

DOUBLE TAXATION AND FISCAL ASSISTANCE

Convention signed at Paris October 18, 1946, modifying and supplementing convention and protocol of July 25, 1939
*Modified by protocol of May 17, 1948*¹
Senate advice and consent to ratification June 2, 1948
Ratified by the President of the United States June 18, 1948
Ratified by France September 5, 1949
Ratifications exchanged at Washington October 17, 1949
Entered into force October 17, 1949, and January 1, 1950, in accordance with terms of article 18
Proclaimed by the President of the United States October 27, 1949
*Supplemented by convention of June 22, 1956*²
*Provisions concerning taxes on income, capital, and stock exchange transactions terminated by convention of July 28, 1967*³

64 Stat. (3) B3; Treaties and Other
International Acts Series 1982

CONVENTION BETWEEN FRANCE AND THE UNITED STATES OF AMERICA ABOUT DOUBLE TAXATION AND FISCAL ASSISTANCE

The Government of the United States of America and the Provisional Government of the French Republic,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of evasion in the case of taxes on estates and inheritances, and for the purpose of modifying and supplementing certain provisions of the Convention between the two Governments relating to income taxation signed at Paris on July 25, 1939,⁴

Have designated for this purpose as their respective Plenipotentiaries:

The Government of the United States of America: Mr. Jefferson Caffery, Ambassador Extraordinary and Plenipotentiary of the United States of America in France,

The Provisional Government of the French Republic: Mr. Georges Bidault, President of the Provisional Government of the French Republic,

¹ TIAS 1982, *post*, p. 1251.

² 8 UST 843; TIAS 3844.

³ 19 UST 5280; TIAS 6518.

⁴ TS 988, *ante*, p. 1046.

Minister for Foreign Affairs who, after having exchanged their full powers found to be in good and due form, have agreed as follows:

TITLE I

Taxes on Estates and Inheritances

ARTICLE 1

(1) The taxes which are the subject of this Title are:

- (a) for the United States of America, the Federal estate tax, and
- (b) for France, the tax on inheritances.

(2) This Title shall also be applicable to all other taxes of a substantially similar character imposed by either Contracting State after the signing of the present Convention, or imposed by the government of any territory to which the present Convention applies under Article 17.

(3) The present Convention is concluded with reference to United States and French law in force on the day of its signature. Accordingly, if these laws are appreciably modified the competent authorities of the two States will consult together for the purposes of adapting the provisions of the present Convention to such changes.

ARTICLE 2

(1) In this Title, unless the context otherwise requires:

(a) The term "United States" means the United States of America, and when used in a geographical sense means only the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term "France", when used in a geographical sense, means only metropolitan France, excluding Algeria and the Colonies.

(c) The term "tax" means the French tax on inheritances or the Federal estate tax of the United States, as the context requires.

(2) In the application, by one of the Contracting States, of the provisions of this Title, any term which is not otherwise defined shall have, unless the context requires a different interpretation, the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Title.

ARTICLE 3

(1) For the purposes of this Title, the question whether a decedent was domiciled in the territory of one of the Contracting States at the time of his death shall be determined in conformity with the law in force in that territory.

(2) In the case of the death of a person domiciled in the territory of one of the Contracting States, the situs of any of the following property or property rights shall, for the purpose of the imposition of the tax and for the

purpose of the credit provided for in Article 5, be determined exclusively in accordance with the following rules:

(a) Real property shall be deemed to be situated at the place where the land involved is located. Real property includes leases of such property, unless such leases are of eighteen years' duration or less, but excludes mortgages and other liens on such property as security. The question whether any other property or right in property constitutes real property shall be determined in accordance with the law of the place where the land involved is located.

(b) Corporeal movable property, except as hereinafter prescribed, as well as bank notes and any other kind of money which is legal tender at the place of issuance, shall be deemed to be situated where it is physically located at the time of the decedent's death.

(c) Ships and aircraft shall be deemed to be situated at the place of registration or documentation of the ship or aircraft.

(d) The goodwill of a business firm (including for the purposes of this subparagraph rights in a lease other than one deemed to be real property under the provisions of subparagraph (a) of this Article) or the goodwill attached to the practice of one of the liberal professions shall be deemed to be situated where the business is carried on or the profession is practiced.

(e) Patents, trademarks and designs shall be deemed to be situated at the place where they are registered.

(f) Copyrights and rights or licenses to use any copyrighted material, patent, trademark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable.

