

No. 8089

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**IRELAND  
and  
UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND**

**Agreement for the reciprocal relief of double taxation in  
respect of Irish corporation profits tax and United  
Kingdom profits tax. Signed at London, on 18 May 1949**

*Official text: English.*

*Registered by Ireland on 7 February 1966.*

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**IRLANDE  
et  
ROYAUME-UNI DE GRANDE-BRETAGNE  
ET D'IRLANDE DU NORD**

**Convention tendant à éviter la double imposition au titre de  
l'impôt irlandais sur les bénéfices des sociétés et de l'im-  
pôt du Royaume-Uni sur les bénéfices. Signée à Londres,  
le 18 mai 1949**

*Texte officiel anglais.*

*Enregistrée par l'Irlande le 7 février 1966.*

No. 8089. AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE REPUBLIC OF IRELAND AND THE UNITED KINGDOM GOVERNMENT FOR THE RECIPROCAL RELIEF OF DOUBLE TAXATION IN RESPECT OF IRISH CORPORATION PROFITS TAX AND UNITED KINGDOM PROFITS TAX. SIGNED AT LONDON, ON 18 MAY 1949

The Government of the Republic of Ireland and the United Kingdom Government desiring to conclude an Agreement for the reciprocal relief of double taxation in respect of Irish Corporation Profits Tax and United Kingdom Profits Tax, have agreed as follows :

*Article I*

1.—The taxes which are the subject of the present Agreement are the corporation profits tax in the Republic of Ireland, hereinafter referred to as “ Irish tax ” and the profits tax in the United Kingdom, hereinafter referred to as “ United Kingdom tax. ”

2.—The present Agreement shall also apply to any other taxes of a substantially similar character imposed in the Republic of Ireland or the United Kingdom subsequently to the date of signature of the present Agreement.

*Article II*

1.—In the present Agreement, unless the context otherwise requires :

(a) The term “ United Kingdom ” means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;

(b) The terms “ one of the territories ” and “ the other territory ” mean the United Kingdom or the Republic of Ireland, as the context requires;

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

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

(e) The term “ resident of the United Kingdom ” means any company whose business is managed and controlled in the United Kingdom and which is not incorporated in or under the laws of the Republic of Ireland, and the term

<sup>1</sup> Came into force on 28 July 1949, the date on which the last of the measures necessary to give the Agreement the force of law in each country had been taken in Ireland (on 12 July 1949) and in the United Kingdom (on 28 July 1949), in accordance with the provisions of article IX.

“ resident of the Republic of Ireland ” means any company which is incorporated in or under the laws of the Republic of Ireland and whose business is not managed and controlled in the United Kingdom;

(f) The terms “ resident of one of the territories ” and “ resident of the other territory ” mean a company which is a resident of the United Kingdom or a company which is a resident of the Republic of Ireland, as the context requires;

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

(h) The term “ industrial or commercial profits ” includes rentals in respect of cinematograph films;

(i) The term “ permanent establishment ” when used with respect to an enterprise of one of the territories, means a branch, management, factory, 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 such 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.—In the application of the provisions of this agreement by the United Kingdom or the Republic of Ireland, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the

laws of the United Kingdom, or, as the case may be, the Republic of Ireland, relating to the taxes which are subject of this Agreement.

### *Article III*

1.—The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Irish tax unless the enterprise carries on a trade or business in the Republic of Ireland through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed by the Republic of Ireland on the entire profits of the enterprise from sources in the Republic of Ireland.

2.—The industrial or commercial profits of an Irish enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed by the United Kingdom on the entire profits of the enterprise from sources in the United Kingdom.

3.—Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that 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.

### *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 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 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*

The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which enterprises of that other territory incorporated in or under the laws of that other territory are or may be subjected in respect of the like profits.

*Article VII*

1.—Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Irish tax payable in respect of profits arising in the Republic of Ireland shall be allowed as a credit against the United Kingdom tax payable in respect of those profits.

Where a dividend is paid by a company which is a resident of the Republic of Ireland to a company which beneficially owns, directly or indirectly, not less than three-quarters of the ordinary share capital of the former company, the credit shall take into account the Irish tax payable by the former company in respect of its profits.

2.—Subject to such provisions (which shall not affect the general principle hereof) as may be enacted in the Republic of Ireland, United Kingdom tax payable in respect of profits arising in the United Kingdom shall be allowed as a credit against the Irish tax payable in respect of those profits.

Where a dividend is paid by a company which is a resident of the United Kingdom to a company which beneficially owns, directly or indirectly, not less than three-quarters of the ordinary share capital of the former company, the credit shall take into account the United Kingdom tax payable by the company in respect of its profits.

*Article VIII*

1.—The taxation authorities of the United Kingdom and the Republic of Ireland shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this 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 this 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 this Agreement. No information shall be exchanged which would disclose any trade secret or trade process.

2.—As used in this Article, the term “taxation authorities” means the Commissioners of Inland Revenue or their authorised representative in the case of the United Kingdom and the Revenue Commissioners or their authorised representative in the case of the Republic of Ireland.

#### *Article IX*

The present Agreement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and the Republic of Ireland as are necessary to give the Agreement the force of law in the United Kingdom and the Republic of Ireland respectively, and shall thereupon have effect in respect of—

- (i) profits arising in any chargeable accounting period beginning on or after the 1st January, 1949;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly on or after that date as falls on or after that date.

#### *Article X*

The present Agreement shall continue in effect indefinitely, but either of the contracting Governments may, on or before the 31st March in any calendar year not earlier than the year 1953, give to the other Government written notice of termination, and, in such event, the present Agreement shall cease to be effective in respect of the following profits :

- (i) profits arising in any chargeable accounting period beginning on or after the 1st January in the calendar year next following that in which the notice is given;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly on or after that date as falls on or after that date.

DONE in duplicate the 18th day of May, 1949.

For the Government  
of the Republic of Ireland :

P. MCGILLIGAN  
Minister for Finance

For the United Kingdom  
Government :

R. STAFFORD CRIPPS  
Chancellor of the Exchequer