

No. 2635

**SWEDEN
and
SWITZERLAND**

Convention (with Final Protocol) for the avoidance of double taxation with respect to death duties. Signed at Stockholm, on 16 October 1948

Official texts: Swedish and German.

Registered by Sweden on 12 August 1954.

**SUÈDE
et
SUISSE**

Convention (avec Protocole final) tendant à éviter la double imposition en matière de droits de succession. Signée à Stockholm, le 16 octobre 1948

Textes officiels suédois et allemand.

Enregistrée par la Suède le 12 août 1954.

[TRANSLATION — TRADUCTION]

No. 2635. CONVENTION¹ BETWEEN THE KINGDOM OF SWEDEN AND THE SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO DEATH DUTIES. SIGNED AT STOCKHOLM, ON 16 OCTOBER 1948

The Kingdom of Sweden and the Swiss Confederation, desirous to avoid so far as possible double taxation with respect to death duties, have decided to conclude a convention.

For this purpose they have appointed as their plenipotentiaries :

His Majesty the King of Sweden :

Mr. Tage Erlander, His Minister of State.

The Swiss Federal Council :

Mr. Henry Vallotton, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation at Stockholm.

The plenipotentiaries, having communicated to each other their full powers, found in good and due form, have agreed on the following provisions :

Article 1

1. It is the purpose of this Convention to safeguard against the double taxation which might, on the death of a national of either of the two States, result from the simultaneous levying of the Swiss and Swedish succession duties.

2. For the purposes of the present Convention, the expression "succession duties" shall be taken to mean the duties which are levied *mortis causa* under Swiss or Swedish legislation, on the whole estate or on the portions thereof which accrue to the heirs.

3. The Convention shall apply in particular to duties levied by cantons, districts, circles (*Kreise*) and communes in Switzerland on the portions of the estate which accrue to the heirs or on the whole estate, and to the duties levied in Sweden on the portions of the estate which accrue to heirs or the whole estate (*arvsskatt och kvarlåtenskapsskatt*) and to any duties of the same or similar nature which may in the future be added to or replace such duties. It shall also apply to duties levied in the form of additional taxes.

¹ Came into force on 25 March 1949, by the exchange of the instruments of ratification at Berne, with retroactive effect as from 1 January 1949, in accordance with article 8.

Article 2

Real property (including property accessory thereto, and livestock or equipment used in agriculture or forestry) shall not be liable to succession duties except in the State in which such property is situated. Paragraphs 2 and 3 of Article 3 of the Convention¹ concluded between the two States on 16 October 1948 for the prevention of double taxation of income and property shall apply, *mutatis mutandis*.

Article 3

Any personal or real property which forms part of a succession and which is invested in commercial, industrial or handicraft undertakings of any kind, shall not be liable to succession duties except in the State in which the undertaking has a permanent establishment. Article 4 of the Convention concluded between the two States on 16 October 1948 for the prevention of double taxation on income and property,¹ and the relevant provisions of the final protocol thereto, shall apply *mutatis mutandis*.

Article 4

1. Any part of a deceased person's estate that is not covered by the terms of Articles 2 or 3, including claims of any kind secured by real property and personal property invested in permanent premises used in the exercise of a liberal profession in one of the two States shall not be liable to succession duties except in the State in which the deceased was last domiciled.

2. For the purposes of the present Convention, domicile shall be deemed to be in the State in which the deceased had, at the time of death, a permanent dwelling available. If there is more than one such place, the deceased shall be deemed to have been domiciled at the place with which his personal relations were closest (centre of vital interests; actual home). In case of disagreement respecting the centre of vital interests, the deceased shall be deemed to have had his domicile in the place where he was permanently resident at the time of his death. If the deceased was not permanently resident in either of the two States, he shall be deemed to have had his domicile in the State of which he was a national at the time of his death.

3. If the deceased has no permanent dwelling available in either of the two States, he shall be deemed to have had his domicile in the State of which he was a national at the time of his death.

4. For the purposes of this Convention, a person shall be deemed to be permanently resident in the place in which he resides in such a manner as to make it reasonable to assume that he has the intention of staying in that place otherwise than merely temporarily.

¹ See p. 78 of this volume.

