exchange of the instruments of ratification at Helsinki, in accordance with article XIII.

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 includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term “ Finland ” means the Republic of Finland.

(c) The term “ tax ” means the Federal estate tax imposed in the United States, or the inheritance tax, the communal tax on inheritances, bequests or devises, or the “ poors percentage ”, imposed in Finland, as the context requires.

(d) The term “ competent authorities ” means, in the case of the United States, the Commissioner of Internal Revenue, as authorized by the Secretary of the Treasury, and in the case of Finland, the Taxation Department of the Ministry of Finance.

(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 the tax laws of that State.

Article III

(1) For the purposes of the present Convention, the question whether a decedent was at the time of his death domiciled in or a citizen of the United States, or whether the decedent or the beneficiary of a deceased person's estate was a resident in Finland at the time of the decedent's death, shall be determined in accordance with the laws in force in the United States or Finland, respectively.

(2) In the case of a decedent who at the time of death was a citizen of or domiciled in the United States, or in the case of a decedent who at the time of death was a resident of Finland, or in the case of a beneficiary of a deceased person's estate who at the time of the death of such person was a resident of Finland, the situs of any of the following property or property rights shall, for the purposes of the imposition of the tax where the tax is imposed on the basis of the situs of property, and for the purposes of credit, be determined exclusively in accordance with the following rules :

(a) Immovable 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 immovable 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 bonds, promissory notes, bills of exchange, and insurance) 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) 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.

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

(f) 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.

(g) Patents, trade-marks, and designs shall be deemed to be situated at the place where they are registered or used.

(h) 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.

(i) All property other than hereinbefore mentioned 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 within such State, but if neither of the contracting States imposes the tax on the basis of situs of property therein, then all such other property shall be deemed to be situated where the deceased person was domiciled at the time of his death.

Article IV

(1) In the case of a decedent (other than a citizen or domiciliary of the United States) who at the time of his death was a resident of Finland, the United States, in imposing the tax :

(a) shall allow a specific exemption, which would be allowable under its law if the decedent had been domiciled in the United States, 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 such decedent had been domiciled in the United States; and

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

(2) In the case of a decedent (other than a resident of Finland) who at the time of his death was a citizen of or domiciled in the United States, or in the case of a beneficiary of a deceased person's estate (other than a beneficiary who at the time of the decedent's death was a resident of Finland), and such deceased person was at time of death a citizen of or domiciled in the United States, the taxation authority in Finland, in imposing the tax :

(a) shall allow a specific exemption, which would be allowable under its law if the decedent or beneficiary, as the case may be, had been resident in Finland, 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 such decedent or beneficiary had been resident in Finland; and

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

Article V

(1) If the decedent was at the time of his death domiciled in or a citizen of the United States, the United States shall allow against its tax (computed without application of this Article) a credit for the amount of the tax imposed in Finland with respect to property situated in Finland and included for tax purposes in both contracting States, but the amount of the credit shall not exceed the portion of the tax imposed by the United States which is attributable to such property. The provisions of this paragraph shall not apply with respect to any property referred to in paragraph (3) of this Article.

(2) If the decedent was at the time of his death a resident of Finland, or if the beneficiary of the deceased person's estate was at the time of the death of such person a resident of Finland, the taxation authority in Finland shall allow against its tax (computed without application of this Article) a credit for the amount of the tax imposed by the United States with respect to property situated in the United States and included for tax purposes in both contracting States, but the amount of the credit shall not exceed the portion of the tax imposed in Finland which is attributable to such property. The provisions of this paragraph shall not apply with respect to any property referred to in paragraph (3) of this Article.

(3) If in a particular case taxes are imposed in one of the contracting States by reason of the decedent's domicile or citizenship thereof and in the other contracting State by reason of the decedent's or beneficiary's residence therein, the taxation authorities in each contracting State shall allow against their taxes (computed without application of this Article) a credit for the part of the taxes imposed in the other contracting State with respect to property included for tax in 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 the taxes imposed with respect to such property in the contracting State imposing the smaller amount of taxes, and shall be divided between the two States in proportion to the amount of taxes imposed in each of the two States with respect to such property.

(4) For the purpose of this Article, the amount of the tax in each contracting State attributable to any designated property shall be ascertained after taking into account any applicable diminution or credit otherwise provided, except 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

The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against tax avoidance in relation to the taxes which are the subject of the present Convention. 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 taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

Article VIII

Each of the contracting States may collect taxes, which are the subject of this Convention, imposed by the other contracting State (as though such

tax were a tax imposed by the former State) as will ensure that the credit or any other benefit granted under the present Convention shall not be enjoyed by persons not entitled to such benefits.

Article IX

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 the request for reasons of public policy or if compliance would involve violation of a trade, business, industrial or professional secret or trade process.

Article X

Where the representative of the estate of a decedent or beneficiary of such estate 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 representative or beneficiary shall be entitled to present the facts to the contracting State of which the decedent was a citizen at time of death or of which the beneficiary is a citizen, or if the decedent was not a citizen of either of the contracting States at the time of death or if the beneficiary is not a citizen of either of the contracting States, such facts may be presented to the contracting State in which the decedent was domiciled or resident at time of death or in which the beneficiary is domiciled or resident. The competent authority of the State to which the facts are so presented shall undertake to come to an agreement with the competent authority of the other contracting State with a view to equitable avoidance of the double taxation in question.

Article XI

(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 this Convention shall in no case increase the tax liability in either contracting 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 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 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 present Convention shall be ratified and the instruments of ratification shall be exchanged at Helsinki 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 month's 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 Finnish languages, the two texts having equal authenticity, this third day of March, 1952.

For the President of the United States of America :
Dean ACHESON [SEAL]

For the President of the Republic of Finland :
Johan A. NYKOPP [SEAL]
