

N° 3340.

ALLEMAGNE ET DANEMARK

Echange de notes comportant un arrangement relatif aux facilités à accorder réciproquement en matière fiscale pour certains biens provenant d'héritages ou de donations. Copenhague, le 13 janvier 1934.

GERMANY AND DENMARK

Exchange of Notes constituting an Agreement relating to Facilities to be granted reciprocally in Fiscal Matters for Certain Property deriving from Legacies or Donations. Copenhagen, January 13, 1934.

N^o 3340. — ÉCHANGE DE NOTES ENTRE LES GOUVERNEMENTS ALLEMAND ET DANOIS COMPORTANT UN ARRANGEMENT RELATIF AUX FACILITÉS A ACCORDER RÉCIPROQUEMENT EN MATIÈRE FISCALE POUR CERTAINS BIENS PROVENANT D'HÉRITAGES OU DE DONATIONS. COPENHAGUE, LE 13 JANVIER 1934.

N^o 3340. — NOTENWECHSEL ZWISCHEN DER DEUTSCHEN UND DER DÄNISCHEN REGIERUNG, BETREFFEND DIE GEGENSEITIGE GEWÄHRUNG VON STEUERVERGÜNSTIGUNGEN FÜR ZUWENDUNGEN AUS ERBSCHAFTEN ODER STIFTUNGEN. KOPENHAGEN, DEN 13. JANUAR 1934.

N^o 3340. — OVERENSKOMST MELLEM DANMARK OG DET TYSKE RIGE OM GENSIDIG INDRØMMELSE AF AFGIFTSLEMPESER FOR VISSE ARVE- OG GAVEERHVERVELSER. KØBENHAVN, 13. JANUAR 1934.

Textes officiels allemand, danois et français communiqués par le délégué permanent du Danemark auprès de la Société des Nations. L'enregistrement de cet échange de notes a eu lieu le 6 février 1934.

German, Danish and French official texts communicated by the Permanent Delegate of Denmark accredited to the League of Nations. The registration of this Exchange of Notes took place February 6, 1934.

TEXTE ALLEMAND. — GERMAN TEXT.

¹ TRADUCTION. — TRANSLATION.

I.

I.

DEUTSCHE GESANDTSCHAFT,
KOPENHAGEN.

LÉGATION D'ALLEMAGNE.
COPENHAGUE.

Nr. 31 II.
1 Anlage.

N^o 31 II.
1 annexe.

KOPENHAGEN, den 13. Januar 1934.

COPENHAGUE, le 13 janvier 1934.

HERR MINISTER !

MONSIEUR LE MINISTRE,

Unter Bezugnahme auf den vorausgegangenen Notenwechsel — Note der Deutschen Gesandt-

Me référant à votre échange de notes antérieur (Note de la Légation d'Allemagne N^o 3111.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

TEXTE DANOIS. — DANISH TEXT.

¹ TRADUCTION. — TRANSLATION.

GENSIDIGHEDSERKLÆRING OVERFOR
DET TYSKE RIGE.

DÉCLARATION DE RÉCIPROCITÉ
A L'ÉGARD DU REICH ALLEMAND

Efter § 2, sidste Stk., i den danske Arveafgiftslov af 10. April 1922 (Lovtidende A, Side 646 ff.) svares af Arv, der tilfalder Staten, Kommuner, Kirker, Foreninger, Selskaber, Stiftelser, Legater og lignende, 15 pCt. i Afgift. Efter Lov af 16. Maj 1933 (Lovtidende A Side 857-858) om midlertidig Afgift af Arv, hvilken Lov gælder indtil 31. Oktober 1936, svares desuden en Afgift af 50 pCt. af Afgiftsbeløbet i Henhold til Loven af 10. April 1922.

