

Agreement between the Swiss Confederation and the United States of America

for the Avoidance of Double Taxation with respect to Estate and Inheritance Taxes

Concluded on July 9, 1951

Approved by the Federal Assembly on September 24, 1951

Instruments of ratification exchanged on September 17, 1952

Entered into force on September 17, 1952

The Swiss Federal Council and the President of the United States of America, being desirous of concluding an Agreement for the avoidance of double taxation with respect to estate and inheritance taxes, have appointed their Plenipotentiaries who, having communicated to each other their full powers, found in good and due form, have agreed as follows:

Article I

1. This Agreement relates to the following taxes imposed by reason of death:
 - a. In the United States of America: the Federal estate tax; and
 - b. In the Swiss Confederation: the estate and inheritance taxes of the Cantons and their political subdivisions.
2. This Agreement shall also apply to any other taxes of a substantially similar character that may be imposed after the date of signature by either the United States or by the Swiss Cantons or their political subdivisions.

Article II

1. In this Agreement:
 - a. The term "United States" means the United States of America; when used geographically, it includes the States, the Territories of Alaska and Hawaii, and the District of Columbia;
 - b. The term "Switzerland" means the Swiss Confederation;
 - c. The term "tax" means, according to the context, the Federal estate tax of the United States or the estate and inheritance taxes imposed in Switzerland;
 - d. The term "competent authority" means, in the United States, the Commissioner of Internal Revenue acting under authorization of the Secretary of the Treasury, and in Switzerland, the Director of the Federal Tax Administration acting under authorization of the Federal Department of Finance.
2. In the application of this Agreement by a Contracting State, any term not otherwise defined herein shall, unless the context otherwise requires, have the meaning which it has under the law of that State.
3. It shall be within the competence of each Contracting State to determine, in applying this Agreement, whether the decedent was domiciled or a national of that State at the time of his death.

Article III

Where the decedent, at the time of his death, was neither a citizen of the United States nor domiciled therein, but was a Swiss citizen or domiciled in Switzerland, the United States shall grant the special exemption which would be allowed under its law if the decedent had been domiciled in the United States; such exemption shall be at least that proportion thereof which the value of the property subjected to tax in the United States bears to the value of the entire property wherever situated that would have been subjected to tax if the decedent had been domiciled in the United States.

Where the decedent, at the time of his death, was a citizen of the United States or was domiciled therein, and Switzerland imposes a tax with respect to property forming part of the estate solely on the basis that such property is situated in Switzerland (and not on the basis of domicile of the decedent or his citizenship of Switzerland), Switzerland shall grant the exemption which would be allowed under its law if the decedent had been domiciled in Switzerland; such exemption shall be at least that proportion thereof which the value of the property subjected to tax in Switzerland bears to the value of the entire property wherever situated that would have been subjected to tax if the decedent had been domiciled in Switzerland.

Article IV

1. Where the United States determines that the decedent, at the time of his death, was a citizen of the United States or was domiciled therein, and Switzerland determines that the decedent, at the time of his death, was a Swiss citizen or was domiciled in Switzerland, each Contracting State shall credit against its own tax (without regard to this Article) the tax imposed by the other Contracting State with respect to the following property forming part of the estate, but in an amount not exceeding the amount of the tax of the first-mentioned State attributable to such property:

- a. Shares of stock or bonds (including shares and bonds held by nominees, if the beneficial ownership thereof is evidenced by certificates or otherwise) in a corporation created or organized under the laws of the other Contracting State or any political subdivision thereof;
- b. Debts (including bonds, promissory notes, bills of exchange, and insurance claims), if the debtor is domiciled in the other State or is a corporation created or organized under the laws of that other State or any political subdivision thereof;
- c. Tangible personal property (including bank notes, paper money, and other currency legally current at the place of issue) which at the time of the decedent's death was situated in the other State; and
- d. Any other property which the competent authorities of the two States may agree to consider as situated within that other State.

2. For the purpose of this Article, the amount of the tax of either State attributable to any property shall be ascertained after taking into account any credit, other than a credit provided for in this Article, or any reduction allowed under the laws of that State.

3. The credit provided for in this Article shall be allowed only if the tax in respect of which the credit is claimed has been paid, and the competent authority of the State imposing such tax certifies the amount of the tax so paid to the competent authority of the State allowing the credit.

Article V

1. Claims for credit or refund founded on the provisions of this Agreement must be presented within five years from the date of death of the decedent.

2. Amounts to be refunded or credited shall not carry interest.

Article VI

Where the executor or a person beneficially interested in an estate shows proof that the action of the tax authorities of either Contracting State has resulted or will result in double taxation contrary to the provisions of this Agreement, he may present the case to the Contracting State of which the decedent was a national at the time of his death or of which the person beneficially interested is a citizen. If the decedent was not a national of either State or if the person beneficially interested is not a citizen of either State, the case may be presented to the State in which the decedent was domiciled at the time of his death or in which the person beneficially interested resides. The competent authority of the State to which the case is presented shall endeavor to 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 VII

1. The competent authorities of the Contracting States may prescribe regulations necessary for carrying into effect the present Agreement within their respective jurisdictions.

2. For the purpose of carrying out this Agreement, the competent authorities of the Contracting States may communicate directly with each other. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment or collection of the taxes to which this Agreement applies.

3. The competent authorities of the Contracting States may consult together for the elimination of any difficulties or doubts arising as to the interpretation or application of this Agreement or for the purpose of co-ordinating the provisions of this Agreement with those of other agreements between either of the Contracting States and third States.

Article VIII

1. This Agreement shall be ratified, and the instruments of ratification shall be exchanged at Bern as soon as possible.

2. This Agreement shall enter into force on the day of the exchange of the instruments of ratification and shall apply to estates of persons dying on or after that day. It shall remain in force for a period of five years thereafter and indefinitely thereafter unless terminated. It may be terminated at the end of the five-year period or at any time thereafter by either Contracting State upon at least six months' prior notice. In the event of termination, the Agreement shall cease to apply to estates of persons dying on or after the first day of January following the expiration of the six-month period of notice.

Done at Washington, in duplicate, in the German and English languages, both texts being equally authentic, this 9th day of July, 1951.

For the Swiss Federal Council:
Charles Bruggmann

For the President of the United States of America:
Dean Acheson