

No. 23593

**SWEDEN
and
UNITED STATES OF AMERICA**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates, inheritances and gifts. Signed at Stockholm on 13 June 1983

Authentic texts: Swedish and English.

Registered by Sweden on 16 October 1985.

**SUÈDE
et
ÉTATS-UNIS D'AMÉRIQUE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur les successions et sur les donations. Signée à Stockholm le 13 juin 1983

Textes authentiques : suédois et anglais.

Enregistrée par la Suède le 16 octobre 1985.

CONVENTION¹ BETWEEN THE GOVERNMENT OF SWEDEN
AND THE GOVERNMENT OF THE UNITED STATES OF
AMERICA FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH RE-
SPECT TO TAXES ON ESTATES, INHERITANCES, AND
GIFTS

The Government of Sweden and the Government of the United States of America, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates, inheritances, and gifts have agreed as follows:

Article 1. SCOPE

1. Except as otherwise provided in this Convention, this Convention shall apply to:

- a) Transfers of estates of individuals whose domicile at their death was in one or both of the Contracting States;
- b) Transfers of property by gift of individuals whose domicile at the time of gift was in one or both of the Contracting States; and
- c) Generation-skipping transfers of deemed transferors whose domicile at the time of deemed transfer was in one or both of the Contracting States.

2. The Convention shall not restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded:

- a) By the laws of either Contracting State; or
- b) By any other agreement between the Contracting States.

3. Notwithstanding any provision of the Convention except paragraph 4 of this Article, a Contracting State may tax transfers and deemed transfers of its domiciliaries (as determined in accordance with Article 4), and by reason of citizenship may tax transfers and deemed transfers of its citizens, as if the Convention had not come into effect. For this purpose the term "citizen" shall include a former citizen whose loss of citizenship had as one of its principal purposes the avoidance of tax (including, for this purpose, income tax), but only for a period of 10 years following such loss.

4. The provisions of paragraph 3 shall not affect:

- a) The benefits conferred by a Contracting State under paragraph 7 of Article 8 or under Articles 9, 10, and 11;
- b) The benefits conferred by the United States under paragraph 1 of Article 13 upon individuals who are neither citizens of, nor have immigrant status in, the United States; and
- c) The benefits conferred by Sweden under paragraph 1 of Article 13 upon individuals who are not citizens of Sweden.

¹ Came into force on 5 September 1984 by the exchange of the instruments of ratification, which took place at Washington, in accordance with article 14 (2).

Article 2. TAXES COVERED

1. The existing taxes to which this Convention shall apply are:

- a) In the United States: the Federal estate tax, the Federal gift tax, and the Federal tax on generation-skipping transfers;
- b) In Sweden: the inheritance tax and the gift tax.

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed by a Contracting State after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws and shall notify each other of any official published material of substantial significance concerning the application of the Convention, including explanations, regulations, rulings, and judicial decisions.

3. For the purposes of Article 10, the Convention shall apply to taxes of every kind and description imposed by a Contracting State or a political subdivision or local authority thereof. For the purpose of Article 12, the Convention shall apply to taxes of every kind imposed by a Contracting State.

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

a) The term "United States" means the United States of America, but does not include Puerto Rico, the Virgin Islands, Guam, or any other United States possession or territory. Such term also includes the territorial sea thereof and the seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which the United States of America exercises sovereign rights, in accordance with international law, for the purpose of exploration for and exploitation of the natural resources of such areas.

b) The term "Sweden" means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden within which the laws of Sweden and in accordance with international law the rights of Sweden with respect to the exploration for and exploitation of the natural resources on the seabed or in its subsoil may be exercised;

c) The terms "a Contracting State" and "the other Contracting State" mean the United States or Sweden, as the context requires;

d) The term "international traffic" means any transport by a ship or aircraft, except when such transport is solely between places in the other Contracting State; and

e) The term "competent authority" means:

- i) In the United States, the Secretary of the Treasury or his delegate, and
- ii) In Sweden, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires and subject to the provisions of Article 11, have the meaning which it has under the laws of that State concerning the taxes to which the Convention applies.

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, an individual has a domicile:

- a) In the United States, if he is a resident or citizen thereof under United States law;
- b) In Sweden, if he is a resident or citizen thereof under Swedish law.