En vertu du paragraphe 2, dernier alinéa, de la loi danoise du 10 avril 1922 sur les droits de succession (*Lovtidende, A*, pages 646 et suivantes) les legs faits à l'Etat, aux communes, aux églises, associations, sociétés, fondations, légataires, etc., acquittent un droit de 15 %. D'après la loi du 16 mai 1933 (*Lovtidende, A*, pages 857-858) sur les droits de succession temporaires — loi qui est applicable jusqu'au 31 octobre 1936 —, il est perçu en outre un droit équivalant à 50 % du montant du droit fixé par la loi du 10 avril 1922.

Idlfølge § 3, 4. Stk., i Loven af 10. April 1922 er jeg bemyndiget til at nedsætte denne Arveafgift til 6 pCt (saalænge Loven af 16. Maj 1933 gælder : til 9 pCt.), for saa vidt Arven tilfalder offentlige Institutioner, Foreninger, Selskaber eller Stiftelser med almenvelgørende eller andet almennyttigt Formaal, eller som paa anden Maade bortskænkes i tilsvarende Øjemed. Det bemærkes herved, at et Legat eller en Stiftelse efter Loven ikke betragtes som almenvelgørende, naar der er forbeholdt Medlemmer af en bestemt Familie Fortrinsret til Nydelse af samme for mere end to Generationer.

Le paragraphe 3, quatrième alinéa, de la loi du 10 avril 1922 me confère la faculté d'abaisser le taux de ce droit à 6 % (9 % aussi longtemps que la loi du 16 mai 1933 sera en vigueur) lorsque le legs est attribué à des institutions, associations, sociétés ou fondations publiques créées à des fins charitables ou d'utilité publique, ou qu'il est destiné, d'autre manière, à recevoir une affectation correspondante. Il convient d'observer à ce sujet que la loi ne reconnaît pas le caractère charitable aux legs ou fondations dont le bénéfice est réservé par priorité aux membres d'une famille déterminée pendant plus de deux générations.

Under Henvisning hertil erklærer jeg mig under Forbehold af Ret til Tilbagekaldelse til enhver Tid villig til at tilsikre Arveerhvervelserdl.

Dans ces conditions, je me déclare disposé, sous réserve de révocation à toute époque, à garantir aux legs faits :

a) for tyske Stiftelser, Selskaber, Foreninger og Anstalter med juridisk Personlighed, der forfølger udelukkende velgørende og almennyttige Formaal, og

a) En faveur de fondations, sociétés, associations et institutions allemandes dotées de la personnalité juridique et poursuivant des fins exclusivement charitables et d'utilité publique ; ou

b) til udelukkende velgørende og almennyttige Formaal, der skal iværksættes indenfor det tyske Rige, saafremt Anvendelsen til det bestemte Formaal er sikret og Erhvervelsen ikke er begrænset til enkelte Familier eller bestemte Personer,

b) A des fins exclusivement charitables et d'utilité publique à réaliser dans le Reich allemand lorsque l'emploi du legs à la fin déterminée est assuré et que le bénéfice n'en est pas limité à certaines familles ou personnes ;

af hvilke Arveafgift skal erlægges til den danske Stat, den størst mulige Afgiftslempelse, som Lovgivningen muliggør for Erhvervelser af den ovennævnte Art, under Forudsætning af, at der

pour lesquels des droits de succession doivent être versés à l'Etat danois, l'allégement fiscal le plus fort possible prévu par la législation danoise pour les acquisitions du genre précité, à

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tilstaas Afgiftsfrihed for Arv og Livsgave, der hører under det tyske Riges Skattehøjhed, og som enten tilfalder danske Stiftelser m. v. af den under *a*) nævnte Art, eller som skal anvendes til Formaal af den under *b*) nævnte Art, der under de der nævnte Betingelser iværksættes indenfor Kongeriget Danmark.

Med Hensyn til Gaver i levende Live bemærker jeg, at der efter den gældende danske Afgiftslovning overhovedet ikke kan paalægges Livsgaver til Institutioner med Hjemsted i Udlandet nogen Art af Skat eller Afgift til den danske Stat, dog bortset fra Gaver, hvoraf Giveren for Livstid har forbeholdt sig Indtægterne, idet der af saadanne Gaver svares Arveafgift ved Giverens Død.

condition que les legs et donations entre vifs relevant de la souveraineté fiscale du Reich allemand et attribués à des fondations danoises, etc., du caractère spécifié sous *a*), ou destinés à des fins de la nature spécifiée sous *b*) et réalisées dans le royaume de Danemark, dans les conditions visées par ledit alinéa, soient exemptés de droits.

Pour ce qui concerne les donations entre vifs, il est à remarquer qu'en vertu de la législation fiscale en vigueur au Danemark, aucun impôt ou droit au profit de l'Etat danois ne peut être perçu sur les donations faites en faveur d'institutions ayant leur siège à l'étranger, à l'exception, cependant, de celles dont le donataire s'est réservé l'usufruit jusqu'à sa mort, les droits de succession étant alors payables sur ces donations, lors du décès du donataire.

FINANSMINISTERIET, den 8. Januar 1934.

MINISTÈRE DES FINANCES, le 8 janvier 1934.

(*sign.*) H. P. HANSEN.
Victor NIELSEN.

(*Signé*) H. P. HANSEN.
Victor NIELSEN.

¹ TRADUCTION. — TRANSLATION.

No. 3340. — EXCHANGE OF NOTES BETWEEN THE GERMAN AND DANISH GOVERNMENTS CONSTITUTING AN AGREEMENT RELATING TO FACILITIES TO BE GRANTED RECIPROCALLY IN FISCAL MATTERS FOR CERTAIN PROPERTY DERIVING FROM LEGACIES OR DONATIONS. COPENHAGEN, JANUARY 13, 1934.

GERMAN LEGATION.
COPENHAGEN.

No. 31. II.
I Annex.

I.

YOUR EXCELLENCY,

COPENHAGEN, January 13, 1934.

With reference to the preceding Exchange of Notes (Note of the German Legation No. 311. II of January 2, 1933, and Reply of the Royal Ministry No. 26.D.23. of April 29, 1933), I have the

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honour, in accordance with instructions received, to forward to Your Excellency in the form of an annex hereto attached a Declaration of Reciprocity by the Minister of Finance of the Reich dated September 8, 1933, with regard to exemption from German succession duty in the case of inheritances for charitable or public objects.

I have, etc.

(Signed) Freiherr VON RICHTHOFEN.

To His Excellency Dr. Munch,
Minister for Foreign Affairs.

DECLARATION OF RECIPROCITY IN RELATION TO THE KINGDOM OF DENMARK.

Under § 18, paragraph 1, No. 19, of the German Succession Duty Act of August 22, 1925 (*Reichsgesetzblatt*, Part I, p. 320), the following are exempt from duty :

(1) Dispositions in favour of German foundations, societies, associations or institutions having solely charitable or public objects, provided they are endowed with legal personality ;

(2) Dispositions for solely charitable or public objects within the German Reich or its Protectorates, or dispositions in favour of German nationals abroad, provided their use for such objects is assured and they are not restricted to particular families or individual persons.

Provision No. 1 relates to dispositions without a specific object, provision No. 2 on the other hand to dispositions with a specific object. Dispositions of the latter kind are dispositions with a specific object (*Zweckzuwendungen*) within the meaning of the German law of succession, which are not limited to particular recipients and are made to take effect through the agency of an intermediary (physical or legal person, whether under private or public law) to whom the party disposing has recourse in order that his disposition may attain the object he intends (*e.g.*, where the testator bequeaths RM. 10,000 to the town of N. for distribution among the poor — case of a disposition for a definite charitable object taking effect *mortis causa*).

The exemptions apply to acquisitions *mortis causa*, donations *inter vivos*, and dispositions with a specific object *mortis causa* or *inter vivos*.

Under § 18, paragraph 3, of the Succession Duty Act, I am authorised to grant the above exemptions from duty in favour of foreign foundations, societies, associations or institutions of the kind specified in provision No. 1, as also in the case of dispositions in favour of the objects specified in provision No. 2 which take effect in a foreign country, provided that the foreign country guarantees reciprocity.

In virtue of this provision, I hereby undertake to make a grant, subject to withdrawal at any time, of exemption from duty in the case of dispositions in favour of foundations, etc., of the kind specified in provision No. 1 within the Kingdom of Denmark, as also in the case of dispositions in favour of the objects specified in provision No. 2 which take effect within the Kingdom of Denmark, so far and so long as the Kingdom of Denmark undertakes to apply the Danish laws and regulations in the most favourable sense in the case of dispositions taking effect *mortis causa* or *inter vivos* within the competence of Danish fiscal sovereignty, which are made in favour of :

(a) German foundations, societies, associations and institutions with legal personality having solely charitable or public objects, or

(b) Dispositions in favour of solely charitable or public objects which take effect within the German Reich, provided their use for such objects is assured and they are not restricted to particular families or individual persons.

BERLIN, September 8, 1933.

For the Finance Minister of the Reich :

By order :

(Signed) REDDING.

Seal of the Finance Ministry of the Reich.

P.J.II.
26. D. 23.
2 Annexes.

II.

COPENHAGEN, *January 13, 1934.*

MONSIEUR LE BARON,

I have the honour to acknowledge receipt of the Declaration of the Minister of Finance of the Reich, dated September 8 last, with regard to facilities to be granted reciprocally by Denmark and Germany in the case of duties on certain inheritances and donations, as contained in the Annex attached to your Note of to-day's date and at the same time to forward you herewith, together with the usual copy, a corresponding Declaration signed on the 8th instant by the Danish Minister of Finance.

The Danish Government accordingly considers the Agreement forming the subject of the two Declarations to be in force as from to-day and until such time as it may be denounced by one of the Contracting Parties.

(Signed) P. MUNCH.

To Baron Richthofen,
German Minister.

DECLARATION OF RECIPROCITY IN RELATION TO THE GERMAN REICH.

Under § 2, last paragraph, of the Danish Succession Duty Act of April 10, 1922 (*Lovtidende*, A, pages 646 and following) inheritances in favour of the State, communes, churches, associations, societies, foundations, legatees, etc., pay a duty of 15 %. Under the Law of May 16, 1933 (*Lovtidende*, A, pages 857-858) on Temporary Succession Duty, which remains in force until October 31, 1936, a further duty is leviable amounting to 50 % of that fixed by the Act of April 10, 1922.

§ 3, paragraph 4, of the Act of April 10, 1922, gives me the right to lower the rate of this duty to 6 % (or 9 % so long as the Law of May 16, 1933, remains in force) where the inheritance is in favour of public institutions, associations, societies or foundations established for charitable or public objects, or is to be employed in another manner for similar objects (in which connection the law does not recognise as "charitable" legacies or foundations where a life interest is reserved to members of a particular family for more than two generations).

I accordingly undertake to give a guarantee, subject to withdrawal at any time, of most favourable treatment under Danish law in respect of inheritances in favour of :

(a) German foundations, societies, associations and institutions with legal personality having solely charitable or public objects ; or

(b) Solely charitable or public objects which take effect within the German Reich, provided their use for such objects is assured and they are not restricted to particular families or individual persons ;

the succession duty on which shall accrue to the Danish State, and provided always that dispositions taking effect *mortis causa* or *inter vivos* within the competence of German fiscal sovereignty, which are made in favour of Danish foundations, etc., of the kind specified in provision (a), or in favour of objects of the kind specified in provision (b) which take effect within the Kingdom of Denmark under the conditions specified in the said provision (b), are exempted from duty in Germany.

As regards donations *inter vivos*, under the fiscal legislation in force in Denmark no tax or duty for the benefit of the Danish State may be collected on donations in favour of institutions domiciled abroad, save in respect of donations in which the donor has reserved for himself a life interest, in which case succession duty is payable on the decease of the donor.

MINISTRY OF FINANCE, *January 8, 1934.*

(Signed) H. P. HANSEN.
Victor NIELSEN.