

No. 7596

**DENMARK
and
IRELAND**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital. Signed at Copenhagen, on 4 February 1964

Official text: English.

Registered by Denmark on 19 February 1965.

**DANEMARK
et
IRLANDE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et d'impôts sur la fortune. Signée à Copenhague, le 4 février 1964

Texte officiel anglais.

Enregistrée par le Danemark le 19 février 1965.

No. 7596. CONVENTION¹ BETWEEN THE ROYAL DANISH GOVERNMENT AND THE GOVERNMENT OF IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL. SIGNED AT COPENHAGEN, ON 4 FEBRUARY 1964

The Royal Danish Government and the Government of Ireland, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, have agreed as follows :

Article I

(1) The taxes which are the subject of this Convention are :

(a) In Ireland :

the income tax (including sur-tax) and the corporation profits tax (hereinafter referred to as "Irish tax").

(b) In Denmark :

national income taxes and communal income taxes,
national capital tax
(hereinafter referred to as "Danish tax").

(2) This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting State shall notify to each other any changes which have been made in their respective taxation laws.

(3) The competent authorities of the Contracting States shall by mutual agreement resolve any doubts which arise as to the taxes to which this Convention ought to apply.

¹ Came into force on 5 January 1965, the date of the exchange of the instruments of ratification at Copenhagen, in accordance with article XXIX.

Article II

(1) In this Convention, unless the context otherwise requires

(a) The term “Denmark” means the Kingdom of Denmark, excluding the Faroe Islands and Greenland ;

(b) The terms “one of the Contracting States” and “the other Contracting State” mean Denmark or Ireland, as the context requires ;

(c) The term “tax” means Danish tax or Irish tax, as the context requires ;

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

(e) The term “company” means any body corporate ;

(f) The terms “resident of Denmark” and “resident of Ireland” mean respectively any person who is resident in Denmark for the purposes of Danish tax and not resident in Ireland for the purposes of Irish tax, and any person who is resident in Ireland for the purposes of Irish tax and not resident in Denmark for the purposes of Danish tax ; a company shall be regarded as resident in Denmark if its business is managed and controlled in Denmark ; and as resident in Ireland if its business is managed and controlled in Ireland. 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 ;

(g) The terms “resident of one of the Contracting States” and “resident of the other Contracting State” mean a person who is a resident of Denmark or a person who is a resident of Ireland, as the context requires ;

(h) The terms “Danish enterprise” and “Irish enterprise” mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Denmark and an industrial or commercial enterprise or undertaking carried on by a resident of Ireland, and the terms “enterprise of one of the Contracting States” and “enterprise of the other Contracting State” mean a Danish enterprise or an Irish enterprise, as the context requires ;

(i) The term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(i) A permanent establishment shall include especially :

a) a place of management ;

b) a branch ;

c) an office ;

d) a factory ;

e) a workshop ;

f) a mine, quarry or other place of extraction of natural resources ;

- g) a building site or construction or assembly project which exists for more than twelve months.
- (ii) The term “permanent establishment” shall not be deemed to include :
- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise ;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery ;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise ;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise ;
 - e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character for the enterprise.
- (iii) A person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom clause (iv) applies—shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.
- (iv) An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.
- (v) The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.
- (j) The term “competent authorities” means, in the case of Denmark, the Minister of Finance or his authorised representative, and, in the case of Ireland, the Revenue Commissioners or their authorised representatives.

(2) Where under this Convention any income is exempt from tax in one of the Contracting States and that income is subject to tax in the other Contracting State by reference to the amount thereof which is remitted to or received in that other State, the exemption to be allowed under this Convention in the first-mentioned State shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Convention by one of the Contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of this Convention.

Article III

(1) The industrial or commercial profits of an enterprise of one of the Contracting States shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, tax may be imposed in the other State on the industrial or commercial profits of the enterprise but only on so much of them as is attributable to that permanent establishment.

(2) Where an enterprise of one of the Contracting States carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each State be attributed to that permanent establishment the industrial or commercial profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing quite independently with the enterprise of which it is a permanent establishment.

(3) In the determination of the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

(4) In so far as it has been customary in one of the Contracting States to determine the industrial or commercial profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) of this Article shall preclude such Contracting State from determining the industrial or commercial profits to be taxed by such an apportionment as may be customary ; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs, the industrial or commercial profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

Article IV

Where

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

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

Article V

Income from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article VI

(1) (a) Dividends paid by a company which is a resident of Ireland to a resident of Denmark shall be exempt from Irish sur-tax, unless the recipient has a permanent establishment in Ireland and the dividends are directly associated with the business carried on through such permanent establishment.

(b) Dividends paid by a company which is a resident of Denmark to a resident of Ireland shall be exempt from Danish tax, unless the recipient has a permanent establishment in Denmark and the dividends are directly associated with the business carried on through such permanent establishment.

(2) Where a company which is a resident of one of the Contracting States derives profits or income from sources within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the company to persons not resident in that other Contracting State, or any tax

in the nature of undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

Article VII

(1) Any interest derived from sources within one of the Contracting States by a resident of the other Contracting State shall be exempt from tax in that first-mentioned State, unless the recipient has a permanent establishment in that first-mentioned State and the interest is directly associated with the business carried on through such permanent establishment.

(2) In this Article, the term "interest" includes interest on bonds, securities, notes, debentures or any other form of indebtedness.

(3) Where any interest exceeds a fair and reasonable consideration in respect of the indebtedness for which it is paid, the provision of paragraph (1) shall apply only to so much of the interest as represents such fair and reasonable consideration.

Article VIII

(1) Any royalty derived from sources within one of the Contracting States by a resident of the other Contracting State shall be exempt from tax in that first-mentioned State, unless the recipient has a permanent establishment in that first-mentioned State and the royalty is directly associated with the business carried on through such permanent establishment.

(2) In this Article, the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trademark, or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources or in respect of cinematograph, including television, films. In the case of royalties or other amounts paid in respect of cinematograph, including television, films the provisions of Article III shall apply.

(3) Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the provision of paragraph (1) shall apply only to so much of the royalty as represents such fair and reasonable consideration.

(4) Any capital sum derived from sources within one of the Contracting States from the sale of patent rights by a resident of the other Contracting State, shall be

exempt from tax in that first-mentioned State, unless the recipient has a permanent establishment in that first-mentioned State and the capital sum is directly associated with the business carried on through such permanent establishment.

Article IX

(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

(2) The term "immovable property" shall be defined in accordance with the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment of agricultural and forestry enterprises, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of mineral deposits, sources and other natural resources, ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraphs (1) and (2) above shall apply to income derived from the direct use or from the letting of immovable property or the use in any other form of such property, including income from agricultural or forestry enterprises. They shall likewise apply to profits from the alienation of immovable property.

(4) The provisions of paragraphs (1) to (3) above shall also apply to the income from immovable property of any enterprises other than agricultural or forestry enterprises and to income from immovable property used for the performance of professional services.

Article X

(1) Where under the provisions of this Convention a resident of Ireland is entitled to exemption from Danish tax, similar exemption shall be applied to the undivided estate of a deceased person in so far as one or more of the beneficiaries is a resident of Ireland.

(2) Danish tax on the undivided estate of a deceased person shall, in so far as the income accrues to a beneficiary who is resident in Ireland, be allowed as a credit against Irish tax payable in respect of that income in accordance with the provisions of Article XXIII.

Article XI

Notwithstanding anything contained in Article IX, a resident of one of the Contracting States shall be exempt in the other State from any tax on gains from the sale, transfer or exchange of capital assets, unless he has a permanent establishment

in that other State and the gains are directly associated with the business carried on through such permanent establishment.

Article XII

Income derived by a resident of one of the Contracting States in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, such part of that income as is attributable to that base may be taxed in that other State.

Article XIII

(1) Subject to the provisions of Articles XIV, XV and XIX, salaries, wages and other similar remuneration derived by a resident of one of the Contracting States in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1) above, remuneration derived by a resident of one of the Contracting States in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if :

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
- (b) the remuneration is paid by, or behalf of an employer who is not a resident of the State, and
- (c) the remuneration is not detected from the profits of a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration for personal services performed aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article XIV

(1) Remuneration or pensions paid by one of the Contracting States to any individual in respect of services rendered to that State in the discharge of governmental functions shall be exempt from tax in the other Contracting State, unless the individual is a national of that other State without being also a national of the first-mentioned State.

(2) The provisions of Articles XIII, XV and XIV shall apply to remuneration and pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States.

Article XV

Directors' fees and similar payments derived by a resident of one of the Contracting States in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article XVI

Subject to the provisions of paragraph (1) of Article XIV, pensions and other similar payments received in consideration of past employment shall be taxable only in the Contracting State of which the recipient is a resident.

Article XVII

Notwithstanding anything contained in this Convention, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article XVIII

(1) Any annuity, derived from sources within Denmark by an individual who is a resident of Ireland, shall be exempt from Danish tax.

(2) Any annuity, derived from sources within Ireland by an individual who is a resident of Denmark, shall be exempt from Irish tax.

(3) The term "annuity" means a stated sum payable, under an obligation, periodically at stated times during life or during a specified or ascertainable period of time.

Article XIX

An individual from one of the Contracting States who receives remuneration for carrying out advanced study or research or for teaching, during a period of temporary residence not exceeding two years, at a recognised research institute, university, college, or other establishment for higher education in the other Contracting State, shall be exempt from tax in that other State in respect of such remuneration.

