

No. 4161

**DENMARK
and
SWITZERLAND**

**Convention (with Final Protocol) for the avoidance of double
taxation in the matter of inheritance taxes. Signed at
Berne, on 14 January 1957**

Official texts : Danish and German.

Registered by Denmark on 31 January 1958.

**DANEMARK
et
SUISSE**

**Convention (avec Protocole final) en vue d'éviter les doubles
impositions dans le domaine des impôts sur les succes-
sions. Signée à Berne, le 14 janvier 1957**

Textes officiels danois et allemand.

Enregistrée par le Danemark le 31 janvier 1958.

[TRANSLATION — TRADUCTION]

No. 4161. CONVENTION¹ BETWEEN THE KINGDOM OF DENMARK AND THE SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION IN THE MATTER OF INHERITANCE TAXES. SIGNED AT BERNE, ON 14 JANUARY 1957

The Swiss Confederation and the Kingdom of Denmark, being desirous of avoiding so far as possible double taxation in the matter of inheritance taxes, have agreed to enter into a convention.

For this purpose plenipotentiaries have been designated as follows :

By the Swiss Federal Council :

Mr. Max Petitpierre, member of the Federal Council, Chief of the Federal Political Department ;

By His Majesty the King of Denmark :

Mr. Carl-Adalbert-Constantin Brun, Envoy Extraordinary and Minister Plenipotentiary of the Kingdom of Denmark in Switzerland ;

Who, having communicated to each other their full powers, found in good and due form, have agreed on the following provisions :

Article 1

1. It is the object of this Convention to avoid any double taxation which might arise, upon the decease of a person last domiciled in one of the two States, from the simultaneous charging of Danish and Swiss inheritance taxes.

2. For the purposes of this Convention, the term "inheritance taxes" (or "tax") means the taxes charged *mortis causa* under Danish or Swiss law on the entire estate or on the portions of the estate which accrue to the heirs.

3. The Convention relates in particular to :

(a) In the case of Denmark :

The tax on the portions of an estate which accrue to the heirs ;

(b) In the case of Switzerland :

The taxes charged by the cantons, districts, *Kreise* and communes on the entire estate or on the portions thereof which accrue to the heirs.

¹ Came into force on 26 August 1957 by the exchange of the instruments of ratification in Copenhagen, in accordance with article 8.

4. The Convention also relates to any taxes of the same or of like nature which may in the future be added to or substituted for the taxes referred to in the foregoing paragraph, and to taxes charged in the form of surcharges (*centimes additionnels*).

5. Except as provided in article 5 hereof, this Convention shall not, so far as the Kingdom of Denmark is concerned, apply to the Faroe Islands and Greenland.

Article 2

1. Immovable property (including property accessory thereto and livestock and equipment used in the operation of an agricultural or forestry undertaking) shall not be liable to inheritance taxes except in the State in which the property is situated.

2. Rights which are governed by the provisions of private law concerning real property, rights of usufruct in immovable property and rights to fixed or variable compensation (royalties) for the use of mineral deposits, wells and other natural resources (but not claims of any nature whatsoever which are secured by mortgage) shall be deemed to be immovable property.

3. The expressions "immovable property", "property accessory thereto", "rights deemed to be immovable property" and "rights of usufruct" shall have the meanings attached to them in the legislation of the State in which the property in question is situated.

Article 3

1. The assets of an estate which are not governed by article 2 shall not be liable to inheritance taxes except in the State in which the deceased person was domiciled at the time of his death.

2. For the purposes of this Convention, an individual shall be deemed to be domiciled in the State in which he may establish his permanent residence. If he may do so in either State, he shall be deemed to be domiciled at the place with which he has the strongest personal ties (centre of vital interests).

3. If the domicile of an individual cannot be determined as provided in the foregoing paragraph, he shall be deemed to be domiciled at the place of his permanent abode. For the purposes of this provision, a person shall be deemed to have his permanent abode at the place where he resides in such circumstances that it may be presumed that he does not propose to remain there merely temporarily. If an individual has a permanent abode in both States or has no permanent abode in either State, he shall be deemed to be domiciled in the State of which he is a national. If he is a national of both States or is not a national of either State, the competent administrative authorities shall come to an agreement on the question in each individual case.

Article 4

The debts of an estate shall be deducted in the proportion which the taxable portion in each State of the gross assets of the estate bears to the entire gross property left by the deceased person.

Article 5

1. If a taxpayer can prove that, in consequence of measures adopted by the tax authorities of the two States, he is liable to taxation which is irreconcilable with the principles of this Convention, he may apply to the authorities of the State in which he is domiciled, or, if he is not domiciled in either State, to the authorities of the State in which the deceased person was last domiciled. If the application is admitted, the competent administrative authority of the State in question shall, if it is unwilling to waive its own tax claim, endeavour to agree with the competent administrative authority of the other State on some equitable means of avoiding double taxation.

2. For the purpose of eliminating double taxation in cases not provided for in this Convention, and also in cases in which the interpretation or application of this Convention gives rise to difficulty or doubt, the competent administrative authorities of the two States shall enter into consultations with one another.

Article 6

1. This Convention may, with such amendments as the two States consider necessary, be extended to the Faroe Islands or to Greenland, if these territories levy taxes substantially similar to those which are the subject of this Convention. The conditions under which, and the manner in which, such extension is to be effected shall be specified in an exchange of notes between the two States.

2. Except as otherwise expressly agreed between the two States, the denunciation of this Convention under article 14 hereof shall terminate the effect of this Convention in the Faroe Islands and in Greenland, if it has been extended to those territories pursuant to paragraph 1 above.

Article 7

This Convention, of which the original texts drawn up in the Danish and German languages are equally authentic, shall be ratified and the instruments of ratification shall be exchanged at Copenhagen as soon as possible.

Article 8

1. This Convention shall enter into force on the date of the exchange of instruments of ratification. Its provisions shall apply to taxes chargeable on the estates of persons dying on or after the said date.

2. This Convention shall remain in force for so long as it has not been denounced by one of the two States. Either State may denounce the Convention by notice of not less than six months before the end of a calendar year. In any such case, the Convention shall continue to apply to taxes chargeable on the estates of persons who die before the expiry of the calendar year at the end of which the denunciation takes effect.

IN WITNESS WHEREOF the plenipotentiaries of the two States have signed this Convention and have affixed their seals thereto.

DONE at Berne, 14 January 1957.

For the Swiss Confederation :

(Signed) Max PETITPIERRE

For the Kingdom of Denmark :

(Signed) C. A. C. BRUN

FINAL PROTOCOL

On proceeding to sign the Convention concluded this day between the Swiss Confederation and the Kingdom of Denmark for the avoidance of double taxation in the matter of inheritance taxes,¹ the undersigned plenipotentiaries have made the following identical declarations which shall form an integral part of the Convention.

Ad article 1

1. The list contained in article 1, paragraph 3, of the inheritance taxes to which the Convention applies is not exhaustive. For the purpose of keeping the list up to date in conformity with article 1, paragraph 4, the competent administrative authorities of the two States, *viz.* the Ministry of Finance in Denmark and the Federal Department of Finance and Customs (tax administration) in Switzerland, shall at the end of each year communicate to one another any amendments made in their respective tax legislation.

2. The competent administrative authorities of the two States shall consult with one another to remove any doubts which may arise regarding the taxes to which the Convention is to apply.

3. The Convention shall not apply to the taxation of dispositions *inter vivos* in the form of gifts or of donations made for a specific purpose which are not subject to inheritance taxes.

¹ See p. 96 of this volume.

4. The Convention shall not apply to property vested in the trust fund in the form of cash or in payments for the discharge of a trust fund (including Danish fiefs and estates in tail) nor shall it apply to the income derived therefrom. In particular cases of this kind, the competent administrative authorities of the two States shall consult with one another as necessary for the purpose of avoiding double taxation.

5. The provisions of the Convention shall not operate to prejudice any beneficial treatment to which taxpayers are entitled in pursuance of the legislation of each of the two States or by virtue of international agreements.

6. The Convention shall not affect the right to more extensive fiscal exemptions which attaches to diplomatic and consular officials under the general rules of international law. If in the State to which an official is accredited he is not liable to inheritance taxes by reason of exemptions as aforesaid, the right to tax shall be reserved to the accrediting State.

Ad articles 2 and 3

Nothing in this Convention shall be taken to limit the right of each of the two States to assess the inheritance taxes on those portions of an estate over which it has exclusive jurisdiction for taxation purposes at the rates which would be applicable if the entire estate or an entire share due to an heir were taxable in that State.

Ad article 5

1. The application referred to in article 5, paragraph 1, may be made even if the taxpayer has not exhausted all the legal remedies open to him, and the taxpayer shall not be stopped from resorting to all the remedies open to him under the law by reason of the fact that he has made an application as aforesaid.

2. An application under article 5, paragraph 1, shall as a general rule be made by the taxpayer within one year after the expiry of the calendar year in which he became aware of the existence of double taxation through the receipt of tax statements or through notification of other official decisions.

DONE at Berne, 14 January 1957.

For the Swiss Confederation :
(Signed) Max PETITPIERRE

For the Kingdom of Denmark :
(Signed) C. A. C. BRUN