

Tax Newsletter

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Is Hongkong a 'tax haven'?

- Hongkong (HK) has a territorial tax regime, i.e. income of HK source (onshore income) is taxable whilst income of foreign source (offshore income) benefits from 0% HK income tax.
- Natural persons deriving onshore income are subject to progressive HK personal tax rates, capped at 17%.
- Natural persons being an 'employee' or 'executive Director' pay HK social security (MPF). The latter is deductible for HK personal tax purposes, be it up to a certain ceiling.
- Companies deriving onshore income are subject to 16,5% HK corporate tax. However, a taxable basis of max. HKD 2.000.000 (EUR 230.000) is subject to 8,25% HK corporate tax.
- When a Belgium company receives dividend income from a HK subsidiary or realizes a capital gain on HK shares, a 100% participation exemption applies if the HK subsidiary is 'normally taxed'. Specifically, since the HK territorial tax regime is of common law (i.e. all business industries are eligible for it), the Belgium tax authorities (circular letter of 31.03.2005), the ruling commission and case law have already confirmed that this subject-to-tax test is satisfied.
- However, under EU pressure, the HK tax regime has been amended as of 01.01.2023. That is, HK has modified its *Foreign Source Income Exemption* (FSIE): going forward, interest income, dividend income, royalty income and capital gains realized on foreign shares should satisfy more stringent conditions to qualify as *offshore income*. HK personal tax rules may change as well.
- Note that Belgium was the very first country ever to conclude a tax treaty with HK on 10.12.2003. Currently, HK has concluded approx. 50 tax treaties.
- In addition, HK has concluded approx. 7 Tax Information Exchange Agreements (TIEA), incl. one with the US. This illustrates the cooperative and transparent mindset of HK.
- The EU ECOFIN list is a list of countries (mostly tax havens or politically sensitive countries) not willing to cooperate when it comes to exchanging information for tax purposes on a worldwide basis. This list is regularly updated. As of 20/2/2024 (i.e. after the aforesaid HK tax reform), HK no longer appears on the list. On 14/2/2023, HK was still mentioned on the grey ECOFIN list of countries having committed to amend their tax legislation.
- When a Belgium company makes payments exceeding EUR 100.000 per annum to a beneficiary residing in a country with a territorial tax regime, it needs to report this payment on an Enclosure 275F of its Belgium corporate tax return. However, there are currently good arguments for not having to do so when the beneficiary resides in HK.