

**No. 36888. United States of America and Federal Republic of Germany**

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON ESTATES, INHERITANCES, AND GIFTS. BONN, 3 DECEMBER 1980 [*United Nations, Treaty Series, vol. 2120, I-36888.*]

PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON ESTATES, INHERITANCES, AND GIFTS, SIGNED AT BONN ON DECEMBER 3, 1980. WASHINGTON, 14 DECEMBER 1998

**Entry into force:** 14 December 2000 by the exchange of the instruments of ratification, in accordance with article 5

**Authentic texts:** English and German

**Registration with the Secretariat of the United Nations:** United States of America, 22 May 2013

**N° 36888. États-Unis d'Amérique et République fédérale d'Allemagne**

CONVENTION ENTRE LES ÉTATS-UNIS D'AMÉRIQUE ET LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE TENDANT À ÉVITER LA DOUBLE IMPOSITION ET À PRÉVENIR L'ÉVASION FISCALE EN MATIÈRE D'IMPÔTS SUR LA SUCCESSION, LES HÉRITAGES ET LES CADEAUX. BONN, 3 DÉCEMBRE 1980 [*Nations Unies, Recueil des Traités, vol. 2120, I-36888.*]

PROTOCOLE MODIFIANT LA CONVENTION ENTRE LES ÉTATS-UNIS D'AMÉRIQUE ET LA RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE TENDANT À ÉVITER LA DOUBLE IMPOSITION ET À PRÉVENIR L'ÉVASION FISCALE EN MATIÈRE D'IMPÔTS SUR LA SUCCESSION, LES HÉRITAGES ET LES CADEAUX, SIGNÉE À BONN LE 3 DÉCEMBRE 1980. WASHINGTON, 14 DÉCEMBRE 1998

**Entrée en vigueur :** 14 décembre 2000 par l'échange des instruments de ratification, conformément à l'article 5

**Textes authentiques :** anglais et allemand

**Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies :** États-Unis d'Amérique, 22 mai 2013

[ ENGLISH TEXT – TEXTE ANGLAIS ]

**PROTOCOL  
AMENDING THE CONVENTION BETWEEN  
THE UNITED STATES OF AMERICA  
AND  
THE FEDERAL REPUBLIC OF GERMANY  
FOR THE AVOIDANCE OF DOUBLE TAXATION  
WITH RESPECT TO TAXES ON ESTATES, INHERITANCES, AND GIFTS,  
SIGNED AT BONN ON DECEMBER 3, 1980**

The United States of America and the Federal Republic of Germany, desiring to conclude a Protocol to amend the Convention Between the United States of America and the Federal Republic of Germany For the Avoidance of Double Taxation with Respect to Taxes on Estates, Inheritances, and Gifts, signed at Bonn on December 3, 1980 (hereinafter referred to as "the Convention"), have agreed as follows:

ARTICLE 1

Subparagraph c) of paragraph 3 of Article 4 (Fiscal Domicile) of the Convention shall be replaced by the following:

"c) by reason of the provisions of paragraph 1 domiciled in the other Contracting State for not more than ten years,".

ARTICLE 2

The following sentence shall be added to the end of paragraph 4 of Article 10 (Deductions and Exemptions) of the Convention:

"The provisions of this paragraph shall not apply to a citizen of the United States of America domiciled in the Federal Republic of Germany or a former citizen or long-term resident of the United States of America referred to in subparagraph a) of paragraph 1 of Article 11."

ARTICLE 3

New paragraphs 5 and 6 shall be added to Article 10

(Deductions and Exemptions) of the Convention as follows:

"5. In determining the estate tax imposed by the United States of America, the estate of a decedent (other than a citizen of the United States of America) who was domiciled in the Federal Republic of Germany at the time of the decedent's death shall be allowed a unified credit equal to the greater of:

a) The amount that bears the same ratio to the credit allowed to the estate of a citizen of the United States of America under the law of the United States of America as the value of the part of the decedent's gross estate that at the time of the decedent's death is situated in the United States of America bears to the value of the decedent's entire gross estate wherever situated;  
or

b) The unified credit allowed to the estate of a nonresident not a citizen of the United States of America under the law of the United States of America.

The amount of any unified credit otherwise allowable under this paragraph shall be reduced by the amount of any credit previously allowed with respect to any gift made by the decedent. For purposes of subparagraph a),

the part of the decedent's gross estate that is situated in the United States of America shall not exceed the part of the decedent's gross estate that may be taxed by the United States of America in accordance with this Convention. A credit otherwise allowable under subparagraph a) shall be allowed only if all information necessary for the verification and computation of the credit is provided.

6. In determining the estate tax imposed by the United States of America, the value of the decedent's taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any interest in property that passes to the decedent's surviving spouse (within the meaning of the law of the United States of America) and that would qualify for the estate tax marital deduction under the law of the United States of America if the surviving spouse were a citizen of the United States of America and all applicable elections were properly made (hereinafter referred to as "qualifying property"). The decedent's estate shall be entitled to such marital deduction provided that:

a) At the time of the decedent's death, the decedent was domiciled in either the Federal Republic of Germany or the United States of America;