

N° 898.

HONGRIE
ET TCHÉCOSLOVAQUIE

Convention en vue de régler l'assiette
des impôts internes et étrangers,
notamment d'éviter la double im-
position en matière de contribu-
tions directes, signée à Prague, le
13 juillet 1923.

HUNGARY
AND CZECHOSLOVAKIA

Convention with a view to regulating
the Assessment of Internal and
Foreign Taxation and in Particu-
lar to Prevent Double Taxation
in the Field of Direct Taxes,
signed at Prague, July 13, 1923.

¹ TRADUCTION — TRANSLATION.

No. 898. — CONVENTION ² BETWEEN HUNGARY AND CZECHOSLOVAKIA WITH A VIEW TO REGULATING THE ASSESSMENT OF INTERNAL AND FOREIGN TAXATION AND IN PARTICULAR TO PREVENT DOUBLE TAXATION IN THE FIELD OF DIRECT TAXES, SIGNED AT PRAGUE, JULY 13, 1923.

French official text communicated by the Director of the Royal Hungarian Secretariat accredited to the League of Nations. The registration of this Convention took place June 15, 1925.

The CZECHOSLOVAK REPUBLIC and the KINGDOM OF HUNGARY, being desirous of adjusting the burden of internal and external taxation in the field of direct taxation, and, in particular, of preventing double taxation, and of laying down rules for mutual legal and administrative assistance in matters relating to taxation, have decided to conclude a Convention on the subject.

For this purpose they have appointed as their Plenipotentiaries :

THE KINGDOM OF HUNGARY :

His Excellency Iván DE OTTLIK, Privy Councillor, Chamberlain, Secretary of State ;

THE CZECHOSLOVAK REPUBLIC :

Dr. Bohumil VLASÁK, Head of Department in the Ministry of Finance,

Who, having communicated their full powers, found in good and due form, have agreed on the following Articles :

Article 1.

Real estate, buildings and mortgages, and the income derived therefrom shall only be subject to direct taxation in the State in which they are situated.

Article 2.

(1) Business undertakings (lucrative professions), together with the income derived therefrom, shall only be subject to direct taxation in the country in which the business establishments for carrying on the undertakings (professions) are situated.

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

² The exchange of ratifications took place at Budapest, October 30, 1924. See page 249 of this Volume.

(2) The term "business establishment" shall include: branch establishments, workshops, offices where purchases or sales are effected, depôts, counting-houses and other establishments maintained for the purpose of carrying on a profession or trade, either by the owner himself, his commercial partner, his manager, or by any other permanent representative.

(3) If the same undertaking possesses business establishments in each of the two countries, such undertaking shall only be subject to direct taxation in each of the two territories on the basis of the share of the business pertaining to the establishment situated in that country.

(4) The term "business undertakings" includes participation in undertakings in the form of companies, with the exception of mining shares, general shares, partnerships in companies and other securities.

(5) The foregoing provisions shall not apply to the taxes on hawking and other itinerant trades.

Article 3.

In the case of earnings derived from the practice of science, art, letters, teaching or education, or from the profession of physician, lawyer, architect, engineer, or any other liberal profession, the provisions of Article 2 shall only apply in so far as the profession is exercised in the other State from a permanent business centre (business establishment).

Article 4.

Salaries or allowances paid at regular intervals out of public funds (State, Province, District, Department, Town and Communal funds, etc.) granted in respect of offices held or professions exercised at the present time or in the past (salaries, retired pay, maintenance allowances, pensions, and the like) shall only be subject to direct taxation in the country where the payment is made.

Article 5.

(1) In all cases in which the laws of the Czechoslovak State and of the Hungarian State relating to the taxation of unearned income — *i.e.* the taxes on interest derived from capital and on dividends — provide that the taxes on interest, share profits and other income from capital shall be deducted at the source, such taxes shall only be payable to the State in whose territory the deduction has to be effected in accordance with the above-mentioned laws. If the main establishment is situated in one of the countries, and a branch establishment in the other, the tax on interest accruing from the business transacted by the branch establishment shall only be deducted for the benefit of the State in which such branch establishment is situated.

(2) The tax on directors' percentages shall only be levied in the country in which the undertaking paying such percentages is established.

Article 6.

(1) Czechoslovak or Hungarian nationals shall, moreover, only be subject to direct taxation in the country in which they have their domicile, or, if they have no domicile, in the country in which they have their residence.

(2) If a domicile is established in each of the two countries, the domicile in the country of which the taxpayer is a national shall be decisive; in the case of persons possessing rights of citizenship in both countries or not possessing rights of citizenship in either, the High Contracting Parties reserve the right to decide in each case on its merits by virtue of a special agreement.

(3) A person shall be deemed to be domiciled, for the purposes of the present Convention, in the place where he possesses a habitation, provided there are good grounds for assuming that it is his intention to retain the habitation permanently.

(4) A person shall be deemed to have a residence, for the purposes of the present Convention, in the place where he dwells, provided that the circumstances show that it is not his intention to make a merely temporary sojourn in the place or country in question.

Article 7.

(1) The provisions of Articles 1 and 2, paragraphs 1 to 4, and the provisions of Article 6 shall also apply to legal persons; such persons shall be deemed to be domiciled in the places where their head offices are situated, and, if they have no head offices, in the places where their centres of management and control are situated.

(2) Nothing in this provision shall prevent legal persons from being subject to the special tax on profits which is imposed on the income derived from their real estate and from interest on mortgages.

Article 8.

(1) The provisions of Articles 1 to 4, and 6 and 7, of the present Convention shall apply in like manner to the assessment of taxes on war profits (war tax).

(2) In calculating the excess profits (excess income) of companies domiciled in the respective countries, which are subject to taxation under the laws relating to the taxation of war profits (war taxes), the peace-time profit shall be ascertained in accordance with paragraph 2, sub-paragraph 2, and paragraph 5 of the Imperial Decree of April 16, 1916, No. 103 of the Imperial Code, the Law of February 16, 1918, No. 66 of the Imperial Code, and Law XXIX of 1916 or Law IX of 1918, respectively, by calculating the percentage of the share of the capital invested in the business that corresponds to the ratio between the total capital and the part of this capital that pertains to the other State.

(3) The provisions regarding deductions from excess incomes derived from shares or partnerships in companies in accordance with paragraph 8 of the Decree of April 16, 1916, paragraph 7 of the Law of February 16, 1918, and Section 8 of Law XXIX of 1916, or paragraph 10 of Law IX of 1918, respectively, shall also apply in respect of companies separated from the parent company and having their head offices in the territory of the other country.

Article 9.

(1) The capital levy in Czechoslovakia (*dávka z majetku*) and the tax known as the Redemption of Capital (*rachat de la fortune*) in Hungary (*vagyonyváltás*) shall be considered as taxes of the same kind.

(2) The assessment of these taxes shall be determined in accordance with the following principles:

1. The forms of property mentioned in Articles 1 and 2 — in particular, goods in stock — are subject to the capital levy (the tax known as Redemption of Capital) in accordance with the provisions contained in the articles, that is to say, in the State where they are situated.

2. With regard to the charges on limited liability companies and co-operative societies, the relevant provisions in force in the territory of the respective High Contracting Parties shall apply; any hardships which might arise through the application of these provisions shall be avoided by mutual agreement.

3. In cases where the application of the laws of the two States would result in double taxation, deposits, credits on current accounts, cash deposits and foreign money and

securities shall only be subject to the capital levy (the tax known as Redemption of Capital) in the States authorised to make the levy in accordance with Articles 6 and 7 above.

4. In other respects the provisions relating to the capital levy or to the tax known as Redemption of Capital, which are in force in the two countries, shall be applied without restriction.

Article 10.

Estates in regard to which probate has not yet been granted shall be treated as if the testator or devisor were still alive.

Article 11.