(g) Shares in a corporation (including shares held by a nominee for the benefit of the decedent) shall be deemed to be situated at the place in which, or under the laws of which, such corporation was created or organized.

(h) Bills of exchange and checks shall be deemed to be situated at the place of the drawee's residence, and negotiable promissory notes at the place of residence of the maker.

(i) All property other than hereinbefore mentioned shall be deemed to be situated in the State in which the deceased person was domiciled at the time of his death.

ARTICLE 4

The Contracting State which imposes tax in the case of a decedent who, at the time of his death, was not domiciled in its territory but was domiciled in the territory of the other Contracting State:

a) shall allow every abatement, exemption, deduction, or credit, which would be applicable under its law if the decedent had been domiciled in its territory, in an amount not less than the proportion thereof which the value

of the property, situated according to Article 3 in such State and subject to the tax of such State, bears to the value of the property which would have been subject to the tax of such State if the decedent had been domiciled in its territory; and

b) shall (except for the purpose of subparagraph (a) of this Article and for the purpose of any other proportionate allowance otherwise provided) take no account of property situated according to Article 3 outside its territory in determining the amount of rate of tax.

However, the provisions of this Article shall not apply to the tax imposed by the United States in the case of a deceased citizen of the United States.

ARTICLE 5

(1) The Contracting State imposing tax in the case of a deceased person, who, at the time of his death, was domiciled in such State (or was a citizen thereof if such State is in the United States), shall allow against its tax (as otherwise computed) a credit for the amount of the tax imposed by the other Contracting State with respect to property situated in the territory of such other Contracting State and included for tax purposes by both States, but the amount of credit shall not exceed the portion of the tax imposed by the former State which is attributable to such property. The provisions of this paragraph shall not apply with respect to any property referred to in paragraph (2) of this Article.

(2) If the decedent is regarded by each of the Contracting States as being domiciled in its own territory, each State shall, in addition to the credit authorized by paragraph (1) of this Article, allow against its tax (as otherwise computed) a credit for that part of the tax imposed by the other State with respect to property included for tax purposes by both States and situated or deemed to be situated

- (a) in the territory of both Contracting States, or
- (b) outside of both territories.

The total of the credits authorized by this paragraph shall be equal to the amount of tax imposed with respect to such property by the State imposing the smaller tax, and shall be divided between the two States in proportion to the amount of tax imposed by each of the two Contracting States with respect to such property.

(3) For the purposes of this Article, the amount of the tax of each Contracting State attributable to any designated property shall be ascertained after taking into account any applicable abatement, credit, remittance, diminution, or increase, as provided by its law, other than any credit authorized by this Article.

ARTICLE 6

(1) Any claim for a credit or a refund of tax founded on the provisions of this Title shall be made within a period of five years from the date of the death of the decedent.

(2) Any such refund shall be made without payment of interest on the amount so refunded.

TITLE II

Tax on Incomes

ARTICLE 7

The provisions of the convention and protocol between the United States of America and the French Republic signed at Paris on July 25, 1939 are hereby modified and supplemented as follows:

(a) In the enumeration of French taxes to which the convention of July 25, 1939, applies the reference to the national tax on undistributed profits which is set forth as number (3) in Article 1 (b) of Title I is eliminated as the tax has ceased to be imposed in France since January 1, 1941. The second paragraph of Article 15 of said convention is abrogated.

(b) For the purposes of Article 7 an individual resident of France deriving from sources within the United States rents from real property, or royalties in respect to mines, quarries, or other natural resources may elect for any taxable year to be subject to United States tax as if such resident were engaged in trade or business within the United States through a permanent establishment therein in such taxable year. For the purposes of Article 7 the term "royalties" as used in the second paragraph of such article shall, as to amounts paid on or after January 1, 1945, be deemed to include rentals in respect of motion picture films.

(c) Article 8 is amended by adding after the words "other State" in the first paragraph thereof the following:

"(other than citizens of such other State").

(d) (1) Article 14, B, a) is amended by striking out "12" and inserting in lieu thereof "25". This subparagraph shall be deemed to be effective as of January 1, 1945, with respect to the taxation of income acquired since that date on which the French tax has not been collected.

(2) The last paragraph of Article 14, B, b) is abrogated and replaced by the following provisions:

"However, the provisions of the first and second paragraphs of Article 114 of the French Code on direct taxation relative to the taxation of aliens domiciled or resident in France shall continue to be applied."

