

No. 45619 *

**Ireland
and
Croatia**

Agreement between the Government of Ireland and the Government of the Republic of Croatia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on incomes and on capital gains. Zagreb, 21 June 2002

Entry into force: *1 January 2004 by notification, in accordance with article 27*

Authentic texts: *Croatian and English*

Registration with the Secretariat of the United Nations: *Ireland, 5 January 2009*

**Irlande
et
Croatie**

Accord entre le Gouvernement de l'Irlande et le Gouvernement de la République de Croatie tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur les gains en capital. Zagreb, 21 juin 2002

Entrée en vigueur : *1er janvier 2004 par notification, conformément à l'article 27*

Textes authentiques : *croate et anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Irlande, 5 janvier 2009*

* *The text reproduced below is the original text of the agreement as submitted. For ease of reference, it was sequentially paginated. The final UNTS version of it is not yet available.*

Le texte reproduit ci-dessous est le texte authentique de l'accord tel que soumis pour enregistrement. Pour référence, il a été présenté sous forme de la pagination consécutive. La version finale RTNU n'est pas encore disponible.

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE
GOVERNMENT OF THE REPUBLIC OF CROATIA FOR THE AVOID-
ANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOMES AND ON CAPI-
TAL GAINS

Done at Zagreb on 21 June 2002

Notification of completion of requirements for entry into force exchanged on 9 De-
cember 2002 and 25 October 2003

Entered into force on 26 October 2003

Presented to Dáil Éireann by the Minister for Foreign Affairs

AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE
GOVERNMENT OF THE REPUBLIC OF CROATIA FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RE-
SPECT TO TAXED ON INCOMES AND ON CAPITAL GAINS

Desiring to conclude an Agreement for the avoidance of double taxation and the
prevention of fiscal evasion with respect to taxes on income and on capital gains,

HAVE AGREED as follows:

Article 1

Personal Scope

This Agreement shall apply to persons who are residents of one or both of the Con-
tracting States.

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income and on capital gains imposed on
behalf of a Contracting State or of its local authorities irrespective of the manner in
which they are levied.

2. There shall be regarded as taxes on income and on capital gains all taxes imposed
on total income, or on elements of income, including taxes on gains from the alienation
of movable or immovable property.

3. The existing taxes to which this Agreement shall apply are in particular:

a) in Croatia:

- (i) the profit tax;
- (ii) the income tax; and
- (iii) the local income tax and any other surcharge levied on one of these taxes; (hereinafter referred to as “Croatian tax”)

b) in Ireland

- (i) the income tax;
- (ii) the corporation tax; and
- (iii) the capital gains tax, (hereinafter referred to as “Irish tax”).

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

Article 3

General Definitions

For the purposes of this Agreement, unless the context otherwise requires:

a) the term “Croatia” means the territory of the Republic of Croatia as well as those maritime areas adjacent to the outer limit of territorial sea, including seabed and subsoil thereof, over which the Republic of Croatia in accordance with international law and the laws of the Republic of Croatia exercises its sovereign rights and jurisdiction;

b) the term “Ireland” includes any area outside the territorial waters of Ireland which, in accordance with international law, has been or may hereafter be designated under the laws of Ireland concerning the Continental Shelf, as an area within which the rights of Ireland with respect to the sea bed and subsoil and their natural resources may be exercised;

c) the terms “a Contracting State”, “one of the Contracting States and ‘the other Contracting State” mean, as the context requires, Croatia or Ireland:

d) the term “tax” means, as the context requires, a Croatian tax or Irish tax,

e) the term “person” includes an individual, a company, a trust and any other body of persons;

f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

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 “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State except when the ship or aircraft is operated solely between places in the other Contracting State;

i) the term “competent authority” means:

(i) in Croatia, the Minister of Finance or his authorized representative.

(ii) in Ireland, the Revenue Commissioners or their authorised representative;

j) the term “national” means:

(i) in relation to Croatia:

- any individual possessing the nationality of Croatia.

- any legal person, partnership or association deriving its status as such from the laws in force in Croatia;

(ii) in relation to Ireland, any citizen of Ireland and any legal person, association or other entity deriving its status as such from the laws in force in Ireland.

2. As regards the application of the Agreement at any time by a Contracting State any term not defined therein shall, unless the Context otherwise requires, have the meaning that it has at that time under the laws of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows’

a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him: if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests).

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State he shall be deemed to be a resident only of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph I a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop;
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources, and
- g) an installation or structure used for the exploration of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not 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 of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an

enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that per-