

Memorandum of Understanding

between the Competent Authorities of Germany and Ireland according to paragraph 3 of article 25 of the Agreement of 30 March 2011 between the Federal Republic of Germany and Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital as amended through Protocol of 3 December 2014

Paragraph 2 of Article 17 of the current Ireland-Germany Double Taxation Agreement (the "current Agreement") states: *"Notwithstanding the provisions of paragraph 1, payments which are made in accordance with the social insurance legislation of a Contracting State shall be taxable only in that State."*

Ireland and Germany agree that paragraph 2 of Article 17 of the current Ireland-Germany Double Taxation Agreement gives the source State sole taxing rights in relation to payments which are made in accordance with their respective social insurance legislation.

Therefore, under paragraph 2 of Article 17 of the current Ireland-Germany Double Taxation Agreement, it is the source or paying State only that has taxing rights in relation to payments which are made in accordance with the social insurance legislation of that State. This provision is effective from 1 January 2013 (entry into effect of current Double Taxation Agreement).

A separate memorandum between the respective Competent Authorities of Ireland and Germany addresses the scope of paragraph 5 of Article 32 of the current Agreement. It is clear that that paragraph cannot affect the application of Article 17(2) of the current Agreement as respects any individual who was not in receipt of relevant payments before 28 November 2012 (the date of entry into force of the current Agreement). Accordingly, it is also clear that Article 17(2) applies to payments first made after that date, regardless of, and without prejudice to, the separate understanding in relation to paragraph 5 of Article 32 and any election made by an individual under that paragraph.

The respective Competent Authorities of Ireland and Germany therefore agree that, where an individual resident in Ireland first received payment of a German social insurance pension on or after 28 November 2012 in accordance with German social insurance legislation and such payments were included as income in that individual's tax returns in Ireland, Ireland (the Office of the Revenue Commissioners) will expeditiously refund any tax paid for 2013 and any subsequent year on that income.

This Memorandum of Understanding shall enter into force as signed by the competent authorities of the Contracting States.

Berlin, 7th August 2020


For the Competent Authority

of the Federal Republic of Germany

Dublin, 7 August 2020


For the Competent Authority

of Ireland