## No. 8749

# IRELAND
# and
# FEDERAL REPUBLIC OF GERMANY

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital and to the *Gewerbesteuer* (trade tax). Signed at Dublin, on 17 October 1962**

*Official texts: Irish, German and English.*

*Registered by Ireland on 29 August 1967.*

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# IRLANDE
# et
# RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu, d'impôts sur la fortune et de contribution des patentes (*Gewerbesteuer*). Signée à Dublin, le 17 octobre 1962**

*Textes officiels irlandais, allemand et anglais.*

*Enregistrée par l'Irlande le 29 août 1967.*

# No. 8749. CONVENTION[1] BETWEEN IRELAND AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL AND TO THE *GEWERBESTEUER* (TRADE TAX). SIGNED AT DUBLIN, ON 17 OCTOBER 1962

Ireland and the Federal Republic of Germany, 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 and to the *Gewerbesteuer* (trade tax),

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 the Federal Republic of Germany :
the *Einkommensteuer* (income tax), the *Körperschaftsteuer* (corporation tax), the *Vermögensteuer* (capital tax) and the *Gewerbesteuer* (trade tax)
(hereinafter referred to as "Federal Republic 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.

(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.

*Article II*

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

[1] Came into force on 2 April 1964, by the exchange of the instruments of ratification at Bonn, in accordance with article XXVII.

(*a*) The term "tax" means Federal Republic tax or Irish tax, as the context requires.

(*b*) The term "person" includes individuals, companies and all other entities which are treated as taxable units under the tax laws of the respective Contracting States.

(*c*) The term "company" means any body corporate and any entity which is treated as a body corporate for tax purposes.

(*d*) (i) The terms "a Contracting State" and "the other Contracting State" mean the Federal Republic of Germany or Ireland as the context requires.

(ii) The terms "resident of Ireland" and "resident of the Federal Republic" mean respectively any person who is resident in Ireland for the purposes of Irish tax and not resident in the Federal Republic of Germany for the purposes of Federal Republic tax, and any person who is resident in the Federal Republic of Germany for the purposes of Federal Republic tax and not resident in Ireland for the purposes of Irish tax.

(iii) A company shall be regarded as resident in Ireland if it 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 and not managed and controlled in the Federal Republic of Germany.

(iv) A company shall be regarded as resident in the Federal Republic of Germany if it is managed and controlled in the Federal Republic of Germany, or if it is incorporated in the Federal Republic of Germany and not managed and controlled in Ireland.

(v) The terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of Ireland or a person who is a resident of the Federal Republic, as the context requires.

(*e*) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean a Federal Republic enterprise or an Irish enterprise, as the context requires ; the terms "Federal Republic enterprise" and "Irish enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the Federal Republic and an industrial or commercial enterprise or undertaking carried on by a resident of Ireland.

(*f*) The term "industrial and commercial profits" includes rents and royalties in respect of cinematograph, including television, films.

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

(ii) A permanent establishment shall include especially :

a place of management ;

a branch ;
an office ;
a factory ;
a workshop ;
a mine, quarry or other place of extraction of natural resources ;
a building site or construction or assembly project which exists for more than twelve months.

(iii) The term "permanent establishment" shall not be deemed to include :
the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise ;
the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery ;
the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise ;
the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise ;
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.

(iv) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom sub-paragraph (v) 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.

(v) An enterprise of a Contracting State 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.

(vi) The fact that a company which is a resident of a Contracting State 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.

(*h*) The term "dividends" includes in the case of the Federal Republic of Germany profits distributed by a *"Gesellschaft mit beschränkter Haftung"* (limited liability company), distributions on investment trust certificates and income derived by a sleeping partner from his participation as such.

(i) The term "competent authorities" means in the case of Ireland, the Revenue Commissioners, and in the case of the Federal Republic of Germany, the Federal Minister of Finance.

(2) Where any Article of this Convention provides (with or without conditions) that income derived by a resident of a Contracting State from sources within the other Contracting State shall be taxable only in the first-mentioned State, and under the law in force in that first-mentioned State, the said income is subject to tax by reference to the amount thereof which is remitted to or received in that State and not by reference to the full amount thereof, then the exemption in the other State resulting from such Article shall apply only to so much of the income as is remitted to or received in the first-mentioned State.

(3) In the application of the provisions of this Convention in a Contracting State any term not otherwise defined in this Convention 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 and commercial profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on a trade or business in the other Contracting State through a permanent establishment situated therein. If it carries on a trade or business in that other State through a permanent establishment situated therein, tax may be imposed on those profits in that other State but only on so much of them as is attributable to that permanent establishment.

(2) The share of the industrial and commercial profits of an undertaking accruing to a partner therein who is a resident of a Contracting State, shall likewise be taxable only in that State unless the undertaking carries on a trade or business in the other Contracting State through a permanent establishment situated therein. If it carries on a trade or business in that other State through a permanent establishment situated therein, tax may be imposed in that other State on the share of profits accruing to that partner, but only on so much as represents his share of the profits attributable to the permanent establishment.

(3) Where an enterprise of a Contracting State carries on a trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to the permanent establishment the industrial and commercial profits which it might be expected to derive in that other State 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) In the determination of the profits of a permanent establishment there shall be allowed as deductions all expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses