

PRESS RELEASE



COMMUNIQUÉ

DEPARTMENT OF EXTERNAL AFFAIRS

CANADA

MINISTÈRE DES AFFAIRES EXTÉRIEURES

No. 22

FOR IMMEDIATE RELEASE
MONDAY, APRIL 9, 1962.

The Secretary of State for External Affairs, the Honourable Howard Green, announced today that the Convention between Canada and the United States of America for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on estates signed in Washington February 17, 1961, was brought into force today by the exchange of instruments of ratification by the two Governments.

The Convention applies to the estates of persons dying on or after January 1, 1959 - the date on which the Estate Tax Act superseded the Dominion Succession Duty Act. Consequently benefits resulting from the terms of the Convention will apply to all such estates.

The taxes included in the scope of the new Convention are the Canadian estate tax, the United States estate tax and any other taxes of a substantially similar character subsequently imposed by the Federal Government of either country.

The main purpose of the Convention is to avoid double taxation that might otherwise result, particularly when the estate of a person dying domiciled in one country includes assets situated in the other country. This purpose is accomplished chiefly by a reciprocal system of tax credits whereby the country of domicile binds itself to give credit for the tax imposed by the country where the assets are situated (the country of situs). In order to make this system work smoothly specific rules of situs for assets of various classes are provided. These rules are almost identical with those in the Estate Tax Act. The Convention provides that these rules shall not be construed so as to increase the tax otherwise payable under the laws of either country.

Another method of avoiding double taxation or unduly onerous taxation is by providing that when one country is taxing solely on the

basis of situs it will take into account only property situated in its territory and will restrict its tax by limiting its rates or by allowing an exemption, or both. Accordingly, Canada has bound for the term of the Convention the present flat rate tax of 15% imposed by the Estate Tax Act on property situated in Canada of any foreign domiciled decedent. The Convention also stipulates that Canada will not tax such property if its value is less than \$15,000. This contrasts with the provision in the Estate Tax Act whereby such property is taxed if its value is in excess of \$5,000. The United States in taxing Canadian domiciliaries is similarly required to restrict its tax base to property situated in the United States and not to tax if this property is valued at less than \$15,000. This contrasts with the provisions of the United States taxing statute whereby such property is taxed if its value exceeds \$2,000. The United States, which uses a schedule of graduated rates, is not obliged to restrict its rates, instead it binds itself to allow a deductible exemption of \$2,000. in all cases where the property is valued at more than \$15,000. The Convention also provides that where the value of property is only slightly in excess of \$15,000 the tax imposed shall not reduce the value of the property after tax to less than \$15,000.

By the terms of the Convention each country will give a credit for the federal tax of the other country before this tax is itself reduced by credits allowed in respect of taxes levied by provincial or state governments. This provision has much the same result as allowing a credit for the provincial or state taxes of the other country. The Convention also provides that where a deduction for a bequest to a charitable organization is concerned, any organization that would have qualified as a charitable organization as defined in the tax laws of one country will qualify even if it is in the other country. In other words the international border will be ignored for this purpose. Both of these provisions will make Canadian practice reciprocal with long-standing U.S. practice and will benefit the estates of the Canadian domiciliaries concerned.

The Convention must continue in effect for five years from January 1, 1959 and will continue its effect thereafter unless terminated by either of the two Governments.

Executors and administrators of estates of persons dying on or after January 1, 1959 that are affected by the Convention may now make application to the appropriate tax authorities for reassessment and possible refund.