

Double Taxation Treaty between Ireland and Russian Federation

Agreement between the government of Ireland and the government of the Russian Federation for the avoidance of double taxation with respect to taxes on income

Signed at Moscow on April 29, 1994

The Government of Ireland and the Government of the Russian Federation, desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income, have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed in each Contracting State, in accordance with the laws of each Contracting State.
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 this Agreement shall apply are:
 - a. in Ireland:
 - i. the income tax;
 - ii. the corporation tax; and
 - iii. the capital gains tax;(hereinafter referred to as "Irish tax");
 - b. in the Russian Federation: the taxes on profits and income imposed in accordance with the Laws of the Russian Federation on -
 - a. profits of enterprises and organizations; and
 - b. income of individuals;(hereinafter referred to as "Russian tax").
4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes, including taxes on income which are substantially similar to those currently imposed by one Contracting State but not by the other Contracting State and are subsequently imposed by the other Contracting State. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

Article 3

Some General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a. the terms "a Contracting State", "one of the Contracting States" and "the other Contracting State" mean Ireland or the Russian Federation, as the context requires; and the term "Contracting States" means Ireland and the Russian Federation;
 - b. the term "Ireland" includes any area outside the territorial waters of Ireland which, in accordance with international law, has been or may hereafter be designated under the laws of Ireland concerning the Continental Shelf, as an area within which the rights of Ireland with respect to the sea bed and subsoil and their natural resources may be exercised;
 - c. the term "Russia", when used in a geographical sense, means its territory, including internal waters and territorial sea, air space above them as well as the Continental Shelf and exclusive economic zone where the Russian Federation exercises such sovereign rights and jurisdiction as are in conformity with federal and international law. The terms "Russian Federation" and "Russia" are identical;
 - d. the term "person" means an individual, an enterprise, a company and any other body of persons incorporated under the laws of a Contracting State and deemed to be a legal entity for tax purposes in that State;
 - e. 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;
 - f. the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - g. the term "international transport" means any transport by a ship, aircraft or land transport vehicle operated by a resident of a Contracting State, except when the ship, aircraft or land transport vehicle is operated solely between places in 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 the Russian Federation, the Ministry of Finance or its authorised representatives.
2. As regards the application of the Agreement by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Agreement applies.

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of registration as a legal entity, place of effective management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.
2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a. he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - b. if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - c. if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a citizen;
 - d. if each State considers him as its citizen or if he is a citizen of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the activities of a person of a Contracting State is wholly or partly carried on in the other Contracting State.
2. The term "permanent establishment" includes especially:
 - a. a place of management;
 - b. a branch;
 - c. an office;
 - d. a factory;
 - e. a workshop;
 - f. a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term "permanent establishment" likewise includes a building site, a construction, installation or assembly project, or a drilling rig for the exploration or exploitation of natural resources, but only if such site, project or rig lasts more than 12 months.
4. Notwithstanding the preceding provisions of this Article, the following kinds of activity of a resident of a Contracting State will not be treated as carried on by him in the other Contracting State through a permanent establishment:
 - a. the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to this person;
 - b. the maintenance of a stock of goods or merchandise belonging to this person solely for the purpose of storage, display or delivery;
 - c. the maintenance of a stock of goods or merchandise belonging to this person solely for the purpose of processing by another person;
 - d. the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for this person;
 - e. the maintenance of a fixed place of business solely for the purpose of carrying on, for this person, any other activity of a preparatory or an auxiliary character;
 - f. the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e).
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person of a Contracting State carries on activities in the other Contracting State through an agent, that person shall be deemed to have a permanent establishment in that other State in respect of any activities which the agent undertakes for that person, if the agent meets each of the following conditions:
 - a. he has an authority to conclude contracts in that other State in the name of that person;
 - b. he habitually exercises that authority;

- c. he is not an agent of an independent status to whom the Provisions of Paragraph 6 apply; and
 - d. his activities are not limited to those mentioned in Paragraph 4.
- 6. A person of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because the person carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
- 7. 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 6

Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from the exploitation of agriculture and forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under 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, aircraft and land transport vehicles shall not be regarded as immovable property.
3. The provisions of Paragraph 1 of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property, and to income from the alienation of such property in the course of a business.
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 independent personal services.

Article 7

Business Profits

1. The profits of a person of a Contracting State shall be taxable only in that State unless the person carries on business in the other Contracting State through a permanent establishment situated therein. In the last mentioned case, the profits may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3 of this Article, where a person 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 person engaged in the same or similar activities under the same or similar conditions and dealing wholly independently from the enterprise carrying on the business as aforesaid.
3. In determining 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. Insofar 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 person of which the permanent establishment is a part to its various parts, nothing in paragraph 2 of this Article 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 contained 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 person.
6. For the purposes of the preceding paragraphs of this Article, 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 which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Income From International Transport

1. Income of a resident of a Contracting State from the operation of ships, aircraft or land transport vehicles in international traffic shall be taxable only in that State.
2. Income of a resident of a Contracting State from the following activities derived from Sources in the other Contracting State shall be taxable only in the first-mentioned State:
 - a. income from the rental of ships, aircraft or land transport vehicles operated in international traffic by the lessee;
 - b. income from the rental of ships, aircraft or land transport vehicles whether or not operated in international traffic, if such rental activity is incidental to the operation of ships, aircraft or land transport vehicles in international traffic by the lessor; and
 - c. income (including demurrage) from the use, or rental for use, of containers in international traffic (including trailers, barges and related equipment for the transport of containers).
3. The provisions of paragraphs 1 and 2 shall also apply to income from participation in a pool, a joint business, or an international transportation agency.

Article 9

Adjustments To Income

1. Where:
 - a. a person of a Contracting State participates directly or indirectly in the management, control or capital of a person of the other Contracting State, or
 - b. the same persons participate directly or indirectly in the management, control or capital of a person of a Contracting State and a person of the other Contracting State,

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

2. Where income which has been included by a Contracting State in the income of a person is later, in accordance with the provisions of paragraph 1 of this Article, also included by the other Contracting State in the income of another person, then the first State shall make a correlative adjustment to the amount of tax charged to the first person on such income. In determining this adjustment, due regard shall be paid to the other provisions of this Agreement, and the competent authorities of the Contracting States shall consult each other as necessary.

Article 10

Dividends

1. Dividends that are paid by a company which is a resident of a Contracting State and that are beneficially owned by a resident of the other Contracting State may be taxed in that other State.
2. However the dividends referred to in paragraph 1 of this Article may also be taxed in the first Contracting State and according to the laws of that Contracting State, but the tax should not exceed 10 per cent of the gross amount of the dividends. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Agreement means income from shares or other rights, not being debt-claims, and includes any income from shares or from participation in profits in accordance with the taxation laws of the Contracting State of which the company paying the dividends or income or making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs or performed in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
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, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State. That other State cannot subject to tax the undistributed profits of this company even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the interest.
2. The term "interest" as used in this Agreement means income from debt-claims of every kind, unless described in paragraph 3 of Article 10, and in particular, income from government securities and income from bonds or debentures, including premiums or prizes attaching to such securities, bonds or debentures as well as all other income that is treated as income from money lent by the taxation law of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.
3. The provisions of paragraph 1 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the interest is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
4. Interest shall be deemed to arise in a Contracting State when the payer is a State power or an administrative authority created in that State or a resident of that State. 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is paid by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

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 if such resident is the beneficial owner of the royalties.
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 films, recordings on tape or other media used for radio or television broadcasting or other means of reproduction and transmission), any patent, trade mark, design or model, plan, computer programme, secret formula or process, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
4. Royalties shall be deemed to arise in a Contracting State when the payer is a State Power or an administrative authority created in that State or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred and such royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

Gains From Alienation Of Property

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 of this Agreement and situated in the other Contracting State may be taxed in that other State.
2. Gains derived by a resident of a Contracting State from the alienation of,
 - a. movable property of a permanent establishment which that person has in the other Contracting State, including such gains from the alienation of such permanent establishment (alone or with the whole entity of which it is a permanent establishment), or
 - b. movable property pertaining to a fixed base which that person has in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such fixed base, or
 - c. shares, rights or an interest in a company, in any other legal person or in a partnership (other than shares, rights or interests which fall within sub-paragraph (a) or (b) of this paragraph) the assets of which consist to the extent of 50 per cent or more of, or of rights in,
 - i. immovable property situated in the other Contracting State, or
 - ii. shares in a company the assets of which consist to the extent of 50 per cent or more of, or of rights in, immovable property situated in the other Contracting State,

may be taxed in the other Contracting State in which such permanent establishment, fixed base or immovable property, as the case may be, is situated.

