

Double Taxation Treaty between Ireland and the Netherlands

Convention between the government of the Kingdom of the Netherlands and the government of Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital. Signed at the Hague on February 11th 1969

The Government of the Kingdom of the Netherlands and the Government of Ireland;

Desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital;

Have agreed as follows:

Chapter I

Scope of the Convention

Article 1

Taxes Covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each of the States, irrespective of the manner in which they are levied.
2. The taxes to which this Convention shall apply are:
 - a. In the case of the Netherlands:
 - de inkomstenbelasting (the income tax);
 - de loonbelasting (the wages tax);
 - de vennootschapsbelasting (the company tax);
 - de dividendbelasting (the dividend tax);
 - de commissarissenbelasting (the tax on fees of directors of companies);
 - de vermogensbelasting (the capital tax);
 - (hereinafter referred to as "Netherlands tax");
 - b. In the case of Ireland:
 - the income tax (including sur-tax);
 - the corporation profits tax;
 - (hereinafter referred to as "Irish tax").
3. This Convention shall also apply to any identical or substantially similar future taxes which are imposed in addition to, or in place of, the existing taxes by either State. The competent authorities of the States shall notify to each other any substantial changes which have been made in their respective taxation laws.
4. If a tax on capital is introduced in Ireland at some future date this Convention shall apply to such tax.

Chapter II

Definitions

Article 2

General Definitions

1. In this Convention, unless the context otherwise requires:
 - a. The term "State" means the Netherlands or Ireland, as the context requires; and
 - b. the term "States" means the Netherlands and Ireland;
 - i. the term "the Netherlands" comprises the part of the Kingdom of the Netherlands that is situated in Europe and the part of the sea bed and its sub-soil under the North Sea over which the Kingdom of the Netherlands has sovereign rights in accordance with international law;
 - ii. 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;
 - c. The term "tax" means Netherlands tax or Irish tax, as the context requires;
 - d. The term "person" comprises an individual, a company and any other body of persons;
 - e. The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - f. The terms "resident of one of the States" and "resident of the other State" mean a resident of the Netherlands or a resident of Ireland, as the context requires; and
the term "resident of the Netherlands" means:
 1. any company whose business is managed and controlled in the Netherlands;
 2. any other person who is resident of the Netherlands for the purposes of Netherlands tax and not resident in Ireland for the purposes of Irish tax;the term "resident of Ireland" means:
 1. any company whose 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 the Netherlands;
 2. any other person who is resident in Ireland for the purposes of Irish tax and not resident in the Netherlands for the purposes of the Netherlands tax;
2. The terms "enterprise of one of the States" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of one of the States and an enterprise carried on by a resident of the other State;

3. The term "competent authority" means in the case of the Netherlands, the Minister of Finance or his duly authorized representative and in the case of Ireland, the Revenue Commissioners or their duly authorized representative.
4. The term "resident of one of the States" shall be deemed to include individuals who are members of a diplomatic or consular mission of that State in the other State or in a third State and who are nationals of the sending State, if they are subjected therein to the same regulations in respect of taxes on income as are residents of that State.
5. Where under any provision of this Convention income is relieved from Netherlands tax and, under the law in force in Ireland, an individual, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in Ireland and not by reference to the full amount thereof, then the relief to be allowed under the Convention in the Netherlands shall apply only to so much of the income as is remitted to or received in Ireland.
6. As regards the application of the Convention by either of the States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that State relating to the taxes which are the subject of this Convention.

Article 3

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 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 one of the States on behalf of an enterprise of the other 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 one of the States shall not be deemed to have a permanent establishment in the other 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 one of the States controls or is controlled by a company which is a resident of the other 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 of Income

Article 4

Income from Immovable Property

1. Income from immovable property may be taxed in the State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the laws of the 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 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 5

Business Profits

1. The profits of an enterprise of one of the States shall be taxable only in that State unless the enterprise carries on business in the other 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 one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise 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 one of the States to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total of the enterprise to its various parts, nothing in paragraph 2 shall preclude that 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 6

Associated Enterprises

1. Where:
 - a. An enterprise of one of the States participates directly or indirectly in the management, control or capital of an enterprise of the other State,
 - b. The same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the States and an enterprise of the other 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 7

Shipping and Air Transport

1. Profits of an enterprise from the operation of ships or aircraft in international traffic shall be taxable only in the State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the State of which the operator of the ship is a resident.

