



STATUTORY INSTRUMENTS.

**S.I. No. 469 of 2014**



DOUBLE TAXATION RELIEF (TAXES ON INCOME AND ON  
CAPITAL) (GRAND DUCHY OF LUXEMBOURG) ORDER 2014

## DOUBLE TAXATION RELIEF (TAXES ON INCOME AND ON CAPITAL) (GRAND DUCHY OF LUXEMBOURG) ORDER 2014

WHEREAS it is enacted by section 826(1) (as amended by section 157 of the Finance Act 2010 (No. 5 of 2010)) of the Taxes Consolidation Act 1997 (No. 39 of 1997) that where the Government by order declare that arrangements specified in the order have been made with the government of any territory outside the State in relation to affording relief from double taxation in respect of income tax, corporation tax in respect of income and chargeable gains, capital gains tax or any taxes of a similar character imposed by the laws of the State or by the laws of that territory and, in the case of taxes of any kind or description imposed by the laws of the State or the laws of that territory, in relation to exchanging information for the purposes of the prevention and detection of tax evasion, granting relief from taxation under the laws of that territory to persons who are resident in the State for the purposes of tax or collecting and recovering tax (including interest, penalties and costs in connection with such tax) for the purpose of the prevention of tax evasion, and that it is expedient that those arrangements should have the force of law, and that the order so made is referred to in Part 1 of Schedule 24A of the Taxes Consolidation Act 1997, then, subject to section 826 of that Act, the arrangements shall, notwithstanding any enactment, have the force of law as if such order were an Act of the Oireachtas on and from the date of the insertion of a reference to the order into Part 1 of Schedule 24A;

AND WHEREAS it is further enacted by section 826(6) of the Taxes Consolidation Act 1997 that where such an order is proposed to be made, a draft of the order shall be laid before Dáil Éireann and the order shall not be made until a resolution approving of the draft has been passed by Dáil Éireann;

AND WHEREAS a draft of the following Order has been laid before Dáil Éireann and a resolution approving of the draft has been passed by Dáil Éireann;

NOW, the Government, in exercise of the powers conferred on them by section 826(1) (as amended by section 157 of the Finance Act 2010 (No. 5 of 2010)) of the Taxes Consolidation Act 1997, hereby order as follows:

1. This Order may be cited as the Double Taxation Relief (Taxes on Income and on Capital) (Grand Duchy of Luxembourg) Order 2014.
2. It is declared that—
  - (a) the arrangements specified in the Protocol and accompanying Exchange of Notes, the text of which is set out in the Schedule, have

*Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 21st October, 2014.*

been made with the Government of the Grand Duchy of Luxembourg in relation to—

- (i) affording relief from double taxation and the prevention from fiscal evasion with respect to taxes on income, corporation tax in respect of income and chargeable gains, capital gains tax and any taxes of a similar character imposed by the laws of the State or by the laws of the Grand Duchy of Luxembourg, and
- (ii) in the case of taxes of any kind or description imposed by the laws of the State or the laws of the Grand Duchy of Luxembourg, exchanging information for the purposes of the prevention and detection of tax evasion and granting relief from taxation under the laws of the Grand Duchy of Luxembourg to persons who are resident in the State for the purposes of tax,

and

- (b) it is expedient that those arrangements should have the force of law.

**SCHEDULE**

**PROTOCOL**

**TO AMEND THE CONVENTION BETWEEN IRELAND AND THE GRAND DUCHY OF LUXEMBOURG FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL, SIGNED AT LUXEMBOURG ON 14 JANUARY 1972**

The Government of Ireland and the Government of the Grand Duchy of Luxembourg

Desiring to conclude a Protocol to amend the Convention between Ireland and the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, signed at Luxembourg on 14 January 1972, (hereinafter referred to as “the Convention”),

Have agreed as follows:

**ARTICLE 1**

Article 27 (EXCHANGE OF INFORMATION) of the Convention shall be deleted and replaced by the following:

“Article 27

**EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information upon request solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.”

## ARTICLE 2

1. This Protocol shall be subject to ratification in accordance with the applicable procedures in Luxembourg and in Ireland. The Contracting States shall notify each other in writing, through diplomatic channels, when their respective applicable procedures have been satisfied.

2. The Protocol shall enter into force on the date of the later of the notifications referred to in paragraph 1. The provisions of this Protocol shall have effect with regard to tax years beginning on or after 1 January of the calendar year next following the year of the entry into force of this Protocol.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Protocol.

DONE in duplicate at Luxembourg on 27 May 2014, in the French and English languages, both texts being equally authentic.

For Ireland:

For the Grand Duchy of Luxembourg:

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Diarmuid O' Leary

Pierre Gramegna

**EXCHANGE OF NOTES****Luxembourg, 27th May 2014****Excellency,**

I have the honour to refer to the Convention between Ireland and the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, signed at Luxembourg on 14 January 1972, (hereinafter referred to as “the Convention”) and to propose on behalf of the Government of Grand Duchy of Luxembourg the following understandings:

1. It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in Article 27.

2. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;
- (c) the tax purpose for which the information is sought;
- (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
- (e) to the extent known, the name and address of any person believed to be in possession of the requested information;
- (f) a statement that the applicant State had pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

If the foregoing understandings meet with the approval of the Government of Ireland, I have the further honour to propose that this Note and your affirmative Note in reply shall constitute an agreement between our Governments which shall become an integral part of the Convention on the date of entry into force of the Protocol.

Accept, Your Excellency, the expression of my highest consideration.

**Pierre Gramegna**

27th May 2014

**Excellency,**

I have the honour to acknowledge the receipt of Your Excellency's Note of the 27th of May 2014 which reads as follows:

"I have the honour to refer to the Convention between Ireland and the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, signed at Luxembourg on 14 January 1972, (hereinafter referred to as "the Convention") and to propose on behalf of the Government of Grand Duchy of Luxembourg the following undertakings:

1. It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in Article 27.

2. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;
- (c) the tax purpose for which the information is sought;
- (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
- (e) to the extent known, the name and address of any person believed to be in possession of the requested information;
- (f) a statement that the applicant State had pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

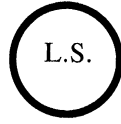
If the foregoing understandings meet with the approval of the Government of Ireland, I have the further honour to propose that this Note and your affirmative Note in reply shall constitute an agreement between our Governments which shall become an integral part of the Convention on the date of entry into force of the Protocol."

I have further the honour to accept the understandings contained in Your Excellency's Note, on behalf of the Government of Ireland. Therefore Your Excellency's Note and this Note shall constitute an agreement between our Governments which shall become an integral part of the Convention on the date of entry into force of the Protocol.

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Accept, Your Excellency, the expression of my highest consideration.

Diarmuid O' Leary



GIVEN under the Official Seal of the Government,  
14 October 2014.

ENDA KENNY,  
Taoiseach.



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