

No. 3587

CANADA
and
FRANCE

Exchange of notes (with annex) constituting an agreement concerning the application of the French national solidarity tax to Canadian nationals and corporations. Paris, 15 May and 8 September 1947

Official text of the notes: French.

Official text of the annex: English.

Registered by Canada on 20 November 1956.

CANADA
et
FRANCE

Échange de notes (avec annexe) constituant un accord concernant l'application de l'impôt français de solidarité nationale aux ressortissants canadiens et aux sociétés canadiennes. Paris, 15 mai et 8 septembre 1947

Texte officiel des notes: français.

Texte officiel de l'annexe: anglais.

Enregistré par le Canada le 20 novembre 1956.

No. 3587. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN CANADA AND FRANCE CONCERNING THE APPLICATION OF THE FRENCH NATIONAL SOLIDARITY TAX TO CANADIAN NATIONALS AND CORPORATIONS. PARIS, 15 MAY AND 8 SEPTEMBER 1947

I

The Canadian Embassy in France to the Ministry of Foreign Affairs of France

[TRANSLATION² — TRADUCTION³]

CANADIAN EMBASSY

Paris, May 15, 1947

No. 133

In connection with discussions held in recent months between representatives of the Ministries of Foreign Affairs and Finance and officials of the Canadian Embassy with regard to the French Tax on capital and capital gains known as the National Solidarity Tax, the Canadian Embassy has the honour to include two copies of a memorandum⁴ summarizing the points upon which the representatives of both governments have reached an agreement with regard to the application of the National Solidarity Tax to Canadian nationals and Canadian companies.

It would be appreciated if the Ministry of Foreign Affairs would kindly communicate the agreement of the French authorities upon the contents of this memorandum.

In the course of the discussions, the Canadian Embassy officials expressed the opinion that, under Articles 2 and 7 of the Convention concerning the rights of nationals and questions of trade and navigation between Canada and France, signed in Ottawa on the twelfth May, 1933,⁵ Canadian nationals and companies are entitled to enjoy, for purposes of taxation, the treatment of the most favoured foreign nation. The Canadian Government does not share the interpretation given by the Ministry of Finance in this respect, and a note on the question will soon be sent to the Ministry of Foreign Affairs.

¹ Came into force on 8 September 1947 by the exchange of the said notes.

² Translation by the Government of Canada.

³ Traduction du Gouvernement canadien.

⁴ See p. 263 of this volume.

⁵ See p. 285 of this volume.

ANNEX

MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF FRANCE CONCERNING THE APPLICATION TO CANADIAN NATURAL OR JURIDICAL PERSONS OF THE TAX ON CAPITAL AND CAPITAL GAINS, KNOWN AS THE "NATIONAL SOLIDARITY TAX" (French Ordinance No. 451820 of August 15, 1945)

1. "Habitual Residence" as stated in Article 4 of the Ordinance shall be interpreted by the French fiscal authorities as being identical with domicile.

2. Funds brought into France after the Liberation and before June 4th, 1945, by Canadian natural persons *not domiciled in France* and normally subject to the capital tax shall not be subject to the capital gains tax (taxe de l'enrichissement). *It is understood that juridical persons are not, in any case, subject to the capital gains tax.*

3. Assets owned by Canadian nationals (physical or juridical persons) domiciled or *habitually* residing outside France which accumulated in France before or during the war but had not actually been transferred on June 4th, 1945, and which have the character of normal payments on international current account and do not represent transfers of capital are exempt from both capital and capital gains tax. Without restricting the generality of the foregoing provision, normal current payments include such payments as :

- a) payments arising from normal business operations, notably payments for imports of goods and accessory charges ;
- b) payments of profits, dividends, interest, royalties, proceeds of stocks and bonds and amortization payments on legally contracted debts ;
- c) insurance premiums and insurance indemnities ;
- d) annuity payments and credits arising from relief payments made in France.

Exemption will also include :

Assets mentioned below submitted to special regulations :

- (i) Commercial debts which were paid in francs to the Office des Changes, in accordance with the law of February 8, 1941 ;
- (ii) Commercial debts which should have been paid in francs to the Office des Changes, in accordance with the law of February 8, 1941, but for which the Office des Changes granted an exemption of payment and authorized the debtor to constitute a reserve in dollars ;
- (iii) Debts collected by the "Treuhand Und Revision Stelle".

4. A Canadian natural or juridical person subject to the National Solidarity tax is entitled to deductions for debts contracted and payable in France or elsewhere, under the same conditions as if such debts had been contracted by a French person.

5. Canadian natural or juridical persons, which may have made solidarity tax declarations or paid solidarity tax instalments prior to the *present Agreement*, may amend such declarations and have refunded such portion of such instalments to which they are entitled by the terms of the present Agreement.

6. Because of the modifications which may have to be introduced into the tax declarations of Canadian natural or juridical persons subject to the solidarity tax, the fiscal authorities of the French Republic have agreed to remit, as much as possible, penalties which might be incurred by Canadian natural or juridical persons for late declaration or non-declaration, as laid down in the French Ordinance.

Paris, May 15, 1947

II

The Ministry of Foreign Affairs of France to the Canadian Embassy in France

[TRANSLATION¹ — TRADUCTION²]

MINISTRY OF FOREIGN AFFAIRS

Paris, September 8, 1947

No. C.A.3

With reference to Note No. 133, dated May 15th, of the Canadian Embassy, the Ministry of Foreign Affairs has the honour to advise that, in accord with the concerned agencies of the Ministry of Finance, the French authorities are agreeable to the memorandum annexed to the above-mentioned Note.

While reserving the views of the French authorities, the Ministry of Foreign Affairs notes the opinion of the Canadian representatives with regard to the interpretation, in taxation matters, of the most-favoured-nation clause which was inserted in the Franco-Canadian Convention of May 12, 1933.

¹ Translation by the Government of Canada.

² Traduction du Gouvernement canadien.