3. Gains derived by a resident of a Contracting State from the alienation of means of transport operated in international traffic, or movable property pertaining to the operation of such means of transport, shall be taxable only in the other Contracting State if the place of effective management of that operation is situated in that other State.
4. Gains from the alienation of any property, other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Income From Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State from the performance of independent personal services shall be taxable only in that State, unless
 - a. such services are performed or were performed in the other Contracting State; and
 - b. the income is attributable to a fixed base which he has or had available to him in that other State. The income attributable to that fixed base may be taxed in that other State in accordance with principles similar to those of Article 7 of this Agreement for determining the amount of business profits and attributing business profits to a permanent establishment.
2. The term "independent personal 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 15

Income From Employment

1. Subject to the provisions of Articles 16, 18, 19 and 21 of this Agreement, 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 of this Article, 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 all of the following conditions apply:
 - a. the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the tax year concerned of that other State; and
 - b. the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State; and
 - c. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.
3. Notwithstanding the preceding provisions of this Article, salaries, wages and other similar remuneration derived in respect of an employment exercised aboard a ship, aircraft or any other means of transport operated in international traffic may be taxed in the Contracting State in which the place of effective management of the operation is situated.

Article 16

Directors' Fees

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

Article 17

Income Of Artistes And Athletes

1. Notwithstanding the provisions of Articles 14 and 15 of this Agreement, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.
2. Where income in respect of personal activities exercised by an entertainer or athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Agreement, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 18

Pensions

1. Pensions and other similar remuneration (which may include an annuity) paid to a resident of a Contracting State may be taxed only in that Contracting State.
2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19

Income From Government Service

1. Remuneration, other than a pension, paid by a State power or administrative authority to an individual in respect of services rendered to that power or authority in the discharge of functions of a governmental nature shall be taxable only in that State.
2. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - a. is a citizen of that State; or
 - b. did not become a resident of that State solely for the purpose of rendering the services.
3. The provisions of Articles 15 and 16 of this Agreement shall apply to remuneration in respect of services rendered in connection with a business carried on by a State power or administrative authority.

Article 20

Payments To Students And Apprentices

Payments which students or business apprentices who are or were immediately before visiting a Contracting State residents of the other Contracting State and who are present in the first-mentioned State solely for the purpose of their education or training receive for the purpose of their accommodation, education or training shall not be taxed in that first-mentioned State provided that such payments arise from sources outside that State.

Article 21

Payments To Teachers And Researchers

1. Teachers or researchers who are or were immediately before visiting a Contracting State residents of the other Contracting State and who are present in the first-mentioned State solely for the purpose of teaching, continuing their education, lecturing or carrying out research work at the invitation of a university, college or any other recognised educational or research institute in the first-mentioned State shall be exempt from tax on any remuneration for such teaching or lecturing, or research work, for a period not exceeding two years from when they first visited that Contracting State. An individual shall be entitled to the benefits of this Article only once.
2. The preceding provisions of this Article shall not apply to remuneration which a teacher or researcher receives for carrying on research if the research is undertaken primarily for the private benefit of a specific person or persons.

Article 22

Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Contracting State.
2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 of this Agreement, if the beneficial owner of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23

Elimination Of Double Taxation

1.
 - a. Subject to the provisions of the laws of Ireland, where a resident of Ireland receives income which according to the provisions of this Agreement may be taxed in Russia, the amount of tax on such income paid in Russia shall be deducted from the tax levied on the income of such person in Ireland. Such deduction shall not, however, exceed the amount of the tax calculated in respect of such income in accordance with the laws and rules of Ireland.
 - b. For the purposes of subparagraph (a), the amount of tax paid in Russia in respect of a dividend received by a company which is a resident of Ireland from a company which is a resident of Russia shall include the amount of the Russian tax paid on the profits out of which the dividend is paid in proportion to the participation by the Irish company in the Russian company which paid the dividend.
2.
 - a. Subject to the provisions of the laws of Russia, where a resident of Russia receives income which according to the provisions of this Agreement may be taxed in Ireland, the amount of tax on such income paid in Ireland shall be deducted from the tax levied on the income of such person in Russia. Such deduction shall not, however, exceed the amount of the tax calculated in respect of such income in accordance with the laws and rules of Russia.
 - b. For the purposes of subparagraph (a), the amount of tax paid in Ireland in respect of a dividend received by a company which is a resident of Russia from a company which is a resident of Ireland shall include the amount of the Irish tax paid on the profits out of which the dividend is paid in proportion to the participation by the Russian company in the Irish company which paid the dividend.

Article 24

Non-discrimination

1. Citizens of a Contracting State or legal entities deriving their status as such from the laws in force in that State or wholly or partly owned by persons who are residents of that State shall not be subjected in the other Contracting State to any taxation or any requirements connected therewith, which is other or more burdensome than the taxation and connected requirements to which citizens and legal entities of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States and, if so permitted by the law of the Contracting State concerned, to stateless persons who are residents of that Contracting State.
2. The taxation on a permanent establishment which a resident 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 residents of that other State carrying on similar activities under the same conditions.
3. Nothing contained in this Article shall be interpreted to oblige a Contracting State to give to individuals not resident in that State the right to any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals who are residents of that State.
4. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

Article 25

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. Any information so exchanged shall be treated as confidential in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, or the enforcement or prosecution in respect of, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 of this Article be interpreted so as to impose on a Contracting State the obligation:
 - a. to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - b. to supply information which is 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.

Article 26

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, in the case of an individual, to that of the Contracting State of which he is a citizen. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
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 a satisfactory 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 which is not in accordance with the provisions of this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
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 Agreement.
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.

Article 27

Other Tax Privileges

Nothing in this Agreement shall affect the tax privileges of persons for whom they are provided under the general rules of international law or under the provisions of special agreements.

Article 28

Entry Into Force

1. This Agreement shall be ratified by both Contracting States.
2. This Agreement shall enter into force on the date of the exchange of instruments of ratification and its provisions shall have effect:
 - a. in Ireland:
 - i. as respects income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April of the year following the date on which this Agreement enters into force;
 - ii. as respects corporation tax, for any financial year beginning on or after the first day of January of the year following the year in which this Agreement enters into force;
 - b. in Russia:
 - i. in respect of taxes withheld at source for income paid or transferred starting from the first day of January of the calendar year, following the year in which the Agreement enters into force;
 - ii. in respect of other taxes, for taxable periods beginning on or after the first day of January of the calendar year, following the year in which the Agreement enters into force.

Article 29

Termination

1. This Agreement shall remain in force unless terminated by a Contracting State. Either Contracting State may terminate the Agreement at any time after 5 years from the date on which the Agreement enters into force, by giving, through diplomatic channels at least 6 months prior notice of termination in writing. In such event the Agreement is terminated:
 - a. in Ireland:
 - i. as respects income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April of the year following the date on which the period specified in the said notice of termination expires;
 - ii. as respects corporation tax, for any financial year beginning on or after the first day of January of the year following the date on which the period specified in the said notice of termination expires.
 - b. in Russia:
 - i. in respect of taxes withheld at source for income paid or accrued on or after the first day of January of the year following the expiration of the 6 month period;
 - ii. in respect of other taxes, for taxable periods beginning on or after the first day of January of the year following the expiration of the six month period.

Done at Moscow on 29 April, 1994 in duplicate, in the Russian and English languages, both texts being equally authentic.

Dick Spring

For the Government of Ireland

Andrei Vladimirovich Kozyrev

For the Government of the Russian Federation

29th April 1994

Excellency,

I have the honour to refer to the Agreement between the Government of Ireland and the Government of the Russian Federation for the Avoidance of Double Taxation with respect to Taxes on Income which has been signed today and to make on behalf of the Government of Ireland the following proposals for the purpose of its application.

1. In the case of interest, wages and salaries paid by an enterprise of a Contracting State the capital of which is wholly or partly owned or controlled, directly or indirectly, by residents of the other Contracting State, such interest, wages and salaries shall be deductible in computing the taxable profits of such enterprise. The foregoing sentence shall apply accordingly to interest, wages and salaries when computing the taxable profits of a permanent establishment of an enterprise of a Contracting State.

In the event that the Russian law "On taxes on profits of enterprises and organisations" or the Irish Corporation Tax ceases to have effect, such enterprise or a permanent establishment will be permitted to continue to compute its tax as specified in this paragraph.

2. Each Contracting State shall endeavour to establish procedures to enable taxpayers to receive income without the imposition of withholding taxes where the Agreement provides for taxation only in the State of residence. Where the Agreement provides for taxation in the State where the income arises, each State shall endeavour to establish procedures to enable taxpayers to receive income after deduction of tax at the rate provided for in the Agreement. Where a claim is made by a taxpayer, tax withheld at source in a Contracting State at the rate provided for under domestic law shall be repaid in a timely manner where that tax is withheld at a rate in excess of that provided for under the terms of the Agreement.

