

No. 45620 *

**Ireland
and
India**

Convention between the Government of Ireland and The Government of the Republic of India for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains (with protocol and exchange of notes, Dublin, 03 September 2001 and 31 December 2001). New Delhi, 6 November 2000

Entry into force: *27 December 2001 by notification, in accordance with article 28*

Authentic texts: *English and Hindi*

Registration with the Secretariat of the United Nations: *Ireland, 5 January 2009*

**Irlande
et
Inde**

Convention entre le Gouvernement de l'Irlande et le Gouvernement de l'Inde tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur les gains en capital (avec protocole et échange de notes, Dublin, 03 septembre 2001 et 31 décembre 2001). New Delhi, 6 novembre 2000

Entrée en vigueur : *27 décembre 2001 par notification, conformément à l'article 28*

Textes authentiques : *anglais et hindi*

Enregistrement auprès du Secrétariat des Nations Unies : *Irlande, 5 janvier 2009*

** The texts reproduced below are the original texts of the agreement as submitted. For ease of reference, they were sequentially paginated. Their final UNTS version is not yet available.*

Les textes reproduit ci-dessous sont les textes authentiques de l'accord tel que soumises pour l'enregistrement. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Leur version finale RTNU n'est pas encore disponible.

[ENGLISH TEXT – TEXTE ANGLAIS]

**Convention between the Government of Ireland and The
Government of the Republic of India for the avoidance of
Double Taxation and the Prevention of Fiscal Evasion with
Respect to Taxes on Income and Capital Gains**

Done at New Delhi on 6 November 2000

**Notification of the completion of the requirements for entry into force exchanged
on 9 November 2000 and 27 November 2001**

Entered into force on 27 December 2001

Presented to Dáil Éireann by the Minister for Foreign Affairs
**CONVENTION BETWEEN THE GOVERNMENT OF IRELAND AND THE
GOVERNMENT OF THE REPUBLIC OF INDIA FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS**

The Government of Ireland and the Government of the Republic of India,

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

view to promoting economic co-operation between the two countries,

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 and capital gains 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 and capital gains 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:

(a) In India:

the income tax, including any surcharge thereon;
(hereinafter referred to as “Indian tax”);

(b) in Ireland:

- (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the capital gains tax
- (hereinafter referred to as “Irish tax’ 1).

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 referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

Article 3
General Definitions

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

(a) the term “India means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the UN. Convention on the Law of the Sea;

(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 and subsoil and their natural resources may be exercised;

(c) the term “person” includes an individual, a company, a trust, a partnership which is treated as a taxable unit under the Income Tax Act, 1961(43 of 1961) of India, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;

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

(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 “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(g) the term ‘competent authority’ means:

(i) in the case of India: the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative;

(ii) in the case of Ireland: the Revenue Commissioners or their authorised representative;

(h) the term “national” means:

(i) 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:

(ii) in relation to India,

(A) any individual possessing the nationality of India;

(B) any legal person, partnership or association deriving its status as such from the laws in force in India;

(i) the term “fiscal year” means:

(i) in the case of India, “previous year” as defined under section 3 of the Income Tax Act, 1961;

(ii) in the case of Ireland, a year beginning with the sixth day of April in one year and ending with the fifth day of April in the following year:

(j) the term “tax” means Indian tax or Irish tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Convention applies or which represents a penalty or fine imposed relating to those taxes;

(k) the terms “a Contracting State”, “one of the Contracting States” and “the other Contracting State” mean Ireland or the Republic of India, as the context requires, and the term “Contracting States” means Ireland and the Republic of India.

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 law 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.

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:

(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 national;

(d) 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. If the State in which its place of effective management is situated cannot be determined, then the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5 *Permanent Establishment*

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: