

No. 13742

**DENMARK
and
SWITZERLAND**

**Agreement for the avoidance of double taxation with respect
to inheritance taxes. Signed at Bern on 23 November
1973**

Authentic texts: Danish and German.

Registered by Denmark on 6 January 1975.

**DANEMARK
et
SUISSE**

**Convention tendant à éviter la double imposition en matière
de succession. Signée à Berne le 23 novembre 1973**

Textes authentiques : danois et allemand.

Enregistrée par le Danemark le 6 janvier 1975.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE KINGDOM OF DENMARK AND THE
SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXA-
TION WITH RESPECT TO INHERITANCE TAXES

The Kingdom of Denmark and the Swiss Confederation, desiring to conclude an agreement for the avoidance of double taxation with respect to inheritance taxes,
Have agreed as follows:

CHAPTER I. SCOPE OF AGREEMENT

Article 1. INHERITANCES COVERED BY THE AGREEMENT

1. This Agreement shall apply in respect of inheritances left by decedents who at the time of their death were domiciled in one or both of the Contracting States.
2. The Agreement shall not apply to fortune vested in a trust fund in the form of cash, or in payments in 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 such a nature, the competent authorities of the two States shall consult together as necessary for the purpose of avoiding double taxation.

Article 2. TAXES COVERED BY THE AGREEMENT

1. This Agreement shall apply to inheritance taxes imposed on behalf of each Contracting State or of its political subdivisions or local authorities (including surtax), irrespective of the manner in which they are levied.
2. There shall be regarded as inheritance taxes all taxes levied *mortis causa* as inheritance taxes, inheritance duties on the transfer of fortune or taxes on gifts which become effective at the time of death.
3. The existing taxes to which the Agreement shall apply are, in particular:
 - (a) in the case of Denmark: the inheritance duty;
 - (b) in the case of Switzerland: the estate and inheritance duties levied by cantons, districts (*Bezirken*), subdistricts (*Kreisen*) and communes.
4. The Agreement shall also apply to any inheritance taxes which are imposed subsequently to the signature of this Agreement, in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective taxation laws.
5. The Agreement shall not apply to the taxation of gifts made during the giver's lifetime or to endowments (*Zweckzuwendungen*) which are not subject to the inheritance duty.

¹ Came into force on 15 October 1974, the date of the exchange of notes confirming that each of the Contracting States had completed the required constitutional procedures, in accordance with article 13(1).

CHAPTER II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

1. In this Agreement:

(a) The term “Denmark” means the Kingdom of Denmark, including any area within which, under Danish law and in accordance with international law, the sovereign rights of Denmark, with respect to the exploration and exploitation of the natural resources of the continental shelf may be exercised, the term does not include the Faroe Islands and Greenland;

(b) The term “Switzerland” means the Swiss Confederation;

(c) The terms “a Contracting State” and “the other Contracting State” mean Denmark or Switzerland, as the context requires;

(d) The term “competent authority” means:

(1) in Denmark: the Minister of Finance or his authorized representative; and

(2) in Switzerland: the Director of the Federal Tax Administration or his authorized representative.

2. As regards the application of the Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

Article 4. FISCAL DOMICILE

1. In the application of this Agreement, the question whether a decedent was domiciled in a Contracting State at the time of his death shall be determined according to the law of that State.

2. Where by reason of the provisions of paragraph 1 a decedent was domiciled in both Contracting States, then this case shall be determined in accordance with the following rules:

(a) The decedent shall be deemed to have been domiciled in the Contracting State in which he had a permanent home available to him. If he had a permanent home available to him in both Contracting States, he shall be deemed to have been domiciled in the Contracting State with which his personal and economic relations were closest (centre of vital interests).

(b) If the Contracting State in which the decedent had his centre of vital interests cannot be determined, or if he had not a permanent home available to him in either Contracting State, he shall be deemed to have been domiciled in the Contracting State in which he had a habitual abode.

(c) If the decedent had a habitual abode in both Contracting States or in neither of them, he shall be deemed to have been domiciled in the State of which he was a national.

(d) If the decedent was a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

CHAPTER III. RULES OF TAXATION

Article 5. IMMOVABLE PROPERTY

1. Immovable property may be taxed in the Contracting State in which such property is situated.

2. The term “immovable property” shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraphs 1 and 2 shall also apply to immovable property of an enterprise and to immovable property used for the performance of professional services or other independent activities of a similar character.

Article 6. FORTUNE NOT EXPRESSLY MENTIONED

Fortune to which article 5 does not apply shall be taxable only in the State in which the decedent was domiciled at the time of his death.

Article 7. DEDUCTIONS FOR DEBTS

Debts shall be deducted in the proportion which the part of the assets of the estate that is taxable by each State bears to the aggregate of the assets left by the decedent.

CHAPTER IV. METHOD FOR THE AVOIDANCE OF DOUBLE TAXATION

Article 8

The Contracting State in which the decedent was domiciled at the time of his death shall exempt from tax fortune which, in accordance with the provisions of this Agreement, may be taxed by the other Contracting State; the first-mentioned State may, however, in calculating tax on the fortune which it retains the right to tax, apply the rate of tax which would have been applicable if the fortune in question had not been exempted from tax.

CHAPTER V. SPECIAL PROVISIONS

Article 9. NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term “nationals” means:

- (a) all individuals possessing the nationality of a Contracting State;
- (b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. The taxation of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. In this article the term "taxation" means taxes of every kind and description.

Article 10. MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of one of the two States.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

Article 11. DIPLOMATIC AND CONSULAR OFFICIALS

1. Nothing in this Agreement shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

2. In so far as, owing to diplomatic or consular privileges granted to a person under the general rules of international law or under the provisions of special international treaties, fortune is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

Article 12. TERRITORIAL EXTENSION

1. This Agreement may be extended, either in its entirety or with any necessary modifications, to any part of the territory of Denmark which, in accordance with the provisions of article 3, paragraph 1 (a), is specifically excluded from the application of the Agreement and in which taxes identical with or substantially similar in character to those to which the Agreement applies are imposed. Any such extension shall take effect from such date and subject to such modifications and conditions as may be specified and agreed between the Contracting States in notes to be exchanged through the diplomatic channel.

2. Unless otherwise agreed by both Contracting States, the denunciation of the Agreement by one of them under article 14 shall terminate the application of the Agreement to any territory to which it has been extended under this article.

CHAPTER VI. FINAL PROVISIONS

Article 13. ENTRY INTO FORCE

1. This Agreement shall enter into force upon the exchange of notes confirming that each of the Contracting States has completed the constitutional procedures required for entry into force, and the Agreement shall thereafter apply in respect of inheritances left by persons who die on or after that date.

2. Upon the entry into force of this Agreement, the Convention of 14 January 1957¹ between the Kingdom of Denmark and the Swiss Confederation for the avoidance of double taxation in the matter of inheritance taxes shall cease to have effect. Its provisions shall no longer apply to taxes to which this Agreement applies in accordance with the provisions of paragraph 1.

Article 14. TERMINATION

This Agreement shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Agreement, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall no longer apply to inheritances left by persons who die after the expiry of the calendar year at the end of which the Agreement is terminated.

DONE at Bern on 23 November 1973, in duplicate in the Danish and German languages, both texts being equally authentic.

For the Kingdom of Denmark:

M. G. J. MELCHIOR

For the Swiss Confederation:

PIERRE GRABER

¹ United Nations, *Treaty Series*, vol. 286, p. 85.