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. CONVENTION[1] 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 subsantially 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 pupose of purchasing goods or merchandise or for collecting information, for the enterprise ;

e) the maintenance of a fixed place of business solely for the pupose 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 merly 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 ot 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.