

Convention between Ireland and the Republic of Hungary for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

Ireland and the Republic of Hungary, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and to further develop and facilitate their relationship, have agreed as follows:

Article 1 Personal Scope

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

Article 2 Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which the Convention shall apply are in particular:

1. in the Republic of Hungary:
 1. the income tax on individuals
 2. the corporation tax; (hereinafter referred to as "**Hungarian tax**");
2. in the case of Ireland:
 1. the income tax;
 2. the corporation tax;
 3. the capital gains tax; (hereinafter referred to as "**Irish tax**").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. 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 General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:

1. the term "**Hungary**" when used in a geographical sense means the territory of the Republic of Hungary;
2. 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;

3. the terms "**Contracting State**", "**one of the Contracting States**" and "**the other Contracting State**" mean Ireland or Hungary, as the context requires; and the term "**Contracting States**" means Ireland and Hungary;
4. the term "**person**" includes an individual, a company and any other body of persons;
5. the term "**company**" means any body corporate or any entity which is treated as a body corporate for tax purposes;
6. 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;
7. the term "**national**" means:
 1. in relation to Hungary, any individual possessing the nationality of Hungary and any legal person, partnership or association deriving its status as such from the laws in force in Hungary;
 2. in relation to Ireland, any citizen of Ireland and any legal person, association or other entity deriving its status as such from the laws in force in Ireland;
8. the term "**international traffic**" means any transport by a ship, aircraft or road-transport vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or road-transport vehicle is operated solely between places in the other Contracting State;
9. the term "**competent authority**" means:
 1. in the case of Hungary, the Minister of Finance or his authorised representative;
 2. in the case of Ireland, the Revenue Commissioners or their authorised representative.

2. As regards the application of the Convention 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 Convention applies.

Article 4 Resident

1. For the purposes of this Convention, 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 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 an individual is a resident of both Contracting States, then his status shall be determined as follows:

1. 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);
2. 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;
3. 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 national;

4. if he is a national of both States or 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 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 Convention, the term "**permanent establishment**" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "**permanent establishment**" includes especially:

1. a place of management;
2. a branch;
3. an office;
4. a factory;
5. a workshop; and
6. a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or a construction, installation or assembly project constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the preceding provisions of this Article, the term "**permanent establishment**" shall be deemed not to include:

1. the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
2. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
3. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
4. the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
5. the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
6. the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised

through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it 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 agriculture or 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, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7 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. Subject to the provisions of paragraph 3, 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 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 enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles 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 enterprise.

6. For the purposes of the preceding paragraphs, the profit 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 or gains 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 8 International Transport

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

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 shall also apply to profits from participation in a pool, a joint business or an international operating agency.

Article 9 Associated Enterprises

1. Where:

1. 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
2. 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.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10 Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

1. 5 per cent of the gross amount of the dividends if the beneficial owner holds directly at least 10 per cent of the capital of the company paying the dividends;
2. 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

3. The term "**dividends**" as used in this Article means income from shares or other rights, not being debt-claims, and includes any income or distribution assimilated to income from shares under 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 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 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, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the

dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 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 Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures as well as all other income assimilated to income from money lent by the laws of the State in which the income arises but does not include any income which is treated as a dividend under Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 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 debt-claim in respect of which the interest 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.

4. 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 Convention.

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 motion pictures or films, recordings on tape or other media used for radio or television broadcasting or other means of reproduction or transmission), 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 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 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. 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, 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 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 Convention.

Article 13 Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of shares, rights or an interest in a company, in any other legal person or in a partnership, the assets of which consist principally of, or of rights in, immovable property situated in a Contracting State or of shares in a company the assets of which consist principally of, or of rights in, such immovable property situated in a State may be taxed in the State in which the immovable property is situated.

3. Gains, other than those dealt with in paragraph 2 of this Article, 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 independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

4. Gains from the alienation of ships, aircraft or road-transport vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or road-transport vehicles shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5. 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 Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent 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 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 15 Dependent Personal Services

1. Subject to the provisions of Articles 16, 18, 19 and 21, 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:

1. the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the tax year concerned, and
2. the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
3. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road-transport vehicle operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise 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 any similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 14 and 15, 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 a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised, if that person is directly or indirectly controlled by the entertainer or sportsman.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income mentioned in this Article shall be exempt from tax in the Contracting State in which the activity of the

entertainer or sportsman is exercised provided that this activity is supported in a considerable part out of public funds of this State or of the other State or the activity is exercised under a cultural agreement or arrangement between the Contracting States. In such a case, the income is taxable only in the Contracting State in which the artiste or the sportsman is resident.

Article 18 Pensions And Annuities

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such a resident shall be taxable only in that 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 Government Service

1.
 1. Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision 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:
 1. is a national of that State; or
 2. did not become a resident of that State solely for the purpose of rendering the services.
2.
 1. Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority in the discharge of functions of a governmental nature shall be taxable only in that State.
 2. However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20 Students

Payments which a student, apprentice or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21 Professors and Teachers

1. A professor or teacher who visits one of the Contracting States for a period not exceeding two years for the sole purpose of teaching or carrying out advanced study (including research) at a university, college or other recognised research institute or other establishment for higher education in that Contracting State and who was immediately before that visit a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that Contracting State for such purpose.
2. The preceding provisions of this Article shall not apply to remuneration which a professor or teacher receives for conducting 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 Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the beneficial owner of such 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. In Hungary double taxation shall be eliminated as follows:
 1. Where a resident of Hungary derives income which, in accordance with the provisions of this Convention may be taxed in Ireland, Hungary shall, subject to the provisions of subparagraphs (b) and (c), exempt such income from tax.
 2. Where a resident of Hungary derives items of income which, in accordance with the provisions of Article 10, may be taxed in Ireland, Hungary shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Ireland. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given which is attributable to such items of income derived from Ireland.
 3. Dividends paid by a company which is a resident of Ireland to a company which is a resident of Hungary shall be exempt from Hungarian tax to the extent that the dividends would have been exempt from Hungarian tax if both companies had been residents of Hungary.
2. Subject to the provisions of the laws of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland (which shall not affect the general principle hereof)-

1. Hungarian tax payable under the laws of Hungary and in accordance with this Convention, whether directly or by deduction, on profits, income or gains from sources within Hungary (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Irish tax computed by reference to the same profits, income or gains by reference to which Hungarian tax is computed.
2. In the case of a dividend paid by a company which is a resident of Hungary to a company which is a resident of Ireland and which controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Hungarian tax creditable under the provisions of subparagraph (a) of this paragraph) Hungarian tax payable by the company in respect of the profits out of which such dividend is paid.
3. For the purposes of paragraphs 1 and 2 of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to be derived from sources in that other Contracting State.
4. Where in accordance with any provisions of this Convention income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.
5. Where, under any provision of this Convention, income or gains is or are wholly or partly relieved from tax in a Contracting State and, under the laws in force in the other Contracting State, an individual, in respect of the said income or gains, is subject to tax by reference to the amount thereof which is remitted to or received in that other State, and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income or gains as is remitted to or received in that other State.

Article 24 Non-Discrimination

1. 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. 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.
2. 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. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the

purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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 more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25 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 Convention, 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, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. 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 Convention.

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 Convention. 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 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.

Article 26 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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information so received by a Contracting State shall be treated as secret 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, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. 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 be construed so as to impose on a Contracting State the obligation:

1. to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
2. 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;
3. to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27 Diplomatic Agents And Consular Officers

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

Article 28 Entry Into Force

1. The Contracting Parties shall notify each other that their constitutional requirements for the entry into force of this Convention have been complied with.

2. This Convention shall enter into force on the date of the later of the notifications and its provisions shall apply:

1. in Hungary:
 1. as respects taxes withheld at source, to amounts of income derived on or after 1 January in the calendar year next following the year in which the Convention enters into force;
 2. as respects other taxes on income, to such taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force;
2. in Ireland:
 1. as respects income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April in the year next following the date on which this Convention enters into force;
 2. as respects corporation tax, for any financial year beginning on or after the first day of January in the year next following the year in which this Convention enters into force.

