

12/30/99

JEFFREY A. & EDITH A. ARROWSMITH  
Personal Representatives of the Estate  
of HAROLD N. ARROWSMITH, JR.

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IN THE

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MARYLAND TAX COURT

vs.

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REGISTER OF WILLS FOR BALTIMORE  
COUNTY

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No. 99-EI-OO-0054

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## MEMORANDUM OF GROUNDS FOR DECISION

### Facts

The only issue in this appeal goes to the application of the Statute of Limitations.

After the death of Harold N. Arrowsmith, Jr., an estate was opened by his heirs in Maryland. All documents were filed and, eventually, taxes paid. Germany claimed death taxes from the assets of the estate and, to avoid double taxation, the heirs requested a ruling from the "Competent Authority." The decision of the Competent Authority was that "the decedent was domiciled in Germany." The parties have agreed that this ruling is binding on the United States, as well as the State of Maryland and its subdivisions.

Additionally, they agree that controlling law is The Germany Estate and Gift Tax Treaty (the "Convention") and further agree that the situation covered by the present case is not expressly covered by the rules of the Convention.

The assets of the deceased consisted almost exclusively of stocks, bonds and other financial assets which should be taxed in the County where the deceased was

domiciled. The decision of the Competent Authority that the decedent was domiciled in Germany had the effect that death taxes were to be collected by Germany and not the U.S.

Taxes that had previously been paid to the I.R.S. and Maryland estate tax were refunded and paid to Germany to partially satisfy the taxes due to Germany,

However, the request for the refund of inheritance tax (\$2,000,000) paid to the Register of Wills for Baltimore County was denied. All agree it was filed after the three year statute of limitations had run.

### **Conclusions**

The controlling document is the Convention which clearly states in Article 2 that it covers the Federal Estate and Gift taxes, but State Inheritance Tax is not one of them.

The Article 13, Section 5 reference to statute of limitation is not applicable to this case because it is binding on the U. S. Government but not its subdivision, i.e. Maryland.

The double taxation would be avoided by a credit being granted by Germany as described in Article 11, Section 4 and as described in the Report of the Senate Committee explaining the Treaty. "In determining the amount of credit to allow, Germany will allow a credit for taxes imposed by political subdivisions of the United States. Thus, although State inheritance and gift taxes are not covered by the proposed treaty, Germany has agreed to permit a credit against its taxes for State taxes."

Accordingly, it is the decision of this Court that the State inheritance tax collected by the Baltimore County Register of Wills is not subject to refund. Germany may allow a credit for the tax paid against its death taxes.