5. If the deceased had, at the time of his death, the nationality of both States and his domicile is to be determined by reference to his nationality, the competent administrative authorities shall consult with each other concerning each particular case.

Article 5

1. Each of the two States shall charge the debts which are financially related to or which are secured by a deceased person's estate that is subject to its fiscal jurisdiction under Articles 2 and 3 first against such property and then against property which, under Article 4 (if applicable), is liable to its duties. If there is a surplus of debts, the said surplus shall be charged against the part of the estate dutiable in the other State.

2. Other debts shall be charged first against property dutiable in the manner described in Article 4, then against such other property forming part of the deceased person's estate as is, under Articles 2 or 3 (if applicable) dutiable in the competent State under Article 4. If there is a surplus of debts, the surplus shall be charged against the part of the estate dutiable in the other State.

Article 6

1. The competent administrative authorities of the two States may consult with each other with a view to eliminating double taxation in the case of the duties mentioned in Article 1 in cases not covered by, or arising from the application of, the present Convention, and in cases in which difficulty or doubt arises in the interpretation or application of the present Convention.

2. In addition, paragraph 1 of Article 10, Ad Article 10 of the Final Protocol and Article 11 of the Convention concluded between the two States on 16 October 1948 for the prevention of double taxation on income and property shall apply *mutatis mutandis*.

Article 7

1. The Convention shall be applicable to all cases in which the death of the deceased occurred after the time specified in the first sentence of paragraph 3 of Article 8.

2. The Convention shall, on the expiry of the calendar year in respect of which it has been denounced in due form, cease to apply to any cases in which death occurs thereafter.

Article 8

1. This Convention, the original of which is drawn up in the German and Swedish languages, shall be ratified, for Switzerland, by the Federal Council

after approval by the Federal Assembly, and for Sweden by His Majesty the King of Sweden, with the consent of Parliament. The instruments of ratification shall be exchanged at Berne as soon as possible.

2. Both texts of the Convention shall be authentic.

3. The Convention shall enter into force on the date of exchange of the instruments of ratification. It shall remain in force for so long as it is not denounced by either of the two States not less than six months before the expiration of a calendar year; if the Convention is so denounced, it shall cease to have effect on the expiration of such calendar year.

IN WITNESS WHEREOF the plenipotentiaries of the two States have signed this Convention and have thereto affixed their seals.

Stockholm, 16 October 1948

(Signed) Tage ERLANDER
[L.S.]

(Signed) D:r Henry VALLOTTON
[L.S.]

FINAL PROTOCOL

On proceeding to sign the Convention concluded this day between the Swiss Confederation and the Kingdom of Sweden for the prevention of double taxation in the case of succession duties, the undersigned plenipotentiaries have agreed on the following declaration which shall form an integral part of the Convention.

Ad Article 1

1. The list contained in paragraph 3 of Article 1 of the succession duties to which the present Convention applies is not exhaustive. In order to keep the list constantly up to date, the competent administrative authority of each State shall at the end of each year communicate to the other any amendments made to its fiscal legislation.

2. The competent administrative authorities of the two States shall consult with each other to remove any doubts which may arise regarding the duties to which the present Convention is to be applied.

Ad Articles 2 to 4

1. The provisions of Article 4 shall apply to a deceased person's estate of the nature referred to in Article 2 which is not situated in either of the two States, and to a deceased person's estate of the nature referred to in Article 3 which is not used for a permanent establishment in one of the two States.

2. The present Convention shall not limit the right of the two States to assess succession duties payable on the parts of a succession which are taxable exclusively by them at the rate which would be applicable if the entire estate or all the portions of the estate accruing to the heirs were taxable in that State.

3. This Convention shall not affect the right to more extensive immunities which may be granted to diplomatic or consular officials in accordance with the general rules of international law. To the extent that by reason of such more extensive immunities the State in which the official is accredited does not levy succession duties, such taxation shall be reserved to the State by which the official is accredited.

Ad Article 5

In derogation of Article 5, debts encumbering or secured by trusts shall not be chargeable except against the said trusts.

Stockholm, 16 October 1948

(Signed) Tage ERLANDER
[L.S.]

(Signed) D:r Henry VALLOTTON
[L.S.]