

PROTOCOL BETWEEN THE ISLE OF MAN AND IRELAND AMENDING THE AGREEMENT OF 24 APRIL 2008 FOR AFFORDING RELIEF FROM DOUBLE TAXATION WITH RESPECT TO CERTAIN INCOME OF INDIVIDUALS AND ESTABLISHING A MUTUAL AGREEMENT PROCEDURE IN CONNECTION WITH THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES

The Government of the Isle of Man and the Government of Ireland;

Desiring to conclude a Protocol to amend the Agreement between the Isle of Man and Ireland for Affording relief from Double Taxation with respect to Certain Income of Individuals and Establishing a Mutual Agreement procedure in Connection with the Adjustment of Profits of Associated Enterprises ('the Agreement') signed at Dublin on 24 April 2008;

Have agreed as follows:

ARTICLE I

The Preamble to the Agreement shall be deleted and replaced by the following Preamble:

“The Government of the Isle of Man and the Government of Ireland, recognising that the two Governments have concluded an Agreement for the Exchange of Information Relating to Tax Matters;

Desiring to conclude an agreement for affording relief from double taxation with respect to certain income of individuals and establishing a mutual agreement procedure in connection with the adjustment of profits of associated enterprises;

Intending to eliminate double taxation with respect to the taxes covered by this agreement 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 agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:”.

ARTICLE II

Paragraphs 1(a) and 1(b) of Article 3 (Definitions) of the Agreement shall be deleted and replaced by the following:

“(a) “Isle of Man” means the island of the Isle of Man, including its territorial sea, in accordance with international law;

(b) "Ireland" includes any area outside the territorial seas of Ireland which has been or may hereafter be designated, under the laws of Ireland concerning the Exclusive Economic Zone and the Continental Shelf, as an area within which Ireland may exercise such sovereign rights and jurisdiction as are in conformity with international law;”

ARTICLE III

Paragraphs 1 and 2 of Article 10 (Mutual agreement procedure) of the Agreement shall be deleted and replaced by the following:

“1. Where a person considers that the actions of one or both of the Parties result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those Parties, present the case to the competent authority of either Party. 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 this Agreement.

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 Party, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.”

ARTICLE IV

The following new Article 10A (Entitlement to benefits) shall be inserted after Article 10 (Mutual agreement procedure) of the Agreement as follows:

“ARTICLE 10A

Entitlement to benefits

1. Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income 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 Agreement.

2. Where a benefit under this Agreement is denied to a person under paragraph 1, the competent authority of the Party that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the Party to which the request has been made will consult with the competent authority of the other Party before rejecting a request made under this paragraph by a resident of that other Party.”

ARTICLE V

1. Each of the Parties shall notify to the other in writing the completion of the procedures required by its law for the bringing into force of this Protocol.

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

- (a) in the case of Ireland:
 - (i) as respects to taxes charged on income, for any year of assessment beginning on or after the first day of January in the calendar year next following the date on which the Protocol enters into force;
 - (ii) as respects corporation tax, for any financial year beginning on or after the first day of January of the calendar year next following the date on which the Protocol enters into force;
- (b) in the Isle of Man, as respects Manx tax, for any taxable period beginning on or after 6 April in the calendar year next following the date on which the Protocol enters into force.

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

Done in duplicate at *Cwelyff* this *18th* day of *November 2021*..

For the Government of the Isle of Man

For the Government of Ireland