

No. 48133

**Ireland
and
Estonia**

Convention between the Government of Ireland and the Government of the Republic of Estonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains (with protocol). Dublin, 16 December 1997

Entry into force: *29 December 1998 by notification, in accordance with article 28*

Authentic texts: *English and Estonian*

Registration with the Secretariat of the United Nations: *Ireland, 28 January 2011*

**Irlande
et
Estonie**

Convention entre le Gouvernement de l'Irlande et le Gouvernement de la République d'Estonie tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et les gains en capital (avec protocole). Dublin, 16 décembre 1997

Entrée en vigueur : *29 décembre 1998 par notification, conformément à l'article 28*

Textes authentiques : *anglais et estonien*

Enregistrement auprès du Secrétariat des Nations Unies : *Irlande, 28 janvier 2011*

[ENGLISH TEXT – TEXTE ANGLAIS]

**CONVENTION BETWEEN
THE GOVERNMENT OF IRELAND
AND THE GOVERNMENT OF THE REPUBLIC OF ESTONIA
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 Estonia, 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, 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 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 this Convention shall apply are in particular:

(a) in the case of Ireland:

- (I) the income tax;
- (ii) the corporation tax;
- (iii) the capital gains tax;

(hereinafter referred to as "Irish tax");

(b) in the case of Estonia:

- (i) the income tax (tulumaks);
- (ii) the local income tax (kohalik tulumaks);

(hereinafter referred to as "Estonian 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 significant 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:
 - (a) 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;
 - (b) the term "Estonia" means the Republic of Estonia and, when used in the geographical sense, means the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the sea bed and its subsoil and their natural resources;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Ireland or Estonia, as the context requires; and the term "Contracting States" means Ireland and Estonia;
 - (d) the term "person" includes an individual, a company, a trust and any other body of persons;
 - (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (f) the terms "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;
 - (g) 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;
 - (h) the term "competent authority" means:
 - (i) in the case of Ireland, the Revenue Commissioners or their authorised representative;
 - (ii) in the case of Estonia, the Minister of Finance or his authorised representative;
 - (i) the term "national" means:
 - (i) in relation to Ireland, any citizen of Ireland and any legal person, partnership, association or other entity deriving its status as such from the laws in force in Ireland;
 - (ii) in relation to Estonia, any individual possessing the nationality of Estonia and any legal person, partnership or association deriving its status as such from the laws in force in Estonia.
2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that State for the purposes of 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, place of incorporation or any other criterion of a similar nature, and also includes that State and any local authority thereof. This term, however, 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:

- (a) he shall be deemed to be a resident only 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 only 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 only 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, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement. In the absence of such agreement, for the purposes of the Convention, the person shall not be entitled to claim any benefits provided by this Convention.

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:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.