
EXPLANATORY NOTE

(This note is not part of the Order)

The Protocol scheduled to this Order makes certain alterations to the Convention set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Republic of Ireland) Order 1976, as amended by two subsequent Protocols.

The Protocol expands the definition of a permanent establishment to include a building site or construction or installation project which exists for more than six months. The definition of a permanent establishment in connection with offshore activities is clarified (Article 5).

The Protocol removes the entitlement to the payment of tax credits on dividends and provisions rendered unnecessary by changes to UK domestic law (Article 11).

Amendments are made to the Articles dealing with interest and income not expressly mentioned to provide effective provisions against abuse of these Articles (Articles 12 and 20).

Some changes are made to the provisions for capital gains. Gains arising from the disposal of an interest in a partnership or trust whose assets consist principally of immovable property may be taxed in the country in which the property is situated. Taxing rights in respect of gains arising from the disposal of the movable property of a permanent establishment consisting of shares in companies holding immovable property situated in the alienator's country of residence are no longer given exclusively to that country. Gains made by former residents within a 3 year period following their departure may be taxed by the country of former residence (Article 14).

The government service provisions allow for the remuneration and pensions of individuals employed in a publicly funded educational institution to be treated in the same way as an individual who renders services directly to the State (Article 18).

Income not expressly mentioned (excluding income from trusts or estates) will generally be taxed only by the country of which the beneficial owner is a resident except where that beneficial owner has a permanent establishment in the other State and the payment is effectively connected with that permanent establishment (Article 20).

The Protocol will enter into force when both countries have notified each other of the completion of their legislative procedures. It will then take effect in the United Kingdom for any financial year beginning on or after 1st April in respect of corporation tax, and for any year of assessment beginning on or after 6th April in respect of income tax and capital gains tax, in the calendar year next following that in which it enters into force. The date of entry into force will be published in the *London, Edinburgh and Belfast Gazettes*.