

**UNILATERAL DECLARATIONS****Declaration on Article 7**

France and the United Kingdom declare that they will apply Article 7 (3).

**Individual Declarations of the Contracting States on Article 8***Belgium*

The term 'serious penalty' means a criminal or administrative penalty in cases:

- either of a common law offence committed with the aim of tax evasion,
- or infringements of the provisions of the Code of income tax or of decisions taken in implementation thereof, committed with fraudulent intention or with the intention of causing injury.

*Denmark*

The concept of 'serious penalty' means a penalty for the intentional infringement of provisions of the Criminal Law or of special legislation in cases which cannot be regulated by administrative means.

Cases of infringement of provisions of tax law may, as a general rule, be regulated by administrative means where it is considered that the infringement will not entail a punishment greater than a fine.

*Germany*

An infringement of the tax laws punishable by a 'serious penalty' is constituted by any infringement of the tax laws penalized by detention, criminal or administrative fines.

*Greece*

Under Greek legislation governing taxation, an undertaking is liable to 'severe penalties':

1. if it fails to submit declarations, or submits incorrect declarations, in respect of taxes, charges or contributions which must be withheld and paid to the State under existing provisions, or in respect of value added tax, turnover tax or the special tax on luxury goods, in so far as the total amount of the above taxes, charges and contributions which should have been declared and paid to the State as a result of trade or other activities carried out over a period of six months exceeds an amount of six hundred thousand (600 000) Greek drachmas or one million (1 000 000) Greek drachmas over a period of one calendar year;
2. if it fails to submit a declaration of income tax, in so far as the tax due in respect of the income not declared is more than three hundred thousand (300 000) Greek drachmas;
3. if it fails to supply the taxation details laid down in the Code on Taxation Data;

4. if it supplies details as referred to under the previous case 3, which are incorrect as regards quantity or unit price or value, in so far as the inaccuracy results in a discrepancy which exceeds ten per cent (10 %) of the total amount or of the total value of the goods, the provision of services or the trade generally;
5. if it fails to keep accurately the books and records required by the Code on Taxation Data, in so far as that inaccuracy has been noted in the course of a regular check, the findings of which have been confirmed either by administrative resolution of the discrepancy or because the period allowed for an appeal has expired or as a result of a definitive decision by an administrative tribunal, provided that during the management period checked the discrepancy between gross income and the income declared is more than twenty per cent (20 %) and in any case not less than one million (1 000 000) Greek drachmas;
6. if it fails to observe the obligation to keep books and records as laid down in the relevant provisions of the Code on Taxation Data;
7. if it issues false or fictitious — or itself falsifies — invoices for the sale of goods or the supply of services or any other taxation details as referred to in case 3 above.

A taxation document is regarded as false if it has been perforated or stamped in any way without the proper authentication having been entered in the relevant books of the competent tax authority, in so far as failure to make such an entry has occurred in the knowledge that such authentication is required for the taxation document. A taxation document is also regarded as false if the content and other details of the original or the copy differ from those which are recorded on the counterfoil of that document.

A taxation document is regarded as fictitious if it has been issued for a transaction or part of a transaction, transfer or any other reason not recorded in the total or for a transaction carried out by persons different from those recorded in the taxation document;

8. if it is aware of the intention of the action taken and collaborates in any way in the production of false taxation documents or is aware that the documents are false or fictitious and collaborates in any way in their issue or accepts the false, fictitious or falsified taxation documents with the intention of concealing material relevant to taxation.

#### *Spain*

The term 'serious penalties' includes administrative penalties for serious tax infringements, as well as criminal penalties for offences committed with respect to the taxation authorities.

#### *France*

The term 'serious penalties' includes criminal penalties and tax penalties such as penalties for failure to make a tax return after receiving a summons, for lack of good faith, for fraudulent practices, for opposition to tax inspection, for secret payments or distribution, or for abuse of rights.

#### *Ireland*

'Serious penalties' shall include penalties for:

- (a) failing to make a return;
- (b) fraudulently or negligently making an incorrect return;
- (c) failing to keep proper records;
- (d) failing to make documents and records available for inspection;
- (e) obstructing persons exercising statutory powers;
- (f) failing to notify chargeability to tax;
- (g) making a false statement to obtain an allowance.

The legislative provisions governing these offences, as at 3 July 1990, are as follows:

- Part XXXV of the Income Tax Act, 1967,
- Section 6 of the Finance Act, 1968,
- Part XIV of the Corporation Tax Act, 1976,
- Section 94 of the Finance Act, 1983.

Any subsequent provisions replacing, amending or updating the penalty code would also be comprehended.

*Italy*

The term 'serious penalties' means penalties laid down for illicit acts, within the meaning of the domestic law, constituting a tax offence.

*Luxembourg*

Luxembourg considers to be a 'serious penalty' what the other Contracting State considers to be so for the purposes of Article 8.

*Netherlands*

The term 'serious penalty' means a penalty imposed by a judge for any action, committed intentionally, which is mentioned in Article 68 of the General Law on taxation.

*Portugal*

The terms 'serious penalties' include criminal penalties as well as the further tax penalties applicable to infringements committed with intent to defraud or in which the fine applicable is of an amount exceeding 1 000 000 (one million) Portuguese escudos.

*United Kingdom*

The United Kingdom will interpret the term 'serious penalty' as comprising criminal sanctions and administrative sanctions in respect of the fraudulent or negligent delivery of incorrect accounts, claims or returns for tax purposes.

**Declaration by the Federal Republic of Germany on Article 16**

The Government of the Federal Republic of Germany reserves the right to declare, when lodging its instrument of ratification that the Convention also applies to Land of Berlin.