

No. 2643

**SWEDEN
and
FINLAND**

**Agreement for the avoidance of double taxation with respect
to death duties. Signed at Helsinki, on 31 March 1950**

Official texts: Swedish and Finnish.

Registered by Sweden on 12 August 1954.

**SUÈDE
et
FINLANDE**

**Convention tendant à éviter la double imposition en ma-
tière de droits de succession. Signée à Helsinki, le
31 mars 1950**

Textes officiels suédois et finnois.

Enregistrée par la Suède le 12 août 1954.

[TRANSLATION — TRADUCTION]

No. 2643. AGREEMENT¹ BETWEEN THE KINGDOM OF SWEDEN AND THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO DEATH DUTIES. SIGNED AT HELSINKI, ON 31 MARCH 1950

The Kingdom of Sweden and the Republic of Finland have decided to conclude an agreement for the avoidance of double taxation with respect to death duties.

They have for that purpose appointed as their plenipotentiaries :

His Majesty the King of Sweden :

Mr. Otto Johansson, His Envoy Extraordinary and Minister Plenipotentiary at Helsinki; and

The President of the Republic of Finland :

Mr. Åke Gartz, Minister of Foreign Affairs of the Republic;

Who, having examined each other's full powers, found in good and due form, have agreed upon the following provisions :

Article 1

This Agreement refers to death duties applicable to the estates of deceased Swedish and Finnish nationals.

Article 2

For the time being the following duties are regarded as death duties :

In the case of Sweden :

The succession duty and the estate duty.

In the case of Finland :

The succession duty and communal duty on inherited, bequeathed and entailed estate, and poor-relief tax.

This Agreement shall also apply to all other death duties imposed in Sweden or Finland, after the signing of this Agreement, on property passing on death, whether such duties are levied on the whole estate or on the share accruing to each heir or legatee.

¹ Came into force on 8 August 1950, by the exchange of the instruments of ratification at Stockholm, in accordance with article 12.

Article 3

Immovable property situated in one of the two States shall be subject to duty only in that State.

Immovable property shall include accessories, thereto, as well as livestock and equipment employed in agriculture or forestry, and also usufruct and rights to produce or other yield from immovable property.

Rights to royalties granted for the use of immovable property, or for the operation of a mine or other natural deposit, shall be subject to duty in the State in which such immovable property, mine or natural deposit is situated.

Article 4

Assets employed in a business or liberal profession and attributable to a permanent establishment in one of the States shall be subject to duty only in that State.

A permanent establishment shall be deemed to be a place where there are special installations or at which special arrangements have been made for the permanent use of such place for business purposes, such as a place where the undertaking has its management, offices, branches, factories, workshops, buying or selling premises, mines or other exploited natural deposits.

For the purposes of this Article the term "business" includes part-ownership in an undertaking, but not part-ownership resulting from the possession of shares or similar securities. "Similar securities" shall be understood to mean shares in economic associations, and, as regards current Finnish law, shares in joint-stock companies.

Article 5

Shares in a Swedish or Finnish joint stock company held by the deceased at the time of his death shall, if they represent not less than 60 per cent of the company's total share capital, be subject to duty only in the State in which the company is registered.

This provision shall also apply to shares held by the deceased at the time of his death which represent less than 60 per cent of the share capital but which, together with shares held at the time of the deceased's death by his spouse, his parents, heirs of his body or their spouses, amount to not less than the aforementioned percentage of the company's share capital.

Article 6

Property to which Article 3, 4 or 5 does not apply shall be subject to duty only in the State in which the deceased was domiciled at the time of his death.

For the purposes of this Agreement a deceased person shall be deemed to have been domiciled in one of the States if he had his permanent residence there. If any doubt arises as to the State in which a deceased person shall be deemed to have been domiciled as aforesaid, or if such person can be deemed to have been domiciled in both States, the question of domicile shall be settled by a special agreement between the supreme financial authorities of the two States. In this respect they shall take into consideration in which State the deceased at the time of his death had the stronger personal and economic ties, or, if this also cannot be decided, his nationality.

If the deceased person did not have a permanent residence in either State, he shall be deemed to have been domiciled in the State of which he was a national. If he was a national of both States, the question of where he shall be deemed to have been domiciled shall be settled by a special agreement between the supreme financial authorities.

Article 7

Where debts encumber a deceased's estate to which Article 3, 4 or 5 applies, or are secured by such estate, the State having the right to levy duty on the said estate shall deduct such debts from the estate or from other assets on which the said State has the right to levy duty. Debts other than those aforesaid shall be deducted from assets subject to duty in the State in which the deceased person was domiciled at the time of his death.

Where the debts deductible by one of the States under the provisions of the first paragraph exceed the value of all the assets on which the said State has the right to levy duty, the amount of debt in excess shall be deducted from assets subject to duty in the other State.

In the case of entailed property, however, only debts which encumber or are secured by the said property shall be deducted.

Article 8

Nothing in this Agreement shall affect the right of either State, with respect to those portions of an estate which, for the purpose of levying duty, are reserved exclusively to that State, to calculate the duty on the estate in accordance with the rate which would have applied if the whole estate or the whole inheritance or bequest had been subject to duty in the State concerned.

Article 9

This Agreement shall not affect any right to tax exemption which has been, or may hereafter be, conferred on diplomatic or consular officers in virtue of the general rules of international law. Where, owing to such tax exemption, estates are not subject to duty in the country to which such officers are accredited, the country accrediting them shall have the right to levy duty.

Article 10

If it can be shown that action taken by the revenue authorities of the two States results in taxation contrary to the principles of this Agreement, any person so affected by double taxation shall be entitled to lodge a claim with the State in which, in application of the provisions of Article 6, he is deemed to be domiciled, or in which the deceased person shall be deemed under this Agreement to have been domiciled at the time of his death. If the claim is upheld, the State last referred to shall take the action necessary to eliminate such double taxation.

Such claims shall ordinarily be lodged within two years from the end of the calendar year in which the double taxation came to the notice of the person liable to duty.

Article 11

The supreme financial authorities of the two States may make special arrangements for carrying out the provisions of this Agreement and for the avoidance of double taxation in respect to the duties specified in Article 2 in cases not regulated by this Agreement or arising from the application thereof, and in cases where difficulties or doubts may arise with respect to the interpretation and application of the Agreement.

Article 12

This Agreement, which has been done in two copies, in the Swedish and Finnish languages, both copies being authentic, shall be ratified, in the case of Sweden, by His Majesty the King of Sweden with the consent of the Riksdag and, in the case of Finland, by the President of the Finnish Republic with the consent of the Diet. The instruments of ratification shall be exchanged at Stockholm as soon as possible.

The Agreement shall come into force on the day on which the instruments of ratification are exchanged and shall apply in respect of the estate of any person dying on or after the said day.

The Agreement shall remain in force until denounced by one of the contracting States. Denunciation shall take place at least six months before the end of the calendar year. Where due notice is given, the Agreement shall cease to be effective at the end of the calendar year, but shall continue to apply in respect of the estate of any person dying before the end of the year.

IN FAITH WHEREOF both plenipotentiaries have signed the present Agreement and have thereto affixed their seals.

Helsinki, 31 March 1950

Otto JOHANSSON
[L.S.]

Åke GARTZ
[L.S.]