If the foregoing proposals are acceptable to the Government of the Russian Federation I have the honour to suggest that the present Note and Your Excellency's reply to that effect shall be regarded as constituting an agreement between the two Governments in this matter which shall enter into force at the same time as the entry into force of the Agreement.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Dick Spring TD
Tánaiste and Minister for Foreign Affairs of Ireland

29th April 1994

Excellency,

I have received your Note of 29 April 1994, that states the following:

....

The foregoing proposals are acceptable to the Government of the Russian Federation. I have the honour to confirm that Your Excellency's Note and the present reply shall be regarded as constituting an agreement between the two Governments in this matter which shall enter into force at the same time as the entry into force of the Agreement.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Andrei Vladimirovich Kozyrev
Minister of Foreign Affairs of the Russian Federation.

GIVEN under the Official Seal of the Government, this 13th day of December, 1994.

Albert Reynolds
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 in Ireland to the Agreement with the Russian Federation set out in the Schedule to the Order.

The Agreement provides for the allocation of taxing rights between Ireland and Russia and for the granting of relief from double taxation with regard to items of income and capital gains which, under the laws of Ireland and the laws of Russia, may be taxed in both countries.

For example, items such as business profits, interest, royalties and gains on movable property not arising through or connected with a permanent establishment in the source country, profits from the operation of ships, aircraft and land transport vehicles in international traffic and payments of pensions and annuities are taxable only in the country of residence of the recipient. On the other hand, remuneration in respect of services rendered to a government of one of the countries is normally taxable in that country, i.e. the country of source.

Where both countries continue to have taxing rights, for example, with regard to business profits arising through a permanent establishment which an enterprise of one country has in the other country or dividends received in one country from the other country, the Agreement provides that the country of residence of the recipient will allow a credit against its own tax for the tax imposed on the same income by the country of source. Thus double taxation is relieved.

The Agreement effectively secures that rentals received by an Irish enterprise in respect of the leasing of ships, aircraft, land transport vehicles or containers used in international traffic will be taxable only in Ireland.

Capital gains arising from the disposal of immovable property and of shares linked with immovable property may be taxed by the country in which the property is situated. Capital gains arising from the disposal of other property are normally to be taxed only in the country of residence of the taxpayer unless they arise from the disposal of assets of a permanent establishment or fixed base which the taxpayer has in the other country. Double taxation is relieved by the granting of a credit in the country of residence for tax paid in the country where the property is located.

A provision in the Agreement preserves the taxation rights of a State in respect of income and capital gains arising from a drilling operation for the exploration or exploitation of natural resources in the territory of that State where such operation is carried on for more than twelve months.

In the case of dividends flowing between the two countries the Agreement provides for a withholding tax of 10 per cent. This represents a reduction from the current domestic Russian rate of 15 per cent. Under Irish domestic law no withholding tax will in fact be levied on dividends flowing from Ireland to Russia.

Provision is made for safeguarding citizens and enterprises of one country against discriminatory taxation in the other country, for consultation between the competent

authorities for the purpose of resolving any difficulties or doubts arising as to the interpretation or application of the Agreement and for the exchange of such information between these authorities as is necessary for carrying out the provisions of the Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement.

The Notes exchanged when the Agreement was signed set out agreed proposals in relation to the application of the Agreement. The Notes provide that actual interest, wages and salaries of an enterprise in one country owned or controlled by residents of the other country must be allowed as a deduction when computing the taxable profits of the enterprise. This proposal is based on similar provisions in treaties negotiated by the United States and the United Kingdom with the Russian Federation. The other proposal in the Notes concerns the establishment of procedures to ensure that the treaty rates of withholding tax are applied at source or else taxes applied at rates higher than permitted under the treaty are quickly repaid.

The Agreement will become operative-

Ireland:

- i. as respects income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April of the year following the date on which the Agreement enters into force;
- ii. as respects corporation tax, for any financial year beginning on or after the first day of January of the year following the year in which this Agreement enters into force:

Russia :

- i. in respect of taxes withheld at source for income paid or transferred starting from the first day of January of the calendar year, following the year in which the Agreement enters into force;
- ii. in respect of other taxes, for taxable periods beginning on or after the first day of January of the calendar year, following the year in which the Agreement enters into force.