

No. 4406

**CANADA
and
IRELAND**

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Ottawa, on 28 October 1954

Official text: English.

Registered by Canada on 11 July 1958.

**CANADA
et
IRLANDE**

Accord pour éviter les doubles impositions et prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signé à Ottawa, le 28 octobre 1954

Texte officiel anglais.

Enregistré par le Canada le 11 juillet 1958.

No. 4406. AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT OTTAWA, ON 28 OCTOBER 1954

The Government of Canada and the Government of Ireland,
Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
Have appointed for that purpose as their Plenipotentiaries :

The Government of Canada :

Walter E. Harris, Minister of Finance in the Government of Canada,

The Government of Ireland :

Sean Murphy, Ambassador Extraordinary and Plenipotentiary of Ireland at Ottawa;

Who, having communicated their respective full powers, found in good and due form, have agreed as follows :

Article I

1. The taxes which are subject to this Agreement are :

(a) In Canada : income taxes, including surtaxes, which are imposed by the Government of Canada (hereinafter referred to as " Canadian tax ").

(b) In Ireland : the income tax (including surtax) and the corporation profits tax (hereinafter referred to as " Irish tax ").

2. This Agreement shall also apply to any other taxes of a substantially similar character, other than excess profits taxes, imposed by either Contracting Government subsequent to the signing of this Agreement.

Article II

1. In this Agreement, unless the context otherwise requires :

(a) The terms " one of the territories " and " the other territory " mean Ireland or Canada, as the context requires.

¹ Came into force on 20 December 1955, upon the exchange of the instruments of ratification at Dublin, in accordance with article XV.

(b) The term “ tax ” means Irish tax or Canadian tax, as the context requires.

(c) The term “ person ” includes any body of persons, corporate or not corporate.

(d) The term “ company ” includes any body corporate.

(e) The terms “ resident of Ireland ” and “ resident of Canada ” means respectively any person who is resident in Ireland for the purposes of Irish tax and not resident in Canada for the purposes of Canadian tax and any person who is resident in Canada for the purposes of Canadian tax and not resident in Ireland for the purposes of Irish tax; a company shall be regarded as resident in Ireland if its business is managed and controlled in Ireland and as resident in Canada if its business is managed and controlled in Canada. Provided that nothing in this paragraph shall affect any provisions of the law of Ireland regarding the imposition of corporation profits tax in the case of a company incorporated in Ireland.

(f) The terms “ resident of one of the territories ” and “ resident of the other territory ” mean a person who is a resident of Ireland or a person who is a resident of Canada, as the context requires.

(g) The terms “ Irish enterprise ” and “ Canadian enterprise ” mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Ireland and an industrial or commercial enterprise or undertaking carried on by a resident of Canada; and the terms “ enterprise of one of the territories ” and “ enterprise of the other territory ” mean an Irish enterprise or a Canadian enterprise, as the context requires.

(h) The term “ permanent establishment ” when used with respect to an enterprise of one of the territories, means a branch or other fixed place of business, but does not include an agency unless the agent has and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection :

- (i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;
- (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
- (iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which

carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

2. The term “ industrial or commercial profits ”, as used in the present Agreement, does not include income in the form of dividends, interest, rents or royalties, management charges, or remuneration for labour or personal services.

3. In the application of the provisions of the present Agreement by one of the Contracting Governments any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Government relating to the taxes which are the subject of the present Agreement.

Article III

1. The industrial or commercial profits of an Irish enterprise shall not be subject to Canadian tax unless the enterprise is engaged in trade or business in Canada through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Canada, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Canadian enterprise shall not be subject to Irish tax unless the enterprise is engaged in trade or business in Ireland through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Ireland, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

4. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

5. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of

that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

Article IV

Where

- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises,

then any profits which but for those conditions would have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

Article V

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

Article VI

1. The rate of Canadian tax on income (other than income from carrying on business in Canada or from performing duties in Canada) derived from sources within Canada by a resident of Ireland shall not exceed 15 per cent.

2. Notwithstanding the provisions of the foregoing paragraph, the Canadian tax on dividends paid to a company which is a resident of Ireland by a company resident in Canada, more than 50 per cent of whose shares which have under all circumstances full voting rights are owned by the former company, shall not exceed 5 per cent.

3. Income (other than income from carrying on business in Ireland or from performing duties in Ireland) derived from sources within Ireland by an individual who is a resident of Canada shall be exempt from Irish surtax.

Article VII

Copyright royalties and other like payments made in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including rents or royalties in respect of motion picture films) and derived from sources within one of the territories by a resident of the other territory shall be exempt from tax in that first-mentioned territory.

Article VIII

1. Remuneration (other than pensions) paid by one of the Contracting Governments to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government if the individual is not ordinarily resident in that territory or is ordinarily resident in that territory solely for the purpose of rendering those services.

2. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Governments for purposes of profit.

Article IX

1. A resident of Ireland shall be exempt from Canadian tax upon compensation for personal (including professional) services performed during the taxation year within Canada if he is present therein for a period or periods not exceeding a total of 183 days during the taxation year and either of the following conditions is met :

- (a) His compensation is received for such personal services performed as an officer or employee of a resident of Ireland, or
- (b) His compensation received for such personal services does not exceed \$5,000.

2. The provisions of paragraph 1 of this Article shall apply, *mutatis mutandis*, to a resident of Canada with respect to compensation for such personal services performed in Ireland.

Article X

1. Any pension or annuity derived from sources within Canada by an individual who is a resident of Ireland shall be exempt from Canadian tax.

2. Any pension or annuity derived from sources within Ireland by an individual who is a resident of Canada shall be exempt from Irish tax.

3. The term “annuity” means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

Article XI

A professor or teacher from one of the territories who received remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

Article XII

A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

Article XIII

1. As far as may be in accordance with the provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada, Irish tax payable in respect of income from sources within Ireland shall be deducted from any Canadian tax payable in respect of that income. For this purpose the recipient of a dividend paid by a corporation which is a resident of Ireland shall be deemed to have paid the Irish income tax appropriate to such dividend if such recipient elects to include in his gross income for the purposes of Canadian tax the amount of such Irish income tax. For the purposes only of this Article, income derived from sources in the United Kingdom by an individual who is resident in Ireland shall be deemed to be income from sources in Ireland if such income is not subject to United Kingdom income tax.

2. Subject to such provisions (which shall not affect the general principle hereof) as may be enacted in Ireland, Canadian tax payable in respect of income from sources within Canada shall be allowed as a credit against any Irish tax payable in respect of that income. Where such income is an ordinary dividend paid by a Canadian corporation, such credit shall take into account (in addition to any Canadian income tax deducted from or imposed on such dividend) the Canadian income tax imposed on such corporation in respect of its profits, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional

participation in profits, such tax on profits shall likewise be taken into account in so far as the dividend exceeds such fixed rate.

3. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

Article XIV

1. The taxation authorities of the Contracting Governments shall upon request exchange such information (being information available under the respective taxation laws of the Contracting Governments) as is necessary for carrying out the provisions of the present Agreement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement. No information shall be exchanged which would disclose any trade secret or trade process.

2. The taxation authorities of the Contracting Governments may consult together as may be necessary for the purpose of carrying out the provisions of the present Agreement and, in particular, the provisions of Articles III and IV.

3. As used in this Article, the term "taxation authorities" means, in the case of Canada, the Minister of National Revenue or his authorised representative; in the case of Ireland, the Revenue Commissioners or their authorised representative.

Article XV

1. The present Agreement shall be ratified and the instruments of ratification shall be exchanged at Dublin as soon as possible.

2. Upon exchange of ratifications, the present Agreement shall have effect—

- (a) in respect of Canadian tax, for the taxation years beginning on or after the 1st day of January in the calendar year in which the exchange of instruments of ratification takes place;
- (b) (i) in respect of Irish income tax, for the year of assessment beginning on the 6th day of April in the calendar year in which the exchange of instruments of ratification takes place and subsequent years;

- (ii) in respect of Irish surtax, for the year of assessment beginning on the 6th day of April immediately preceding the calendar year in which the exchange of instruments of ratification takes place, and subsequent years; and
- (iii) in respect of Irish corporation profits tax, for any chargeable accounting period beginning on or after the 1st day of April in the calendar year in which the exchange of instruments of ratification takes place, and for the unexpired portion of any chargeable accounting period current at that date.

Article XVI

This Agreement shall continue in effect indefinitely but either of the Contracting Governments may on or before the 30th day of June in any calendar year following the calendar year in which the exchange of instruments of ratification takes place, give to the other Contracting Government notice of termination, and in such event this Agreement shall cease to be effective :

- (a) in respect of Canadian tax, for the taxation years beginning on or after the 1st day of January in the calendar year next following that in which notice is given;
- (b)
 - (i) in respect of Irish income tax, for any year of assessment beginning on or after the 6th day of April in the calendar year next following that in which such notice is given;
 - (ii) in respect of Irish surtax, for any year of assessment beginning on or after the 6th day of April in the calendar year in which such notice is given; and
 - (iii) in respect of Irish corporation profits tax, for any chargeable accounting period beginning on or after the 1st day of April in the calendar year next following that in which such notice is given and for the unexpired portion of any chargeable accounting period current at that date.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Agreement and have affixed thereto their seals.

DONE at Ottawa, in duplicate, this 28th day of October, nineteen hundred and fifty-four.

For Canada :
W. E. HARRIS

For Ireland :
Sean MURPHY