

**PROTOCOL**

**AMENDING THE CONVENTION BETWEEN**

**IRELAND**

**AND**

**SWEDEN**

**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 Sweden;

Desiring to conclude a Protocol to amend the Convention between Ireland and Sweden for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains, signed at Stockholm on the 8<sup>th</sup> day of October 1986, as amended by the Protocol signed at Dublin on the 1<sup>st</sup> day of July 1993 (hereinafter referred to as “the Convention”);

Have agreed as follows:

### **Article 1**

The preamble to the Convention shall be deleted and replaced by the following:

“The Government of Ireland and the Government of Sweden;

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,

Intending to eliminate double taxation with respect to taxes on income and capital gains without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States),

Have agreed as follows:”

### **Article 2**

Paragraph 7 of Article 11, paragraph 6 of Article 12 and paragraph 6 of Article 13 shall be deleted.

### **Article 3**

1. Paragraphs 1 and 2 of Article 27 (Mutual Agreement Procedure) of the Convention shall be deleted and replaced by the following:

“1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of the Convention, that person may, irrespective of the remedies provided by the domestic law of

those Contracting States, present the case to the competent authority of either Contracting State. 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.”

2. A new paragraph 5 and 6 shall be inserted directly after paragraph 4 of Article 27 (Mutual Agreement Procedure) of the Convention:

“5. Where,

a) under paragraph 1 of Article 27, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention, and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 of Article 27 within three years from the date when all the information required by the competent authorities in order to address the case has been provided to both competent authorities (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests in writing. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

6. a) The provisions of paragraph 5 shall not apply to cases falling within paragraph 3 of Article 4.

b) Notwithstanding the provisions of paragraph 5, a case shall not be submitted to arbitration if the competent authorities of both Contracting States have agreed that the case is not suitable for resolution through arbitration.”

#### **Article 4**

The following new Article shall be inserted immediately after Article 28 (Exchange of Information) of the Convention:

“Article 28A

##### Entitlement to Benefits

Notwithstanding any provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or a capital gain if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.”

#### **Article 5**

1. This Protocol shall be ratified and each of the Contracting States shall notify the other in writing of the completion of the procedures required by its law for the entry into force of this Protocol.

2. The Protocol shall enter into force on the thirtieth day after the date of receipt of the later of these notifications and shall thereupon have effect:

(a) in the case of Ireland:

(i) as respects income tax, the universal social charge and capital gains tax, for any year of assessment beginning on or after the first day of January in the calendar year next following the date on which this Protocol enters into force;

(ii) as respects corporation tax, for any financial year beginning on or after the first day of January in the calendar year next following the date on which this Protocol enters into force;

(b) in the case of Sweden:

(i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the date on which the Protocol enters into force;

(ii) in respect of other taxes on income and capital gains, for taxes chargeable for any tax year beginning on or after the first day of January of the year next following the date on which the Protocol enters into force.

3. This Protocol shall cease to have effect at such time as the Convention ceases to have effect in accordance with Article 31 (Termination) of the Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done in duplicate at ..... this ..... day of ..... 202... in the English language.

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For the Government of  
Ireland

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For the Government of  
Sweden