

# **Convention between the Swiss Confederation and the United States of America for the avoidance of double taxation with respect to taxes on estates and inheritances**

(July 9, 1951)

The Swiss Federal Council and the President of the United States of America, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on estates and inheritances, have appointed for that purpose as their respective Plenipotentiaries :

The Swiss Federal Council :

Charles Bruggmann, Envoy Extraordinary and Minister Plenipotentiary of the Swiss Confederation, in Washington, and

The President of the United States of America:

Dean Acheson, Secretary of State of the United States of America,

who, having communicated to one another their full powers, found in good and due form, have affixed as follows :

## Article I

(1) The taxes referred to in this Convention are the following taxes asserted upon death:

(a) In the case of the United States of America: The Federal estate tax, and

(b) In the case of the Swiss Confederation :

Estate and inheritance taxes imposed by the cantons and any political subdivision thereof.

(2) The present Convention shall also apply to any other estate or inheritance taxes of a substantially similar character imposed by the United States or the Swiss cantons or any political subdivision thereof subsequently to the date of signature of the present Convention.

## Article II

(1) As used in this Convention:

(a) The term «United States» means the United States of America, and when used in a geographical sense means 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 the Federal estate tax imposed by the United States, or the inheritance or estate taxes imposed in Switzerland, as the context requires.

(d) The term «competent authorities» means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of Switzerland, the Director of the Federal Tax Administration as authorized by the Federal Department of Finances and Customs.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own laws.

(3) For the purpose of the present Convention, each contracting State may determine whether the decedent was at the time of death domiciled therein or a citizen thereof.

## Article III

In imposing the tax in the case of a decedent who at the time of death was not a citizen of the United States and was not domiciled therein, but who was at the time of his death a citizen of or domiciled in Switzerland, the United States shall allow a specific exemption which would be allowable under its law if the decedent had been domiciled in the United States in an amount not less than the proportion thereof which the value of the total property (both movable and immovable) subjected to its tax bears to the value of the total property (both movable and immovable) which would have been subjected to its tax if the decedent had been domiciled in the United States. If a tax is imposed in Switzerland by reason of movable property being situated within the territorial jurisdiction of the tax authority (and not by reason of the decedent's domicile therein or by reason of the decedent's Swiss citizenship) in the case of an estate of a decedent who at the time of his death was a citizen of or domiciled in the United States, the tax authority in Switzerland shall allow a specific exemption which would be allowable under its law if the decedent had been domiciled within its territorial jurisdiction in an amount not less than the proportion thereof which the value of the total property (both movable and immovable) subjected to its tax bears to the value of the total property (both movable and immovable) which would have been subjected to its tax if the decedent had been domiciled within its territorial jurisdiction.

## Article IV

(1) If the tax authority in the United States determines that the decedent was a citizen of or domiciled in the United States at the time of his death, and the tax authority in Switzerland determines that the decedent was a citizen of or domiciled in Switzerland at the time of his death, the tax authority in each contracting State shall allow against its tax (computed without application of this Article) a credit for the tax imposed in the other contracting State with respect to the following property

included for tax by both States (but the amount of the credit shall not exceed the portion of the tax imposed in the crediting State which is attributable to such property):

(a) Shares or stock in a corporation (including shares or stock held by a nominee where the beneficial ownership is evidenced by scrip certificates or otherwise) created or organized under the laws of such other contracting State or a political subdivision thereof.

(b) Debts (including bonds, promissory notes, bills of exchange, and insurance) if the debtor is a corporation created or organized under the laws of such other State or a political subdivision thereof,

(c) Corporeal movable property (including bank or currency notes and other forms of currency recognized as legal tender in the place of issue) physically located in such other State at the time of death of the decedent. and

(d) Any other property which the competent authorities of both contracting States agree upon as constituting property situated in such other State.

(2) For the purpose of this Article, the amount of the tax of each contracting State attributable to any particular property shall be ascertained after taking into account any applicable diminution or credit as provided by its law other than any credit authorized by this Article.

(3) The credit provided by this Article shall be allowed only upon condition that the tax for which credit may be authorized has been fully paid; and the competent authority of the contracting State in which such tax is imposed shall certify to the competent authority of the contracting State in which credit may be allowed such information pertaining thereto as is necessary to carry out the provisions of this Article.

#### Article V

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

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

#### Article VI

Where the representative of the estate of a decedent or a beneficiary of such estate can show proof that the action of the tax authorities of one of the contracting States has resulted or will result in double taxation contrary to the provisions of the present Convention, such representative or beneficiary shall be entitled to present the facts to the contracting State of which the decedent was a citizen at time of death or of which the beneficiary is a citizen, or if the decedent was not a citizen of either of the contracting States at the time of death or if the beneficiary is not a citizen of either of the contracting States, such facts may be presented to the contracting State in which the decedent was domiciled at time of death or in which the beneficiary is domiciled. The competent authority of the State to which the facts are presented shall undertake to come to an agreement with the competent authority of the other contracting State with a view to equitable avoidance of the double taxation in question.

#### Article VII

(1) The competent authorities of the two contracting States may prescribe rules and regulations necessary to carry into effect the present Convention within the respective States.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention. Any information so received shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention.

(3) Should any difficulty or doubt arise as to the interpretation or application of the present Convention or its relationship to conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

#### Article VIII

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

(2) The present Convention shall become effective on the day of the exchange of instruments of ratification and shall be applicable to estates or inheritances in the case of persons who die on or after that date. It shall continue effective for a period of five years beginning with that date and indefinitely after that period, but may be terminated by either of the contracting States at the end of that five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given, the termination to become effective with respect to estates or inheritances in the cases of persons who die on or after the first day of January following the expiration of the six-month period.

Done at Washington, in duplicate, in the German and English languages, the two texts having equal authenticity, this 9th day of July, 1951.

For the Swiss Federal Council (SEAL) Charles Bruggmann

For the President of the United States of America (SEAL) **Dean** Acheson