The diplomatic, consular and other representatives of the High Contracting Parties, provided that they are officials by profession and do not engage in any lucrative occupation outside their office in the territory of the State to which they are accredited, and the officials who are attached to them and the persons in their service or in the service of their subordinate officials shall be exempt from direct taxation in the country to which they are accredited. Such exemption shall only apply in so far as the aforesaid persons are nationals of the country by which they are accredited. The exemption shall not apply to the property and income mentioned in Articles 1 to 4 or to the taxes and duties mentioned in Article 5 which are deducted at the source.

Article 12.

The provisions of Article 11 shall apply in like manner to persons in the service of the Customs and railway administrations of one of the High Contracting Parties who are employed by these administrations on official business in a place situated in the territory of the other State and who only reside there for that reason, and to the persons and servants living with them in the same household, provided that the persons mentioned above are nationals of the country which employs them.

Article 13.

Shipping undertakings on the Danube are only subject to taxes on the profits derived from their shipping business in the State in which the centres of management and control of the undertakings are established.

Article 14.

With a view to preventing hardships which might arise from the application of the present Convention or which are not removed by the Convention, the Finance Ministers of the High Contracting Parties are authorised to conclude agreements with a view to modifying or amplifying the provisions; this applies in particular to cases which might arise in respect of the capital levy (the tax known as Redemption of Capital) on account of the difference between the decisive dates fixed.

Article 15.

The High Contracting Parties shall give assistance to each other as regards the assessing of the taxes which form the subject of this Convention and as regards the serving of summonses. The two Finance Ministers shall, by an exchange of notes, settle the details for putting this provision into operation.

Article 16.

If the property of persons who are not subject to the capital levy by virtue of the provisions of the present Convention has been sequestrated in either State, such sequestration shall be raised, on application being made.

Article 17.

The present Convention shall apply :

- (a) to the capital levy (the tax known as Redemption of Capital) ;
- (b) to the other direct taxes as from January 1, 1919.

Article 18.

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Budapest. The present Convention shall come into force on the date on which it is ratified and shall remain in force until it is denounced. Each of the two States shall have the right to denounce the Convention and if such denunciation takes place before July 1st in any year the Convention shall cease to apply in the following year ; otherwise, it shall cease to apply from January 1st of the second year.

(2) When the Convention has been ratified the authentic French text shall be published in the Statute Books of the two States.

Done in duplicate in French, one copy being sent to each of the two Governments.

PRAGUE, *July 13, 1923.*

For the Kingdom of Hungary :
IVÁN DE OTTLIK.

For the Republic of Czechoslovakia ;
Dr. BOHUMIL VLASÁK.

FINAL PROTOCOL.

On signing the Convention concluded this day between the Kingdom of Hungary and the Czechoslovak Republic for the adjustment of internal and external taxation and, in particular, for the prevention of double taxation in the case of direct taxes, the undersigned Plenipotentiaries have made the following declarations which shall form an integral part of the Convention.

1. For the purposes of the present Convention direct taxation shall be deemed to include, in both countries, taxes which are levied by the State on income, on profit and on capital. Any question which may arise as to whether a tax falls within one or other class of taxes, for the purposes of the present Convention shall be determined by agreement between the Finance Ministers of the two States.

2. In drawing up Article 9 account has been taken of the Czechoslovak Law of April 8, 1920, No. 309 of the Statute-book (except as regards the clauses relating to the tax

on increment of capital — *dávka z přírůstku na majetku*) and of the Hungarian Laws XV and XLV of 1921.

3. The provisions of the second part of Article 14 aim at reducing any double taxation which may arise if, between the decisive dates fixed in the two States, any manifest change having a decisive effect on taxation takes place in respect either of the domicile (residence) or of the investment of definite parts of the capital. (For instance, on March 1, 1919, a person's sole taxable fortune might consist of a house at Prague; this house might be sold and the proceeds deposited in a bank at Budapest and would be subject to the tax known as the Redemption of Capital.)

4. Nationals of the Czechoslovak Republic shall not receive less favourable treatment in connection with the tax known as Redemption of Capital (*vagyonyváltóság*) in Hungary than that which is applicable to the nationals of the Allied and Associated Powers generally.

