

No. 4283

**BELGIUM
and
SWEDEN**

Agreement (with Protocol) for the avoidance of double taxation and the settlement of certain other questions relating to death duties. Signed at Stockholm, on 18 January 1956

Official texts: French and Swedish.

Registered by Belgium on 14 April 1958.

**BELGIQUE
et
SUÈDE**

Convention (avec Protocole) tendant à éviter les doubles impositions et à régler certaines autres questions en matière d'impôts sur les successions. Signée à Stockholm, le 18 janvier 1956

Textes officiels français et suédois.

Enregistrée par la Belgique le 14 avril 1958.

No. 4283. AGREEMENT¹ BETWEEN BELGIUM AND SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE SETTLEMENT OF CERTAIN OTHER QUESTIONS RELATING TO DEATH DUTIES. SIGNED AT STOCKHOLM, ON 18 JANUARY 1956

His Majesty the King of the Belgians and His Majesty the King of Sweden, being desirous of avoiding double taxation and of settling certain other questions with respect to death duties, have decided to conclude an Agreement and have for that purpose appointed as their plenipotentiaries :

His Majesty the King of the Belgians :

Mr. Marcel H. Jaspar, His Envoy Extraordinary and Minister Plenipotentiary at Stockholm ;

His Majesty the King of Sweden :

Mr. Östen Undén, His Minister of State for Foreign Affairs,

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

Article 1

1. This Agreement lays down rules applicable to the following taxes :

A. *In the case of Belgium :*

- (1) The succession duty (*droit de succession*) ;
- (2) The duty on transfer of property *mortis causa* (*droit de mutation par décès*).

B. *In the case of Sweden :*

- (1) The succession duty (*arvsskatten*) ;
- (2) The estate duty (*hvarlåtenskapsskatten*).

2. This Agreement shall also apply to all other duties imposed *mortis causa* in Belgium or in Sweden after the signing of this Agreement, whether such duties are levied on the entire estate or on the share accruing to each heir or legatee.

3. This Agreement shall apply to duties levied on the estates of persons who at their death were Belgian or Swedish nationals.

4. For the purposes of this Agreement, the territory of Belgium shall comprise the latter State's metropolitan territory alone.

¹ Came into force on 1 April 1958, the date of the exchange of the instruments of ratification at Brussels, in accordance with article 12. Is not applicable to the Territories of the Belgian Congo and Ruanda-Urundi.

Article 2

1. Immovable property, including mines and other mineral deposits, shall be dutiable only in the State in which it is situated.

Rights to royalties in respect of the exploitation of mines or other mineral deposits shall be subject to duty only in the State in which the mines or mineral deposits are situated.

2. However, if the deceased was domiciled in Belgium at the time of his death, Belgium shall also be entitled to levy duty on property of the kind referred to in paragraph 1 situated in Sweden. In this case, Belgium shall deduct from its duty, to the extent that the latter is leviable on the said property and in accordance with the rules of application laid down in its legislation, the amount of the duty collected in Sweden on the same property.

3. If the deceased was domiciled in Sweden at the time of his death, Sweden shall also be entitled to levy duty on property of the kind referred to in paragraph 1 situated in Belgium. In this case, the total amount of duty due in Sweden shall not exceed the difference between the duty which would have been levied if the estate as a whole had been taxed in Sweden and the duty which would have been levied if Sweden had taxed only the portion of the estate comprised by the property of the kind referred to in paragraph 1 situated in Belgium.

4. For the purposes of this article, immovable property shall include, in Belgium, property deemed immovable (*immeubles par destination*) and, in Sweden, livestock and movables used in agricultural or forestry undertakings.

Article 3

1. Property other than that referred to in article 2 shall be dutiable only in the State in which the deceased was domiciled at his death.

2. For the purposes of this Agreement, a person shall be considered to be domiciled in that of the two States in which he has his permanent home.

If the person concerned possesses no permanent home in either of the two States, he shall be deemed to be domiciled in the State of which he is a national.

If he is a national of both States, the competent authorities of the two States shall consult together with a view to resolving the difficulty.

Article 4

1. Debts which are specifically secured by property referred to in article 2 of this Agreement shall be deducted, in the State in which such property is subject to duty, from the value of the said property or of any other assets on which the said State has the right to levy duty. Debts other than those aforesaid shall be deducted from the value of the property subject to duty in the State in which the deceased was domiciled at his death.

2. Where debts deductible by one of the Contracting States under the provisions of paragraph 1 of this article exceed the value of all the property on which the said State has the right to levy duty, the amount of debt in excess shall be deducted from property subject to duty in the other State.

3. In the case of the estate of a Belgian national, the deduction of debts provided for in paragraphs 1 and 2 of this article shall be permissible only if the deceased had his permanent home in Belgium or Sweden at his death.

Article 5

The present Agreement shall in no way affect such fiscal exemption as are or may in the future be accorded in virtue of the general rules of international law to diplomatic and consular agents. To the extent that by reason of such fiscal exemptions death duties are not levied in the Contracting State to which the said agents are accredited, the right to levy such duties shall rest with the Contracting State in whose service they are employed.