(e) By adding immediately after Article 17 the following new article:

ARTICLE 17A

The American corporations affected by Article 17 of the Convention of July 25, 1939, which remain subject to the provisions of Article 3 of the Decree of December 6, 1872 which were not placed under the special regime established by Articles 5 and 6 of the Convention for the avoidance of double taxation between the United States of America and France signed April 27, 1932⁵ may, during a new period of six months from the date of exchange of the instruments of ratification of the present Convention, exercise with reference to past years the option provided in those two Articles under the conditions which they prescribe.

(f) Paragraph VIII of the Protocol is amended to read as follows:

VIII

As used in this Convention, the term "competent authority" or "competent authorities" means, in the case of the United States of America the Commissioner of Internal Revenue or his duly authorized representative, and in the case of France the Chef du Service de la Coordination des Administrations Financieres or his duly authorized representative.

TITLE III

Administrative Assistance

ARTICLE 8

(1) With a view to a more effective imposition of the taxes referred to in Title I of the present Convention and in the tax Convention of July 25, 1939, and to the prevention of fraud in the case of such taxes, the Contracting States agree that their competent authorities will exchange all the information which they possess or can procure under their respective laws that may be of use to the competent authorities for these purposes. The information transmitted under the provisions of this Convention by one of the Contracting States to the other Contracting State shall not be published, revealed or disclosed to any person except to the extent permitted under the laws of the latter State with respect to similar information.

(2) In no case shall the provisions of this Title relating to disclosure of information in particular cases or to mutual assistance in the collection of taxes be construed so as to impose upon either of the Contracting States the obligation to carry out administrative measures at variance with the regulations and practice of either Contracting State or to supply particulars which are not procurable under its own legislation or information which is of such nature that it would involve violation of an industrial, business, or trade secret or compromise its security.

⁵ TS 885, *ante*, p. 977.

(3) The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it. If, for any of the reasons set forth above, it is unable to comply with such request it shall inform as soon as possible the State making the application.

ARTICLE 9

(1) In conformity with the provisions of the preceding Article the competent authorities of the United States will transmit without request to the competent authorities of the French Republic:

(a) As regards any person, corporation or other entity having an address in France and deriving from sources within the United States rents, dividends, interests, royalties (including income from authors' rights), income from trusts, salaries, wages, bonuses, pensions, annuities, or other fixed or determinable periodical income, the name and address of such person, corporation or other entity as well as the amount of such income.

(b) As regards—

(A) a decedent who was a citizen of, or domiciled in, the United States, any information disclosed by United States estate tax records relative to property of such decedent situated in France; and

(B) a decedent domiciled in France, any information disclosed by United States estate tax records relative to property of such decedent situated in the United States.

(c) Any particulars which the competent authorities of the United States may obtain from banks, savings banks or other similar institutions concerning assets belonging to individuals whose addresses are in France or to French corporations or other entities, as well as information on the amount of payments of coupons from securities which are made to the account of these persons.

(d) Any particulars which the competent authorities of the United States may obtain from inventories in the case of property passing on death concerning debts contracted with individuals whose addresses are in France or French corporations or other entities.

(2) The information referred to in subparagraph (a) of paragraph (1) of this Article will be transmitted as soon as possible after December 31 of each year. The information referred to in subparagraphs (b), (c) and (d) of paragraph (1) of this Article will be transmitted as soon as practicable in the course of audit of estate tax cases.

ARTICLE 10

(1) In conformity with the provisions of Article 8, and independently of the enumeration below, the competent authorities of the French Republic

will transmit spontaneously to the competent authorities of the United States information which they can obtain on the existence of property belonging to the estates of persons, domiciled at the moment of their death either in France or in the United States or of citizens of the United States, and which may be taxable under the estate tax laws of the United States.

(2) They will furnish in particular to these authorities:

(a) the copy of the transcript of the report of the opening of safety boxes or sections of safety boxes which were rented by the decedents or their spouses if these persons were domiciled in the United States or if they were citizens thereof;

(b) the copy of the transcript of the reports of the inventory of the content of sealed envelopes and locked boxes deposited by said persons with bankers, brokers or other persons receiving habitually deposits of this type;

(c) the copy of the lists of securities, cash or documents of evidence of value belonging to the estate of a person domiciled in the United States transmitted by corporations or companies, brokers, bankers, ministerial officers (notaries), business agents, custodians;

(d) the report of the opening of each individual or joint account opened with one of the persons designated under the preceding subparagraph and concerning one or more citizens of the United States.

