

No. 12363

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 23 November 1966**

Authentic texts: English, French and Irish.

Registered by Canada on 28 March 1973.

CANADA
et
IRLANDE

**Convention tendant à éviter la double imposition et à prévenir
l'évasion fiscale en matière d'impôts sur le revenu. Signée à
Ottawa le 23 novembre 1966**

Textes authentiques: anglais, français et irlandais.

Enregistré par le Canada le 28 mars 1973.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA
AND THE GOVERNMENT OF IRELAND FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PRE-
VENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME

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 agreed as follows :

Article I

1. The taxes which are the subject of this Agreement are :

(a) In Canada :

the income taxes, including the old age security tax on income, 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 identical or substantially similar taxes which are subsequently imposed by either Contracting Government in addition to, or in place of the existing taxes.

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.

(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.

¹ Came into force on 6 December 1967 by the exchange of the instruments of ratification, which took place at Dublin, in accordance with article XVII (2).

(e) The terms “resident of Ireland” and “resident of Canada” mean 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 law of Ireland regarding the imposition of corporation profits tax in the case of a company incorporated in Ireland and not managed and controlled in Canada.

(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” means a fixed place of business in which the business of an enterprise is wholly or partly carried on

(i) The term “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 territories on behalf of an enterprise of the other territory—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 territory—
- (a) if he has, and habitually exercises in that first-mentioned territory, 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, or
 - (b) if he maintains in that first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.
- (iv) 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 in that other territory through a broker, general commission agent or any other agent of an independent status, where such person is acting in the ordinary course of his business.
- (v) The fact that a company which is a resident of one of the territories controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

[(i)] The term “ international traffic ” includes traffic between places in one country in the course of a voyage which extends over more than one country.

2. The term “ industrial or commercial profits ”, as used in this 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 this 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 this Agreement.

Article III

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

Provided that where a life assurance company which is a resident of Canada has a permanent establishment in Ireland nothing in this paragraph shall affect any of the provisions of the law of Ireland relating to the taxation of investment income of life assurance companies with head office outside Ireland, being provisions which (except insofar as they may have been rendered ineffective by virtue of paragraph 2 of article III of the Agreement between the Government of Ireland and the Government of Canada for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Ottawa on the 28th day of October, 1954¹) were in force on the date of signature of this Agreement. The foregoing proviso shall not, however, be deemed to involve that the said provisions of the law of Ireland were, or were considered by the Oireachtas to be, different from those provisions as governed by the proviso.

3. Where an enterprise of one of the territories carries on business in the other territory through a permanent establishment situated therein, there shall in each territory 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.

4. In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses which would be deductible if the permanent establishment were an independent enterprise insofar as they are reasonably allocable to the permanent establishment, including executive and general administrative expenses so deductible and allocable, whether incurred in the territory in which the permanent establishment is situated or elsewhere.

¹ United Nations, *Treaty Series*, vol. 304, p. 317.

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.

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

Profits of an enterprise from the operation of ships or aircraft in international traffic shall be taxable only in the territory in which the place of effective management of the enterprise is situated.

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 paragraph 1, Canadian tax shall not be imposed on a dividend paid or credited by a company which is a resident of Canada to a company which is a resident of Ireland if

- (a) at least 95 per cent of the gross revenue of the former company for each of its last three complete taxation years before the day the dividend was paid or credited (or in the case of a company having fewer than three years, for each complete taxation year thereof before that day) was received by it or receivable by it, as the case may be, from non-resident persons as, or in lieu of payment of, dividends or interest, and
- (b) during the period of three years that ended on the day the dividend was paid or credited the former company did not own any shares in a company that was resident in Canada, and

(c) during the period of twelve months that ended on the day the dividend was paid or credited the latter company owned all of the voting stock of the former company (except directors' qualifying shares).

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.

4. 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 VII

1. 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 films or video tapes for use in connection with television) 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.

2. The provisions of paragraph 1 shall not apply if the person deriving the royalty or other payment, being a resident of one of the territories, has in the other territory a permanent establishment with which the right or property giving rise to the royalty or payment is effectively connected.