Article 6

Nationals of one of the two Contracting States may not be required by the other State to pay any duties covered by this Agreement which are other or higher than those payable, under the same conditions, by nationals of the latter State.

In particular, nationals of one of the two States who are liable to duty in the territory of the other State shall enjoy exemptions, basic rebates, deductions and reductions of duty granted in respect of family circumstances under the same conditions as nationals of the latter State.

Article 7

1. The taxation authorities of the two Contracting States shall exchange all information in their possession or available to them which is necessary for carrying out the provisions of this Agreement or for the prevention of tax fraud or for the administration of the rules for the prevention of fiscal evasion in relation to the taxes which are the subject of this Agreement.

2. All information thus exchanged shall be treated as secret and may not be divulged, except by the taxpayer or his agent, to any persons other than those responsible for the assessment and collection of the taxes which are the subject of this Agreement or for dealing with claims and appeals relating to such taxes.

3. The provisions of this article shall not be construed as obliging the taxation authorities of either State to communicate information of a kind which cannot be obtained under the taxation laws of that or of the other State, or information which in their opinion might, if communicated, disclose a manufacturing process or infringe an industrial, commercial or professional secret or be prejudicial to the

public interest. Similarly, these provisions may not be construed as obliging the taxation authorities of either State to perform acts not in accordance with the regulations or practices of that State.

Article 8

1. The competent authorities of each of the two Contracting States may take, in accordance with the usage of the State concerned, such measures as are necessary to give effect to the present Agreement.

2. The competent authorities of the two Contracting States may enter into direct negotiations with each other for the purpose of giving effect to this Agreement.

Article 9

Any person who is subjected to double taxation contrary to the provisions of the present Agreement may, without prejudice to the exercise of his rights under the laws in force in each State, submit a claim to the competent authority of the State in which the deceased was domiciled at his death.

If the claim is upheld, the competent authorities of the two States shall agree together on measures to eliminate the double taxation.

No reimbursement under this article shall be effected more than five years after 1 January of the year in which the second tax was paid, unless the claim referred to in paragraph 1 was submitted before the end of that period.

Article 10

If any difficulty or doubt arises in the interpretation or application of this Agreement, the competent authorities of the two Contracting States shall come to a direct understanding with each other with a view to settling the matter.

Article 11

The term "competent authority" means, in the case of Belgium, the Minister of Finance or his authorized representative and, in the case of Sweden, the Minister of Finance or his authorized representative.

Article 12

1. This Agreement shall be ratified, in the case of Belgium, by His Majesty the King of the Belgians and, in the case of Sweden, by His Majesty the King of Sweden, subject to the consent of the Riksdag. The instruments of ratification shall be exchanged as soon as possible at Brussels.

2. This Agreement shall become effective on the day of the exchange of instruments of ratification. It shall apply to the estates of persons dying on or after that date.

Article 13

This Agreement is concluded for an indefinite period.

Notice of termination of the Agreement may be given by either of the Contracting States in writing and through the diplomatic channel on or before 30 June of any year not earlier than the fifth year following the year of the exchange of the instruments of ratification.

On notice of termination thus given the Agreement shall cease to have effect at the end of the calendar year, but shall continue to apply to the estates of persons dying in the interval.

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

DONE at Stockholm in duplicate in the French and Swedish languages, both texts being equally authentic, on 18 January 1956.

(Signed) Marcel H. JASPAR

(Signed) Östen UNDÉN

PROTOCOL

On signing the Agreement concluded this day between Belgium and Sweden for the avoidance of double taxation and the settlement of certain other questions relating to death duties,¹ the undersigned plenipotentiaries have agreed to the following provisions, which shall form an integral part of the Agreement :

Ad Article 2

Debts which are specifically secured by real estate shall be deemed for the purposes of this Agreement to be movable property.

Ad Article 4

In Sweden, debts shall not be deducted from the value of entailed estates except in so far as they are specifically secured by the latter.

A. On signing the Agreement, the Belgian plenipotentiary also made the following declaration :

When, under Belgian legislation, Belgium collects duty on the estate of a person who at his death was resident in Belgium but who was not at that time either a Belgian or a Swedish national and was not domiciled in Sweden, Belgium shall deduct from its duty, to the extent that the latter is leviable on property on which duty has already been collected in Sweden and in accordance with the

¹ See p. 36 of this volume.

rules of application laid down in Belgian law, the amount of the duty collected in Sweden on the same property.

B. On signing the Agreement, the Swedish plenipotentiary also made the following declaration :

When, under Swedish law, Sweden collects duty on the estate of a person who at his death was domiciled in Sweden but who was not at that time either a Swedish or a Belgian national and was not domiciled in Belgium, Sweden, in pursuance of the rules laid down in Swedish law, shall apply the following principle in so far as Swedish duty is leviable on property on which duty has been collected in Belgium : the total amount of duty due in Sweden may not exceed the difference between the duty leviable on the estate as a whole and the duty which would have been collected if Sweden had levied duty on only that portion of the estate which is subject to duty in Belgium.

DONE at Stockholm in duplicate in the French and Swedish languages, both texts being equally authentic, on 18 January 1956.

(Signed) Marcel H. JASPAR

(Signed) Östen UNDÉN