(3) They will also furnish to these authorities:

(a) the name and address of each natural or juridical person having an address in the United States and drawing from sources situated in France income from immovables, dividends, interests, royalties, salaries, wages, bonuses, pensions, annuities, or other periodical (fixed or variable) incomes, accompanied by an indication for each of the said persons of the amount of this income;

(b) all information which they can obtain from banks, savings banks or other analogous institutions on assets belonging to persons who have an address in the United States or corporations or other United States juridical persons as well as information on the amount of payments of coupons from securities which are made to the account of these persons;

(c) all information which they can obtain from inventories at death concerning debts which are due to persons residing in the United States or corporations or other United States juridical persons.

(4) The information referred to in paragraph (2) and subparagraph (c) of paragraph (3) above will be transmitted as quickly as possible and as soon as it comes to the attention of the competent authorities of the French Republic; the information referred to under subparagraphs (a) and (b) to paragraph (3), as quickly as possible in the first six months of each year.

ARTICLE 11

The competent authorities of each of the Contracting States shall be entitled to obtain from the competent authorities of the other Contracting State information concerning concrete cases affecting natural or juridical persons as far as the application of the taxes referred to under Title I of the present Convention and the taxes under the tax Convention signed July 25, 1939 is concerned.

ARTICLE 12⁶

(1) The two Contracting States undertake to lend assistance and support to each other in the collection of the taxes to which the present Convention or the Convention of July 25, 1939, relates, together with interest, costs, and additions to the taxes and fines not being of a penal character according to the laws of the State requested, in the cases where the taxes are definitively due according to the laws of the State making the application.

(2) In the case of an application for enforcement of taxes, revenue claims of each of the Contracting States which have been finally determined will be accepted for enforcement by the State to which application is made and collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes.

(3) The application will be accompanied by such documents as are required by the laws of the State making the application, to establish that the taxes have been finally determined.

(4) If the revenue claim has not been finally determined, the State to which application is made will take such measures of conservancy (including measures with respect to transfer of property of nonresident aliens) as are authorized by its laws for the enforcement of its own taxes.

ARTICLE 13

(1) The competent authorities of the two Contracting States may prescribe regulations necessary to interpret and carry out the provisions of the present Convention and the Convention of July 25, 1939. With respect to those provisions relating to exchange of information and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currencies, transfer of sums collected, minimum amounts subject to collection, payment of costs of collection, and related matters.

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Convention or the Convention of July 25, 1939, or their relationship to Conventions between one of the Contracting States

⁶ For an amendment to art. 12, see protocol of May 17, 1948 (TIAS 1982), *post*, p. 1251.

and any other State, the competent authorities of the Contracting States may settle the question by mutual agreement.

ARTICLE 14

Any taxpayer who shows proof that the action of the revenue authorities of the Contracting States has resulted in double taxation in his case in respect of any of the taxes to which the present Convention, or the Convention of July 25, 1939, relates, shall be entitled to lodge a claim with the State of which he is a citizen or, if the taxpayer is a corporation or other entity, with the State in which it is created or organized. Should the claim be upheld, the competent authority of each State may come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

ARTICLE 15

As used in the present Convention, the term "competent authorities" means, in the case of the United States of America, the Commissioner of Internal Revenue or his duly authorized representative, and, in the case of the French Republic, the Chef du Service de la Coordination des Administrations Financières or his duly authorized representative.

TITLE IV

General Provisions

ARTICLE 16

Upon the coming into force of the present Convention, the provisions of Articles 20 to 26, inclusive, constituting Title II, of the Convention between the United States of America and the French Republic, signed at Paris on July 25, 1939, shall be superseded and replaced by the provisions of Articles 8 to 15, inclusive, constituting Title III, of the present Convention to the extent that such provisions may be applicable with respect to the taxes which are the subject of the Convention of July 25, 1939.

ARTICLE 17¹

(1) So long as the present Convention shall be in force, either of the Contracting States may, by written notification to the other Contracting State through diplomatic channels, declare its desire that the operation of either

(a) Title I, and other provisions of the present Convention which may be applicable with respect to the taxes which are the subject of Title I, or

¹ Art. 17 superseded and replaced by art. II of convention of June 22, 1956 (8 UST 843: TIAS 3844).

(b) the Convention of July 25, 1939 as modified and supplemented by the present Convention,

or both, shall extend to all or any of its colonies, overseas territories, protectorates, or territories under its mandate or trusteeship which impose taxes substantially similar to those which are the subject of Title I of the present Convention or which are the subject of the Convention of July 25, 1939, as the case may be.

