

No. 22352

**ISRAEL
and
ITALY**

Convention for the prevention of double taxation on estates and inheritances (with exchange of letters of 19 February and 21 March 1970). Signed at Rome on 22 April 1968

Authentic texts of the Convention: Hebrew, Italian and English.

Authentic texts of the exchange of letters: English and Italian.

Registered by Israel on 20 September 1983.

**ISRAËL
et
ITALIE**

Convention tendant à prévenir la double imposition en matière d'impôts sur les successions (avec échange de lettres des 19 février et 21 mars 1970). Signée à Rome le 22 avril 1968

Textes authentiques de la Convention : hébreu, italien et anglais.

Textes authentiques de l'échange de lettres : anglais et italien.

Enregistrée par Israël le 20 septembre 1983.

CONVENTION¹ BETWEEN THE STATE OF ISRAEL AND THE ITALIAN REPUBLIC FOR THE PREVENTION OF DOUBLE TAXATION ON ESTATES AND INHERITANCES

The Government of the State of Israel and the Government of the Italian Republic, desirous of concluding a convention between them for the prevention of double taxation on estates and inheritances, have agreed upon the following articles:

Article I. The taxes to which this Convention relates are the following:

(a) In the case of Italy:

- (1) Estate tax;
- (2) The tax on the net total value of the inheritance;

(b) In the case of Israel: estate tax.

This Convention shall apply also to any such other tax on estates or inheritances of a substantially similar character as either Contracting State may impose after the signing of this Convention.

The competent authorities of the Contracting States shall notify each other at the end of every year of any material change in their fiscal legislation relating to estate and inheritance taxes.

Article II. For the purposes of this Convention:

- (a) The term "Italy" means the Italian Republic;
- (b) The term "Israel" means the State of Israel;
- (c) The term "tax" means the tax on the net total value of the inheritance, and the estate tax, levied by Italy or the estate tax levied by Israel, as the context may require;

(d) The term "competent authority" means, in the case of Italy, the Ministry of Finance, Directorate-General of Taxes and Indirect Imposts on Business Transactions (*Direzione Generale delle Tasse ed Imposte Indirette sugli Affari*), and in the case of Israel, the Minister of Finance or his representative.

Article III. 1. In the case of the succession of a person who, at the time of his death, was domiciled in one of the Contracting States, the place where each of the following kinds of assets is situated shall, for the purposes of the imposition of tax, be determined solely according to the following rules:

- (a) Immovable property shall be considered situated in the place where it actually is.
- (b) Movable material assets (except such for which special provisions are laid down below) and bank notes, currency notes and other forms of money recognised as legal tender in their place of issue are considered situated in the place where they are at the time of the deceased's death or, if in transit, in the place of destination.

¹ Came into force on 8 August 1973, the date of the exchange of the instruments of ratification, which took place at Jerusalem, in accordance with article XI.

- (c) Claims (including bonds, promissory notes and bills of exchange) are considered situated in the State where the debtor is domiciled or, if the debtor is a body corporate, in the State where the same is established or operates.
- (d) Shares or interests in bodies corporate are considered situated in the State in which the body corporate is established or operates.
- (e) Vessels, aircraft and any shares therein are considered situated in the place of registration thereof.
- (f) Assets invested in a commercial or industrial undertaking, or connected with the practice of a profession, and assigned to a permanent establishment situated in either of the Contracting States, including the goodwill attaching thereto, are chargeable with tax in that State.

The term “permanent establishment” means a permanent place of business where the business of the undertaking is conducted wholly or in part.

A “permanent establishment” may be any of the following:

- (i) Headquarters;
 - (ii) A branch;
 - (iii) An office;
 - (iv) A factory;
 - (v) A workshop;
 - (vi) A mine, a quarry or any other place where natural resources are exploited;
 - (vii) A construction or assembly site existing for more than twelve months.
- (g) Patents, trade marks and designs shall be considered situated in the place where they are registered.
 - (h) Copyrights, exclusive rights, rights in artistic and scientific works and rights and permits to use any material, or any artistic or scientific work, covered by a copyright or by a patent, trade mark or design are considered situated in the place where the rights deriving therefrom are exercised.
 - (i) Any assets other than the abovementioned shall be considered situated in the State in which the deceased was domiciled at the time of his death.

