

No. 3331

**CANADA
and
FRANCE**

Agreement (with Protocol) for the avoidance of double taxation and the prevention of fiscal evasion with respect to succession duties. Signed at Paris, on 16 March 1951

Exchange of notes regarding the entry into force of the above-mentioned Agreement. Ottawa, 28 May 1953

Official texts: English and French.

Registered by Canada on 30 April 1956.

**CANADA
et
FRANCE**

Convention (avec Protocole) tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière de droits de mutation par décès. Signée à Paris, le 16 mars 1951

Échange de notes relatif à l'entrée en vigueur de la Convention susmentionnée. Ottawa, 28 mai 1953

Textes officiels anglais et français.

Enregistrés par le Canada le 30 avril 1956.

No. 3331. AGREEMENT¹ BETWEEN CANADA AND FRANCE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO SUCCESSION DUTIES. SIGNED AT PARIS, ON 16 MARCH 1951

The Government of Canada and the Government of the French Republic, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to succession duties, have agreed as follows :

Article 1

I—The taxes which are the object of this Agreement are :

- a) with respect to France the tax on inheritances;
- b) with respect to Canada succession duties imposed by the Government of Canada.

II—This Agreement applies equally to all other similar taxes which may be established for successions by either contracting State after the signing of this Agreement or in whatever territory this Agreement may be extended to as contemplated by the provisions of Article 8 below.

Article 2

I—In this Agreement, unless the context otherwise requires,

- a) the term “France”, when it is used in the geographical sense, will mean only “Metropolitan” France, excluding Algeria, the overseas *départements* and other territories of the French Union;
- b) the term “territory”, when used with respect to one or other of the contracting Governments, means France or Canada as the context requires.

II—In the application of the provisions of the present Agreement by one or other of the contracting States any term which is not otherwise defined will have, unless the context requires a different interpretation, the meaning which it has under the laws of the said contracting State relative to the taxes which are the subject of the present Agreement.

¹ Came into force on 28 May 1953, the date agreed upon by the two Governments in the exchange of notes of the same date, in accordance with article 9.

Article 3

For the purpose of this Agreement the question whether a decedent was domiciled in the territory of one of the contracting States at the time of his death shall be determined in conformity with the laws in that territory.

Nevertheless, when a decedent is considered by both States to have his domicile in its territory, the supreme fiscal authorities of France and Canada will determine, by a special agreement, the territory which, for the application of this Agreement, should be considered as that one in which such person was domiciled.

Article 4

The contracting State which imposes a tax at the death of a person who is domiciled at the time of his death in the territory of the other State will allow all exemptions, allowances, and deductions which would have been applicable under its own legislation if the deceased has been domiciled in its territory to an extent at least equal to :

a) in the case of an exemption, an amount which bears the same ratio to the total exemption as the value of the property in the said State bears to the value of the total property wheresoever situated, and

b) in the case of debts and deductions, an amount which bears the same ratio to the total debts and deductions as the value of the property situated in the said State subject to debts and deductions bears to the value of the total property wheresoever situated subject to debts and deductions.

Article 5

I—The contracting State which levies a tax on the death of a person who, at the time of his death, was domiciled in its territory will allow against the said tax (as calculated under its own legislation) a credit corresponding to the amount of tax imposed by the other contracting State on the property included in the basis of the tax imposed by both States; but the amount of this credit shall not exceed the portion of the tax collected by the former State on the same property.

II—For the purposes of this Article the amount of tax assessed by each of the contracting States with respect to any property shall be calculated so as to take into account all allowances, exemptions, credits, remittances, reductions or increases provided by its legislation other than the credit referred to in this Article.

Article 6

I—All claims for credit or refund of tax based on the provisions of this Agreement must be made within a period of five years from the date of the death of the deceased.

II—Any refund of this nature will be made without interest on the amount refunded.

Article 7

I—To assure the better application of the taxes referred to in this Agreement each of the contracting States undertakes to furnish to the other contracting State the information of a fiscal nature which the competent authorities have at their disposal or are in a position to obtain under the rules of its own legislation and which may be of use to the other State in the assessment of the said taxes.

Such information shall be exchanged directly by the competent fiscal authorities of the two States in the ordinary course or on request.

II—Pursuant to the foregoing provisions the Minister of National Revenue for Canada shall furnish in the ordinary course to the French Minister of Finance and of Economic Affairs the information which is available to him with respect to the composition of the estate :

a) of a decedent, any part of whose estate is subject to the application of the Dominion Succession Duty Act, when a portion of the property of the succession is subject in France to the Inheritance Act;

b) of a decedent who has his domicile in France when the succession includes property situated in Canada.