Article 8

Dividends

1. Dividends paid by a company which is a resident of one of the States to a resident of the other State may be taxed in that other State:
2. However, such dividends may be taxed in the 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. Notwithstanding the provisions of paragraph 2 the State of which the company is a resident shall not levy a tax on dividends paid by that company to a company the capital of which is wholly or partly divided into shares and which is a resident of the other State and holds directly at least 25 per cent of the voting power in the company paying the dividends.
4. The competent authorities of the States shall by mutual agreement settle the mode of application of paragraphs 2 and 3.
5. The provisions of paragraphs 2 and 3 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
6. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of Ireland to a resident of the Netherlands shall be exempt from Irish sur-tax.
7. 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.
8. The provisions of paragraphs 1, 2, 3 and 6 shall not apply if the recipient of the dividends, being a resident of one of the States, has in the other 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 provisions of Article 5 shall apply.
9. Where a company which is a resident of one of the States derives profits or income from the other 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 9

Interest

1. Interest arising in one of the States and paid to a resident of the other State shall be taxable only in that other State.
2. The competent authorities of the States shall by mutual agreement settle the mode in which the State in which the interest arises abandons its taxation.
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, by the taxation law of the State in which the income arises, to income from money lent.
4. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of one of the States, has in the other 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 provisions of Article 5 shall apply.
5. 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 State, due regard being had to the other provisions of this Convention.

Article 10

Royalties

1. Royalties arising in one of the States and paid to a resident of the other 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 consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films or tapes for radio or television broadcasting), any patent, trade mark, trade name, 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 competent authorities of the States shall by mutual agreement settle the mode in which the State in which the royalties arise abandons its taxation.
4. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of one of the States, has in the other 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 provisions of Article 5 shall apply.
5. 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 State, due regard being had to the other provisions of this Convention.

Article 11

Limitation of Articles 8, 9 and 10

International organisations, organs and officials thereof and members of a diplomatic or consular mission of a third State, being present in one of the States, shall not be entitled, in the other State, to the reductions or exemptions from tax provided for in Articles 8, 9 and 10 in respect of dividends, interest and royalties arising in that other State, if according to international law or practice, they are not subject in the first-mentioned State to a tax on income on the said items of income.

Article 12

Capital Gains

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 4, may be taxed in the 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 one of the States has in the other State or of movable property pertaining to a fixed base available to a resident of one of the States in the other 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.
3. Notwithstanding the provisions of paragraph 2, gains from the alienation of ships and aircraft operated international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the State in which the place of effective management of the enterprise is situated. For the purposes of this paragraph the provisions of paragraph 2 of Article 7 shall apply.
4. Gains from the alienation of any property other than those mentioned in paragraphs 1, 2 and 3, shall be taxable only in the State of which the alienator is a resident.
5. The provisions of paragraph 4 shall not affect the right of either State to levy according to its own law a tax on gains from the alienation of shares or "jouissance" rights in a company the capital of which is wholly or partly represented by shares and which is a resident of that State, derived by an individual who is a resident of the other State, who is not a national of that other State, and who has been a resident of the first-mentioned State in the course of the last five years preceding the alienation of the shares or "jouissance" rights.

Article 13

Independent Personal Services

1. Income derived by a resident of one of the States 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 State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes 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, 27 and 28 of this Convention, salaries, wages and other similar remuneration derived by a resident of one of the States in respect of an employment shall be taxable only in that State unless the employment is exercised in the other 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 one of the States in respect of an employment exercised in the other 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, remuneration derived by a resident of one of the States in respect of an employment exercised aboard a ship or aircraft in international traffic shall be taxable only in that State.

Article 15

Director's Fees

1. Remuneration and other payments derived by a resident of the Netherlands in his capacity as a director, a managing director or a general manager of a company which is a resident of Ireland may be taxed in Ireland.
2. Remuneration and other payments derived by a resident of Ireland in his capacity as a "bestuurder" or a "commissaris" of a company which is a resident of the Netherlands may be taxed in the Netherlands.