Article IV. For the purposes of this Convention, “domicile” means the place where the business and interests of the deceased were mainly located.

If it is doubtful in which of the two States the deceased had his domicile, within the meaning of the preceding paragraph, or if the deceased could be considered to have been domiciled in both States, the question shall be decided by special agreement between the competent authorities of the two States. For that purpose, it shall be taken into consideration with which of the two States the deceased, at the time of his death, had closer personal and economic ties. If the deceased had his domicile in neither of the two Contracting States, he shall be considered to have been domiciled in the State in which he resided. If he resided in both States, the question of his domicile shall be decided by special agreement between the competent authorities of the two States.

Article V. Debts resting upon any of the assets referred to in article III of this Convention or secured by any such assets shall be deducted in the State in which such assets are chargeable with tax, for the value of such assets, or of any other assets which that State has the right to charge with tax. Debts other than the aforesaid shall be deducted from the value of the assets chargeable with tax in the State in which the deceased was domiciled at the time of his death.

If the debts which under the first paragraph are deductible in one of the two States exceed the total value of the assets which that State has the right to charge with tax, the excess shall be deducted from the value of the assets chargeable with tax in the other State.

Article VI. No tax shall be imposed on assets which a deceased person, who at the time of his death was domiciled in one of the Contracting States, willed to any of the following:

- (1) The other Contracting State;
- (2) A local authority in the other Contracting State for religious, educational, cultural, charitable or welfare purposes;
- (3) An institution established or to be established in the other Contracting State for any of the said purposes and approved in that behalf by such State.

Article VII. The competent authorities of the Contracting States shall furnish each other with the informations required for the implementation of the provisions of this Convention, as far as such informations are available under their respective fiscal laws. Informations so supplied shall be kept secret and shall be disclosed only to those (including judicial authorities) who are interested in the assessment and collection of, or in appeals relating to, taxes dealt with by this Convention. No information shall be supplied by which a secret or an industrial or commercial process is likely to be disclosed.

Article VIII. Any taxpayer who proves that taxes imposed or intended to be imposed on him involve or may involve double taxation contrary to the principles of this Convention may lodge objection with the competent authority of the State in which he is considered domiciled under article IV or in which the deceased was considered domiciled under this Convention at the time of his death.

If the objection is found to be justified, the State shall adopt the necessary measures to end the double taxation.

Objection shall be lodged within three years from the end of the solar year in which the taxpayer learned of the double taxation.

Article IX. The provisions of this Convention shall not be construed as negating or impairing in any way the right of diplomatic or consular personnel to other or greater exemptions now enjoyed by them or which may be granted them in the future.

The provisions of this Convention shall in no case be construed as increasing the burden of taxation in either of the Contracting States.

Where doubts or difficulties arise concerning the interpretation or application of this Convention, the competent authorities of the Contracting States may settle the matter by mutual agreement.

Article X. The competent authorities of the Contracting States may enact the necessary regulations for the interpretation of this Convention and may contact each other directly for carrying them into effect.

Article XI. This Convention shall be ratified and the relative instruments shall be exchanged at Jerusalem as soon as possible.

This Convention shall have effect from the date of the exchange of the instruments of ratification and shall apply to successions devolving on or after that date. It shall have effect for a period of five years from the date of the exchange of the instruments of ratification and for an unlimited period thereafter. It may, however, be terminated by either of the Contracting States at the end of the said five-year period, or at any time thereafter, by at least six months' advance notice. In that case, the Convention shall cease to have effect on the 1st day of January next following the expiration of the said six months.

DONE at Rome on the 22 April 1968, corresponding to 24 Nisan 5728, in duplicate, in the Hebrew, Italian and English languages, each text being equally authentic, except in the case of doubt, when the English text shall prevail.

For the Government
of the State of Israel:

[Signed — Signé]¹

For the Government
of the Italian Republic:

[Signed — Signé]²

¹ Signed by Ehud Avriel — Signé par Ehud Avriel.

² Signed by Giovanni Vincenzo Soro — Signé par Giovanni Vincenzo Soro.

EXCHANGE OF LETTERS

I

L'AMBASSADEUR D'ISRAËL¹

Rome, 19 February 1970

Excellency,

I have the honour to refer to the Conventions between the Italian Republic and the State of Israel for the avoidance of double taxation with respect to taxes on income and capital and for the prevention of double taxation on estates and inheritances signed in Rome on the 22nd of April 1968.²

The first Convention provides, in art. XXIV, parag. two, that this Convention shall apply, after its entry into force, to income earned and to capital owned on or after the first day of January 1962, while the application of the second Convention is limited, according to article eleven, to successions devolving on or after the date of the entry into force of the Convention.

In order to establish an uniformity between the texts of the two agreements, I have the honour to propose, in the name of my Government, that the convention for the prevention of double taxation on estates and inheritances will apply to successions devolving on or after the first day of January 1962.

If this modification is acceptable to the Government of Italy, I have the honour to propose that this letter and Your Excellency's reply will constitute an agreement which will enter into force together with the Convention for the prevention of double taxation on estates and inheritances and will constitute an integral part of and have the same duration as that Convention.

Please accept, Excellency, the assurances of my highest consideration.

AMIEL E. NAJAR

H. E. Aldo Moro
Minister for Foreign Affairs
Rome

II

[ITALIAN TEXT — TEXTE ITALIEN]

IL MINISTRO DEGLI AFFARI ESTERI

Roma, 21 marzo 1970

Signor Ambasciatore,

ho l'onore di accusare ricevuta della lettera di Vostra Eccellenza in data 19 febbraio 1970, del seguente tenore:

« Ho l'onore di riferirmi alle Convenzioni italo-israeliane per evitare le doppie imposizioni in materia di imposte sul reddito e sul patrimonio e per

¹ The Ambassador of Israel.

² See pp. 99 and 151 of this volume.

evitare le doppie imposizioni in materia di imposte sulla successione mortis causa, concluse a Roma il 22 aprile 1968.

La prima Convenzione prevede, all'art XXIV, par. 2, che l'Accordo stesso si applichi, dopo la sua entrata in vigore, al reddito realizzato e al patrimonio posseduto a partire dal 1° gennaio 1962, mentre l'applicabilità della seconda Convenzione viene limitata, ai sensi dell'art. 11, alle successioni ereditarie apertesi a partire dal giorno della sua entrata in vigore.

Per stabilire un'uniformità fra i due Accordi, ho l'onore di proporre, a nome del mio Governo, che la Convenzione per evitare le doppie imposizioni in materia di imposte sulla successione mortis causa si applichi invece alle successioni ereditarie apertesi a partire dal 1° gennaio 1962.

Qualora tale modifica risulti accettabile da parte del Governo italiano, ho l'onore di proporre che questa Nota e quella che V. E. si compiacerà inviarmi in risposta costituiscano un accordo aggiuntivo alla Convenzione per evitare le doppie imposizioni in materia di imposte sulla successione mortis causa, ne formi parte integrante, entri in vigore alla medesima data e ne abbia la stessa durata ».

Ho l'onore d'informare Vostra Eccellenza che il Governo italiano accetta le proposte sopra menzionate.

Voglia gradire, Signor Ambasciatore, i sensi della mia più alta considerazione.

ALDO MORO

S. E. l'Ambasciatore Amiel Najjar
Ambasciata d'Israele
Roma

[TRANSLATION — TRADUCTION]

MINISTRY FOR FOREIGN AFFAIRS

Rome, 21 March 1970

Sir,

I have the honour to refer to Your Excellency's letter dated 19 February 1970, which reads as follows:

[*See letter I*]

I have the honour to inform Your Excellency that the Italian Government accepts the above-mentioned proposal.

Accept, Sir, etc.

ALDO MORO

His Excellency Ambassador Amiel Najjar
Ambassador of Israël
Rome