

Double Taxation Treaty between Ireland and Luxembourg

The President of Ireland and His Royal Highness The Grand Duke of Luxembourg,
Desiring to conclude a Convention for the avoidance of double taxation and the prevention
of fiscal evasion with respect to taxes on income and on capital, have appointed for that
purpose as their respective Plenipotentiaries:

**Convention between Ireland and the Grand Duchy of Luxembourg for the
avoidance of double taxation and the prevention of fiscal evasion with respect
to taxes on income and on capital. Signed at Luxembourg on January 14, 1972.**

The President of Ireland:

Mr. Francis A. Coffey, Extraordinary and Plenipotentiary Ambassador of Ireland;

His Royal Highness the Grand Duke of Luxembourg:

Mr. Gaston Thorn, Minister for Foreign Affairs:

who, having communicated to each other 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 for tax purposes are residents of either of the Contracting States or who are resident in both of the Contracting States.

Article 2

Taxes Covered

1. The taxes which are the subject of this Convention are:
 - a. in Ireland:
 - i. the income tax (including sur-tax); and
 - ii. the corporation profits tax (hereinafter referred to as "Irish tax").
 - b. in Luxembourg:
 - i. the income tax on individuals (l'impôt sur le revenu des personnes physiques);
 - ii. the income tax on corporations (l'impôt sur le revenu des collectivités);
 - iii. the tax on fees of directors of companies (l'impôt sur les tantièmes);
 - iv. the capital tax (l'impôt sur la fortune); and
 - v. the communal trade tax on profits and capital (l'impôt commercial communal d'après les bénéfice et capital d'exploitation)(hereinafter referred to as "Luxembourg tax").
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. 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.

Chapter II Definitions

Article 3

General Definitions

1. In this Convention, unless the context otherwise requires:
 - a. the term "Ireland" includes any area adjacent to the territorial waters of Ireland which by Irish legislation concerning the Continental Shelf, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of Ireland with respect to the sea bed and sub-soil and their natural resources may be exercised;
 - b. the term "Luxembourg" means the Grand Duchy of Luxembourg;
 - c. the terms "a Contracting State" and "the other Contracting State" mean Ireland or Luxembourg, as the context requires;
 - d. the term "tax" means Irish tax or Luxembourg tax, as the context requires;
 - e. the term "person" comprises an individual, a company 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.
 - i. subject to the provisions of clauses (ii) and (iii) of this subparagraph, the term "resident of Ireland" means any person who is resident in Ireland for the purposes of Irish tax and not resident in Luxembourg for the purposes of Luxembourg tax and the term "resident of Luxembourg" means any person who is resident in Luxembourg for the purposes of Luxembourg tax and not resident in Ireland for the purposes of Irish tax;
 - ii. a company shall be regarded as a resident of Ireland if its 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 and not managed and controlled in Luxembourg;
 - iii. a company shall be regarded as a resident of Luxembourg if it has its principal establishment (principal établissement) in Luxembourg, or if it has its statutory seat (siège statutaire) in Luxembourg and is not managed and controlled in Ireland;

- h. 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 Luxembourg, as the context requires;
 - i. 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;
 - j. the term "competent authority" means:
 - i. in the case of Ireland: the Revenue Commissioners or their authorised representative;
 - ii. in the case of Luxembourg: the Ministre des Finances or his authorised representative;
 - k. the term "international traffic" includes traffic between places in any State in the course of a journey which extends over two or more States.
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 the 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. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the same 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 six 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 person is acting in the ordinary course of his 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.

