

No. 4407

**CANADA
and
IRELAND**

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to duties on the estates of deceased persons. Signed at Ottawa, on 28 October 1954

Official text: English.

Registered by Canada on 11 July 1958.

**CANADA
et
IRLANDE**

Accord pour éviter les doubles impositions et prévenir l'évasion fiscale en matière de droits sur les successions de personnes décédées. Signé à Ottawa, le 28 octobre 1954

Texte officiel anglais.

Enregistré par le Canada le 11 juillet 1958.

No. 4407. AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO DUTIES ON THE ESTATES OF DECEASED PERSONS. SIGNED AT OTTAWA, ON 28 OCTOBER 1954

The Government of Canada and the Government of Ireland,
Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to duties on the estates of deceased persons,

Have appointed for that purpose as their Plenipotentiaries :

The Government of Canada :

Walter E. Harris, Minister of Finance in the Government of Canada,

The Government of Ireland :

Sean Murphy, Ambassador Extraordinary and Plenipotentiary of Ireland at Ottawa;

Who, having communicated their respective full powers, found in good and due form, have agreed as follows :

Article I

I. The duties which are the subject of the present Agreement are :

(a) In Ireland :

The estate duty imposed by Ireland, and

(b) In Canada :

The succession duty imposed by Canada.

2. The present Agreement shall also apply to any other duties of a substantially similar character imposed by either Contracting Government subsequent to the date of signature of this Agreement.

¹ Came into force on 20 December 1955, the date of the exchange of the instruments of ratification at Dublin, in accordance with article VIII.

Article II

1. In this Agreement, unless the context otherwise requires—

- (a) The term “ territory ” when used in relation to one or the other Contracting Government means Ireland or Canada, as the context requires.
- (b) The term “ duty ” means the estate duty imposed by Ireland or the succession duty imposed by Canada, as the context requires.

2. In the application of the provisions of this Agreement by one of the Contracting Governments, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Government relating to the duties which are the subject of the present Agreement.

Article III

Where a person dies domiciled in any part of the territory of one Contracting Government, the *situs* of any rights or interests, legal or equitable, in or over any of the following classes of property which for the purposes of duty form or are deemed to form part of the estate of such person or pass or are deemed to pass on his death, shall, for the purposes of the imposition of duty and for the purposes of the credit to be allowed under Article V, be determined exclusively in accordance with the following rules, but in cases not within such rules the *situs* of such rights or interests shall be determined for these purposes in accordance with the laws in force in the territory of the other Contracting Government :

- (a) Immovable property (otherwise than by way of security) shall be deemed to be situated at the place where such property is located;
- (b) Tangible movable property (otherwise than by way of security, and other than such property for which specific provision is hereinafter made), bank or currency notes, other forms of currency recognised as legal tender in the place of issue, negotiable bills of exchange and negotiable promissory notes, shall be deemed to be situated at the place where such property, notes, currency or documents are located at the time of death, or, if *in transitu*, at the place of destination;
- (c) Simple contract debts, excluding the forms of indebtedness for which specific provision is made herein, shall be deemed to be situated at the place where the debtor was resident at the time of death;
- (d) Bonds, mortgages, debentures, debenture stock and debts secured by a document under seal, other than the forms of indebtedness for which specific provision is made herein, shall be deemed to be situated at the place

- where the document by which they are evidenced is located at the time of death or, if inscribed or registered, to be situated at the place of inscription or registration;
- (e) Bank accounts shall be deemed to be situated at the branch at which the account was kept;
 - (f) Securities issued by any government, municipality or public authority, shall be deemed, if in bearer form, to be situated at the place where they are located at the time of death and, if inscribed or registered, to be situated at the place of inscription or registration;
 - (g) Shares or capital stock in a company (including any such shares or stock held by a nominee whether the beneficial ownership is evidenced by scrip certificates or otherwise, but excluding any such shares or stock in bearer form) shall be deemed to be situated at the place where such company was incorporated. If, however, any such company was incorporated under the laws of Great Britain or under the laws of Northern Ireland, and if the shares or stock of such company when registered on a branch register of such company kept in Ireland are deemed under the laws of Great Britain or of Northern Ireland and of Ireland to be assets situated in Ireland, such shares or stock shall be deemed to be assets situated in Ireland.