Article 16

Artistes and Athletes

Notwithstanding the provisions of Articles 13 and 14 of this Convention, 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 in the State in which these activities are exercised.

Article 17

Pensions

Subject to the provisions of paragraph 1 of Article 18 of this Convention, pensions and other similar remuneration paid to a resident of one of the States in consideration of past employment shall be taxable only in that State.

Article 18

Government Functions

1. Remuneration, including pensions, paid by, or out of funds created by, one of the States 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 may be taxed in that State.
2. However, the provisions of Articles 14, 15 and 17 of this Convention shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the States or a political subdivision or a local authority thereof.

Article 19

Annuities

1. Annuities arising in one of the States and paid to an individual who is a resident of the other State shall be taxable only in that other State.
2. In this Article the term "annuity" means a stated sum payable under an obligation periodically at stated times during life or during a specified or ascertainable period of time.

Article 20

Other Items of Income

Items of income which a resident of one of the States derives from the other State and which are not dealt with in the foregoing Articles of this Convention shall be taxable only in the first-mentioned State.

Chapter IV

Taxation of Capital

Article 21

Capital

1. Capital represented by immovable property as defined in paragraph 2 of Article 4 of this Convention may be taxed in the 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 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 State in which the place of effective management of the enterprise is situated. For the purposes of this paragraph the provisions of paragraph 2 of Article 7 shall apply.
4. All other elements of capital of a resident of one of the States shall be taxable only in that State.

Chapter V.

Methods for Elimination of Double Taxation

Article 22

1. The Netherlands when imposing tax on its residents may include in the basis upon which such taxes are imposed, the items of income or capital which according to the provisions of this Convention may be taxed in Ireland.
2. Without prejudice to the application of the provisions concerning the compensation of losses in the unilateral regulations for the avoidance of double taxation the Netherlands shall allow to its residents a deduction from the amount of tax computed in conformity with the first paragraph of this Article equal to such part of that tax which bears the same proportion to the aforesaid tax, as the part of the income or capital which is included in the basis mentioned in the first paragraph of this Article and may be taxed in Ireland according to Article 4, Article 5, Article 8, paragraph 8, Article 9, paragraph 4, Article 10, paragraph 4, Article 12, paragraphs 1 and 2, Article 13, Article 14, paragraph 1, Article 15, paragraph 1, Article 16, Article 18 and Article 21, paragraphs 1 and 2, of this Convention bears to the total income or capital which forms the basis mentioned in the first paragraph of this Article.

Further the Netherlands shall allow to its residents a deduction from the Netherlands tax so computed for such items of income as may be taxed in Ireland according to Article 8, paragraph 2, and are included in the basis mentioned in the first paragraph of this Article. The amount of this deduction shall be the lesser of the following amounts:

- a. An amount equal to the Irish tax;
 - b. The amount of the Netherlands tax which bears the same proportion to the amount of tax computed in conformity with the first paragraph of this Article, as the amount of the said items of income bears to the amount of income which forms the basis mentioned in the first paragraph of this Article.
3. 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, Netherlands tax payable under the laws of the Netherlands and not contrary to the provisions of this Convention, whether directly or by deduction, in respect of income from sources within the Netherlands shall 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 which is a resident of the Netherlands to a company which controls, directly or indirectly, not less than 50 per cent of the entire voting power of the former company, the credit shall take into account the Netherlands tax payable by the company in respect of its profits.
 4. For the purposes of paragraph 3 of this Article, profits or remuneration arising from the exercise of a profession or employment in the Netherlands shall be deemed to be income from sources within the Netherlands.

Chapter VI

Special Provisions

Article 23

Personal Allowances

1. Individuals who are residents of the Netherlands shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Irish tax as Irish citizens 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 Netherlands tax as Netherlands nationals resident in Ireland.

Article 24

Non-discrimination

1. The nationals of one of the States shall not be subjected in the other 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 the Netherlands: all individuals possessing the nationality of the Netherlands and all legal persons, partnerships and associations deriving their status as such from the law in force in the Netherlands;
 - b. 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.
3. The taxation on a permanent establishment which an enterprise of one of the States has in the other 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.

This provision shall not be construed as obliging one of the States to grant to residents of the other 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.

