

**No. 53611\***

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**Ireland  
and  
Ukraine**

**Convention between the Government of Ireland and the Government of Ukraine for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains (with protocol). Kiev, 19 April 2013**

**Entry into force:** *17 August 2015 by notification, in accordance with article 27*

**Authentic texts:** *English and Ukrainian*

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**Irlande  
et  
Ukraine**

**Convention entre le Gouvernement de l'Irlande et le Gouvernement de l'Ukraine 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 (avec protocole). Kiev, 19 avril 2013**

**Entrée en vigueur :** *17 août 2015 par notification, conformément à l'article 27*

**Textes authentiques :** *anglais et ukrainien*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

## **CONVENTION**

between the Government of Ireland

and the Government of Ukraine

for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect  
to Taxes on Income and Capital Gains

The Government of Ireland and the Government of Ukraine,

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 gains,

have agreed as follows:

### **Article 1**

#### **PERSONAL SCOPE**

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

### **Article 2**

#### **TAXES COVERED**

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

2. There shall be regarded as taxes on income and 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 the Convention shall apply are:

a) in the case of Ireland:

- (i) the income tax;
  - (ii) the universal social charge on income;
  - (iii) the corporation tax; and
  - (iv) the capital gains tax;
- (hereinafter referred to as "Irish tax");

b) in the case of Ukraine:

- (i) the tax on profits of enterprises; and
  - (ii) the income tax on individuals;
- (hereinafter referred to as "Ukrainian tax").

4. The Convention shall apply also to any identical or substantially similar taxes which  
are imposed after the date of signature of this Convention in addition to, or in place of,

the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

Article 3  
**GENERAL DEFINITIONS**

1. For the purposes of this Convention, unless the context otherwise requires:
  - a) the term "Ireland" includes any area outside the territorial waters of Ireland which has been or may hereafter be designated, under the laws of Ireland concerning the Exclusive Economic Zone and the Continental Shelf, as an area within which Ireland may exercise such sovereign rights and jurisdiction as are in conformity with international law;
  - b) the term "Ukraine" when used in geographical sense, means the territory of Ukraine, its Continental Shelf and its exclusive (maritime) economic zone, including any area outside the territorial sea of Ukraine which in accordance with international law has been or may hereafter be designated, as an area within which the rights of Ukraine with respect to the sea bed and sub-soil and their natural resources may be exercised;
  - c) the term "national", in relation to a Contracting State, means:
    - (i) any individual possessing the nationality or citizenship of that Contracting State;  
and
    - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
  - d) the terms "a Contracting State", "one of the Contracting States" and "the other Contracting State" mean Ireland or Ukraine, as the context requires; and the term "Contracting States" means Ireland and Ukraine;
  - e) the term "person" includes an individual, a company and any other body of persons;
  - f) the term "company" means any body corporate or any other 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 of 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, in the case of Ireland, the Revenue Commissioners or their authorised representative, and, in the case of Ukraine, the Ministry of Finance of Ukraine or its authorised representative.
2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the laws of that State concerning the taxes to which the Convention applies.

Article 4  
**RESIDENT**

1. For the purposes of this Convention, 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, place of registration or any other criterion of a similar nature, and also includes that State and any political subdivision or 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 of this Article 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 Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident only of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- b) if the Contracting 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 Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the Contracting State of which he is a national;
- d) if he is a national of both Contracting 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 1 of this Article 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 Contracting State in which its place of effective management is situated.

Article 5  
**PERMANENT ESTABLISHMENT**

1. For the purposes of this Convention, 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) an installation or structure for the exploration of natural resources;

g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;  
and

h) a warehouse or other premises used as a sales outlet.

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

4. A person carrying out activities offshore in a Contracting State in connection with the exploration or exploitation of the sea bed and the sub-soil and their natural resources situated in that Contracting State shall be deemed to be carrying on a business through a permanent establishment in that Contracting State.

5. 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.

6. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a person – other than an agent of an independent status to whom paragraph 7 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of the activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless such activities are limited to those mentioned in paragraph 5 of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise and conducts sales-related activities in respect of them, such as advertising or promotional activities.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

8. 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