Article VIII

1. Income from immovable property may be taxed in the territory in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the laws of the territory in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, 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, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article IX

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 paragraph 1 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 X

1. Income derived by a resident of one of the territories in respect of professional services or other independent activities of a similar character shall be subjected to tax only in that territory unless he has a fixed base regularly available to him in the other territory 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 territory.

2. Subject to the provisions of articles IX, XII, and XIII, salaries, wages and other similar remuneration derived by a resident of one of the territories in respect of an employment shall be subjected to tax only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.

3. Notwithstanding the provisions of paragraph 2, remuneration derived by a resident of one of the territories in respect of an employment exercised in the other territory shall be subjected to tax only in the first-mentioned territory if :

- (a) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in the Canadian taxation year or the Irish year of assessment concerned, as the case may be, and
- (b) the remuneration is paid by or on behalf of an employer who is not a resident of the other territory, and

(c) the remuneration is not deducted from the profits of a permanent establishment or a fixed base which the employer has in the other territory.

4. Notwithstanding the preceding provisions of this article, remuneration, in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the territory in which is situated the place of effective management of the enterprise operating the ship or aircraft.

5. Notwithstanding anything contained in this Agreement, 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 territory in which these activities are exercised.

Article XI

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 “ pension ” means periodic payments made in consideration of past services.

4. 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 XII

An individual from one of the territories who receives remuneration for carrying out advanced study (including research) or for teaching during a period of temporary residence not exceeding two years at a university, college, recognized research institute or other establishment for higher education in the other territory shall be exempt from tax in that other territory in respect of that remuneration.

Article XIII

Payments which a student or business apprentice who is or was formerly a resident of one of the territories and who is present in the other territory 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 territory provided that such payments are made to him from sources outside that other territory.

Article XIV

1. Subject to the provisions of the law of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland, Canadian tax payable under the law of Canada and in accordance with this Agreement, whether directly or by deduction, 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 company which is a resident of Canada 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 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, such tax on profits shall likewise be taken into account insofar as the dividend exceeds such fixed rate.

2. Subject to the provisions of the law of Canada regarding the allowance as a credit against Canadian tax of tax payable in a territory outside Canada, Irish tax payable under the law of Ireland and in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Ireland shall be allowed as a credit against any Canadian tax payable in respect of that income. For this purpose the recipient of a dividend paid by a company 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.

3. For the purposes of computing Canadian tax a company resident in Canada, other than a life assurance company or a non-resident-owned investment corporation, shall, unless it is entitled to any greater deduction or relief under the Income Tax Act of Canada, be allowed to deduct in computing its taxable income any dividend paid out of profits granted incentive concessions in Ireland which it receives from a company resident in Ireland provided that the company resident in Canada owns more than 25 per cent of the issued share capital having full voting rights of the company resident in Ireland. For the purpose of this paragraph a "dividend paid out of profits granted incentive concessions in Ireland" means

- (a) a dividend received from a company resident in Ireland and paid out of profits which were wholly exempted from Irish tax by reason of the provisions of one or more of :

- (i) Parts II and III of the Finance (Miscellaneous Provisions) Act, 1956, (No. 47 of 1956), as amended;
- (ii) the Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 (No. 8 of 1956), as amended; and
- (iii) Part II of the Finance (Miscellaneous Provisions) Act, 1958 (No. 28 of 1958);

so far as they were in force on, and have not been modified since, the date of signature of this Agreement, or have been modified only in minor respects so as not to affect their general character, or

- (b) a proportion of a dividend received from a company resident in Ireland, and paid out of profits that were charged to Irish tax at a reduced rate by virtue of one or more of the afore-mentioned provisions in (i), (ii) and (iii) of subparagraph (a) of this paragraph, equal to the proportion that the difference between the amount of tax deductible from the dividend and the amount of tax that would have been deductible therefrom, but for the afore-mentioned provisions, bears to the amount of tax that would have been so deductible.