5. It has been confirmed, on the part of Hungary, that the sequestration which was imposed in 1920 to the detriment of nationals of the Czechoslovak State has been raised by Decree of the Hungarian Ministry of Finance No. 9506, dated April 1, 1922.

6. When determining the amount of the capital levy on mortgages in Czechoslovakia, the amount of any mortgage bonds issued in connection with these mortgages shall be deducted.

7. The question to what extent financial departments may enter into direct communication with each other with a view to carrying out the present Convention shall be settled by agreement between the two Finance Ministers.

Done at Prague, July 13, 1923.

For the Kingdom of Hungary :

IVÁN DE OTTLIK.

For the Republic of Czechoslovakia :

Dr. BOHUMIL VLASÁK.

PROTOCOL

drawn up at Budapest at the Royal Hungarian Ministry for Foreign Affairs on October 30, 1924, regarding the exchange of the instruments of ratification of the Conventions and Protocols enumerated hereunder.

M. Coloman de KÁNYA, Envoy Extraordinary and Minister Plenipotentiary, for the Royal Hungarian Government, and

M. Hugo VAVRECKA, Envoy Extraordinary and Minister Plenipotentiary of the Czechoslovak Republic at Budapest, for the Czechoslovak Government, have this day exchanged the instruments of ratification of the following Conventions and Protocols :

1. Protocol¹ drawn up at Prague, July 13, 1923 regarding the release of deposits and the method of adjusting obligations arising out of bonds and their coupons.

2. Convention² concluded at Prague, July 13, 1923, with a view to regulating the assessment of internal and foreign taxation, and in particular to prevent double taxation in the field of direct taxes ;

3. Convention³ concluded at Prague, July 13, 1923, regarding the reciprocal treatment of private insurance undertakings and the financial adjustment of former life-insurance contracts, concluded in old Hungarian and Austrian crowns, in virtue of Article 198 of the Treaty of Trianon ;

¹ See page 271 of this Volume.

² See page 237 of this Volume.

³ See page 253 of this Volume.

4. Protocol drawn up at Prague, July 13, 1923, regarding the supplementary return of investments (claims) in accordance with the decrees of the Czechoslovak Republic of March 4, 1919, and April 10, 1919, Nos. 110 and 185 respectively of the Collection of Laws and Decrees.

5. Protocol drawn up at Prague, July 13, 1923, regarding the return to be made of mutual claims and obligations contracted in former Hungarian or Austrian crowns ;

6. Convention concluded at Prague, March 8, 1924, regarding the release of the property of wards and of guardians' funds (orphan's funds) and also regarding the apportionment of the guardians' funds of the office, the area of jurisdiction of which was divided up by the State frontier.

At the moment of exchanging the instruments of ratification the undersigned Plenipotentiaries have made the following statements :

I. Whereas the Government of the Czechoslovak Republic is of opinion that the Final General Protocol drawn up at Prague, July 13, 1923, regarding the financial negotiations between Hungary and the Czechoslovak Republic is merely a domestic protocol on the negotiations and a domestic record of their result and that therefore in accordance with the stipulations of the Czechoslovak Constitution there is no need to ratify this instrument more particularly inasmuch as the text of the Protocol does not provide for ratification ;

Whereas on the other hand the Royal Hungarian Government considers that the contents of Article V, of the Final General Protocol has an effective bearing.

It is agreed that the divergence between these two points of view in no way affects the validity of the said Final General Protocol signed by the duly authorised Plenipotentiaries of the Contracting Parties.

II. The Decrees to be issued in accordance with Annexes A and B to the Protocol regarding the return to be made of mutual claims and obligations contracted in former Austrian and Hungarian crowns shall be promulgated on November 1, 1924.

In faith whereof the Plenipotentiaries have signed the present Protocol and have thereto affixed their seals.

Done at Budapest, October 30, 1924, in two original copies.

COLOMAN DE KÁNYA.

VAVRECKA.