Chapter III Taxation on Income

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 considerations 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 shall 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 of 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 of an enterprise 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 also 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 be limited pursuant to the provisions of subparagraphs (a) and (b):
 - a. dividends paid by a company which is a resident of Ireland to a resident of Luxembourg shall be exempt from Irish sur-tax;
 - b. dividends paid by a company which is a resident of Luxembourg to a resident of Ireland may be taxed in Luxembourg, but the tax so charged shall not exceed:
 - i. 5 per cent of the gross amount of the dividends if the recipient is a company (excluding a partnership) which controls directly at least 25 per cent of the voting power in the company paying the dividends;
 - ii. in all other cases, 15 per cent of the gross amount of the dividends.
3. 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 and, in the case of Luxembourg, the income derived by a sleeping partner from his participation as such.
4. The provisions of paragraphs 1 and 2 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 with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the dividends shall remain taxable in that other State according to its own law, due regard being had to the other provisions of this Convention.
5. 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.

Article 10

Interest

1. Interest derived by a resident of a Contracting State from sources within the other Contracting State shall be taxable only in the first-mentioned State.
2. 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 by the taxation law of the State in which the income arises to income from money lent.
3. The provisions of paragraph 1 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 with which the debt-claim from which the interest arises is effectively connected. In such a case, the interest shall remain taxable in that other Contracting State according to its own law, due regard being had to the other provisions of this Convention.
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 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 payments 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 derived by a resident of a Contracting State from sources within the other Contracting State shall be taxable only in the first-mentioned 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 or literary, artistic or scientific work (including cinematographic films or tapes for radio or television broadcasting), 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 with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties shall remain taxable in that other Contracting State according to its own law, due regard being had to the other provisions of this Convention.
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 forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 22 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.
3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

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 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, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that 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, an individual who in the course of a sojourn in a Contracting State exercises an employment in that State, and who is, or who immediately prior to such sojourn was, a resident of the other Contracting State, shall be taxable only in the last-mentioned State in respect of the remuneration from that employment if:
 - a. he is present in the first-mentioned 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 first-mentioned State, and
 - c. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the first-mentioned State.
3. Notwithstanding the preceding provisions of this Article 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

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. In relation to remuneration of a director of a company derived from the company in respect of the discharge of day-to-day functions of a managerial or technical nature, the provisions of Article 14 shall apply as if that remuneration were remuneration of an employee in respect of an employment and as if references to "employer" were references to the company.

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 paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 18

Governmental Functions

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political 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. This provision shall not apply if 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 a political subdivision or a local authority thereof.

Article 19

Professors, Teachers and Researchers

An individual who sojourns in one of the Contracting States for a period not exceeding two years, for the purpose of teaching or of carrying out advanced study or research at a university, research institute, college, school or other educational establishment in that State and who immediately prior to such sojourn was a resident of the other Contracting State, shall not be taxed in the first-mentioned State in respect of any payments which he receives for such activity.

Article 20

Students and Apprentices

1. Payments which a student or business apprentice who is, or who immediately before visiting a Contracting State was, a resident of the other Contracting State and who is present in the first-mentioned 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 first-mentioned State, provided that such payments are made to him from sources outside that State.
2. Remuneration which a student or business apprentice who is, or who immediately before visiting a Contracting State was, a resident of the other Contracting State derives from an employment which he exercises in the first-mentioned State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, in order to acquire practical experience directly related to his studies or training, shall not be taxed in that first-mentioned State.

Article 21

Income not expressly mentioned

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

Chapter IV Taxation of Capital

Article 22

Capital

1. Capital represented by immovable property, as defined in paragraph 2 of Article 5, may be taxed in the Contracting State in which such property is situated.
2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.
3. Ships and aircraft operated in international traffic and 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 is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Chapter V Methods for Elimination of Double Taxation

