

CONVENTION

between Ireland and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income and capital.

The Government of Ireland and the Swiss Federal Council, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital, have appointed for that purpose as their respective Plenipotentiaries:

The Government of Ireland:

Mr. Frank Aiken,

Minister for External Affairs.

The Swiss Federal Council:

His Excellency Julien Rossat,

Ambassador of Switzerland to Ireland

who, having communicated to one another their full powers, found in good and due form, have agreed as follows:

CHAPTER I
SCOPE OF THE CONVENTION

ARTICLE 1
PERSONAL SCOPE

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

ARTICLE 2 TAXES COVERED

1. The taxes to which this Convention shall apply are:

(a) in the case of Ireland:

the income tax (including sur-tax) and the corporation profits tax (hereinafter referred to as "Irish tax");

(b) in the case of Switzerland:

the federal, cantonal and communal taxes

(1) on income (total income, earned income, income from capital, industrial and commercial profits, capital gains and other items of income); and

(2) on capital (total property, movable and immovable property, business assets, paid-up capital and reserves and other items of capital)

(hereinafter referred to as "Swiss tax");

and, to the extent provided for in Article 24, Irish and Swiss taxes of every kind and description.

2. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

3. The Convention shall not apply to Federal coupon tax except where expressly mentioned and shall not apply to Federal anticipatory tax withheld at the source on prizes in a lottery.

4. If a tax on capital is introduced in Ireland at some future date the Convention shall apply to such tax.

5. At the end of each year, the competent authorities of the Contracting States shall notify to each other any changes which have been made in the respective taxation laws.

CHAPTER II DEFINITIONS

ARTICLE 3 GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

(a) the terms "a Contracting State" and "the other Contracting State" mean Ireland or Switzerland, as the context requires;

(b) the term "tax" means Irish tax or Swiss tax, as the context requires;

(c) the term "person" comprises an individual, a company and any other body of persons;

(d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(e) 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;

(2) any other person who is resident in Ireland for the purposes of Irish tax and not resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax;

(f) the term "resident of Switzerland" means:

(1) any company or partnership whose business is managed and controlled in Switzerland and any company or partnership created or organised under Swiss law, if its business is not managed and controlled in Ireland; provided that nothing in this paragraph shall affect any provisions of the law of Switzerland regarding the levy of anticipatory tax in the case of a company incorporated in Switzerland;

(2) any other person who is resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax and not resident in Ireland for the purposes of Irish tax;

(g) the terms "resident of a Contracting States" and "resident of the other Contracting State" mean a person who is a resident of Ireland or a person who is a resident of Switzerland, as the context requires;

(h) 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.

(i) the term "competent authority" means:

(1) in the case of Ireland: the Revenue Commissioners or their authorised representatives,

(2) in the case of Switzerland: the Director of the Federal Tax Administration or his authorised representative.

2. Where any Article of the Convention provides (with or without conditions) that income derived by a resident of a Contracting State from sources within the other Contracting State shall be taxable only in the first-mentioned State or entitled to a reduced rate of tax in the other State and, under the law in force in that first-mentioned State, the said income is subject to tax by reference to the amount thereof which is remitted to or received in that State and not by reference to the full amount thereof, then the exemption or reduction in rate in the other State resulting from such Article shall apply only to so much of the income as is remitted to or received in the first-mentioned State.

3. Where under any provision of the Convention a partnership is entitled to exemption from Irish tax as a resident of Switzerland on any income, such a provision shall not be construed as restricting the right of Ireland to charge any member of the partnership, being a person who is resident in Ireland for the purposes of Irish tax (whether or not he is also resident in Switzerland for the purposes of Swiss tax), to tax on his share of the income of the partnership; but any such income shall be deemed for the purposes of Article 22 to be income from sources within Switzerland.

4. Where under any provision of the Convention a resident of a Contracting State is exempt or entitled to relief from tax of the other Contracting State, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the first-mentioned State.

5. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

ARTICLE 4
PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
 - (a) place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) workshop;
 - (f) mine, quarry or other place of extraction of natural resources;
 - (g) a building site or construction or assembly project which exists for more than twenty-four months.
3. The term "permanent establishment" shall not be deemed to include:
 - (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph 5 applies—shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.
5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such person is acting in the ordinary course of his business.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

**CHAPTER III
TAXATION OF INCOME**

**ARTICLE 5
INCOME FROM IMMOVABLE PROPERTY**

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.
3. The provisions of paragraph 1 shall apply to income derived for the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

ARTICLE 6

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. (a) Nothing in paragraph 2 shall preclude a Contracting State from determining the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, with a privileged allocation (preciput) in favour of the head-office of 10 per cent of such total profits; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

(b) In the case of an insurance enterprise of a Contracting State carrying on business in the other Contracting State through a permanent establishment situated therein the profits attributable to such permanent establishment shall be determined by apportioning the total profits of the enterprise according to the ratio of the gross premiums received by the permanent establishment to the total gross premiums received by the enterprise.
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 purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 7
SHIPPING AND AIR TRANSPORT

Profits of an enterprise from the operation of ships or aircraft in international traffic (including any such profits from participation in a pooled air service, in a joint air transport operating organisation or in an international air transport operating agency) shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 8
ASSOCIATED ENTERPRISES

Where—

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

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

ARTICLE 9 DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed 10 per cent (including, in Switzerland, Federal coupon tax) of the gross amount of the dividends; and if the recipient is a company (excluding partnerships) which holds directly at least 25 per cent of the capital of the company paying the dividends, such dividends, shall be exempt from tax.
3. The provisions of paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
4. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of Ireland to a resident of Switzerland shall be exempt from Irish sur-tax.
5. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.
6. The provisions of paragraphs 1, 2 and 4 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with it. In such a case, the provisions of Article 6 shall apply.
7. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.
8. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article.

ARTICLE 10

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.
2. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated, by the taxation law of the State in which the income arises, to income from money lent.
3. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises, a permanent establishment and the debt-claim from which the interest arises is effectively connected with it. In such a case, the provisions of Article 6 shall apply.
4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.
5. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article.

ARTICLE 11 ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.
2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or video tapes for use in connection with television, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment and the right or property giving rise to the royalties is effectively connected with it. In such a case, the provisions of Article 6 shall apply.
4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.
5. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article.

ARTICLE 12
CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 5, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 21 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 13
INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes, especially, independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 14
DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration 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, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 15
DIRECTORS' FEES

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

ARTICLE 16
ARTISTES AND ATHLETES

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

ARTICLE 17
PENSIONS

Subject to the provisions of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

ARTICLE 18
PUBLIC FUNCTIONS

Remuneration, including pensions, paid by a Contracting State or a political subdivision or a local authority thereof or by an entity created and organised by a special law of such Contracting State, directly or out of a fund, to any individual who is a national of that State in respect of present or past services shall be taxable only in the State where the remuneration originates.

ARTICLE 19
STUDENTS

1. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

2. A student of a university, or other recognised educational institution, or an apprentice to a business, in a Contracting State who is employed in the other Contracting State for a period or periods not exceeding a total of 100 days during the fiscal year, the employment being directly related to his studies or training, shall be exempt from tax, in such other Contracting State, on his remuneration from such employment.

ARTICLE 20
INCOME NOT EXPRESSLY MENTIONED

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

**CHAPTER IV
TAXATION OF CAPITAL**

ARTICLE 21

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

CHAPTER V
METHODS FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 22

1. Subject to the provisions of the law of Ireland regarding the allowances as a credit against Irish tax of tax payable in a territory outside Ireland, Swiss tax payable under the laws of Switzerland and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Switzerland 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 Switzerland 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 (in addition to any Swiss tax appropriate to the dividend) the Swiss tax payable by the former company in respect of its profits. For the purpose of this paragraph the expression "Swiss tax" shall include the Federal coupon tax.