2. Where by reason of the provisions of paragraph 1 an individual is domiciled in both Contracting States, then, subject to the provisions of paragraph 3, his status shall be determined as follows:

a) The individual shall be deemed to be domiciled in the Contracting State in which he has a permanent home available; if such individual has a permanent home available in both Contracting States, he shall be deemed to be domiciled in the Contracting State with which his personal and economic relations are closer (center of vital interests);

b) If the Contracting State in which the individual has his center of vital interests cannot be determined, or if he has no permanent home available in either Contracting State, he shall be deemed to be domiciled in the Contracting State in which he has an habitual abode;

c) If the individual has an habitual abode in both Contracting States or in neither of them, his domicile shall be deemed to be in the Contracting State of which he is a citizen;

d) If the individual is a citizen of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where an individual is:

- a) A citizen of one Contracting State, but not the other Contracting State,
- b) Within the meaning of paragraph 1 domiciled in both Contracting States, and
- c) Within the meaning of paragraph 1 domiciled in the other Contracting State in the aggregate less than 5 years (including periods of temporary absence) during the preceding 7-year period,

then his domicile shall be deemed, notwithstanding the provisions of paragraph 2, to be in the Contracting State of which he is a citizen.

4. An individual who, at the time of his death or the making of a gift or deemed transfer, was a resident of a possession of the United States and who had become a citizen of the United States solely by reason of (a) being a citizen of a possession, or (b) birth or residence within a possession, shall be considered as having been neither domiciled in nor a citizen of the United States at that time for the purposes of the Convention.

Article 5. REAL PROPERTY

1. Transfers and deemed transfers by an individual domiciled in a Contracting State of real property which is situated in the other Contracting State may be taxed in that other State.

2. The term "real property" shall have the meaning which it has under the law of the State in which the property in question is situated. The term shall in any case include property accessory to real property, livestock and equipment

used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of real 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, boats, and aircraft shall not be regarded as real property.

Article 6. BUSINESS PROPERTY OF A PERMANENT ESTABLISHMENT AND ASSETS PERTAINING TO A FIXED BASE USED FOR THE PERFORMANCE OF INDEPENDENT PERSONAL SERVICES

1. Except for real property as defined in paragraph 2 of Article 5, transfers and deemed transfers by an individual domiciled in a Contracting State of assets (other than ships and aircraft used in international traffic and movable property, including containers, pertaining to the operation of such ships and aircraft), forming part of the business property of a permanent establishment situated in the other Contracting State may be taxed in that other State.

2. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

3. The term "permanent establishment" shall include especially:

- a) A place of management;
- b) A branch;
- c) An office;
- d) A factory;
- e) A workshop; and
- f) A mine, oil or gas well, quarry, or any other place of extraction of natural resources.

4. A building site or construction or installation project, or an installation or drilling rig or ship being used for the exploration or development of natural resources, constitutes a permanent establishment in a Contracting State only if it has remained in that State more than 12 months.

5. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) The use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to an enterprise;
- b) The maintenance of a stock of goods or merchandise belonging to an enterprise solely for the purpose of storage, display, or delivery;
- c) The maintenance of a stock of goods or merchandise belonging to an enterprise solely for the purpose of processing by another enterprise;
- d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for an enterprise;
- e) The maintenance of a fixed place of business solely for the purpose of carrying on, for an enterprise, any other activity of a preparatory or auxiliary character;
- f) The maintenance of a fixed place of business solely for any combination of the activities mentioned in subparagraphs a) to e).

6. Except for real property as defined in paragraph 2 of Article 5, transfers and deemed transfers of assets by an individual domiciled in a Contracting State pertaining to a fixed base situated in the other Contracting State and used for the performance of independent personal services, may be taxed in that other State.

Article 7. PROPERTY NOT EXPRESSLY MENTIONED

1. Transfers and deemed transfers by an individual domiciled in a Contracting State of property other than property referred to in Articles 5 and 6 shall be taxable only in that State.

2. If the law of a Contracting State treats a property right as property described in Article 5 or 6, but the law of the other Contracting State treats that right as an interest in a partnership or trust governed by paragraph 1, the nature of that right shall be determined by the law of the Contracting State in which the transferor or deemed transferor is not domiciled.