(2) The provisions of the present Convention, or of the Convention of July 25, 1939 as modified and supplemented by the present Convention, with respect to which a notification is given in accordance with paragraph (1) of this Article, shall apply to the territory or territories named in such notification,

(a) as to the taxes which are the subject of Title I of the present Convention: in the case of persons who die on or after the date or dates specified in the notification (it being understood that such date or dates shall be not less than sixty days from the date of the notification), or, if no date is specified in respect of any such territory, on or after the date of such notification, or,

(b) as to the taxes which are the subject of the Convention of July 25, 1939: on and after the first day of January following the date of the notification (it being understood that such first day of January shall be not less than sixty days from the date of the notification),

unless, before the date on which the provisions would otherwise be applicable to a particular territory, the Contracting State to which the notification is given shall have informed the other Contracting State, in writing through diplomatic channels, that it does not accept such notification in respect of that territory. In the absence of such an extension, the provisions which are the subject of the notification shall not apply to any such territory.

(3) At any time after the expiration of a period of one year from the effective date of an extension made by virtue of paragraphs (1) and (2) of this Article, either of the Contracting States may, by a written notice of termination given to the other Contracting State through diplomatic channels, terminate the application of the provisions to any of the territories of the former State to which such provisions have been extended; in which case,

(a) in so far as concerns estates or inheritances in the case of persons who die on or after the date or dates specified in such notice (it being understood that such date or dates shall be not less than sixty days from the date of such notice), or, if no date is specified, on or after the sixtieth day after the date of such notice, or

(b) in so far as concerns the application of the Convention of July 25, 1939 as modified and supplemented by the present Convention, on and after

the first day of January following the date of such notice (it being understood that such first day of January shall be not less than sixty days from the date of the notice),

the provisions, as the case may be, shall cease to be applicable to the territory or territories named in such notice; provided, however, that this shall not affect the continued application of such provisions to the United States, to France, or to any other territory to which such provisions apply and which is not named in the notice of termination.

(4) For the application of any of the provisions to any territory to which it is extended by the United States or by the French Republic, references to "United States" or, as the case may be, "France", or to the territory of one (or of the other) Contracting State, shall be construed to refer to the territory to which such provisions shall have been extended.

(5) For the purposes of the present Convention, Algeria shall be considered to be a French territory to which the provisions of this Article shall apply.

ARTICLE 18

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) The provisions of Title I, and the other provisions of the present Convention in so far as they may be applicable with respect to the taxes which are the subject of Title I, shall enter into force on the day of the exchange of instruments of ratification, and shall be applicable solely to estates or inheritances in the case of persons who die on or after that date.

(3) The provisions of Title II, and the other provisions of the present Convention in so far as they may be applicable with respect to the taxes which are the subject of the Convention of July 25, 1939 and of Title II of the present Convention, shall, except as otherwise provided in the present Convention, enter into force on the first day of January following the exchange of instruments of ratification.

ARTICLE 19

(1) The present Convention shall remain in force for a minimum period of five years after the date of the exchange of the instruments of ratification.

(2) If, not less than six months before the expiration of such period of five years, neither of the Contracting States shall have given to the other Contracting State, through diplomatic channels, written notice of its intention to terminate the present Convention, the Convention shall remain in force after such period of five years until either of the Contracting States shall have given notice of such intention, in which event

(a) the provisions of Title I, and the other provisions of the present Convention in so far as they may be applicable with respect to the taxes which

are the subject of Title I, shall not be effective as to estates or inheritances in the case of persons who die on or after the date (not being earlier than the sixtieth day after the date of the notice of termination) specified in such notice, or, if no date is specified, on or after the sixtieth day after the date of such notice; and

(b) the provisions of Title II, and the other provisions of the present Convention in so far as they may be applicable with respect to the taxes which are the subject of the Convention of July 25, 1939 and of Title II of the present Convention, shall not be effective on or after the first day of January following the expiration of a six-month period after the date of the notice of termination.

IN TESTIMONY WHEREOF, the Plenipotentiaries above-named have signed the present Convention and affixed thereto their seals.

DONE at Paris, in duplicate, in the English and French languages, this 18th of October 1946

For the Government of the United States of America :

JEFFERSON CAFFERY [SEAL]

For the Provisional Government of the French Republic :

G. BIDAULT [SEAL]