

**No. 55494\***

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**Ireland  
and  
Kazakhstan**

**Convention between the Government of Ireland and the Government of the Republic of Kazakhstan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Astana, 26 April 2017**

**Entry into force:** *29 December 2017 by notification, in accordance with article 30*

**Authentic texts:** *English, Kazakh and Russian*

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**Irlande  
et  
Kazakhstan**

**Convention entre le Gouvernement de l'Irlande et le Gouvernement de la République du Kazakhstan tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Astana, 26 avril 2017**

**Entrée en vigueur :** *29 décembre 2017 par notification, conformément à l'article 30*

**Textes authentiques :** *anglais, kazakh et russe*

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**Convention between the Government of Ireland and the Government of the Republic of Kazakhstan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income**

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

**Article 1**  
**Persons covered**

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 imposed on behalf of a Contracting State or of its administrative subdivisions, central or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which the Convention shall apply are in particular:

a) in Ireland:

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

b) in Kazakhstan:

- (i) the corporate income tax; and
  - (ii) the individual income tax;
- (hereinafter referred to as «Kazakhstan tax» ).

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention 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 that have been made in their taxation laws.

### **Article 3**

#### **General definitions**

1. For the purposes of this Convention, unless the context otherwise requires:

a) the terms «a Contracting State» and «the other Contracting State» mean Ireland or Kazakhstan, as the context requires;

b) 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;

c) the term «Kazakhstan» means the Republic of Kazakhstan and, when used in a geographical sense, the term «Kazakhstan» includes the state territory of the Republic of Kazakhstan and areas where Kazakhstan exercises its sovereign rights and jurisdiction according to its legislation and international law;

d) the term «person» includes an individual, a company and any other body of persons;

e) the term «company» means any body corporate or any entity that is treated as a body corporate for tax purposes;

f) the term «enterprise» applies to the carrying on of any business;

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:

(i) in Ireland: the Revenue Commissioners or their authorised representative;

(ii) in Kazakhstan: the Ministry of Finance or its authorised representative;

j) the term «national» means:

- (i) any individual possessing the citizenship of a Contracting State;
- (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- k) the term «business» includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Convention 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 law of that Contracting State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting State.

#### **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 Contracting State, is liable to tax therein by reason of his domicile, place of registration or incorporation, residence, place of management or any other criterion of a similar nature, and also includes that Contracting State and any administrative subdivision, central or local authority thereof. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting 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 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 the residence status of an individual cannot be determined in accordance with the provisions of sub-paragraphs a), b), c), then the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 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) sales outlet;
- g) a warehouse in relation to a person providing storage facilities for others; and

h) a mine, a pit, an oil or gas well, a quarry, an installation, a structure (including a drilling rig or ship) or any other place of exploration, exploitation or extraction of natural resources, as well as supervisory services connected therewith.

3. The term «permanent establishment» also includes:

a) a building site, a construction, assembly or installation project that lasts for a period of more than twelve months;

b) the furnishing of services, including consultancy services, by a resident through employees or other personnel engaged by the resident for such purpose or through associated enterprises, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods aggregating more than 183 days within any twelve-month period.

For the purposes of this paragraph: