

# **Double Taxation Treaty between Ireland and Italy**

**Convention between Ireland and Italy for the avoidance of  
double taxation and the prevention of fiscal evasion with  
respect to taxes on income. signed at Dublin on June 11,  
1971.**

The Government of Ireland and the Government of the Italian Republic;

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

## **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 imposed by each Contracting State, 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.
3. The existing taxes to which the Convention shall apply are:
  - a. In Ireland (and hereinafter referred to as "Irish tax"):
    - i. The income tax (including sur-tax);
    - ii. The corporation profits tax.
  - b. In Italy (and hereinafter referred to as "Italian tax"):
    - i. The tax on income from land (imposta sul reddito dei terreni);
    - ii. The tax on income from buildings (imposta sul reddito dei fabbricati);
    - iii. The tax on income from movable wealth (imposta sui redditi di ricchezza mobile);
    - iv. The tax on agricultural income (imposta sul reddito agrario);
    - v. The complementary tax (imposta complementare progressiva sul reddito);
    - vi. The tax on companies (imposta sulle società) in so far as the tax is charged on income and not on capital;
    - vii. The tax on dividends (imposta sui dividendi).
4. 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.

## 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 Italy, as the context requires;
  - b. the term "person" comprises an individual, a company and any other body of persons, corporate or not corporate;
  - c. the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
  - d. the term "resident of Ireland" means:
    - i. any company whose business is effectively managed and controlled in Ireland;
    - ii. any other person who is resident in Ireland for the purposes of Irish tax and either
      - a. not resident in Italy for the purposes of Italian tax, or
      - b. present in Italy for a period or periods not exceeding in the aggregate 91 days in the fiscal year.
  - e. the term "resident of Italy" means:
    - i. any company whose business is effectively managed and controlled in Italy;
    - ii. any other person who is resident in Italy for the purposes of Italian tax and either
      - a. not resident in Ireland for the purposes of Irish tax, or
      - b. if resident in Ireland is present therein for a period or periods not exceeding in the aggregate 91 days in the fiscal year.
  - f. the terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is resident of Ireland or a person who is a resident of Italy, 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:

- i. in the case of Ireland, the Revenue Commissioners or their authorised representatives,
  - ii. in the case of Italy, the Ministry of Finance.
- 2. 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, a quarry or other place of extraction of natural resources;
  - g. a building site or construction of 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 either company a permanent establishment of the other.

## **Article 5**

### **Income from immovable property**

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; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.



## Article 6

### Business profits

1. The profits on an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

## **Article 7**

### **Shipping and air transport**

Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

## Article 8

### Associated enterprises

Where:

- a. an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b. the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

## Article 9

### Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.
3. The provisions of paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
4. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of Ireland to a resident of Italy shall be exempt from Irish sur-tax.
5. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.
6. The provisions of paragraphs 1, 2, and 4 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment. In such a case, the dividends shall remain taxable in that other Contracting State according to its own law.
7. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.
8. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of paragraph 2.

# Article 10

## Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the amount of the interest. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation.
3. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.
4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment. In such a case, the interest shall remain taxable in that other Contracting State according to its own law.
5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

# Article 11

## Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.
2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment. In such a case, the royalties shall remain taxable in that other Contracting State according to its own law.
4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

# Article 12

## Capital Gains

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 5, may be taxed in the Contracting State in which such property is situated.
2. Gains from the alienation of movable property shall be taxable only in the Contracting State of which the alienator is a resident.
3. The provisions of paragraph 2 shall not apply if the alienator, being a resident of a Contracting State, has in the other Contracting State a permanent establishment or a fixed base, and the movable property is attributable to that permanent establishment or to that fixed base. In that case, gains from the alienation of such movable property may be taxed in that other Contracting State according to its own law.
4. Neither shall the provisions of paragraph 2 apply, where the movable property alienated produces an income of the kind referred to in any one of the Articles 9, 10 and 11, and such income is taxable according to the provisions of paragraph 6 of Article 9, paragraph 4 of Article 10 or paragraph 3 of Article 11. In that case, gains from the alienation of such movable property may be taxed in that Contracting State in which the income referred to is taxable.
5. Gains from the alienation of ships and aircraft operated in international traffic or of movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise concerned is situated.

## **Article 13**

### **Independent personal services**

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.



# Article 14

## Dependent personal services

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration in respect of an employment exercised in one or other of the Contracting States derived by a resident of a Contracting State shall be taxable only in the latter State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
  - a. the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
  - b. the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
  - c. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, a remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## **Article 15**

### **Directors' fees**

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

## **Article 16**

### **Artistes and Athletes**

Notwithstanding the provisions of Articles 13 and 14, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

## **Article 17**

### **Pensions**

Subject to the provisions of paragraph 1 of Article 18 pensions and other similar remuneration derived from sources within one or other of the Contracting States by a resident of a Contracting State in consideration of past employment shall be taxable only in the latter State.

# Article 18

## **Governmental functions**

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or an administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that State, unless the individual is a national of the other Contracting State without being also a national of the first-mentioned State.
2. The provisions of Articles 14, 15, and 17 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or an administrative subdivision or a local authority thereof.

## **Article 19**

### **Researchers, teachers, students and apprentices**

1. The remuneration which an individual of a Contracting State receives for undertaking study or research at a high level or for teaching, during a period of temporary residence not exceeding two years at a university, research institute, school, college or other similar establishment in the other Contracting State shall not be taxable in the latter State.
2. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other Contracting State, provided that such payments are made to him from sources outside that other Contracting State.

## **Article 20**

### **Income not expressly mentioned**

Items of income arising in one or other of the Contracting States to a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in the latter State.

# Article 21

## Allowance of credit

1. It is agreed that double taxation shall be avoided in the following manner:
  - a. In the case of a resident of Ireland, Italian tax payable under the laws of the Italian Republic and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Italy shall, subject to the relevant provisions of Irish law, be allowed as a credit against any Irish tax payable in respect of that income. Where such income is a dividend paid by a company resident in Italy the credit shall take into account, in addition to any Italian tax payable in respect of the dividend, the Italian tax payable by the company in respect of its profits. If the item of income is not subjected to income tax but only to corporation profits tax the credit shall be granted against the corporation profits tax, but only for that part of the tax paid in Italy which exceeds 27 per cent of such item of income. The credit shall not, however, exceed that proportion of the corporation profits tax which such income bears to the entire income liable to corporation profits tax.
  - b. In the case of a resident of Italy, the Italian Republic in determining its income taxes specified in Article 2 of this Convention in the case of its residents or companies may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income; the Italian Republic shall, however, deduct from the taxes so calculated the Irish tax on income (not exempt in Ireland under this Convention) in the following manner:
    - i. if the item of income is, according to Italian law, subjected to the tax on income from movable wealth the tax paid, directly or by deduction, in Ireland shall be deducted from the tax on income from movable wealth, and from the taxes imposed in respect of the same income, but in an amount not exceeding that proportion of the aforesaid Italian tax which such item of income bears to the entire income. Where the tax paid in Ireland on such income is higher than the deduction so calculated the difference shall be deducted from the complementary tax or from the tax on companies, as the case may be, but in an amount not exceeding that proportion of such complementary or company tax which the item of income bears to the entire income;
    - ii. if the item of income is subjected only to the complementary tax or to the tax on companies, the deduction shall be granted from the complementary tax or from the tax on companies, as the case may be, but only for that part of the tax paid in Ireland which exceeds 27 per cent of such item of income. The deduction shall not, however, exceed that proportion of the complementary tax or of the tax on companies which such income bears to the entire income.
2. In the case of an individual who is resident in Ireland for the purposes of Irish tax and is also resident in Italy for the purposes of Italian tax, the provisions of paragraph 1 (a) shall apply in relation to income which that person derives from sources within Italy, and the provisions



of paragraph 1 (b) shall apply in relation to income which that person derives from sources within Ireland.

Income derived from sources in the United Kingdom by an individual who is resident in Ireland shall be deemed to be income from sources in Ireland if such income is not subject to United Kingdom income tax.

3. For the purposes of this Article, profits or remuneration arising from the exercise of a profession or employment in a Contracting State shall be deemed to be income from sources within that Contracting State, and the services of an individual whose services are wholly or mainly performed in ships or aircraft shall be deemed to be performed in the Contracting State in which the place of effective management of the enterprise is situated.

## **Article 22**

### **Personal allowances for non-residents**

1. Individuals who are residents of Italy shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Irish tax as Irish citizens who are not resident in Ireland.
2. Individuals who are residents of Ireland shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Italian tax as Italian nationals who are not resident in Italy.

## Article 23

### Non-discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The term "nationals" means:
  - a. in relation to Ireland, all citizens of Ireland and all legal persons, partnerships and associations deriving their status as such from the law in force in Ireland;
  - b. in relation to Italy, all nationals of Italy and all legal persons, partnerships and associations deriving their status as such from the law in force in Italy.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.
5. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents, nor as obliging Ireland to grant to nationals of Italy any relief or exemption allowed in accordance with the provisions of the Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 (No. 8 of 1956), as subsequently amended, or of Part II of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956), as subsequently amended, or of Chapter II or Chapter III of Part XXV of the Income Tax Act, 1967 (No. 6 of 1967).
6. The provisions of this Article shall not be construed as affecting the imposition in Italy of the tax on companies (imposta sulle società) charged according to Italian law.
7. In this Article the term "taxation" means taxes of every kind and description.

## Article 24

### **Mutual agreement procedure**

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. The claim must be lodged within two years from the date on which the tax was notified or withheld at the source or within two years of the entry into force of this Convention, whichever is the later.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the convention.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

## Article 25

### Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of the Convention.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:
  - a. to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
  - b. to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
  - c. to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

## **Article 26**

### **Diplomatic and consular officials**

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under provisions of special agreements.

## Article 27

### Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.
2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:
  - a. In Ireland:
    - i. as respects income tax (including sur-tax) for any year of assessment beginning on or after the 6th April, 1967;
    - ii. as respects corporation profits tax, for any accounting period beginning on or after the 1st April, 1967, and for the unexpired portion of any accounting period current at that date;
  - b. in Italy: as respects Italian taxes for the taxable years beginning on or after the 1st January, 1967.

## Article 28

### Termination

This Convention shall remain in force indefinitely, but either of the Contracting States may denounce the Convention, through diplomatic channels, by giving notice of the termination at least six months before the end of any calendar year after the year 1971. In such event the Convention shall cease to have effect:

1. in Ireland:
  - a. as respects income tax (including sur-tax) for any year of assessment beginning on or after the 6th April in the calendar year next following that in which such notice is given;
  - b. as respects corporation profits tax, for any accounting period beginning on or after the 1st April in the calendar year next following that in which such notice is given and for the unexpired portion of any accounting period current at that date;
2. in Italy: as respects Italian taxes for the taxable years beginning on or after the 1st January in the calendar year next following that in which such notice is given.



In witness whereof the Plenipotentiaries of the two Contracting States, duly authorised thereto, have signed the present Convention and affixed thereto their seals.

DONE in duplicate at Dublin the 11th June, 1971, in the English and Italian languages, each text being equally authoritative.

For the Government of For the Government of the  
Ireland Italian Republic

P. J. HILLERY ALDO MORO

# **Supplemental Protocol To The Convention Between Ireland And Italy 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 Italian Republic, having regard to the Convention between them for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed today, have agreed on the following further provisions which will form an integral part of the said Convention:

## Article 1

- a. 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 or shall be subject 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.
- b. Article 7 shall have effect in respect of profits earned from the operation of aircraft in international traffic as from the 1st day of January, 1960.
- c.
  1. Where under Chapter IV of Part XXV of the Income Tax Act, 1967 (No 6 of 1967) (hereinafter referred to as "the first enactment"), or under Chapter I of Part XXV of that Act (hereinafter referred to as "the second enactment"), tax on the profits of a company is not payable on the entire amount of those profits, then in the case of a dividend out of those profits received from that company by a company which is a resident of Italy and which holds directly at least 51 per cent of the capital of the company paying the dividend, Italy will give credit in respect of the Irish tax which would have been paid but for the first enactment or the second enactment, as the case may be, in accordance with the provisions of Article 21.
  2. In the case of the first enactment, subparagraph (i) above shall not have effect in relation to dividends paid out of profits arising after the 5th day of April, 1980, and in the case of the second enactment, arising after the 25th day of November, 1983.

## **Article 2**

This Protocol shall be ratified and instruments of ratification shall be exchanged at Rome.

It shall enter into force simultaneously with the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed today and shall have the same duration as the Convention in accordance with Articles 27 and 28 of the Convention.

In witness thereof the Plenipotentiaries of the two Contracting States, duly authorised thereto, have signed the present Protocol and affixed thereto their seals.

Done in duplicate at Dublin the 11th day of June, 1971, in the English and Italian languages, each text being equally authoritative.

For the Government of Ireland  
PJ Hillery

For the Government of the Italian Republic  
Aldo Moro

GIVEN under the Official Seal of the Government, this 13th day of March, 1973.

Seán O Loinsigh  
Taoiseach.

## EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order gives the force of law to the Convention and the associated Protocol with Italy which are set out in the Schedule.

Under the Convention certain classes of income derived from one country by a resident of the other country are (subject to certain conditions) to be exempt from tax in the former country. These classes are trading profits not arising through a "permanent establishment", [Article 6], shipping and air transport profits [Article 7], patent and copyright royalties [Article 11], profits from professional or other independent activities not attributable to a fixed base [Article 13], pensions (other than Government pensions) [Article 17], and certain earnings of temporary residents [Article 14 and 19]. Government and local authority salaries and pensions are normally to be taxed by the paying Government only [Article 18].

In general dividends paid by Irish companies to residents of Italy are to be exempt from Irish sur-tax; the rate of withholding tax on dividends paid by Italian companies to Irish residents is not to exceed 15 per cent [Article 9]. The tax on interest arising in Italy to residents of Ireland is not to exceed 10 per cent and vice versa [Article 10].

In the matter of personal allowances and reliefs for tax purposes, each country is to treat residents of the other in the same way as its own non-resident nationals [Article 22].

Where, under the Convention, income derived from one country by a resident of the other may be taken into account for tax purposes in both countries, a measure of double taxation relief is to be granted by the latter country. In Ireland, a credit in respect of Italian tax paid on income from sources in Italy is to be allowed against the Irish tax charged on that income. In the case of Italian dividends, the credit is to take into account an appropriate part of the Italian tax on the profits of the company out of which the dividends are paid. Where, however, the recipient of any item of Italian income is a company incorporated in Ireland which is not resident (managed and controlled) in Ireland, the credit for the Italian tax is allowable against corporation profits tax but only in so far as the Italian tax exceeds 27 per cent, of the item of the Italian income. In Italy, relief from double taxation is given by way of credit against the relevant Italian taxes for Irish tax on Irish income in an amount not exceeding the Italian taxes on the item of Irish income. Where, however, the item of Irish income is subject only to "the complementary tax" or only to "the tax on companies" credit is allowable only for that part of the Irish tax which exceeds 27 per cent of the item of Irish income. Where an Italian company holds at least 51 per cent of the capital of an Irish company which pays a dividend out of profits which have been exempted or partially relieved from Irish income tax by virtue of Irish tax incentive reliefs, Italy, in calculating the credit to be allowed to the Italian company against the Italian tax on the dividend, will take into account the Irish income tax which could have been deducted from the dividend but for the Irish tax incentive relief.

The Convention contains provisions for the safeguarding of nationals and enterprises of one country against discriminatory taxation in the other country [Article 23], for consultation

[Article 24] and for the exchange of information [Article 25] between the taxation authorities of the two countries.

The Convention takes effect in Ireland for the fiscal year 1967-68 and subsequent years [Article 27].