

No. 11021

**FRANCE
and
SWITZERLAND**

Convention for the avoidance of double taxation with respect to death duties (with final protocol). Signed at Paris on 31 December 1953

Authentic text: French.

Registered by France on 5 April 1971.

**FRANCE
et
SUISSE**

Convention en vue d'éviter les doubles impositions en matière d'impôts sur les successions (avec protocole final). Signée à Paris le 31 décembre 1953

Texte authentique: français.

Enregistrée par la France le 5 avril 1971.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE FRENCH REPUBLIC AND
THE SWISS CONFEDERATION FOR THE AVOIDANCE
OF DOUBLE TAXATION WITH RESPECT TO DEATH
DUTIES

The President of the French Republic and the Federal Council of the Swiss Confederation,

Desiring to avoid double taxation with respect to death duties, have decided to conclude a Convention and have for that purpose appointed as their plenipotentiaries:

The President of the French Republic:

Mr. Georges Bidault, Minister for Foreign Affairs;

The Swiss Federal Council:

Mr. Pierre-Antoine de Salis, Envoy Extraordinary and Minister Plenipotentiary of Switzerland in France,
who, having exchanged their full powers, found in good and due form, have agreed as follows:

Article 1

1. The object of this Convention is to avoid the double taxation which might, on the death of a person who was last resident in either of the two States, result from the simultaneous levying of Swiss and French death duties.

2. For the purposes of this Convention the term “death duties” means the duties which are levied *mortis causa*, in pursuance of Swiss or French legislation, on the whole estate or on the parts thereof which accrue to the heirs or as transfer duties.

3. The Convention relates in particular:

(a) In the case of Switzerland:

To death duties levied by cantons, districts, circles (*Kreise*) and communes;

¹ Came into force on 20 January 1955 by the exchange of the instruments of ratification, which took place at Berne, in accordance with article 6 (1).

(b) In the case of France:

To the tax on transfers *mortis causa*.

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

5. Subject to the provisions of article 5, this Convention is applicable, as regards the French Republic, only to metropolitan France and the Overseas Departments.

Article 2

1. Immovable property (including property accessory thereto) shall not be liable to death duties except in the State in which it is situated; livestock or equipment used in the operation of an agriculture or forestry undertaking shall not be taxable except in the State in which the undertaking is situated.

Rights which are governed by the provisions of private law concerning real property and rights of usufruct over immovable property, with the exception of claims of any kind secured by real property, shall be deemed to be immovable property.

The question whether a property or a right is immovable or may be regarded as accessory to an immovable property shall be determined by the law of the State in which is situated the property, or the property to which the right relates.

2. Tangible or intangible movable property left by a deceased person who was last resident in either of the two States and invested in any commercial, industrial or handicraft undertaking whatsoever shall be liable to death duties in accordance with the following rules:

- (a) If the undertaking has a permanent establishment in only one of the two States, the property shall not be liable to duty except in that State. This provision shall also apply if the undertaking extends its operations to the territory of the other State without maintaining a permanent establishment there.
- (b) If the undertaking has a permanent establishment in each of the two States, the property shall be liable to duty in each State to the extent to which it is installed in a permanent establishment situated in the territory of that State.

The provisions of this paragraph shall not, however, apply to investments made by the deceased in joint stock companies (incorporated companies, partnerships limited by shares, companies with limited liability, co-operative

societies, civil companies, subject to the tax regulations governing joint stock companies) or in the form of partnerships in limited partnerships.

For the purposes of this article, permanent establishments shall be determined in accordance with the provisions of article 4, paragraph 2, of the Convention concluded between the two States on 31 December, 1953 for the avoidance of double taxation with respect to taxes on income and property¹ and the provisions in the Final Protocol to the said Convention which relate to the said article.

3. Tangible or intangible movable property invested in permanent installations and used in the exercise of a liberal profession in either of the two States shall not be liable to death duties except in the State in which the installations are situated.

4. Furniture, including linen, household goods and objects of art and collections thereof, other than the furniture referred to in paragraphs 2 and 3, shall be liable to death duties at the place at which it is on the owner's death.

5. Ships and aircraft shall be liable to death duties in the State in which they were registered.

Article 3

1. Any part of a deceased person's estate that is not covered by the terms of article 2, including all claims whatsoever secured by real property, shall not be liable to death duties except in the State in which the deceased was last resident.

2. For the purpose of this Convention, the term "residence" means the place where, on his death, the deceased had his permanent home as defined in the first sub-paragraph of article 2, paragraph 2, of the Convention concluded between the two States on 31 December 1953 for the avoidance of double taxation with respect to taxes on income and property.

Article 4

For the purposes of this Convention, the provisions of article 11, the Final Protocol *ad* article 11, and article 12, of the Convention concluded between the two States on 31 December 1953 for the avoidance of double taxation with respect to taxes on income and property shall apply *mutatis mutandis*.

¹ See p. 221 of this volume.

Article 5

1. The effects of this Convention may be extended, with whatever amendments are recognized as necessary by both States, to the various Territories of the French Union, excluding the Associated States of Indochina, and to Tunis and Morocco, if those Territories or States levy death duties.

The conditions and methods of such extension shall be decided in an exchange of notes between the two States.

2. Unless the two States have expressly agreed otherwise, denunciation of this Convention under article 6, paragraph 2, shall terminate its application with respect to any State or Territory to which it has been extended in the circumstances provided for in this article.

Article 6

1. This Convention shall come into force on the exchange of instruments of ratification and its provisions shall apply for the first time to the estates of persons dying after the said exchange.

2. This Convention shall remain in force until denounced by one of the two States. Either of them may denounce it with effect from the end of a calendar year, subject to six months' notice. In such case, the Convention shall apply for the last time to the estates of persons who die before the expiry of the calendar year at the end of which the denunciation takes effect.

Article 7

This Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.

IN WITNESS WHEREOF, the Plenipotentiaries of the two States have signed the present Agreement and affixed thereto their seals.

DONE in two copies, at Paris, 31 December 1953.

[GEORGES BIDAULT]
[SEAL]

[PIERRE-ANTOINE DE SALIS]
[SEAL]

FINAL PROTOCOL

On proceeding to sign the Convention concluded this day between the Swiss Confederation and the French Republic for the avoidance of double taxation with respect to death duties, the undersigned plenipotentiaries have made the following joint declaration, which shall form an integral part of the Convention.

Ad article 1

1. The list in article 1, paragraphs 3 and 4, of the death duties to which this Convention applies is not exhaustive. In order to keep this list up to date, the supreme administrative authorities of the two States shall communicate to one another at the beginning of each year any amendments to their tax legislation during the previous year.

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

3. Nothing in this Convention shall affect such immunities from taxation as are, or may hereafter be, accorded to diplomatic or consular officials in virtue of the general rules of international law. Where, by reason of such immunities, such officials are not liable to death duties in the State in which they exercise their functions, the State by which they are accredited or appointed shall, where appropriate, be empowered to levy such duties.

4. The provisions of this Convention shall not operate to prejudice any beneficial treatment to which taxpayers are entitled under the legislation of either of the two States.

5. The nationals of one of the two States (individuals, bodies corporate, companies or other unincorporated bodies of physical persons) shall not be liable in the other State to taxes other or higher than those imposed upon the nationals of the latter State.

In particular, the nationals of either State who are liable to taxation in the territory of the other State shall be entitled under the same conditions as the nationals of this latter State to the exemptions, initial relief, deductions and reductions of taxes allowed in respect of dependents.

For the purposes of this paragraph, the term “taxes” means all taxes or public contributions whatsoever, regardless of their nature, their title or the authority levying them.

Ad articles 2 and 3

Nothing in this Convention shall be taken to limit the right of each State to assess death duties on the portions of an estate over which it has exclusive jurisdiction for taxation purposes at the rate which would be applicable if the whole estate, or the whole of such parts thereof as accrue to the heirs, were dutiable in that State.

Ad article 3

If the deceased may be deemed to have been last resident, within the meaning of article 3, paragraph 2, of this Convention, in each of the two States, the latter agree to settle the difficulty having regard to the second sub-paragraph of article 2, paragraph 2, of the Convention concluded between them on 31 December 1953 for the avoidance of double taxation with respect to taxes on income and property. It shall be open to them in such cases to make use of the procedure laid down in article 11, paragraph 2, of the said Convention.

Ad article 5

1. The “Overseas Departments” referred to in article 1, paragraph 5, of this Convention are: Guiana, Guadeloupe, Martinique and Réunion.

2. The “Territories of the French Union” referred to in article 5, paragraph 1, of this Agreement comprise:

1. The French Departments of Algeria
2. The Associated Territories (Togoland, Cameroons)
3. The Overseas Territories:
 - (a) French West Africa: Senegal, Mauritania, Sudan, Niger, Dahomey, Ivory Coast, Guinea, Upper Volta;
 - (b) French Equatorial Africa: Middle Congo, Gabon, Ubangi Shari, Chad;
 - (c) Madagascar and dependencies (five provinces);
 - (d) The Comoro Islands Territory;
 - (e) French Somaliland;
 - (f) French establishments in India;

(g) French establishments in Oceania, New Caledonia and dependencies and New Hebrides;

(h) Saint-Pierre and Miquelon.

DONE in two copies, at Paris, 31 December 1953.

[GEORGES BIDAULT]

[PIERRE-ANTOINE DE SALIS]
