

No. 5178

**BELGIUM
and
FRANCE**

Convention for the avoidance of double taxation and the settlement of certain other questions relating to death duties and registration fees. Signed at Brussels, on 20 January 1959

Official text: French.

Registered by Belgium on 17 June 1960.

**BELGIQUE
et
FRANCE**

Convention tendant à éviter les doubles impositions et à régler certaines autres questions en matière d'impôts sur les successions et de droits d'enregistrement. Signée à Bruxelles, le 20 janvier 1959

Texte officiel français.

Enregistrée par la Belgique le 17 juin 1960.

[TRANSLATION — TRADUCTION]

No. 5178. CONVENTION¹ BETWEEN BELGIUM AND FRANCE
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE SETTLEMENT OF CERTAIN OTHER QUESTIONS
RELATING TO DEATH DUTIES AND REGISTRATION
FEES. SIGNED AT BRUSSELS, ON 20 JANUARY 1959

His Majesty the King of the Belgians,
and

The President of the French Republic,

Being desirous of avoiding double taxation and of settling certain other questions with respect to death duties and registration fees, have decided to conclude a convention and have for that purpose appointed as their plenipotentiaries :

His Majesty the King of the Belgians :

Mr. P. Wigny, Minister for Foreign Affairs,

The President of the French Republic :

Mr. R. Bousquet, Ambassador Extraordinary and Plenipotentiary to His Majesty the King of the Belgians,

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

DEATH DUTIES

Article 1

1. The double taxation which it is the object of this Convention to avoid is such as might arise, in connexion with the estate of a person domiciled at his decease in one of the two States, from the simultaneous imposition of French and Belgian duty on transfer of property *mortis causa*.

2. The Convention applies :

(a) In the case of France :

To the tax on transfer of property *mortis causa*, including the special tax established under article 1 of Act No. 56-639 of 30 June 1956 ;

¹ Came into force on 12 June 1960, the tenth day after the date of the exchange of the instruments of ratification which took place at Paris on 2 June 1960, in accordance with article 19. This Convention is not applicable to the Territories of the Belgian Congo and Ruanda-Urundi.

(b) In the case of Belgium :

To the succession duty ;

To the duty on transfer of property *mortis causa*.

3. It shall also apply to all other taxes of the same or of like nature which may be instituted in either State after the signature of this Convention.

The competent authorities of each State shall communicate to each other at the end of each year any changes made in their taxation laws.

Article 2

This Convention applies :

(a) In the case of France, to the metropolitan territory and to the overseas departments (Guadeloupe, Guiana, Martinique and Réunion) ;

(b) In the case of Belgium, to the metropolitan territory of that State.

Article 3

For the purposes of the present Convention :

(a) The term « domicile » means the place where the deceased had his permanent home, the latter term being understood to designate the centre of vital interests, that is to say, the place with which his personal relations were closest.

Where domicile cannot be determined in accordance with the foregoing paragraph, the deceased shall be deemed to have been domiciled in the State in which he had his principal residence. If his residence in both States was of equal duration, he shall be deemed to have been domiciled in that of the two States of which he was a national ; if he was a national of both States or of neither, the competent authorities of the two States shall jointly determine the last domicile.

A deceased person who had his residence on board a vessel engaged in inland navigation shall be regarded as having been domiciled in that of the two Contracting States of which he was a national ;

(b) The term « tax » means, as the context requires, the French succession taxes and taxes of the same nature instituted in the Kingdom of Belgium, as provided in article 1.

Article 4

Immovable property shall be liable to tax in the State in which it is situated ; rights in immovable property shall be liable to tax in the State in which the real property to which the rights apply is situated.

The question whether a property or right is an immovable property or a right in immovable property shall be determined in accordance with the law of the State in

which the property in question or the property to which the right relates is situated. Indebtedness of any kind secured by mortgage or by a charge on immovable property shall not be regarded as falling in this category.

Article 5

Business concerns, including rights to the leasehold, equipment used in their operation and merchandise pertaining to them, shall be liable to tax in the State in which they were registered as such.

Article 6

Ships and aircraft shall be liable to tax in the State in which they were registered.

Article 7

Tangible movable property, other than that referred to in articles 5 and 6, shall be liable to tax in the State in which it is actually located at the time of the deceased person's death.

The expression « tangible movable property » includes bank-notes and any other form of money having lawful currency at the place of issue.

Article 8

Property other than that referred to in articles 4 to 7 shall be liable to tax only in the State in which the deceased was domiciled at his death.

Article 9

1. Debts specifically secured by property referred to in articles 4 to 7 shall be deducted from the value of such property.

2. Other debts shall be deducted from the value of property to which the provisions of article 8 apply.

3. If, after deduction as provided in the two foregoing paragraphs, there remains an outstanding balance, such balance shall be deducted from the value of any other property liable to tax in the State in which the deduction is first made. If there remains no other property liable to tax in the said State or if, after such deduction, there still remains an outstanding balance, the balance shall be deducted from the value of the property liable to tax in the other State.

Article 10

Notwithstanding the provisions of the foregoing articles :

(a) Each State shall be entitled to assess the tax on property which it has the right to tax at the average rate which would be applicable to the sum of the property which would be liable to tax under its domestic legislation.

(b) The State in which the deceased was domiciled at his death may also tax in accordance with its domestic legislation property referred to in articles 4 to 7 situated in the other State. In this case, the said State shall deduct from its tax, to the extent that the latter is leviable on the said property, the amount of the tax collected in the other State on the same property.

Article 11

Nothing in this Convention shall affect such fiscal exemptions as are or may hereafter be accorded to diplomatic and consular agents in virtue of the general rules of international law. In so far as such exemptions prevent tax from being levied in the State in which the said agents exercise their functions, the right to levy such tax shall rest with the sending State.

