No. 9499

IRELAND
and
SWITZERLAND

Convention for the avoidance of double taxation with respect to taxes on income and capital (with exchange of letters). Signed at Dublin on 8 November 1966

Authentic texts : English and French.

Registered by Ireland on 10 April 1969.

IRLANDE
et
SUISSE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et la fortune (avec échange de lettres). Signée à Dublin le 8 novembre 1966

Textes authentiques : anglais et français.

Enregistrée par l'Irlande le 10 avril 1969.

CONVENTION[1] BETWEEN IRELAND AND THE SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Government of Ireland and the Swiss Federal Council, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital, have appointed for that purpose as their respective Plenipotentiaries :

The Government of Ireland :

Mr. Frank Aiken, Minister for External Affairs of Ireland,

The Swiss Federal Council :

His Excellency Julien Rossat, Ambassador of Switzerland to Ireland,

who, having communicated to one another their full powers, found in good and due form, have agreed as follows :

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both the Contracting States.

Article 2

TAXES COVERED

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

(*a*) in the case of Ireland :
the income tax (including sur-tax) and the corporation profits tax

(hereinafter referred to as " Irish tax ") ;

[1] Came into force on 16 February 1968 by the exchange of the instruments of ratification which took place at Berne, in accordance with article 27 (1).

(*b*) in the case of Switzerland :
the federal, cantonal and communal taxes
(1) on income (total income, earned income, income from capital, industrial and commercial profits, capital gains and other items of income) ; and
(2) on capital (total property, movable and immovable property, business assets, paid-up capital and reserves and other items of capital)
(hereinafter referred to as " Swiss tax ") ;

and, to the extent provided for in Article 24, Irish and Swiss taxes of every kind and description.

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.

3. The Convention shall not apply to Federal coupon tax except where expressly mentioned and shall not apply to Federal anticipatory tax withheld at the source on prizes in a lottery.

4. If a tax on capital is introduced in Ireland at some future date the Convention shall apply to such tax.

5. 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 the respective taxation laws.

CHAPTER II

DEFINITIONS

Article 3

General Definitions

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

(*a*) the terms " a Contracting State " and " the other Contracting State " mean Ireland or Switzerland, as the context requires ;

(*b*) the term " tax " means Irish tax or Swiss 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*) the term " resident of Ireland " means :

(1) any company whose 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 ;

(2) any other person who is resident in Ireland for the purposes of Irish tax and not resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax ;

(*f*) the term " resident of Switzerland " means :

(1) any company or partnership whose business is managed and controlled in Switzerland and any company or partnership created or organised under Swiss law, if its business is not managed and controlled in Ireland ; provided that nothing in this paragraph shall affect any provisions of the law of Switzerland regarding the levy of anticipatory tax in the case of a company incorporated in Switzerland ;

(2) any other person who is resident (by reasons of domicile or sojourn) in Switzerland for the purposes of Swiss tax and not resident in Ireland for the purposes of Irish tax ;

(*g*) 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 Switzerland, as the context requires ;

(*h*) 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 ;

(*i*) the term " competent authority " means :

(1) in the case of Ireland : the Revenue Commissioners or their authorised representatives,

(2) in the case of Switzerland : the Director of the Federal Tax Administration or his authorised representative.

2. Where any Article of the 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 or entitled to a reduced rate of tax in the other 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 or reduction in rate 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. Where under any provision of the Convention a partnership is entitled to exemption from Irish tax as a resident of Switzerland on any income, such a provision shall not be construed as restricting the right of Ireland to charge any member of the partnership, being a person who is resident in Ireland for the purposes of Irish tax (whether or not he is also resident in Switzerland for the purposes of Swiss tax), to tax on his share of the income of the partnership ; but any such income shall be deemed for the purposes of Article 22 to be income from sources within Switzerland.

4. Where under any provision of the Convention a resident of a Contracting State is exempt or entitled to relief from tax of the other Contracting State, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the first-mentioned State.

5. 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 4

PERMANENT ESTABLISHMENT

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 twenty-four 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 ;