

No. 3655

ITALY
and
UNITED STATES OF AMERICA

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates and inheritances. Signed at Washington, on 30 March 1955

Official texts: English and Italian.

Registered by Italy on 10 January 1957.

ITALIE
et
ÉTATS-UNIS D'AMÉRIQUE

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur les successions et les legs. Signée à Washington, le 30 mars 1955

Textes officiels anglais et italien.

Enregistrée par l'Italie le 10 janvier 1957.

No. 3655. CONVENTION¹ BETWEEN THE ITALIAN REPUBLIC AND THE UNITED STATES OF AMERICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON ESTATES AND INHERITANCES. SIGNED AT WASHINGTON, ON 30 MARCH 1955

The President of the United States of America and the President of the Italian Republic, being desirous of concluding a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates and inheritances, have appointed for that purpose as their respective Plenipotentiaries :

The President of the United States of America :

John Foster Dulles, Secretary of State of the United States of America ;
and

The President of the Italian Republic :

Gaetano Martino, Minister of Foreign Affairs of the Italian Republic ;
who, having communicated to one another their respective full powers, found in good and due form, have agreed upon the following Articles :

Article I

(1) The taxes referred to in this Convention are the following taxes asserted upon death :

- (a) In the case of the United States of America : the Federal estate tax, and
- (b) In the case of Italy : the estate and inheritance taxes.

(2) The present Convention shall also apply to any other estate or inheritance taxes of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

Article II

(1) As used in this Convention :

(a) The term " United States " means the United States of America, and when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

¹ Came into force on 26 October 1956, upon the exchange of the instruments of ratification at Rome, in accordance with article XI.

(b) The term “Italy” means the Italian Republic.

(c) The term “tax” means the Federal estate tax imposed by the United States, or the estate or inheritance tax imposed by Italy, as the context requires.

(d) The term “competent authority” means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of Italy, the Ministry of Finance, General Directorship of Indirect Taxes on Business.

(2) In the application of the provisions of the present Convention by one of the contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own laws.

Article III

(1) In the case of the death of a person who at the time of his death was a national of or domiciled in one of the contracting States, the situs of any of the following property or property rights shall, for the purposes of the imposition of the tax, and for the purposes of the credit authorized by Article V, be determined exclusively in accordance with the following rules :

(a) Real property shall be deemed to be situated at the place where the land involved is located.

(b) Tangible personal property (other than such property for which specific provision is hereinafter made) and bank or currency notes and other forms of currency recognized as legal tender in the place of issue shall be deemed to be situated at the place where such property or currency is located at the time of death, or, if *in transitu*, at the place of destination.

(c) Debts (including bonds, promissory notes, and bills of exchange) shall be deemed to be situated at the place where the debtor resides, or, if the debtor is a corporation, at the place in or under the laws of which such corporation was created or organized.

(d) Shares or stock in a corporation (including shares of stock held by a nominee where the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place in or under the laws of which such corporation was created or organized.

(e) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft.

(f) Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on.

(g) Patents, trade-marks and designs shall be deemed to be situated at the place where they are registered or used.

(h) Copyrights, franchises, rights to artistic and scientific works and rights or licenses to use any copyrighted material, artistic and scientific works, patents, trade-marks or designs shall be deemed to be situated at the place where the rights arising therefrom are exercisable.

(i) All property other than hereinbefore mentioned shall be deemed to be situated in the State in which the deceased person was domiciled at the time of his death.

(2) For the purposes of the present Convention, the question whether a decedent was at the time of his death a national of or domiciled in one of the contracting States, or whether a debtor resided therein, shall be determined in accordance with the law in force in that State.

Article IV

The contracting State which imposes tax in the case of a decedent who at the time of his death was not a national of such State and was not domiciled in that State but was a national of or domiciled in the other State.

(a) shall allow a specific exemption which would be allowable under its law if the decedent had been domiciled in that State in an amount not less than the proportion thereof which the value of the property subjected to its tax bears to the value of the property which would have been subjected to its tax if the decedent had been domiciled in that State; and

(b) shall (except for the purposes of subparagraph (a) of this Article and for the purpose of any other proportionate allowance otherwise provided) take no account of property situated outside that State in determining the rate and the amount of tax.

Article V

(1) The contracting State imposing tax in the case of a deceased person, who, at the time of his death, was domiciled in such State or was a national thereof, shall allow against its tax (computed without credit for the tax of the other contracting State) a credit for the amount of the tax imposed by the other contracting State with respect to property situated in such other contracting State and included for tax purposes by both States, but the amount of the credit shall not exceed the portion of the tax imposed by the former State which is attributable to such property.

(2) For the purpose of this Article, the amount of the tax of each contracting State attributable to any designated property shall be ascertained after taking into account any applicable diminution or credit otherwise provided, except any credit authorized by this Article.

(3) Any refund of tax based on the provisions of this Article shall be made without payment of interest on the amount so refunded.

Article VI

The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against tax avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court) concerned with the assessment and collection of the taxes which are the subject of the present Convention or the determination of appeals in relation thereto. No information shall be exchanged which would disclose any trade secret or trade process.

Article VII

Each of the contracting States may collect such taxes, which are the subject of this Convention, imposed by the other contracting State (as though such taxes were taxes imposed by the former State), as will ensure that the credit or any other benefit granted under the present Convention shall not be enjoyed by persons not entitled to such benefits.

Article VIII

Where the representative of the estate of a decedent or a beneficiary of such estate shows proof that the action of the revenue authorities of one of the contracting States has resulted or will result in double taxation contrary to the provisions of the present Convention, such representative or beneficiary shall be entitled to present the facts to the contracting State of which the decedent was a citizen at time of death or of which the beneficiary is a citizen, or if the decedent was not a citizen of either of the contracting States at the time of death or if the beneficiary is not a citizen of either of the contracting States, such facts may be presented to the contracting State in which the decedent was domiciled or resident at time of death or in which the beneficiary is domiciled or resident. Should the claim be upheld, the competent authority of the State to which the facts are so presented will come to an agreement with the competent authority of the other contracting State with a view to equitable avoidance of the double taxation in question.

Article IX

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of this Convention shall not be construed so as to increase the tax imposed by either contracting State.

(3) Should any difficulty or doubt arise as to the interpretation or application of the present Convention or its relationship to conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

Article X

The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States, and may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

Article XI

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

(2) The present Convention shall become effective on the day of the exchange of instruments of ratification and shall be applicable to estates or inheritances in the case of persons who die on or after that date. It shall continue effective for a period of five years beginning with that date and indefinitely after that period, but may be terminated by either of the contracting States at the end of that five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given, the termination to become effective on the first day of January following the expiration of the six-month period.

DONE at Washington, in duplicate, in the English and Italian languages, the two texts having equal authenticity, this 30th day of March, 1955.

For the President
of the United States
of America :

John Foster DULLES

For the President
of the Italian Republic :

Gaetano MARTINO