2. Where a resident of Switzerland derives income or owns capital which, in accordance with the provisions of the Convention, may be taxed in Ireland, Switzerland shall, subject to the provisions of paragraphs 3, exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

3. Where a resident of Switzerland derives dividends which, in accordance with the provisions of Article 9, may be taxed in Ireland, Switzerland shall allow, upon request, a relief to such person. The relief may consist of

(a) a deduction from the tax on the income of that person of an amount equal to the tax levied in Ireland in accordance with the provisions of Article 9; such deduction shall not, however, exceed that part of the Swiss income tax, as computed before the deduction is given, which is appropriate to the dividends, or

(b) a lump sum reduction of the Swiss tax, or

(c) a partial exemption of such dividends from Swiss tax, in any case consisting at least of the deduction of the tax levied in Ireland from the gross amount of the dividends.

Switzerland shall determine the applicable relief and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international conventions of the Swiss Confederation for the avoidance of double taxation.

4. Switzerland shall take into account for the relief provided for in paragraph 3 an amount equal to 15 per cent of the net amount of the dividends after such deduction of tax as is authorised in Ireland by Rule 20 of the General Rules applicable to Schedules A, B, C, D and E of the Income Tax Act, 1918.

5. A company which is a resident of Switzerland and which derives dividends from a company which is a resident of Ireland shall be entitled, for the purposes of Swiss tax with respect to such dividends, to the same relief which would be granted to the company if the company paying the dividends were a resident of Switzerland.

6. In the case of an individual who is resident in Ireland for the purposes of Irish tax and is also resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax,

the provisions of paragraph 1 shall apply in relation to income which that person derives from sources within Switzerland, and the provisions of paragraphs 2, 3 and 4 shall apply in relation to income which that person derives from sources within Ireland. If such person derives income from sources outside both Ireland and Switzerland, tax may be imposed on that income in both Contracting States (subject to the laws in force in the Contracting States and to any Convention which may exist between either of the Contracting States and the territory from which the income is derived) but the Swiss tax on so much of that income as is subjected to tax in both Contracting States shall be limited to one-half of the tax on such income, and the Irish tax on that income shall be reduced by a credit, in accordance with paragraph 1, for the Swiss tax so computed.

7. Notwithstanding the provisions of paragraph 6, income derived from sources in the United Kingdom of Great Britain and Northern Ireland by an individual who is resident in Ireland shall be deemed to be income from sources in Ireland if such income is not subjected to United Kingdom income tax.

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

**CHAPTER VI
SPECIAL PROVISIONS**

**ARTICLE 23
PERSONAL ALLOWANCES FOR NON-RESIDENTS**

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

ARTICLE 24
NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term "nationals" means:

(a) in relation to Ireland, all citizens of Ireland and all legal persons, partnerships and associations deriving their status as such from the law in force in Ireland,

(b) in relation to Switzerland, all Swiss citizens and all legal persons, partnerships and associations deriving their status as such from the law in force in Switzerland.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents, nor as obliging Ireland to grant to nationals of Switzerland any relief or exemption allowed in accordance with the provisions of the Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 (No. 8 of 1956), as subsequently amended, or of Part II of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956), as subsequently amended.

6. In this Article the term "taxation" means taxes of every kind and description.

ARTICLE 25
MUTUAL AGREEMENT PROCEDURE

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

ARTICLE 26
DIPLOMATIC AND CONSULAR OFFICIALS

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.
2. In so far as, on account of fiscal privileges granted to diplomatic or consular officials under the general rules of international law or under the provisions of special international treaties, income or capital is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.
3. For the purposes of the Convention, persons who are members of a diplomatic or consular mission of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State shall be deemed to be residents of the sending State if they are submitted therein to the same obligations in respect of taxes on income and capital as are residents of that State.
4. The Convention shall not apply to International Organisations, to organs or officials thereof and to persons who are members of a diplomatic or consular mission of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income and capital.

**CHAPTER VII
FINAL PROVISIONS**

**ARTICLE 27
ENTRY INTO FORCE**

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(a) in Ireland:

(1) as respects income tax (including sur-tax) for any year of assessment beginning on or after the 6th April, 1965;

(2) 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;

(b) in Switzerland:

for any fiscal year beginning on or after the 1st January, 1965.

3. The Agreement dated 18th June, 1958, between the Government of Ireland and the Swiss Federal Council concerning the taxation of enterprises operating ships or aircraft shall be terminated upon the entry into force of this Convention.