4. Enterprises of one of the States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other State shall not be subjected in the first-mentioned 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. In this Article the term "taxation" means taxes of every kind and description.

Article 25

Mutual Agreement Procedure

1. Where a resident of one of the States considers that the actions of one or both of the 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 State of which he is a resident.
2. That 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 State, with a view to the avoidance of taxation not in accordance with this Convention.
3. The competent authorities of the States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.
4. The competent authorities of the States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26

Exchange of Information

1. The competent authorities of the 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 this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than persons (including a Court or administrative body) concerned with the assessment or collection of, or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Convention.
 - a. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the States the obligation:
 - a. To carry out administrative measures at variance with the laws or the administrative practice of that or of the other State;
 - b. To supply particulars which are not obtainable under the laws or in the normal course of the administration of that and of the other 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.

Article 27

Professors, Teachers and Researchers

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

Article 28

Students

1. Payments which a student or business apprentice who is or was formerly a resident of one of the States and who is present in the other 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 State, provided that such payments are made to him from sources outside that other State.
2. Remuneration which a student of a university, or other recognised educational institution, or a business apprentice who is or was formerly a resident of one of the States derives from labour or personal services which he performs in the other State, for a period or periods not exceeding in the aggregate 100 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 other State.
3. The term "business apprentice" in this Article has the meaning attributed to it by legislation concerning apprentices to a trade or profession, or by common practice, in either State.

Article 29

Territorial Extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, to either or both of the countries of Surinam or the Netherlands Antilles, if the country concerned imposes taxes substantially similar in character to those to which this Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination as may be specified and agreed in notes to be exchanged through diplomatic channels.
2. Unless otherwise agreed the termination of this Convention shall not also terminate the application of this Convention to any country to which it has been extended under this Article.

Chapter VII.
Final Provisions
Article 30

Entry into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Dublin 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 the Netherlands: for taxable years and periods beginning on or after the 1st January, 1965;
 - b. In Ireland:
 - i. as respects income tax (including surtax) for any year of assessment beginning on or after the 6th April, 1965;
 - ii. as respects corporation profits tax, for any accounting period beginning on or after the 1st April, 1965, and for the unexpired portion of any accounting period current at that date.

Article 31

Termination

This Convention shall remain in force indefinitely, but either of the States may denounce 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 be effective:

a. In the Netherlands:

for any taxable year or period beginning after the end of the calendar year in which such notice is given;

b. In Ireland:

- i. as respects income tax (including surtax) 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.

In Witness Whereof the undersigned, duly authorised thereto, have signed this Convention and have affixed thereto their seals.

Done in duplicate at The Hague, this 11th day of February, 1969 in the English and Netherlands languages, both texts being equally authentic.

For the Government of Ireland:

Eóin Mac White

For the Government of Kingdom of the Netherlands

J.M.A.H. Luns

Protocol

At the moment of signing the Convention between the Government of Ireland and the Government of the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect of taxes on income and capital, the undersigned representatives have agreed the following provisions:

- i. Ad Articles 8,9 and 10
Applications for the restitution of tax levied contrary to the provisions of Article 8, 9 and 10 have to be lodged with the competent authority of the State having levied the tax within a period of six years after the expiration of the year in which the tax has been levied.
- ii. Ad Articles 9 and 10
It is understood that interest and royalties paid by a resident of Ireland to a resident of the Netherlands shall be allowed as a deduction in the computation of the corporation profits tax charged on the payer.
- iii. Ad Article 14, paragraph 3
An individual living aboard a ship without a permanent home available to him in either of the States shall be deemed to be a resident of the State in which the ship has its home harbour.
- iv. Ad Article 18
The income mentioned in paragraph 1 of Article 18 which is paid by the Netherlands or a political subdivision or a local authority thereof shall be exempt from Irish tax unless the recipient is a citizen of Ireland without being also a national of the Netherlands.
- v. Ad Article 22
It is understood that, in so far as the Netherlands income tax or company tax is concerned, the basis mentioned in paragraph 1 of Article 22 is the "onzuivere inkomen" or "winst" in terms of the Netherlands income tax law or company tax law, respectively.
- vi. Ad Article 24
The provisions of Article 24 shall not be construed as obliging Ireland to grant to any company other than a company incorporated in Ireland and resident therein for the purpose of income tax, any relief or exemption allowed in accordance with the provisions of:
 - i. the Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 (No 8 of 1956), as in force at the date of signature of the Convention, or
 - ii. Part II of the Finance (Miscellaneous Provisions) Act, 1956 (No 47 of 1956), as in force at the date of signature of the Convention, or
 - iii. Chapter II or Chapter III of Part XXV of the Income Tax Act, 1967 (No 6 of 1967), as in force at the date of signature of the Convention.
- vii. Ad Article 26
The obligation to exchange information does not include any obligation to exchange information obtained from banks or from institutions assimilated thereto. The term "institutions assimilated thereto" means inter alia insurance companies.
- viii.
It is agreed that, when the Irish income tax appropriate to dividends paid by a company which is a resident of Ireland, has been wholly relieved or reduced for a limited period of time, by reason of the provisions of Part XXV of the Income Tax Act, 1967 (No 6 of 1967),