Article 12

Nationals of one of the two States shall not be liable in the other State to taxes other or higher than those imposed upon nationals of the latter State.

In particular, nationals of one of the two States who are liable to taxation in the other State shall be entitled under the same conditions as nationals of this latter State to the exemptions, deductions and reductions of taxes allowed in respect of family circumstances.

Article 13

1. Tax exemptions and reductions granted under the legislation of one of the two States to the State or to departments, provinces and communes shall apply to bodies corporate of like nature of the other State.

Bodies corporate of one of the two States shall be entitled in the other State to tax exemptions or reductions granted to bodies corporate of like nature in the latter State. The nature of the body corporate shall be determined in accordance with the laws of the State levying the tax.

2. The provisions of the two foregoing paragraphs shall also apply to registration duties on gratuitous transfers of property *inter vivos*.

Article 14

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 Convention.

2. The Convention signed at Lille on 12 August 1843 concerning the exchange of information obtained from deeds submitted for registration, from statements of succession or of transfer of property *mortis causa*, and from other administrative

documents, shall continue to have full and complete effect. The competent authorities of the two States shall consult together with a view to making such changes in the aforesaid Convention as may be necessary, in the light of the information which may be obtained under the laws of each State.

3. All information thus exchanged shall be treated as secret and may be divulged only to persons responsible for the assessment and collection of taxes and for dealing with claims and appeals relating to taxes, or to the taxpayer or his agent.

Article 15

1. The competent authorities of each State shall, on the application of the authorities of the other State, lend assistance and support in the collection of any taxes specified in article 1 of this Convention which are due in the latter State in accordance with its legislation, and of interest, costs and fines pertaining to such taxes.

2. The competent authorities of the State applied to shall collect such taxes in accordance with the regulations applicable to the collection of similar taxes in that State. Fiscal debts subject to collection shall not be regarded as privileged debts in the State applied to.

3. Judicial proceedings and measures of execution shall be carried out on production of a certified copy of the writ of execution and, where appropriate, of the final judicial decision.

4. Where a tax debt is still liable to appeal, the creditor State, in order to protect its rights, may apply to the other State to serve a writ or collection order on the debtor. Objections against tax claims in respect of which such writs or orders have been served may be lodged only with the competent tribunal of the applicant State.

FEEES FOR THE REGISTRATION OF COMPANY DEEDS

Article 16

The following provisions shall be substituted for those relating to the same subject (article 14 and final protocol, II) in the Convention between Belgium and France for the prevention of double taxation and the settlement of certain fiscal questions, signed on 16 May 1931.¹

1. Registration fees in respect of deeds which non-commercial or commercial companies of one State have occasion to register in the other State with a view to or in consequence of the establishment of a branch or centre of operations of any kind in that State shall be levied in accordance with the following provisions.

¹ League of Nations, *Treaty Series*, Vol. CXLI, p. 333.

Registration fees levied on company deeds shall be charged at the rates applicable to domestic companies.

The said fees shall be assessed on a base which may not exceed one twenty-fifth of the base fixed for domestic companies, it being understood, in addition, that the amount of the fees may not exceed, for each deed, a total of 200,000 Belgian francs or its equivalent in French francs. Nevertheless, if the company does not possess any industrial or commercial centre of operations in the State whose nationality it possesses, the fee shall be levied on one-half of the base fixed for domestic companies.

The fee, thus discharged, shall preclude the collection of any other registration fee in respect of provisions in the deed relating either to obligations contracted by the company towards its partners in return for their participations, or to agreements between the company and the managers, directors or auditors, or to the payment prescribed by law for the purchase of shares. This provision shall not apply to the transfer duty payable in France in respect of French assets brought into a company for a valuable consideration, nor shall it apply to the sales tax levied in Belgium under article 121 of the Code of registration, mortgage and record office fees which has been rendered applicable to French company deeds.

2. Deeds referred to in paragraph 1 of this article relating to French companies which do not possess a branch or centre of operations of any kind in Belgium shall be registered in Belgium in accordance with the regulations applicable to foreign companies which do not possess a branch or centre of operations of any kind in Belgium.

The subsequent establishment in Belgium of a branch or centre of operations of any kind shall be treated as equivalent to the fulfilment of a suspensory condition and shall entail the levying of an additional fee calculated in accordance with paragraph 1.

The total fees levied in accordance with the two foregoing paragraphs in respect of the various deeds relating to a single company may not exceed the total fees which would be leviable on the same deeds under the provisions of paragraph 1.

COMMON PROVISIONS

Article 17

1. The competent authorities of the two States shall enter into direct consultations with each other with a view to settling jointly any difficulties arising in the interpretation or application of this Convention.

2. Any person who is subjected to double taxation contrary to the provisions of the present Convention 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 one of the two States.

If the claim is upheld, the competent authorities of the two States shall agree on measures to eliminate the double taxation. In case of need, the difficulty shall be referred to a mixed commission composed of representatives of the two States appointed by the competent authorities.

No claim under this paragraph shall be entertained after the expiry of a period of one year from the date on which the second tax was paid.

Article 18

The term « competent authorities » means, in the case of both States, the Minister of Finance or his representative.

ENTRY INTO FORCE

Article 19

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible in Paris.

2. It shall come into force on the tenth day after the date of the exchange of the instruments of ratification.

3. It shall remain in force until notice of its termination is given by one of the two States. Either State may terminate it with effect from the end of the calendar year, subject to notice of six months. In such case, its provisions shall apply for the last time to estates devolving before the expiry of the calendar year at the end of which the termination takes effect.

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

DONE at Brussels, on 20 January 1959, in two original copies.

For Belgium :

P. WIGNY

For France :

Raymond BOUSQUET