No. 9102

AUSTRIA
and
IRELAND

Convention for the avoidance of double taxation with respect to taxes on income. Signed at Vienna, on 24 May 1966

Official texts : English and German.

Registered by Austria on 8 May 1968.

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Convention tendant à éviter la double imposition en matière d'impôts sur le revenu. Signée à Vienne, le 24 mai 1966

Textes officiels anglais et allemand.

Enregistrée par l'Autriche le 8 mai 1968.

No. 9102. CONVENTION[1] BETWEEN THE REPUBLIC OF AUSTRIA AND IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME. SIGNED AT VIENNA, ON 24 MAY 1966

The Republic of Austria and Ireland, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income, have agreed as follows:

Article 1

1. The taxes to which the Convention shall apply are:

a) In the case of Austria:

(i) the income tax *(Einkommensteuer);*

(ii) the corporation tax *(Körperschaftsteuer);*

(iii) the contribution from income for the promotion of residential building and for the equalisation of family burdens *(Beitrag vom Einkommen zur Förderung des Wohnbaues und für Zwecke des Familienlastenausgleiches)*;

(hereinafter referred to as "Austrian tax") and, to the extent provided by Articles 6 and 22, the taxes specifically mentioned in those articles;

b) In the case of Ireland:

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

2. The 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 States shall notify to each other any changes which have been made in their respective taxation laws.

[1] Came into force on 5 January 1968 by the exchange of the instruments of ratification, which took place at Dublin, in accordance with article 26 (2).

Article 2

1. In this Convention, unless the context otherwise requires :

a) the terms "a Contracting State" and "the other Contracting State" mean the Republic of Austria or Ireland, as the context requires;

b) the term "tax" means Austrian tax or Irish tax, as the context requires;

c) the term "person" comprises an individual, a company and any other body of persons;

d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

e) (i) subject to the provisions of clauses (ii) and (iii) of this subparagraph, the terms "resident of Austria" and "resident of Ireland" mean respectively any person who is resident ("*Wohnsitz*" or "*gewöhnlicher Aufenthalt*") in Austria for the purposes of Austrian 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 ("*Wohnsitz*" or "*gewöhnlicher Aufenthalt*") in Austria for the purposes of Austrian tax;

(ii) a company shall be regarded as resident in Austria if its business is managed and controlled in Austria, or if it is incorporated in Austria and its business is not managed and controlled in Ireland;

(iii) a company shall be regarded 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 and whose business is not managed and controlled in Austria;

f) the terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of Austria or a person who is a resident of Ireland, as the context requires;

g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

h) the term "competent authority" means :
   1. in Austria : the Federal Ministry of Finance;
   2. in Ireland : the Revenue Commissioners or their authorized representatives.

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. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

Article 3

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. 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.

3. 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.

4. 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 paragraph 5 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.

5. 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.

6. 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 for either company a permanent establishment of the other.

Article 4

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 law 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 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.