
STATUTORY INSTRUMENTS

1963 No. 1319

DEATH DUTIES

The Double Taxation Relief (Estate Duty) (France) Order 1963

Laid before the House of Commons in draft

Made - - - - 29th July 1963

At the Court at Buckingham Palace, the 29th day of July 1963

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the Commons House of Parliament in accordance with the provisions of subsection (2) of section 56 of the Finance (No. 2) Act 1945, and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of this Order:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by subsection (1) of section 54 of the said Act, by subsection (2) of section 29 of the Finance Act 1962, by subsection (1) of section 2 of the Finance Act (Northern Ireland) 1946 and by subsection (2) of section 2 of the Finance Act (Northern Ireland) 1962, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Estate Duty) (France) Order 1963.
2. It is hereby declared—
 - (a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the French Republic with a view to affording relief from double taxation in relation to the estate duty payable under the laws of the United Kingdom and the succession duty imposed under the laws of France which is a duty leviable on or by reference to death; and
 - (b) that it is expedient that those arrangements should have effect.

W. G. Agnew

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SCHEDULE

“CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND FRANCE FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO DUTIES ON THE ESTATES OF DECEASED PERSONS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic,

Desiring to conclude a Convention for the avoidance of double taxation with respect to death duties, Have agreed as follows:

ARTICLE I.—(1) The present Convention shall apply:

- (a) in France, to the duty imposed on successions by death;
- (b) in the United Kingdom of Great Britain and Northern Ireland, to the estate duty imposed in Great Britain.

(2) The present Convention shall also apply to any other duties of a similar character imposed in France or Great Britain after the date of its signature or in any territory to which it may be extended under Article IX or applies under Article X.

ARTICLE II.—(1) In the present Convention:

- (a) the term “France” means metropolitan France and the overseas *départements*;
- (b) the term “United Kingdom” means Great Britain and Northern Ireland;
- (c) the term “Great Britain” means England, Wales and Scotland, and does not include the Channel Islands and the Isle of Man;
- (d) the term “territory” when used in relation to one or the other Contracting Party, means France or Great Britain, as the context requires;
- (e) the term “duty” means, as the context requires, the duty imposed in France on successions by death, or the estate duty imposed in Great Britain.

(2) In the application of the provisions of the present Convention by either Contracting Party any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the law of that Party relating to the duties which are the subject of the present Convention.

- (a) (3) (a) For the purposes of the present Convention, the question whether a deceased person was domiciled at the time of his death in any part of the territory of one of the Contracting Parties shall be determined in accordance with the law in force in that territory.
- (b) Where by reason of the provisions of the preceding sub-paragraph a deceased person is deemed to be domiciled in the territory of each of the Contracting Parties, then this case shall be solved in accordance with the following rules:—
 - (i) he shall be deemed to be domiciled in the territory of the Contracting Party in which he had a permanent home available to him at the time of his death; if he had a permanent home available to him in the territory of each of the Contracting Parties he shall be deemed to be domiciled in the territory of the Contracting Party with which his personal and economic relations were closest (centre of vital interests);
 - (ii) if the Contracting Party in whose territory he had his centre of vital interests cannot be determined, or if he had not a permanent home available to him in the territory of either Contracting Party, he shall be deemed to be domiciled in the territory of the Contracting Party in which he had an habitual abode;

- (iii) if he had an habitual abode in the territory of each of the Contracting Parties, or in the territory of neither, he shall be deemed to be domiciled in that of which he was a national;
- (iv) if he was a national of both territories or of neither of them, the taxation authorities of the Contracting Parties shall determine the question by mutual agreement.

ARTICLE III.—(1) Where a person was at the time of his death domiciled in any part of the territory of one of the Contracting Parties, the situs of any property shall for the purposes of the imposition of duty and of any credit to be allowed under Article VI be determined exclusively in accordance with the rules in Article IV.

(2) Paragraph (1) of this Article shall apply only if, apart from the said Article IV:—

- (a) duty would be imposed on the property under the law of each Contracting Party; or
- (b) duty would be imposed on the property under the law of one of the Contracting Parties and would, but for some specific exemption, be imposed thereon under the law of the other Contracting Party.

ARTICLE IV. The rules referred to in paragraph (1) of Article III are:

- (a) land shall be deemed to be situated at the place where it is located; rights or interest (otherwise than by way of security) which constitute immovable property shall be deemed to be situated at the place where the land to which they relate is located; the question whether rights or interests constitute immovable property shall be determined in accordance with the law of the place where the land to which they relate is located;
- (b) tangible movable property (other than such property for which specific provision is hereinafter made) and rights or interests (otherwise than by way of security) therein shall be deemed to be situated at the place where it is located at the time of the deceased person's death or, if *in transitu*, at the place of destination; and bank or currency notes or other forms of currency recognised as legal tender in the place of issue shall be treated as tangible movable property for the purpose of this sub-paragraph;
- (c) debts, secured or unsecured, excluding those for which specific provision is made in this Article, but including debentures and debenture stock issued by a company, bills of exchange, promissory notes and cheques shall be deemed to be situated at the place where the deceased person was domiciled at the time of his death;
- (d) securities issued by any government, county council, *département*, municipality or other public authority shall be deemed to be situated at the place where the deceased person was domiciled at the time of his death;
- (e) shares or stock in 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 was incorporated;
- (f) moneys payable under a policy of assurance or insurance shall be deemed to be situated at the place where the deceased person was domiciled at the time of his death;
- (g) an interest in a partnership, which term includes a *société en nom collectif*, a *société en commandite simple* and a *société civile* under French law, shall be deemed to be situated at the place where the business is principally carried on; and in the case of a *société civile immobilière* this shall be where the land developed in accordance with the objects of the *société* is located
- (h) goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on;

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- (i) ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft;
- (j) patents, trade marks, designs, copyright, and rights or licences to use any patent, trade mark, design or copyrighted material shall be deemed to be situated at the place where the deceased person was domiciled at the time of his death;
- (k) rights or causes of action *ex-delicto* surviving for the benefit of the estate of a deceased person shall be deemed to be situated at the place where the deceased person was domiciled at the time of his death;
- (l) judgment debts shall be deemed to be situated at the place where the deceased person was domiciled at the time of his death;
- (m) any other right or interest shall be deemed to be situated at the place determined by the law in force in the territory of the Contracting Party where the deceased person was not domiciled at the date of his death.

ARTICLE V.—(1) Where a person was at the time of his death domiciled in some part of France duty shall not be imposed in Great Britain on any property which neither is situated in Great Britain, nor passes under a disposition or devolution regulated by the law of some part of Great Britain; and, in determining the amount or rate of duty payable in Great Britain, such property shall be disregarded.

(2) Where a person was at the time of his death domiciled in some part of Great Britain duty shall not be imposed in France on any property not situated in France; and in determining the amount or rate of duty payable on any property which is chargeable in France, any property not situated in France shall be disregarded.

(3) Where a Contracting Party imposes duty on the death of a person who at the time of his death was domiciled in the territory of the other Contracting Party, the former Party shall allow any exemption, allowance or relief, or any remission or reduction of duty (other than in respect of duty imposed by the other Party or by any other country) which would have been applicable under its law if the deceased had been domiciled in its territory.

ARTICLE VI. Where one Contracting Party imposes duty on the death of a person who was domiciled in its territory at the time of his death on any property which, under the present Convention, is situated in the territory of the other Contracting Party, the former Party shall allow against so much of its duty, ascertained in accordance with its law, as is attributable to that property a credit (not exceeding the amount of the duty so attributable) equal to so much of the duty imposed by the other Contracting Party as is attributable to such property.

ARTICLE VII.—(1) Any claim for a credit or for a refund of duty founded on the provisions of the present Convention shall be made within five years from the date of the death of the deceased person in respect of whose estate the claim is made, or, where the event causing duty to be payable occurs at some later date, within five years from that date.

