REPUBLIC OF
IRELAND

Treaty Series No. 104 (1995)

Protocol

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Republic of Ireland

amending the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, signed at Dublin on 2 June 1976, as amended by the Protocol signed at Dublin on 28 October 1976

London, 7 November 1994

[The Protocol entered into force on 21 September 1995]

Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
December 1995

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PROTOCOL
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF IRELAND AMENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS SIGNED AT DUBLIN ON 2 JUNE 1976, AS AMENDED BY THE PROTOCOL SIGNED AT DUBLIN ON 28 OCTOBER 1976

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland;

Desiring to conclude a Protocol to amend the Convention between the Contracting Parties for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains signed at Dublin on 2 June 1976,[1] as amended by the Protocol signed at Dublin on 28 October 1976[1] (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

The following new Article shall be inserted immediately after Article 17 of the Convention:

"ARTICLE 17A

PENSION SCHEME CONTRIBUTIONS

(1) Subject to the conditions specified in paragraph (2) of this Article, where an employee ("the employee"), who is a member of a pension scheme which has been approved or is being considered for approval under the legislation of one of the Contracting States, exercises his employment in the other Contracting State:

(a) contributions paid by the employee to that scheme during the period that he exercises his employment in that other State shall be deductible in computing his taxable income in that State within the limits that would apply if the contributions were paid to a pension scheme which has been approved under the legislation of that State; and

(b) payments made to the scheme by or on behalf of his employer during that period:

  (i) shall not be treated as part of the employee's taxable income, and

  (ii) shall be allowed as a deduction in computing the profits of his employer, in that other State.

(2) The conditions specified in this paragraph are that:

(a) the employee is employed in the other Contracting State by the person who was his employer immediately before he began to exercise his employment in that State or by an associated employer of that employer;

(b) the employee was not a resident of that State immediately before he began to exercise his employment there;

(c) at the time that the contributions referred to in paragraph (1)(a) of this Article are paid, or the payments referred to in paragraph (1)(b) of this Article are made, to the scheme that the employee has exercised his employment in that State for:

  (i) less than ten years where he was a resident of the first-mentioned Contracting State immediately before he began to exercise his employment in the other Contracting State, or

  (ii) less than five years in other cases.

[1]Treaty Series No. 42 (1977) Cmnd. 6815.

(3) For the purposes of this Article:

(a) the term "a pension scheme" means a scheme established in relation to an employment in which the employee participates in order to secure retirement benefits;

(b) employers are associated if (directly or indirectly) one is controlled by the other or if both are controlled by a third person; and the term "control", in relation to a body corporate, means the power of a person to secure:

(i) by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or

(ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate,

that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income, of the partnership."

ARTICLE II

(1) Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Protocol.

(2) This Protocol shall enter into force on the date of the receipt of the later of these notifications and shall thereupon have effect:

(a) in the United Kingdom:

(i) in respect of income tax, for any year of assessment beginning on or after 6 April 1994;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 April 1994;

(b) in the Republic of Ireland:

(i) in respect of income tax, for any year of assessment beginning on or after 6 April 1994;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 April 1994.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

Done in two originals at London this 7th day of November, 1994.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

T L A DAUNT

For the Government of the Republic of Ireland:

JOSEPH SMALL

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