For his part, the French Minister of Finance and of Economic Affairs shall furnish in the ordinary course to the Minister of National Revenue for Canada the information which is available to him with respect to the composition of the estate :

a) of a decedent, any part of whose estate is subject to the inheritance taxes, when a portion of the property included in the succession is subject to the application of the Dominion Succession Duty Act;

b) of a decedent who has his domicile in Canada when the succession includes property situated in France.

Article 8

I—At the time the Agreement comes into force and so long as the Agreement shall remain in force, either contracting State may, on giving notice to the other State through diplomatic channels, declare its desire that the opera-

tion of the Agreement shall, wholly or subject to modifications to be stipulated in the notice, extend either to one of its overseas territories or to one of the overseas territories of the other State, subject to the condition that the said territory collects taxes which are similar in substance to the taxes referred to in Article I above.

The notice will indicate the date or dates from which the extension shall take effect, it being understood that such date or dates shall be at least sixty days after the date of the notice.

II—In the territory or territories designated by the notice referred to in the preceding paragraph, the provisions of this Agreement will apply subject to the conditions and reservations which may be stated in the notice from the date or dates mentioned therein, unless prior to the date fixed for a particular territory the contracting State which will have received notice shall have informed the other contracting State in writing and through diplomatic channels that it does not accept the notification with respect to this territory, in which case, the provisions which are the subject of the notice will not apply to the said territory.

III—At any time after the expiry of a period of one year from the coming into force of an extension by notice in accordance with the provisions of the first paragraph of this Article, either contracting State may, by notice given to the other contracting State through diplomatic channels, terminate the application of this Agreement to any territory to which this Agreement may have been extended. The Agreement shall cease to apply in the territory or territories stated in the notice from the date or dates mentioned in this notice.

It is understood, in any event, that such date or dates shall be at least six months after that of the notice and that such shall not affect in any way the continued application of the Agreement between France and Canada nor shall it affect the continued application as between one of these countries and any other territory to which the Agreement may have been extended in virtue of the provisions of the first paragraph of the present Article.

IV—In the application of this Agreement in relation to any territory to which it may have been extended it shall be understood, each time that the Agreement refers to France or to Canada, that it will refer equally to such territory.

V—Unless the two Governments shall have expressly agreed to the contrary, the notice of termination of this Agreement, as provided by Article 9, shall terminate the application of this Agreement with respect to any territory to which it may have been extended under the provisions of this Article.

VI—For the purposes of this Article, the expression “overseas territory” means a *département*, colony, protectorate or other overseas territory under the sovereignty or mandate of one of the two contracting States and united by constitutional law to one of these States; but it shall not include territories which do not have diplomatic representation either by France or Canada.

Article 9

The present Agreement is drawn up in the French and English languages, the two texts being equally authentic.

The present Agreement shall come into force on a date to be agreed upon by the two Governments.

It will remain in force as long as it shall not have been terminated by one of the two Governments after six months' prior notice.

DONE at Paris, in duplicate on the sixteenth day of March one thousand nine hundred and fifty-one.

For the Government of Canada :

George P. VANIER

For the Government of the French Republic :

A. PARODI

PROTOCOL

At the time of signing the Agreement¹ of this date relative to the prevention of double taxation in the matter of successions in France and in Canada, the two Governments declare that they have agreed as follows :

I—It is understood that the said Agreement shall not result in the modification of the rules governing the assessment and collection of the duties imposed in each of the States by reason of a death, but shall only have the result of avoiding double taxation by the offsetting of the tax collected in one of the States against the tax paid in the other.

II—It is understood that gift taxes are not referred to in this Agreement.

III—The present Agreement shall not apply to the fiscal exemptions allowed or which may be allowed in the future in virtue of the general rules in International Law to diplomatic agents and consuls. To the extent that by reason of such fiscal exemptions succession duties are not levied in the State where the above-mentioned agents exercise their duties it will be for the other State by which they were appointed to levy such duties.

¹ See p. 298 of this volume.

IV—It is understood that for the application of paragraph II of Article 7 :

a) inheritance taxes are payable in France on the death of a person who was not domiciled there, on the following property :

- 1° Real estate situated in France and rights in real property;
- 2° *Fonds de commerce* (business concerns) situated in France;
- 3° Tangible movables (such as furniture, jewelry, etc.), banknotes and other currency having legal tender, which are actually in France at the date of death;
- 4° Letters patent, trademarks, copyrights registered in France or used in France, in the absence of a licence;
- 5° Interests and limited partnerships in French companies in which such interests exist;
- 6° Stocks and share certificates in French companies, negotiable bonds issued by companies and all other French bodies, whether public or private, as well as *rentes* or other securities issued by the French State;
- 7° Promissory notes made by a person domiciled in France and bills of exchange drawn on a debtor domiciled in France;
- 8° Cash deposits and particularly bank deposits when the recipient of the deposit is domiciled in France;
- 9° Debts, including mortgages and all other intangible rights, when the debtor is domiciled in France.

b) the Dominion Succession Duty Act applies with respect to the death of a person who is not domiciled in Canada on the following property :

- 1° Rights or interests in or over immovable property, where such immovable property is situated in Canada;
- 2° Rights or interests in or over tangible movable property, where such property is situated in Canada, and, in particular, over bank and currency notes, other forms of currency recognized as legal tender in the place of issue, negotiable bills of exchange and negotiable promissory notes, where such instruments are located in Canada at the time of death;
- 3° Secured debts, where the securities affect or relate to immovable property situated in Canada;
- 4° Bonds or debentures where the certificates evidencing them are located in Canada at the time of death;
- 5° Shares, stock or debenture stock in :
 - a) a company incorporated in Canada or any of the provinces or territories thereof, and

- b) in a company incorporated outside Canada if the certificates evidencing such shares, stock or debenture stock are located in Canada in negotiable form.
- 6° Debenture stock, registered stock or inscribed stock of the Dominion of Canada or any province or political subdivision thereof, registered in Canada;
- 7° Bank accounts, if the accounts are kept in Canada, and money owing by any person residing in Canada whether by promissory note, book debt or otherwise;
- 8° Shares in a partnership where the business is carried on in Canada;
- 9° Choses in action of a deceased person, including rights or interests as a beneficiary under any trust, where such choses in action are properly recoverable or enforceable in Canada.

DONE at Paris, in duplicate, on the sixteenth day of March one thousand nine hundred and fifty-one.

For the Government of Canada :
George P. VANIER

For the Government of the French Republic :
A. PARODI

EXCHANGE OF NOTES REGARDING THE ENTRY INTO FORCE OF THE AGREEMENT OF 16 MARCH 1951¹ BETWEEN CANADA AND FRANCE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO SUCCESSION DUTIES. OTTAWA, 28 MAY 1953

I

The Secretary of State for External Affairs to the Ambassador of France to Canada

DEPARTMENT OF EXTERNAL AFFAIRS

Ottawa, May 28, 1953

Excellency,

I have the honour to refer to the Convention¹ between the Government of Canada and the Government of France constituting an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Succession Duties and to the Protocol² to this Convention, signed at Paris on March 16, 1951.

In accordance with paragraph 2 of Article 9 of the said Convention, I propose that the above mentioned Convention and Protocol shall come into force upon the date of the present Exchange of Notes and shall apply to all Successions to property of persons whose death occurred on or after that date.

If your Government is in agreement with this proposal, I have the honour to suggest that this note and your reply thereto shall constitute an agreement to this effect between the Government of Canada and the Government of France.

Accept, Excellency, the renewed assurances of my highest consideration.

C. S. A. RITCHIE

For Secretary of State for External Affairs

¹ See p. 298 of this volume.

² See p. 306 of this volume.

II

The Ambassador of France to Canada to the Secretary of State for External Affairs

EMBASSY OF FRANCE IN CANADA

Ottawa, May 28, 1953

Mr. Secretary of State,

In your letter of May the 28th, 1953, you referred to the Convention between the Government of France and the Government of Canada constituting an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Succession Duties and to the Protocol to this Convention, signed at Paris on March 16, 1951.

In accordance with paragraph 2 of Article 9 of the said Convention, you propose that

“the above-mentioned Convention and Protocol shall come into force upon the date of the present Exchange of Notes and shall apply to all Successions to property of persons whose death occurred on or after that date.”

I have the honour to inform you that the French Government is in agreement with this proposal. As you suggest, your note of May 28, 1953 and my reply thereto shall constitute an agreement to this effect between the Government of France and the Government of Canada.

Accept, Mr. Secretary of State, the assurances of my highest consideration.

Hubert GUÉRIN