Shares or capital stock in a company in bearer form shall be deemed to be situated at the place where the documents of title thereto are located at the time of death; provided that any such shares or stock in a company incorporated under the laws of either Contracting Government shall be deemed to be also situated at the place where such company was incorporated;

- (h) Moneys payable under a policy of assurance or insurance, whether under seal or not, shall be deemed to be situated at the place where the policy provided that the moneys shall be payable or, in the absence of any such provision, at the head office of the company;
- (i) Shares in a partnership shall be deemed to be situated at the place where the business is principally carried on;
- (j) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft;
- (k) 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;
- (l) Patents, trademarks and designs shall be deemed to be situated at the place where they are registered;
- (m) Copyright, franchises, and rights or licences to use any copyrighted material, patent, trademark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable;

- (n) Rights or causes of action *ex delicto* surviving for the benefit of an estate of a deceased person shall be deemed to be situated at the place where such rights or causes of action arose;
- (o) Judgment debts shall be deemed to be situated at the place where the judgment is recorded;

Provided that if, apart from this Article, duty would be imposed by one Contracting Government on any property which is situated in its territory and passes under a disposition not governed by its law, this Article shall not apply to such property unless, by reason of its application or otherwise, duty is imposed or would but for some specific exemption be imposed thereon by the other Contracting Government.

Article IV

1. In determining the amount on which duty is to be computed, permitted deductions shall be allowed in accordance with the law in force in the territory in which the duty is imposed.

2. Where duty is imposed by one Contracting Government on the death of a person who was not domiciled at the time of his death in any part of the territory of that Contracting Government but was domiciled in some part of the territory of the other Contracting Government, no account shall be taken, in determining the amount or rate of the duty so imposed, of property situated outside the former territory; provided that this paragraph shall not apply as respects duty imposed by Ireland in the case of property passing under a disposition governed by the law of Ireland.

Article V

1. Where one Contracting Government imposes duty by reason of a deceased person being domiciled in some part of its territory at the time of his death, that Contracting Government shall allow against so much of its duty (as otherwise computed) as is attributable to property situated in the territory of the other Contracting Government a credit (not exceeding the amount of the duty so attributable) equal to so much of the duty imposed in the territory of the other Contracting Government as is attributable to such property; but this paragraph shall not apply as respects any such property as is mentioned in paragraph (3) of this Article.

2. Where Ireland imposes duty on property passing under a disposition governed by its law, that Contracting Government shall allow a credit similar to that provided by the preceding paragraph of this Article.

3. Where each Contracting Government imposes duty on any property which is deemed under Article III to be situated

- (a) outside the territories of both Contracting Governments, or
- (b) in both territories,

each Contracting Government shall allow against so much of its duty (as otherwise computed) as is attributable to such property a credit which bears the same proportion to the amount of its duty so attributable or to the amount of the other Contracting Government's duty attributable to the same property, whichever is the less, as the former amount bears to the sum of the two amounts.

4. For the purposes of this Article, the amount of the duty of a Contracting Government attributable to any property shall be ascertained after taking into account any credit, allowance or relief, or any remission or reduction of duty, otherwise than in respect of duty payable in the territory of the other Contracting Government.

Article VI

1. Any claim for a credit or for a refund of duty founded on the provisions of this Agreement shall be made within six years from the date of the death of the deceased person in respect of whose estate the claim is made, or, in the case of a reversionary interest, where payment of duty is deferred until the date on which the interest falls into possession, within six years from that date.

2. Any such refund shall be made without payment of interest on the amount so refunded.

Article VII

1. The taxation authorities of the Contracting Governments shall upon request exchange such information (being information available under the respective taxation laws of the Contracting Governments) as is necessary for carrying out the provisions of the present Agreement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the duties which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the duties which are the subject of this Agreement. No information shall be exchanged which would disclose any trade secret or trade process.

2. As used in this Article, the term "taxation authorities" means, in the case of Ireland, the Revenue Commissioners or their authorized representative, and in the case of Canada, the Minister of National Revenue or his authorized representative.

Article VIII

1. The present Agreement shall be ratified, and the instruments of ratification shall be exchanged at Dublin as soon as possible.

2. The present Agreement shall come into force on the date of exchange of ratifications, and shall be effective only as to

- (a) the estates of persons dying on or after such date, and
- (b) the estate of any person dying before such date after the last day of the calendar year immediately preceding such date, whose personal representative elects in writing that the provisions of the present Agreement shall be applied to such estate.

Article IX

1. The present Agreement shall remain in force for not less than three years after the date of its coming into force.

2. If not less than six months before the expiration of such period of three years neither of the Contracting Governments shall have given to the other Contracting Government written notice of its intention to terminate the present Agreement, the Agreement shall remain in force after such period of three years until either of the Contracting Governments shall have given written notice of such intention, in which event the present Agreement shall not be effective as to the estates of persons dying on or after the date (not being earlier than the sixtieth day after the date of such notice) specified in such notice, or, if no date is specified, on or after the sixtieth day after the date of such notice.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Agreement and have affixed thereto their seals.

DONE at Ottawa, in duplicate, this 28th day of October, nineteen hundred and fifty-four.

For Canada :

W. E. HARRIS

For Ireland :

Sean MURPHY