No. 6383

UNITED STATES OF AMERICA
and
CANADA

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons. Signed at Washington, on 17 February 1961

Official text: English.

Registered by the United States of America on 28 November 1962.

ÉTATS-UNIS D'AMÉRIQUE
et
CANADA

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur les successions. Signée à Washington, le 17 février 1961

Texte officiel anglais.

Enregistrée par les États-Unis d'Amérique le 28 novembre 1962.

No. 6383. CONVENTION[1] BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON THE ESTATES OF DECEASED PERSONS. SIGNED AT WASHINGTON, ON 17 FEBRUARY 1961

The Government of the United States of America and the Government of Canada, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on the estates of deceased persons, agree as follows :

Article I

The taxes referred to in this Convention are :

(*a*) for the United States of America : the Federal estate tax ;

(*b*) for Canada : the estate tax imposed by the Government of Canada.

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed by either contracting State subsequent to the date of signature of the present Convention.

Article II

Where a person dies a citizen of the United States of America or domiciled in the United States of America or Canada, the situs of any rights or interests, legal or equitable, in or over any of the following classes of property, which for the purposes of tax form or are deemed to form part of the estate of such person or pass or are deemed to pass on his death, shall, for the purposes of the imposition of tax on the basis of situs of property within the taxing State and for the purposes of the credit to be allowed under Article V, be determined exclusively in accordance with the following rules, but in cases not within such rules the situs of such rights or interests shall be determined for these purposes in accordance with the laws in force in the other contracting State :

[1] Came into force on 9 April 1962, with retroactive effect from 1 January 1959, by the exchange of the instruments of ratification at Ottawa, in accordance with article XV.

(*a*) immovable property (except any right or interest therein by way of security) shall be deemed to be situated at the place where such property is located ;

(*b*) tangible movable property (except any right or interest therein by way of security and except any tangible movable property for which specific provision is made in any subsequent paragraph of this Article), and, in any case, bank or currency notes and other forms of currency recognized as legal tender in the place of issue, shall be deemed to be situated at the place where such property was located at the time of death, or, if in course of transit at that time, at the place of intended destination ;

(*c*) debts whether secured or unsecured and whether under seal or otherwise (including bills of exchange and promissory notes, whether negotiable or otherwise, but not including any form of indebtedness for which specific provision is made in any subsequent paragraph of this Article), shall be deemed to be situated at the place where the debtor was ordinarily resident at the time of death, or, where the debtor is a company, then at the place where the company is incorporated ;

(*d*) deposit accounts with a bank, trust company, loan company, or other similar institution shall be deemed to be situated at the place where the institution or branch thereof in which the account was kept is located ;

(*e*) securities of or guaranteed by any government or municipality shall be deemed to be situated,

(i) if in bearer form, at the place where located at the time of death, or

(ii) if inscribed or registered, at the place where inscribed or registered by the issuer ;

(*f*) shares, stock, bonds, debentures, and debenture stock of a company, and rights to subscribe for or purchase shares or stock of a company (including any such property held by a nominee, whether the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place where the company is incorporated ;

(*g*) money deposited to the credit of the deceased with an insurance company, money payable under a policy of insurance effected on the life of the deceased or payable under an annuity contract in respect of the death of the deceased, and any policy of insurance or annuity contract in which the deceased had an interest shall be deemed to be situated at the place where the deceased was domiciled at the time of his death ;

(*h*) shares in a partnership shall be deemed to be situated at the place where its business is principally carried on ;

(*i*) ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft ;

(*j*) good-will of a business, trade or profession shall be deemed to be situated at the place where the business, trade or profession is principally carried on ;

k) patents, trade-marks and designs shall be deemed to be situated at the place where they are registered ;

(*l*) copyright, franchises, and rights or licenses to use any copy-righted material, patent, trade-mark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable ;

(*m*) rights *ex delicto* or causes of action *ex delicto* surviving to the benefit of the estate of any deceased or his legal representative shall be deemed to be situated at the place where such rights or causes of action arose, and other rights or causes of action so surviving shall be deemed to be situated at the place where, at the time of the death of the deceased, the person against whom the right or cause of action is enforceable was ordinarily resident, or, if a company, then at the place where the company is incorporated ;

(*n*) judgment debts shall be deemed to be situated at the place where the judgment is recorded ; and

(*o*) superannuation and pension benefits payable or granted on or after the death of the deceased in respect thereof shall be deemed to be situated at the place where the deceased was domiciled at the time of his death ;

provided that this Article shall not be construed so as to increase the tax imposed by either contracting State.

Article III

1. Allowance for debts shall be determined in accordance with the laws of the contracting State imposing the tax.

2. Where a contracting State imposes tax by reason of a decedent being domiciled therein or being a citizen thereof, no distinction shall be made between organizations created in that State and organizations created in the other contracting State in the allowance of any deduction authorized by its statute for a bequest, legacy, devise, or transfer made for exclusively religious, charitable, scientific, literary, or educational purposes.

3. Domicile shall be determined in accordance with the laws of the contracting State imposing the tax on the basis of domicile.

Article IV

1. Where the United States imposes tax solely by reason of the property being situated therein, the United States shall, if the decedent was domiciled in Canada,

(*a*) for the purpose of determining the tax rate or rates, take into account only property situated in the United States, and