Article XX

Payments which a student or business apprentice from one of the Contracting States who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training, shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

Article XXI

Where taxes on capital are imposed by one or both of the Contracting States the following provisions shall apply:

- (a) Capital represented by immovable property, as defined in paragraph (2) of Article IX, may be taxed in the Contracting State in which such property is situated.
- (b) Subject to the provisions of paragraph (a) above, capital represented by assets forming part of the business property employed in a permanent establishment of an enterprise, or by assets pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State, in which the permanent establishment or fixed base is situated.
- (c) Ships and aircraft operated in international traffic and assets, other than immovable property, pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State, in which the place of effective management of the enterprise is situated.
- (d) All other elements of capital of a resident of one of the Contracting States shall be taxable only in that State.

Article XXII

(1) Individuals who are residents of Denmark shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Irish tax as Irish citizens not resident in Ireland.

(2) Individuals who are residents of Ireland shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Danish tax as those to which Danish nationals not resident in Denmark may be entitled.

Article XXIII

(1) Subject to the provisions of the law of Ireland (as in force on the date of signature of this Convention) regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland, Danish income tax (exclusive of the communal income taxes) payable under the laws of Denmark and in accordance with this Convention, whether directly or by deduction, in respect of income from sources

within Denmark 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 company which is a resident of Denmark the credit shall take into account the Danish tax payable by the company 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, the Danish tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(2) Where a person being resident in Denmark for the purposes of Danish tax (whether or not such person is also resident in Ireland for the purposes of Irish tax) derives income from or owns capital in Ireland and that income or capital, in accordance with the provisions of this Convention, may be taxed in Ireland, Denmark shall allow as a deduction from the income tax or capital tax that part of the income tax or capital tax, respectively, which is appropriate, as the case may be, to the income derived from or the capital owned in Ireland.

(3) For the purposes of this Article income derived from sources in the United Kingdom by an individual who is resident in Ireland for the purposes of Irish tax shall be deemed to be income from sources in Ireland if such income is not subject to United Kingdom tax.

Article XXIV

The competent authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation of the taxes which are the subject of this Convention. 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 this Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

Article XXV

(1) Where a resident of one of the Contracting States considers that the actions of one or both of the Contracting States result or will result for him in taxation which is not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Convention.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also come to an agreement for the elimination of double taxation in cases not provided for in this Convention.

(4) The competent authorities of the Contracting States shall communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a joint commission consisting of representatives of the competent authorities of the Contracting States.

Article XXVI

(1) The nationals of one of the Contracting States shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

(2) The term "nationals" means—

- (a) in relation to Denmark all individuals possessing the nationality of Denmark and all legal persons, partnerships and associations deriving their status as such from the law in force in Denmark ;
- (b) in relation to Ireland, all citizens of Ireland and all legal persons, partnerships and associations deriving their status as such from the law in force in Ireland.

(3) The taxation on a permanent establishment which an enterprise of one of the Contracting States has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging one of the Contracting States to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents nor as obliging Ireland to grant to residents of Denmark any relief or exemption allowed in accordance with the provisions of the Finance (Profits of Certain Mins) (Temporary Relief from Taxation) Art, 1596

(No. 8 of 1956), as subsequently amended, or of Part II of the Finance (Miscellaneous Provisions) Art. 1956 (No. 47 of 1956), as subsequently amended.

(4) Enterprises of one of the Contracting States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

(5) In this Article the term "taxation" means the taxes which are the subject of this Convention.

Article XXVII

(1) This Convention may be extended, either in its entirety or with modifications, to the territories of the Faroe Islands and Greenland if in these territories there are imposed taxes substantially similar in character to those which are the subject of this Convention. The extension of the Convention and the modifications thereto shall be specified and agreed between the Contracting States in notes to be exchanged for this purpose.

(2) The termination of this Convention under Article XXX shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Convention to any territory to which the Convention has been extended under this Article.

Article XXVIII

The Agreement, dated the 18th October, 1954,¹ between the Government of Ireland and the Royal Danish Government for the avoidance of double taxation on income derived from the business of sea and air transport shall not have effect for any period for which this Convention has effect.

Article XXIX

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Copenhagen as soon as possible.

(2) Upon exchange of ratifications this Convention shall have effect—

(a) In Denmark :

for any year of assessment beginning on or after the 1st day of April, 1961.

¹ United Nations, *Treaty Series*, Vol. 218, p. 295.

(b) In Ireland :

- (i) in respect of Irish income tax for the year of assessment beginning on the 6th day of April, 1961, and subsequent years ;
- (ii) in respect of Irish sur-tax for the year of assessment beginning on the 6th day of April, 1960, 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, 1961, and for the unexpired portion of any chargeable accounting period current at that date.

Article XXX

This Convention shall continue in effect indefinitely but either of the Contracting States may, on or before 30th June in any calendar year not earlier than the year 1965, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to be effective—

(a) In Denmark :

for any year of assessment beginning on or after the 1st day of April in the calendar year next following such written notice of termination.

(b) In Ireland :

- (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 sur-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 ; 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 undersigned, being duly authorised thereto, have signed this Convention and have affixed thereto their seals.

DONE at Copenhagen, this fourth day of February, 1964, in duplicate in the English language.

For the Royal Danish Government :
Per HÆKKERUP

For the Government of Ireland :
J. W. LENNON