ARTICLE 28
TERMINATION

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

(a) in Ireland:

(1) as respects income tax (including sur-tax) for any year of assessment beginning on or after the 6th April in the calendar year next following that in which such notice is given;

(2) as respects corporation profits tax for any accounting period beginning on or after the 1st April in the calendar year next following that in which such notice is given and for the unexpired portion of any accounting period current at that date;

(b) in Switzerland:

for any fiscal year beginning on or after the 1st January in the calendar year next following that in which such notice is given.

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

Done in duplicate at Dublin the 8th November, 1966, in the French and English languages, each text being equally authentic.

For the Government of Ireland: PROINSIAS MAC AOGÁIN

For the Swiss Federal Council: JULIEN ROSSAT

Oifig an Aire Gnóthaí Eachtracha.

Office of the Minister for External Affairs,

Baile Átha Cliath, 2

Dublin, 2.

8th November, 1966.

Excellency,

With reference to the Convention signed to-day between Ireland and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income and capital, I have the honour, on behalf of the Government of Ireland, to confirm that it is understood that both ordinary and extraordinary taxes on income and capital come within the scope of Article 2 of the said Convention.

Accept, Excellency, the renewed assurance of my highest consideration.

PROINSIAS MAC AOGÁIN.

His Excellency Julien Rossat,

Ambassador Extraordinary and

Plenipotentiary of Switzerland,

Swiss Embassy,

Dublin.

(A letter in similar terms has been addressed on behalf of the Swiss Federal Council to the Government of Ireland).

Given under the Official Seal of the Government this 14th day of November, 1967.

SEÁN Ó LOINSIGH,

Taoiseach.

EXPLANATORY NOTE

This Order gives the force of law to the Convention with Switzerland which is set out in the Schedule.

Under the Convention certain classes of income derived from one country by a resident of the other country are (subject to certain conditions) to be exempt from tax in the former country. These classes are trading profits not arising through a "permanent establishment" [Article 6], shipping and air transport profits [Article 7], interest [Article 10], patent and copyright royalties [Article 11], profits from professional or other independent activities not attributable to a fixed base [Article 13], pensions (other than Government pensions) [Article 17], and certain earnings of temporary residents [Articles 14 and 19]. Government and local authority salaries and pensions are normally to be taxed by the paying Government only [Article 18].

In general dividends paid by Irish companies to Swiss residents are to be exempt from Irish sur-tax; the rate of withholding tax on dividends paid by Swiss companies to Irish residents is not to exceed 10 per cent and, where the resident of Ireland is a company which holds at least 25 per cent of the capital of the Swiss company, the dividends are to be exempt from Swiss tax [Article 9].

Subject to certain exceptions (e.g., immovable property) property of an Irish resident situated in Switzerland 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 person resident in the other may be taken into account for tax purposes in both countries, a measure of double taxation relief is to be granted by the latter country. In Ireland, relief is to be given by allowing against the Irish tax payable on Swiss income, a credit in respect of the Swiss 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 of the Swiss company paying the dividends, an appropriate proportion of the Swiss tax on the profits out of which the dividends are paid. In Switzerland, relief is to be given by exemption of Irish income (except dividends) or capital from Swiss taxes but in calculating the Swiss tax on the remaining income or capital Switzerland may apply the rate of tax which otherwise would have been applicable. In the case of Irish dividends relief from Swiss taxes is to be given by way of deduction, reduction or partial exemption as appropriate. Furthermore, a Swiss company is to be granted the same reliefs from Swiss taxes on Irish dividends which it would be entitled to in certain circumstances if the dividends had been Swiss dividends and not Irish dividends [Article 22].

As the reliefs from Swiss tax mentioned in the previous paragraph are allowable without regard to the amount of Irish tax paid on the relevant income, the circumstances that profits and dividends which are wholly or partially relieved from Irish tax by reason of the allowance of a tax incentive (e.g. "exports" relief) will not debar such profits or dividends from the benefits of the reliefs from Swiss tax.

Provision is made for consultation between the competent authorities of the two countries in order to carry out the provisions of the Convention generally or in specific cases [Article 25].

The convention takes effect for the fiscal year 1965-66 [Article 27].