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

ARTICLE VIII.—(1) The taxation authorities of the Contracting Parties shall exchange such information (being information which is available under their respective taxation laws in the normal course of administration) as is necessary for ensuring the proper assessment and collection of the duty imposed by the Contracting Party in whose territory the deceased person was domiciled at the time of his death.

Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the duties. No information as aforesaid

shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

(2) The taxation authorities of the Contracting Parties may consult together, as may be necessary, for the purposes of carrying out the provisions of the present Convention.

(3) In the present Convention, the term “taxation authorities” means

a) in the case of Great Britain, the Commissioners of Inland Revenue;

(b) in the case of France, the Directeur Général des Impôts;

(c) in the case of Northern Ireland, to which the present Convention applies under Article X, the Minister of Finance;

or

in each case, the authorised representative; and

(d) in the case of any territory to which the present Convention is extended under Article IX, the competent authority for the administration in such territory of the duties to which the present Convention applies.

ARTICLE IX.—(1) The present Convention may be extended, either in its entirety or with modifications, to any territory to which this Article applies and which imposes duties substantially similar in character to those which are the subject of the present Convention and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting Parties in Notes to be exchanged for this purpose.

(2) The termination in respect of France or Great Britain of the present Convention under Article XII shall, unless otherwise expressly agreed by both Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

(3) The territories to which this Article applies are

(a) in relation to the United Kingdom:

any territory other than the United Kingdom for whose international relations the United Kingdom is responsible;

(b) in relation to France:

the French overseas territories.

ARTICLE X. The present Convention shall apply in relation to the estate duty imposed in Northern Ireland as it applies in relation to the estate duty imposed in Great Britain, but shall be separately terminable in respect of Northern Ireland in accordance with the provisions of Article XII.

ARTICLE XI. Each of the Contracting Parties shall notify to the other the completion of the procedure required by its constitutional law for the bringing into force of this Convention. This will operate from the date of the later of these notification and will be applicable to estates or inheritances in relation to persons who die on or after the date of its signature.

ARTICLE XII.—(1) The present Convention shall remain in force for not less than three years from the date of its coming into force.

(2) If, not less than six months before the expiration of such period of three years, neither of the Contracting Parties shall have given to the other Contracting Party written notice through the diplomatic channel of its intention to terminate the present Convention, the Convention shall remain

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in force after such period of three years until either of the Contracting Parties shall have given written notice through the diplomatic channel of such intention, in which event the present Convention shall not be effective as to estates or inheritances in relation to persons dying on or after the date specified in such notice (such date not being earlier than the sixtieth day after the date on which such notice is given) or, if no date is specified, on or after the sixtieth day after the date on which such notice is given.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed the present Convention.

Done in duplicate at Paris, the twenty-first day of June, 1963, in the English and French languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

PIERSON DIXON
For the Government of the French Republic

F. LEDUC

EXPLANATORY NOTE

Article IV of the double death duties Convention with France which is scheduled to this Order provides a code of rules for determining the situs of the categories of property which may pass on the death of a person who dies domiciled in either country. The code of rules does not apply where the effect of applying it would be to bring within either country's charge to duty property which apart from the code would be outside the charge of the country in question (paragraph 2 of Article III).

In some cases the situs code will of itself eliminate double taxation; e.g., a debt due in France to a person who died domiciled in Great Britain but not domiciled in France will be chargeable only to British duty. Where duty remains chargeable by both countries Article VI provides for a credit to be given by the country in which the deceased died domiciled for the tax charged by the other country. In cases where the deceased was domiciled in both countries, a formula is to be applied to determine in which country he is to be deemed to have been domiciled for the purposes of the Convention (paragraph (3)(b) of Article II).

Provision is made in Article VIII for the exchange of information between the taxation authorities of the two countries.

The Convention applies to the estate duty (separate from the British estate duty) which is imposed in Northern Ireland.

The Convention when it comes into force will be effective as regards the estates of persons who die on or after the date of its signature.