Article 29 Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after five years from the date on which the Convention enters into force provided that at least six months prior notice of termination has been given through diplomatic channels.

In such event, this Convention shall cease to have effect:

1. in Hungary:

1. as respects taxes withheld at source, to amounts of income derived on or after 1 January in the calendar year next following the year in which the notice is given;
 2. as respects other taxes on income, to such taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following the year in which the notice is given;
2. in Ireland:
1. as respects income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April in the year next following the date on which the period specified in the said notice of termination expires;
 2. as respects corporation tax, for any financial year beginning on or after the first day of January next following the date on which the period specified in the said notice of termination expires.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Convention.

DONE in duplicate at Dublin, this 25th day of April 1995, in the English and Hungarian languages, each text being equally authentic.

Dick Spring
For Ireland

Tibor Draskovics
For the Republic of Hungary

PROTOCOL

At the signing today of the Convention between Ireland and Republic of Hungary for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income the undersigned have agreed upon the following provision which shall form an integral part of the Convention.

With reference to paragraph 1(c) of Article 23, it is understood that in the event that the Republic of Hungary should impose any tax on dividends received by companies which are resident in Hungary, the Governments of the Contracting States will enter into negotiations in order to establish new provisions concerning the relief from double taxation of such dividends derived from sources in Ireland.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Dublin this 25th day of April 1995, in the English and Hungarian languages, each text being equally authentic.

Dick Spring
For Ireland

Tibor Draskovics
For the Republic of Hungary

GIVEN under the Official Seal of the Government, this 17th day of November, 1995.

John Bruton
Taoiseach.

EXPLANATORY NOTE

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

This Order gives the force of law to the Convention with the Republic of Hungary which is set out in the Schedule. The effect of the Convention is summarised below.

The Convention provides for the allocation of taxing rights between Ireland and Hungary 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 Hungary, may be taxed in both countries.

For example, items such as business profits, gains on movable property, interest and royalties (provided none arises through a permanent establishment or fixed base in the country of source), profits from the operation of ships, aircraft or road-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 the government of either country is normally taxable only 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 to capital gains arising from the disposal of immovable property or of shares linked with immovable property, or of assets of a permanent establishment or fixed base in the other country, the Convention provides in the case of Hungary, that double taxation will be relieved by exemption of the income or gains from further tax in Hungary. Ireland on the other hand undertakes to grant credit against its tax for tax imposed on the same income or gains by Hungary. In the case of dividends, Hungary operates the credit method of relief of double taxation rather than the exemption method. Thus double taxation is relieved.

Hungary does not at present tax dividends paid to corporate investors and this exemption is extended to dividends paid to a Hungarian company by a company resident in Ireland. In the event that Hungary introduces a tax on dividends paid to corporate investors, a Protocol to the Convention provides that the relief afforded to dividends will be subject to renegotiation.

The rate of withholding tax which may be applied by the source country in respect of dividends flowing to the other country is limited to 5 per cent where the recipient is the beneficial owner of at least 10 per cent of the capital of the company paying the dividends; otherwise the rate is limited to 15 per cent. Dividends paid from Ireland to a resident of Hungary are exempt from tax in Ireland under current Irish law.

The benefit of the Irish tax incentives is effectively preserved by the exemption from further tax in Hungary of Irish dividends or Irish branch profits flowing to a Hungarian company. As stated, a provision has been included in the Protocol to ensure that if Hungary changes its domestic tax exemption for inter-company dividends, new negotiations will take place.

Provision is made for safeguarding nationals and enterprises of one country against discriminatory taxation in the other country, for consultation between the competent authorities of the two countries for the purpose of resolving any difficulties or doubts arising as to the interpretation or application of the Convention and for the exchange of such information between these authorities as is necessary for carrying out the provisions of the Convention or of the domestic law of either state in relation to the taxes covered by the Convention.

The Convention will become operative in both states for the tax periods beginning in the calendar year next following the year in which the Convention is ratified and given force in law.