

N° 1089.

**POLOGNE
ET TCHÉCOSLOVAQUIE**

Traité en vue de la suppression de
la double imposition en matière
de taxes successorales, signé à
Varsovie, le 23 avril 1925.

**POLAND
AND CZECHOSLOVAKIA**

Treaty for the purpose of Preventing
Double Taxation in respect of
Death Duties, signed at Warsaw,
April 23, 1925.

TEXTE TCHÈQUE. — CZECH TEXT.

N^o 1089. — SMLOUVA¹ MEZI REPUBLIKOU ČESKOSLOVENSKOU A REPUBLIKOU POLSKOU O ZAMEZENÍ DVOJÍHO ZDANĚNÍ V OBORU DÁVEK POZŮSTALOSTNÍCH, PODEPSANÁ VE VARŠAVĚ, DNE 23. DUBNA 1925.

Polish and Czechoslovak texts communicated by the delegate of the Polish Republic and by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Treaty took place February 10, 1926.

REPUBLIKA ČESKOSLOVENSKÁ a REPUBLIKA POLSKÁ ve snaze zameziti dvojí zdanění v oboru dávek pozůstalostních, rozhodly se sjednati o tom smlouvu a jmenovaly za tím účelem svými zmocněnci a to :

PRESIDENT REPUBLIKY ČESKOSLOVENSKÉ :

JUDr. Bohumila VLASÁKA, splnomocněného ministra a odborového přednostu ministerstva financí,

PRESIDENT REPUBLIKY POLSKÉ :

JUDr. Karola BIRGFELLNERA, soudce nejvyššího správního soudu,

kteří, vyměňivše navzájem své plné moci, o nichž shledali, že jsou jak obsahem tak formou správné, dohodli se na těchto ustanoveních :

Článek 1.

1. Nemovité pozůstalostní jmění po příslušnících toho kterého z obou smluvních států čítajíc v to příslušenství, jest podrobeno pozůstalostním dávkám jen v tom státě, ve kterém leží

2. Pro otázku, má-li majetkový předmět býti pokládán za věc nemovitou a co má býti pokládáno za příslušenství, rozhodny jsou zákony státu, ve kterém příslušný předmět majetkový leží.

3. Při použití odstavce prvního jest stejně jako s nemovitostmi nakládati s právy užívacími a požívacími nemovitostí, jakož i s právy na nemovitostech zajištěnými neb je zatěžujícími.

Článek 2.

1. Pro pozůstalostní jmění po příslušnících toho kterého z obou států, jež nelze posuzovat podle ustanovení čl. 1., platí tato ustanovení :

¹ The exchange of ratifications took place at Prague, December 14, 1925.

¹ TRANSLATION.

No. 1089. — TREATY BETWEEN POLAND AND CZECHOSLOVAKIA,
FOR THE PURPOSE OF PREVENTING DOUBLE TAXATION IN
RESPECT OF DEATH DUTIES, SIGNED AT WARSAW, APRIL 23,
1925.

THE CZECHOSLOVAK REPUBLIC and THE POLISH REPUBLIC, desirous of preventing double taxation in respect of death duties, have decided to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Bohumil VLASÁK, Minister Plenipotentiary and Head of Department in the Ministry of Finance ;

THE PRESIDENT OF THE POLISH REPUBLIC :

Dr. Karol BIRGFELNER, Judge of the Supreme Administrative Court,

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions :

Article 1.

(1) Immovable property forming part of the estate of a national of either of the Contracting States, including accessories to such property, shall be subject to death duties only in that State in which it is situated.

(2) The questions whether an object is to be regarded as immovable and what is to be understood by "accessories" shall be determined in accordance with the laws of the State in which the property in question is situated.

(3) In applying the provisions of paragraph 1, the usufruct of immovable property and rights of user in such property, as also rights secured on immovable property or constituting servitudes upon such property, shall be regarded as equivalent to immovable property.

Article 2.

(1) If the estate of a national of either of the Contracting States is not subject to the provisions of Article 1, the following regulations shall be observed :

- (a) In principle the estate shall be subject to death duties in the State of which the deceased was a national at the time of his death ;
- (b) If, however, the deceased was at the time of his death domiciled in the other State, the property situated in the latter State shall be subject to death duties in that State ;
- (c) If the deceased was domiciled in both countries at the time of his death, his estate shall be subject to death duties only in the country of which he was a national.

¹ Translated by the Secretariat of the League of Nations.

(2) For the purposes of the present Convention, the term "domicile" shall be understood as the place in which a person has a habitation under conditions which imply an intention to retain it continuously, or in which he resides under conditions which imply an intention to remain in that place or in that country longer than would be justified by a mere visit.

Article 3.

(1) As regards the application of Articles 1 and 2, legacies which do not relate to a specific object, or to rights in a specific object, shall be chargeable in the first place upon the property referred to in Article 2, and shall only be chargeable upon the property referred to in Article 1 if the former property is not sufficient.

(2) If the property belonging to an estate coming under Article 1 or Article 2 is situated in both States, the legacies shall be chargeable upon such property in proportion to the value of the parts of the estate situated in the territory of each State.

Article 4.

(1) Debts due in respect of, or secured upon, the property referred to in Article 1, shall be chargeable upon such property; other debts shall be chargeable in the first place upon the property referred to in Article 2.

(2) The provisions of Article 3, paragraph 2, shall apply *mutatis mutandis* to these cases.

Article 5.

For the purposes of the present Convention the expression "death duties" shall include all taxes levied on the transfer of property in consequence of death, in accordance with the fiscal laws or with any regulations which may have superseded them or may in future supersede them in the two States.

Article 6.

The two contracting Parties shall afford each other assistance in connection with the transmission of documents and with the assessment of the taxes to which the present Convention relates. The two Governments shall settle the details of execution by an exchange of Notes.

Article 7.

(1) The provisions of Articles 1-6 of the present Treaty shall apply to:

(a) All successions opened since October 31, 1918;

(b) All successions opened prior to November 1, 1918, if the duties in respect thereof had not been paid up to that date.

(2) Should the assessment of death duties not have been yet legally established when the present Treaty comes into force, the amount of such duties shall be fixed officially. Otherwise their amount shall not be reassessed unless the State concerned so requests within three years from the date upon which the present Treaty comes into force.

Article 8.

If in certain particular cases there is doubt as to the application or interpretation of the present Treaty or it is impossible, notwithstanding the Treaty, to prevent double taxation, the Finance Ministers of the two Contracting Parties shall agree upon the most equitable method of dealing with such cases.

Article 9.

(1) The present Treaty shall be ratified and the instruments of ratification shall be exchanged at Prague as soon as possible. It shall come into force on the fifteenth day following the exchange of the instruments of ratification.

(2) Either of the two States may denounce the present Treaty not less than six months before the close of any calendar year; in that case the Treaty shall cease, at the end of that calendar year, to apply to successions opened after the end of the same calendar year.

(3) The present Treaty has been drawn up in two original copies, each in the Czechoslovak and Polish languages. Both texts shall be authentic.

In faith whereof the above-named Plenipotentiaries have signed the present Treaty and have thereto affixed their seals.

Done at Warsaw on April 23, 1925.

For the Czechoslovak Republic :

(L.S.) (Signed) Dr. BOHUMIL VLASÁK.

For the Polish Republic :

(L.S.) (Signed) Dr. KAROL BIRGFELLNER.