Article 8. DEDUCTIONS AND EXEMPTIONS

1. Debts incurred for the purposes of the acquisition, conversion, repair, or upkeep of property referred to in Article 5, shall be deducted from the value of that property.

2. Subject to paragraph 1, debts pertaining to a permanent establishment referred to in paragraph 1 of Article 6, or to a fixed base referred to in paragraph 6 of Article 6, shall be deducted from the value of the permanent establishment or the fixed base as the case may be.

3. If a debt exceeds the value of the property from which it is deductible in a Contracting State, according to paragraph 1 or 2, the excess shall be deducted from the value of any other property taxable in that State.

4. Other debts shall be deducted from the value of property to which paragraph 1 of Article 7 applies.

5. Any excess still remaining in a Contracting State after the deductions referred to in paragraph 3 or 4 shall be deducted from the value of the property liable to tax in the other Contracting State.

6. Notwithstanding the provisions of paragraph 2 of Article 1, if any debt is deducted in accordance with the provisions of this Article, no deduction shall be allowed for any debt pursuant to a law of the United States providing for a different allocation.

7. The transfer or deemed transfer of property to or for the use of a corporation or organization of one Contracting State organized and operated exclusively for religious, charitable, scientific, or educational purposes shall be exempt from tax by the other Contracting State if and to the extent that such transfer:

- a) Is exempt from tax in the first-mentioned Contracting State; and
- b) Would be exempt from tax in the other Contracting State if it were made to a similar corporation or organization of that other State.

8. The tax of the United States with respect to the transfer of property (other than community property) which is transferred by an individual domiciled in Sweden to his or her spouse shall be determined as follows:

- a) Such property shall be included in the taxable base only to the extent that the value of the property exceeds 50 per cent of the value of all property (after taking into account any applicable deductions) whose transfer may, under this Convention, be taxed by the United States; and
- b) The tax shall be computed by applying the tax rates applicable to an individual domiciled in the United States.

9. Where property passes to a spouse from a deceased person who was domiciled in or a national of the United States and the property rights of the spouse are not regulated by Swedish general law regarding matrimonial property, then Swedish tax on such property shall, if the surviving spouse so requests, be assessed as if the provisions of Swedish law regulating matrimonial property rights were applicable to such property.

Article 9. RELIEF FROM DOUBLE TAXATION

1. Where the United States imposes tax by reason of an individual's domicile or citizenship, double taxation shall be avoided in the following manner:

a) Where Sweden imposes tax with respect to the transfer or deemed transfer of property in accordance with Article 5 or 6, the United States shall allow as a credit against the tax calculated according to its law with respect to such transfer or deemed transfer an amount equal to the tax paid to Sweden with respect to such transfer or deemed transfer.

b) If the individual was a citizen of the United States and was domiciled in Sweden at the date of his death, gift, or deemed transfer, then the United States shall allow as a credit against the tax calculated according to its law with respect to the transfer or deemed transfer of property (other than property whose transfer or deemed transfer the United States may tax in accordance with Article 5 or 6) an amount equal to the tax paid to Sweden with respect to such transfer or deemed transfer. This subparagraph shall not apply to a former United States citizen whose loss of citizenship had as one of its principal purposes the avoidance of United States tax (including, for this purpose, income tax).

2. Where Sweden imposes tax by reason of an individual's domicile or citizenship, double taxation shall be avoided in the following manner:

a) Where the United States imposes tax with respect to the transfer or deemed transfer of property in accordance with Article 5 or 6, Sweden shall allow as a credit against the tax calculated according to its law with respect to such transfer or deemed transfer an amount equal to the tax paid to the United States with respect to such transfer or deemed transfer.

b) If the individual was domiciled in the United States at the date of his death, gift, or deemed transfer, then Sweden shall allow as a credit against the tax calculated according to its law with respect to the transfer or deemed transfer of property (other than property which Sweden may tax in accordance with Article 5 or 6) an amount equal to the tax paid to the United States with respect to such transfer or deemed transfer.

3. If a Contracting State imposes tax upon the transfer of an estate, the credit allowed under paragraph 1 or 2 shall include credit for any tax imposed by the other Contracting State upon a prior transfer or deemed transfer of property by the decedent if such property is included in the estate.