Article 23

1. The laws of the Contracting States shall continue to govern the taxation of income arising in either of the Contracting States except where express provision to the contrary is made in this Convention. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.
2. Subject to the provisions of the law of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland, Luxembourg tax payable under the laws of Luxembourg and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Luxembourg, shall be allowed as a credit against any Irish tax payable in respect of that income. Where such income is an ordinary dividend paid by a company which is a resident of Luxembourg the credit shall take into account (in addition to any Luxembourg tax deducted from or imposed on such dividend) the Luxembourg tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Luxembourg tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate. For the purpose of this paragraph the term "Luxembourg tax" shall not include communal trade tax (l'impôt commercial communal) computed on a basis other than profits or capital tax (l'impôt sur la fortune).
3.
 - a. Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Ireland either directly or by deduction, Luxembourg shall, subject to the provisions of subparagraphs (b) and (c) of this paragraph, exempt such income or capital from Luxembourg tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.
 - b. Dividends paid by a company which is a resident of Ireland to a company which is a resident of Luxembourg shall be exempt from Luxembourg tax if the company receiving the dividends controls directly at least 25 per cent of the voting power in the company paying the dividends.
 - c. Dividends paid by a company which is a resident of Ireland to a resident of Luxembourg, not being a company which is exempt from Luxembourg tax

under the provisions of sub-paragraph (b) of this paragraph, may be taxed in Luxembourg, but such tax shall not be charged on an amount which exceeds the net amount of the dividend, and the amount of Luxembourg tax charged on that net amount shall be reduced by a sum equal to 15 per cent of that net amount.

For the purposes of this subparagraph the "net amount of the dividend" means:

- i. in the case of a dividend paid out of profits which have been wholly or partly relieved from Irish income tax for a limited period of time, the amount of the dividend which would have remained after deduction of Irish income tax if the said profits had not been so relieved;
 - ii. in any other case, the net amount of the dividend after deduction of Irish income tax.
4. In the case of an individual who is resident in Ireland for the purposes of Irish tax and is also resident in Luxembourg for the purposes of Luxembourg tax, the provisions of paragraph 2 shall apply in relation to income which that person derives from sources within Luxembourg, and the provisions of paragraph 3 shall apply in relation to income which that person derives from sources within Ireland. If such person derives income from sources outside both Ireland and Luxembourg, tax may be imposed on that income in both Contracting States (subject to the laws in force in the Contracting States and to any Convention which may exist between either of the Contracting States and the territory from which the income is derived) but the Luxembourg tax on any part of that income which is subjected to tax in both Contracting States shall be limited to tax on one-half of such part and the Irish tax on such part shall be reduced by a credit, in accordance with paragraph 2, in respect of the Luxembourg tax so computed. For the purposes of this paragraph, income derived from sources in the United Kingdom shall be deemed to be income from sources in Ireland if such income is not subject to United Kingdom tax.
5. 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 service of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of a Contracting State shall be deemed to be performed in that Contracting State.

Chapter VI Special Provisions

Article 24

Personal Allowances for Non-residents

1. Individuals who are residents of Luxembourg 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 Luxembourg tax as those to which Luxembourg nationals not resident in Luxembourg may be entitled.

Article 25

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 Luxembourg, all individuals possessing the nationality of Luxembourg and all legal persons, partnerships and associations deriving their status as such from the law in force in Luxembourg.
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. This provision 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.
5. 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.
6. The provisions of this Article shall not be construed as obliging Ireland to grant to any company other than a company incorporated in Ireland and resident therein for the purposes of income tax, any relief or exemption allowed in accordance with the provisions of:
 - a. the Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956, (No. 8 of 1956), as subsequently amended, or
 - b. Part II of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956), as subsequently amended, or
 - c. Chapter II or Chapter III of Part XXV of the Income Tax Act, 1967 (No. 6 of 1967), as subsequently amended.
7. In this Article the term "taxation" means taxes of every kind and description.

Article 26

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.
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 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court) concerned with the assessment or collection of, or the determination of appeals in relation to, 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 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 28

Diplomatic and Consular Officials

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.
2. Persons who are members of a diplomatic or consular mission of a Contracting State accredited to the other Contracting State or to another State, and who are nationals of the accrediting State, shall be deemed to be residents of the said State if they are subjected therein to the same obligations for the purposes of taxes on income and on capital as are residents of that State.
3. The Convention shall not apply to International Organisations, to organs or officials thereof or to persons who are members of a diplomatic or consular mission of a third State, who are present on the territory of a Contracting State and who are not treated in either Contracting State as residents thereof for the purposes of taxes on income and on capital.

Article 29

Holding Companies

This Convention shall not apply to holding companies entitled to any special tax benefit under the Luxembourg laws of 31st July, 1929, or 27th December, 1937, or any similar law enacted by Luxembourg after the signature of this Convention.

Chapter VII Final Provisions

Article 30

Entry into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Luxembourg 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, 1968;
 - ii. as respects corporation profits tax for any accounting period beginning on or after the 1st April, 1968, and for the unexpired portion of any accounting period current at that date;
 - b. in Luxembourg: for periods of assessment beginning after 31st December, 1967.

Article 31

Termination

This Convention shall remain in force indefinitely, but either of the Contracting States may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1973. In such event the Convention shall cease to 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 in the calendar year next following that in which such notice is given;
 - ii. 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;
- b. in Luxembourg: for periods of assessment beginning after the end of the calendar year in which notice is given.

In Witness Whereof the above-mentioned Plenipotentiaries have signed this Convention and have affixed thereto their seals.

Done in duplicate at Luxembourg this 14th January, 1972, in the English and French languages, both texts being equally authoritative.

For the President of Ireland:

Frank Coffey.

For His Royal Highness The Grand Duke of Luxembourg:

Gaston Thorn.

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

Seán ó 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 with Luxembourg which is 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 include trading profits not arising through a "permanent establishment" (Article 6), shipping and air transport profits (Article 7), interest (Article 10), patent and copyright royalties (Article 11), profits from professional or other independent activities not attributable to a fixed base (Article 13), certain earnings of temporary residents (Articles 14, 19 and 20), pensions (other than Government pensions) (Article 17); Government salaries and pensions are normally to be taxed by the paying Government only (Article 18).

In general, dividends paid by Irish companies to Luxembourg residents are to be exempt from Irish sur-tax; the rate of withholding tax on dividends paid by Luxembourg companies to Irish residents is not to exceed 15 per cent and, where the Irish resident is a company holding shares representing at least 25 per cent of the voting power in the Luxembourg company is not to exceed 5 per cent (Article 9).

In the matter of personal allowances and reliefs for tax purposes, each country is to treat the nationals of the other in the same way as it treats its own nationals under the same conditions (Article 24).

Where, under the Convention, income derived from one country by a person resident in the other country 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 relief is to be given by allowing against the Irish tax payable on Luxembourg income, a credit in respect of the Luxembourg tax which the income has borne including generally, in the case of dividends, an appropriate proportion of the Luxembourg tax on the profits out of which the dividends are paid. In Luxembourg, relief is to be given by way of exemption of income (except dividends) from sources in Ireland but the income so exempted is to be taken into account for the purpose of determining the rate of Luxembourg tax to be imposed on the taxpayer's other income. Irish dividends, whether or not subject to Irish income tax by deduction are to be exempt from Luxembourg tax if received by a Luxembourg company controlling directly at least 25 per cent of the voting power in the company paying the dividends. In the case of other dividends, Luxembourg tax is charged on the gross dividend less Irish income tax at the full rate, whether or not the dividend has suffered tax at the full or at a reduced rate, and credit is given for 15 per cent of the Luxembourg tax so chargeable (Article 23).

Subject to certain exceptions (eg immovable property) property of an Irish resident situated in Luxembourg is to be exempt from the annual capital tax imposed in that country (Article 22).

Provision is made for the exchange, between the competent authorities of the two countries, of information necessary to give effect to the Convention and for the prevention of fiscal fraud (Article 27).

The benefit of the Convention is denied to holding companies which are given privileged tax treatment in Luxembourg (Article 29).

The Convention takes effect for the fiscal year 1968/69 (Article 30).