as in force at the date of signature of the Convention, so as to promote economic development, the requirement of being subject to similar tax, as laid down in the Netherlands company tax provisions, has been satisfied with respect to these dividends.

ix.

This Protocol shall be ratified and instruments of ratification thereof shall be exchanged at Dublin. It shall enter into force simultaneously with the Convention signed today and shall have the same duration as the Convention in accordance with Articles 30 and 31 thereof. In Witness Whereof the undersigned, duly authorised thereto, have signed this Protocol and have affixed thereto their seals.

Done in duplicate at The Hague, this 11th day of February, 1969 in the English and Netherlands languages, both texts being equally authentic.

For the Government of Ireland
Eóin Mac White

For the Government of the Kingdom of the Netherlands
J.M.A.H Luns

Given under the Official Seal of the Government.

This 3rd day of February, 1970

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 with the Netherlands and the associated Protocol 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 5), shipping and air transport profits (Article 7), interest (Article 9), patent and copyright royalties (Article 10), profits from professional or other independent activities not attributable to a fixed base (Article 13), pensions (other than Government pensions) (Article 17), annuities (Article 19), and certain earnings of temporary residents (Article 27 and 28). 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 the Netherlands are to be exempt from Irish sur-tax; the rate of withholding tax on dividends paid by Netherlands companies to Irish residents is not to exceed 15 per cent and where the resident of Ireland is a company, which holds at least 25 per cent of the capital of the Netherlands company, the dividends are to be exempt from Netherlands tax (Article 8).

Subject to certain exemptions (eg, immovable property) property of an Irish resident situated in the Netherlands is to be exempt from the annual taxes on capital imposed in that country (Article 21).

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 23).

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 the Netherlands, income (other than dividends) and capital which may be taxed in Ireland are to be included in the base upon which tax is computed and from the tax so computed a deduction is to be allowed of the proportion thereof which is appropriate to the Irish income or capital as the case may be. As the deduction applies without regard to the Irish tax borne by the relevant income, the benefit of Irish tax incentive reliefs is preserved for Netherlands enterprises with branches in Ireland which qualify for those reliefs. The requirements of being subject to a tax similar to Netherlands company tax is (by paragraph VIII of the Protocol to the Convention) to be regarded as satisfied in the case of an Irish company the profits of which have been wholly or partly relieved from Irish tax by virtue of Irish tax incentive reliefs. Irish dividends paid out of such profits (as well as Irish dividends paid out of fully taxed profits) to Netherlands corporations will therefore qualify for the exemption allowed in the Netherlands to Netherlands corporations owning a substantial participation in the distributing company's share-capital.

In Ireland, relief is to be given by allowing, against the Irish tax payable on Netherlands income, a credit in respect of the Netherlands tax which the income has borne, including, in

the case of dividends received by an Irish company which controls 50 per cent or more of the voting power in the Netherlands company paying the dividends, an appropriate proportion of the Netherlands tax on the profits out of which the dividends are paid (Article 22).

The Convention contains provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country (Article 24), for consultation (Article 25) and for the exchange of information (Article 26) between the taxation authorities of the two countries.

The Convention takes effect in Ireland for the fiscal year 1965-66 and subsequent years (Article 30).