4. The credit allowed by a Contracting State under paragraph 1 or 2 shall not be reduced by any credit allowed by the other Contracting State for taxes paid upon prior transfers or deemed transfers.

5. The credit allowed by a Contracting State according to paragraphs 1, 2, 3, and 4 shall include credit for taxes paid to political subdivisions of the other Contracting State to the extent that such taxes are allowed as credits by that other State.

6. Any credit allowed under paragraph 1 or 2 shall not exceed the part of the tax of a Contracting State, as computed before the credit is given, which is attributable to the transfer or deemed transfer of property in respect of which a credit is allowable under such paragraphs.

7. Any claim for credit or for refund of tax founded on the provisions of the present Convention shall be made within six years from the date of the event giving rise to liability to tax or, where later, within one year from the last date on which tax for which credit is given is due. The competent authority may, in appropriate circumstances, extend this time limit where the final determination of the taxes which are the subject of the claim for credit is delayed.

Article 10. NON-DISCRIMINATION

1. Citizens of a Contracting State, wherever they are resident, 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 citizens of that other State in the same circumstances are or may be subjected. However:

- a) For purposes of United States taxation, United States citizens who are not residents of the United States are not in the same circumstances as citizens of Sweden who are not residents of the United States; and
- b) For purposes of Swedish taxation, Swedish citizens who are not residents of Sweden are not in the same circumstances as citizens of the United States who are not residents of Sweden.

2. The taxation with respect to a permanent establishment which a resident of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied with respect to residents 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.

3. Entities 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 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 entities of the first-mentioned State are or may be subjected.

4. The provisions of this Article shall apply to taxes of every kind and description imposed by a Contracting State or a political subdivision or local authority thereof.

Article 11. 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 the provisions of this Convention, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or citizen. Such presentation must be made within one year after a claim under the Convention for exemption, credit, or refund has been finally settled or rejected.

2. The competent authority to which a case is presented shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory 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 Convention. Any agreement reached shall be implemented notwithstanding any time limits or other procedural limitations in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

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.

Article 12. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning the taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the administration, assessment, or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- a) To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; or
- c) To supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall obtain the information to which the

request relates in the same manner and to the same extent as if the tax of the first-mentioned State were the tax of that other State and were being imposed by that other State. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts, or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of such other State with respect to its own taxes.

4. For the purposes of this Article, the Convention shall apply to taxes of every kind imposed by a Contracting State.

Article 13. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

2. The Convention shall not apply to officials of international organizations or members of a diplomatic or consular mission of a third State, established in a Contracting State and not treated as domiciled in either Contracting State in respect of taxes on estates, inheritances, gifts, or generation-skipping transfers as the case may be.

Article 14. ENTRY INTO FORCE

1. This Convention shall be subject to ratification in accordance with the applicable procedures of each Contracting State and instruments of ratification shall be exchanged at Washington as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall apply:

- a) In the United States in respect of transfers of estates of individuals dying, gifts made, and generation-skipping transfers deemed made on or after the date of such exchange; and
- b) In Sweden, as regards inheritance tax, in respect of persons who die on or after that date, and, as regards gift tax, in respect of gifts by reference to which there is a charge to tax which arises on or after that date.

Article 15. TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after 5 years from the date on which the Convention enters into force provided that at least 6 months' prior notice of termination has been given through diplomatic channels. In such event, the Convention shall cease to have effect after the December 31 which either is or next follows the date of termination specified in the notice of termination but shall continue to apply in respect of the estate of any individual dying before the end of that period and in respect of any event (other than death) occurring before the end of that period and giving rise to liability to tax under the laws of either Contracting State.

DONE at Stockholm, in duplicate in the Swedish and English languages, the two texts having equal authenticity, this 13th day of June 1983.

SOM SKEDDE i Stockholm den 13 juni 1983 i två exemplar på svenska och engelska språken, vilka båda texter äger lika vitsord.

For the Government of Sweden:

LENNART BODSTRÖM

For the Government
of the United States:

FRANKLIN S. FORSBERG

För Sveriges regering:

För Amerikas Förenta
Staters regering: