

No. 3568

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**NETHERLANDS  
and  
FINLAND**

**Agreement (with Protocol) for the avoidance of double taxation and the establishment of reciprocal administrative assistance with respect to death duties. Signed at Helsinki, on 29 March 1954**

*Official texts: Dutch and Finnish.*

*Registered by the Netherlands on 18 October 1956.*

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**PAYS-BAS  
et  
FINLANDE**

**Convention (avec Protocole) tendant à éviter la double imposition et à établir des règles d'assistance administrative réciproque en matière de droits de succession. Signée à Helsinki, le 29 mars 1954**

*Textes officiels néerlandais et finnois.*

*Enregistrée par les Pays-Bas le 18 octobre 1956.*

## [TRANSLATION — TRADUCTION]

No. 3568. AGREEMENT<sup>1</sup> BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE ESTABLISHMENT OF RECIPROCAL ADMINISTRATIVE ASSISTANCE WITH RESPECT TO DEATH DUTIES. SIGNED AT HELSINKI, ON 29 MARCH 1954

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Her Majesty the Queen of the Netherlands and the President of the Republic of Finland,

Desiring to avoid so far as possible double taxation and to establish rules of reciprocal administrative assistance with respect to death duties,

Have decided to conclude an agreement to that purpose and have appointed as their plenipotentiaries :

Her Majesty the Queen of the Netherlands :

Her Chargé d'affaires ad interim at Helsinki, Mr. Carel G. Verdonck Huffnagel;

The President of the Republic of Finland :

The Minister of Foreign Affairs, Mr. Ralf Törnngren,

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

*Article 1*

1. The duties which are the subject of this Agreement are :

- (a) In the case of Finland : the succession duty, the communal duty on inheritances, legacies and bequests, and the poor relief contribution.
- (b) In the case of the Netherlands : the succession duty and the duty on property passing on death.

2. This Agreement shall also apply to all other death duties imposed in the Netherlands or Finland, after the signing of this Agreement, on the transfer of property *mortis causa*, whether such duties are charged on the whole estate or on the share accruing to each heir or legatee.

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<sup>1</sup> Came into force on 23 December 1955, by the exchange of the instruments of ratification at Helsinki, in accordance with article 16.

3. If the fiscal legislation of either of the contracting States should be amended in any material respect, then the competent authority of that State shall bring the amendment to the notice of the competent authority of the other State so that this Agreement may be amended accordingly or may be interpreted or applied in whatever manner is considered necessary.

4. This Agreement shall apply to death duties on the estates of deceased persons who at the time of their decease were domiciled in the Netherlands or in Finland.

The domicile of a person at the time of his decease is that place in which he then had his permanent residence with the clear intention of maintaining it there. If, at the time of his decease, the deceased person could be regarded as having a domicile in both States, he shall be deemed to have been domiciled in that State in which the centre of his personal and economic interests was situated. If the domicile cannot be determined in the manner aforesaid, the competent authorities of the two States shall come to an agreement with reference to each particular case.

Any diplomatic and consular official of one of the States who at the time of his decease was accredited to the other State shall be deemed to have been domiciled at that time in the first State, if under the municipal law of that State he then had his domicile therein.

5. As far as the Netherlands is concerned, this Agreement shall apply only to the Kingdom of the Netherlands in Europe.

6. The term "State" or "States" in this Agreement shall mean the Kingdom of the Netherlands or the Republic of Finland, or the Kingdom of the Netherlands and the Republic of Finland, as may be appropriate.

### *Article 2*

1. Immovable property (including accessories and any appurtenances thereof which consist of movable property) shall be liable to duty solely in the State in which it is situated.

2. For the purposes of paragraph 1 of this article, the term "immovable property" shall include mortgage claims or any other form of indebtedness secured by immovable property, but shall not include debentures.

### *Article 3*

1. Assets used in an undertaking carried on or in an independent profession practised by a deceased person at the time of his death shall, if so used by reason of a permanent establishment in one of the States, be liable to duty in that State only.

2. The term “ permanent establishment ” shall mean a management, branch, factory, office, workshop, salesroom or other permanent business establishment or a mine, quarry or other place where natural resources are exploited. It shall also include any place in which in consequence of an agreement, constructional work is carried out for at least one year, but it shall not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such undertaking or has a stock of merchandise from which he regularly fills orders on its behalf.

In this connexion :

- (i) An undertaking shall not be deemed to have a permanent establishment in one of the States by reason merely of the fact that it carries on business dealings in that State through a *bona fide* commission agent or broker acting in the ordinary course of his business as such;
- (ii) The fact that an undertaking maintains a fixed place of business in one of the States for the exclusive purpose of the purchase of goods or merchandise shall not of itself be taken to mean that the fixed place of business is a permanent establishment of such undertaking.

#### Article 4

Assets not mentioned in articles 2 and 3 of this Agreement shall be liable to duty solely in that State in which the deceased was domiciled at the time of his decease.

#### Article 5

1. If a debt relates to or is secured by property to which article 2 or article 3 of this Agreement applies, then that debt shall be deducted, in the State entitled to charge duty on the said property, from the value of the property in question or from the value of other property on which the said State is entitled to charge duty. Debts other than those aforesaid shall be deducted from the value of property which, under the terms of this Agreement, is liable to duty in the State in whose territory the deceased was domiciled at the time of his death.

2. If a debt which is deductible in one of the States pursuant to paragraph 1 of this article exceeds the value of all the property on which that State is entitled to charge duty, then the amount of the excess shall be applied towards diminishing the value of the property on which the other State is entitled to charge duty.

3. In the case of property held on trust, a debt shall not, however, be deductible from the value of the trust property unless the debt relates to or is secured by the trust property.

#### *Article 6*

This Agreement shall not affect any right to tax exemption which has been, or may hereafter be, conferred on diplomatic or consular officials in virtue of the general rules of international law. If, by reason of such tax exemption, assets are not liable to duty in the State to which such officials are accredited, the accrediting State shall be entitled to charge duty.

#### *Article 7*

Duties charged in one of the States on the whole estate of a deceased person, or on the share accruing to each heir or legatee, and any obligations connected therewith, shall not, so far as a national (individual or body corporate) of the other State is concerned, be different from or higher or more onerous than the duties or the obligations connected therewith to which the nationals of the first State are or may be liable.

#### *Article 8*

1. If the right to charge duty on the estate of a person who was at the time of his decease resident in Finland is shared between the States, then the duty chargeable in Finland shall not exceed the difference between the duty which would be charged if the whole estate were taxed in Finland and the duty which would be charged if only that part of the estate on which the Netherlands is entitled to charge duty were taxed in Finland.

2. Notwithstanding any provision of this Agreement to the contrary, the Netherlands shall be entitled, in charging Netherlands duty on the estate of a person who died domiciled in the Netherlands, to include the whole estate in the assessment for duty, but shall allow a relief in its duty by whichever is the lesser of the following amounts :

- (a) The amount of the duty charged in Finland on assets which are liable to Finnish duty under this Agreement;
- (b) Such part of the Netherlands duty as corresponds to the fraction which the net amount of the assets liable under this Agreement to Finnish duty represents of the net amount of the entire estate of the deceased.

#### *Article 9*

The competent authorities of the contracting States shall exchange such information (being information which is normally at the disposal of the fiscal

authorities) as is necessary for the purpose of giving effect to this Agreement, or of preventing fraud, or of applying statutory provisions against evasion of the law, in the matter of the duties which are the subject of this Agreement. Any information so exchanged shall be treated as confidential and shall not be disclosed to any persons other than those concerned with the assessment and collection of the duties which are the subject of this Agreement. Information of the nature described above shall not be exchanged if its exchange would lead to the disclosure of some trade, business, industrial or professional secret or manufacturing or trade process.

#### *Article 10*

1. In no case shall article 9 of this Agreement be so construed as to impose upon either of the contracting States the obligation :

- (a) To carry out administrative measures which conflict with the regulations or practice of either of the contracting States, or
- (b) To supply particulars which are not procurable under its own legislation or under that of the State requesting the particulars.

2. The State to which a request for information is addressed shall comply with the request as soon as possible. Nevertheless, the said State may refuse to comply with the request for reasons of public policy. In any such case, it shall inform the State making the request, as soon as possible, of the reason for the refusal.

#### *Article 11*

The competent authorities of each of the contracting States may make regulations which are necessary for the purpose of giving effect to the provisions of this Agreement.

#### *Article 12*

In any case in which the action of the fiscal authorities of the contracting States has resulted or will result in double taxation in contravention of the provisions of this Agreement, the person liable to double taxation in consequence of such action shall be entitled to lodge a claim with the State in which the deceased was domiciled at the time of his decease. 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 concerned. If the claim is upheld, the competent authority of the State in question shall consult with the competent authority of the other State with a view to avoiding the double taxation to which the claim relates.

### Article 13

Should any difficulty or doubt arise as to the interpretation or application of this Agreement, the competent authorities of the contracting States shall endeavour to settle the question by mutual consultation.

### Article 14

The term "competent authority" means, in the case of the Netherlands, the *Directeur-Generaal voor Fiscale Zaken* and in the case of Finland, the Director of the Taxation Department of the Ministry of Finance.

### Article 15

1. This Agreement may be extended without modification, or with agreed modifications, to any one of the Netherlands overseas territories, if the territory in question charges duties which are substantially similar in character to those mentioned in article 1 of this Agreement. The agreement between the two contracting States concerning such extension shall be embodied in an exchange of notes, which shall specify the date on which the extension becomes effective, any modifications and the conditions (including the conditions governing denunciation) subject to which the Agreement is to be applied.

2. Except as otherwise expressly agreed between the two States, if this Agreement is terminated, under article 17, with respect to the Netherlands or Finland, it shall cease to be applicable to any territory to which it has been extended under the present article.

### Article 16

1. This Agreement shall be ratified, as far as the Netherlands is concerned, by her Majesty the Queen of the Netherlands, and, as far as Finland is concerned, by the President of the Republic. The instruments of ratification shall be exchanged at Helsinki as soon as possible. The Agreement shall become operative on the day of the exchange of instruments of ratification.

2. This Agreement shall apply to all cases in which the death of a deceased person occurred on or after the day on which the Agreement shall have become operative.

### Article 17

This Agreement shall continue in force indefinitely, but either of the contracting States may, on or before 30 June in any calendar year, though not earlier than the year 1957, give notice in writing to the other contracting State, through the diplomatic channel, of its desire to terminate the Agreement and,

in such event, the Agreement shall cease to be operative at the end of that calendar year, remaining applicable, however, to all cases in which the death of a deceased person shall have occurred before the end of that calendar year.

IN WITNESS WHEREOF the above-mentioned plenipotentiaries have signed this Agreement and have thereto affixed their seals.

DONE at Helsinki in duplicate, in the Dutch and Finnish languages, both texts being equally authentic, on 29 March 1954.

For the Netherlands :

VERDONCK

For Finland :

Ralf TÖRNGREN

### PROTOCOL

On the occasion of the signature of the Agreement between the Kingdom of the Netherlands and the Republic of Finland for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance with respect to death duties, the plenipotentiaries have agreed that the following provision shall be an integral part of the Agreement.

#### *Ad article 9*

The information to be exchanged in pursuance of this article shall not include information obtained from banks or similar institutions.

DONE at Helsinki, in duplicate, in the Dutch and Finnish languages, both texts being equally authentic, on 29 March 1954.

For the Netherlands :

VERDONCK

For Finland :

Ralf TÖRNGREN

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