4. 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 in international traffic operated by an enterprise of one of the territories shall be deemed to be performed in that territory.

Article XV

1. Taxation authorities of the Contracting Governments shall upon request exchange such information (being information available under the respective taxation laws of the Contracting Government) 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. The taxation authorities of the Contracting Governments may communicate with each other directly for the purpose of giving effect to the provisions of this Agreement and for resolving any difficulty or doubt as to the application or interpretation of the Agreement.

3. As used in this Agreement, the term “taxation authorities” means, in the case of Canada, the Minister of National Revenue or his authorized representative; in the case of Ireland, the Revenue Commissioners or their authorized representative.

Article XVI

1. The nationals of one of the territories shall not be subjected in the other territory 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 territory in the same circumstances are or may be subjected.

2. The term “nationals” means—

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

3. This article shall not be construed as obliging Ireland to grant to residents of Canada any relief or exemption allowed in accordance with the provisions of the Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 (No. 8 of 1956), as subsequently amended, or Part II of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956), as subsequently amended.

4. In this article the term “taxation” means the taxes which are the subject of this Agreement.

Article XVII

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

2. The Agreement shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect—

(a) in Canada :

(i) in respect of the income tax payable under part III of the Income Tax Act on amounts paid or credited to non-residents on or after the date on which the instruments of ratification are exchanged; and

(ii) in respect of other Canadian tax, for the taxation years beginning on or after the first day of January in the calendar year next following that in which the instruments of ratification are exchanged;

(b) in Ireland :

- (i) in respect of income tax (including surtax) for the year of assessment beginning on the 6th day of April next following the date on which the instruments of ratification are exchanged and subsequent years; and
- (ii) in respect of corporation profits tax for any accounting period beginning on or after the 1st day of January next following the date on which the instruments of ratification are exchanged and for the unexpired portion of any accounting period current at the said 1st day of January.

3. The Agreement 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 the 28th day of October, 1954, is hereby terminated and shall cease to be effective for any period for which this Agreement shall have effect in accordance with paragraph 2 of this article.

Article XVIII

1. 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 after the year 1967, give notice of termination to the other Contracting Government and in such event this Agreement shall cease to be effective—

(a) in Canada :

- (i) in respect of the income tax payable under part III of the Income Tax Act on amounts paid or credited to non-residents on or after the 1st day of the calendar year next following that in which such notice is given; and
- (ii) in respect of other Canadian tax for any taxation year ending in or after the calendar year next following that in which such notice is given;

(b) in Ireland :

- (i) in respect of income tax (including surtax) 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
- (ii) in respect of corporation profits tax for any accounting period beginning on or after the 1st day of January in the calendar year next following that in which such notice is given and for the unexpired portion of any accounting period current at that date.

2. The termination of this Agreement shall not have the effect of reviving any agreement or arrangement abrogated by this Agreement or by agreements previously concluded between the Contracting Governments.

IN WITNESS WHEREOF the plenipotentiaries of the two contracting governments have signed the present Agreement and have affixed thereto their seals.

DONE at Ottawa this twenty-third day of November Nineteen Hundred and Sixty-six in two copies in the English, French and Irish languages, each version being equally authentic.

EN FOI DE QUOI les plénipotentiaires des deux Gouvernements contractants ont signé le présent Accord et y ont apposé leurs sceaux.

FAIT à Ottawa le vingt-trois novembre 1966 en deux exemplaires en anglais, en français et en irlandais, chaque version faisant également foi.

DÁ FHIANÚ SIN rinne Lánchumhachtaigh an dá Rialtas chonarthacha an Comhaontú seo a shiniú agus a séalaí a ghreamú de.

ARNA DHÉANAMH in Ottawa an 23ú lá seo de Shamhain, 1966, in dhá chóip i mBéarla, i bhFraincis agus i nGaeilge, agus comhúdarás ag gach téacs acu.

For Canada :

Pour le Canada :

Do Cheanada :

MITCHELL W. SHARP

For Ireland :

Pour l'Irlande :

D'Eirinn :

JOHN A. BELTON
