



Belgium Becomes Hong Kong's Gateway to Europe

Many leading Hong Kong companies are focusing on Belgium as an investment location following the signing of an important tax treaty on 10 December 2003 that leads to substantial tax advantages for Hong Kong-based companies. Under the terms of the agreement - which was ratified last April by Hong Kong and is expected to be implemented by Belgium in the autumn of 2004 - companies based in Belgium will, under certain conditions, be able to repatriate dividends, interest and royalties at a zero or low rate of withholding tax.

"This treaty represents a visionary approach on the part of the Belgian government, and is important for Hong Kong companies and for Belgium as an investment location," says Werner Gysemans, manager of the Asia Pacific desk and member of the foreign investment desk at KPMG Tax Advisers in Belgium. "Many leading companies are now seriously considering Belgium as a location for holding and financial centres for their non-Asian business."

The treaty states that a company which is a resident in Hong Kong and, which at the moment of the payment of the dividends, holds, for an uninterrupted period of at least 12 months, shares representing directly at least 25 percent of the capital of the Belgian company paying the dividends will be exempted from withholding tax. This compares to a dividend withholding tax rate of around 25 percent in many other countries. Gysemans sees this as an excellent opportunity for companies to benefit from the many advantages already offered by Belgium.

"As Belgium has an extensive treaty network and is a member of the EU, it offers an excellent entry point for investments and the opportunity for Hong Kong entities to access the benefits of the European directives, as well as the treaties that Belgium has concluded with non-EU countries," he says. But Gysemans adds as a word of warning that the Hong Kong companies will often have to prove to the tax authorities in other EU member states that they have a genuine business presence in Belgium. "Careful planning is needed as EU member states may have different anti-avoidance rules, and some may deny the benefits of the European directives where there is insufficient business activity or commercial presence in Belgium.

"The new treaty is the latest in a series of tax measures that are aimed at making Belgium a more attractive country for foreign investors. Gysemans believes that foreign investors often have a mistaken impression of Belgium as a high-tax country. "There are many positive advantages for a company investing in Belgium," says Gysemans. "The fact that Belgium is part of the European Union and the new Hong Kong treaty will no doubt emphasise these advantages." Gysemans adds that there are other compelling reasons to

choose Belgium as a base for holding and financing companies. "With Brussels as the political heart of Europe companies benefit from being close to the European decision-makers," he explains. "They also have tremendous networking opportunities here."

THE NEW BENEFITS

I. Withholding tax on dividends

A company that is a resident in Hong Kong and which at the moment of the payment of the dividends holds, for an uninterrupted period of at least 12 months, shares representing directly at least 25 percent of the capital of the Belgian company paying the dividends will pay zero percent withholding tax. If this company holds directly at least ten percent of the capital of the Belgian company paying the dividends, it will pay 5% and in all other cases it will pay 15%.

II. Withholding tax on interest

Interest on commercial debt claims, including debt claims represented by commercial paper, resulting from deferred payments for goods, merchandise or services supplied by an enterprise; interest on debt-claims or loans of any nature - not represented by bearer instruments - paid to banking enterprises; interest on certain loans related to the Hong Kong or Belgian governments is rated at 0% tax. Other interest is rated at 10%. However, Belgian domestic rules foresee a 0% tax where certain conditions are satisfied.

III. Withholding tax on royalties

The tax charged on royalty payments shall not exceed 5%.

ADVANCE RULING

Investors can obtain certainty about their future tax liabilities by requesting an advanced agreement (ruling) from the Belgian tax authorities.