

Immediate and Obvious benefits under the HK/Belgium CDTA

(Where there is no change in the tax position, the position is not detailed below)

Hong Kong residents

	<u>Existing tax liability</u>	<u>Tax liability under the CDTA</u>	<u>Reference to examples</u>
1. Receive dividend from Belgian company	Withholding tax at 15%/25% in Belgium	Rates capped at - 0% or 5% respectively if receiver is a company which holds 25% or 10% of the share capital of the paying company - 15% in all other cases (i.e. include all individuals)	Example 3 with tax savings of 80%
2. Receive interest from Belgian resident	Withholding tax at 15% in Belgium	Rate capped at 10% or exempted if specified conditions satisfied	
3. Receive royalties from Belgian resident	Withholding tax at 15% on gross amount with fixed deduction of 15% in Belgium	Rate capped at 5% of the gross amount (but no deduction as reduced rate applies)	Example 4 with tax savings of 62.11%
4. Receive income from operation of aircraft in international traffic	Under limited airline income DTA, income taxed in HK but exempted in Belgium	No change. Limited airline income DTA subsumed under CDTA	
5. Receive income from operation of ships in international traffic	Income from Belgium taxed in Belgium but exempted in HK.	Income from Belgium exempted in Belgium and also not taxable in HK [no provision similar to s23C(2A)]. May be a further stimulant for promoting HK as an international shipping centre	
6. Receive income from employment exercised in Belgium and stays there for an aggregate period of not exceeding 183 days	Income from Belgium taxed in Belgium	Income from Belgium exempted in Belgium because the exemption conditions as provided in the CDTA are satisfied	Example 5 with tax savings of 16.59%

Belgian Residents

	<u>Existing tax liability</u>	<u>Tax liability under the CDTA</u>	<u>Reference to examples</u>	
1.	Receive income through a PE in HK	Income fully taxed in Belgium but for individuals, tax is reduced by 50%.	Income exempted in Belgium.	Example 1 with tax savings of 40.45%
2.	Receive royalties from HK resident	Withholding tax at 5.25% in HK.	Tax rate capped at 5%.	
3.	Receive income from immovable property situated in HK	Income fully taxed in Belgium but for individuals, tax is reduced by 50%.	Income exempted in Belgium.	Example 2 with tax savings of 30.89% (including income from two sources)
4.	Receive income from operation of aircraft in international traffic	Under limited airline income DTA, income taxed in Belgium but exempted in HK	No change. Limited airline income DTA subsumed under CDTA	
5.	Receive income from operation of ships in international traffic	Income from HK taxed in both HK and Belgium.	Taxed in Belgium only.	
6.	Receive income from employment exercised in HK and stays in HK for an aggregate period exceeding 183 days	Income from HK taxed in both HK and Belgium, tax is reduced by 50%	Income exempted in Belgium	Example 2 with tax savings of 30.89% (including income from two sources)

HK/Belgium CDTA: Examples on Double Taxation Relief

Notes:

EUR1 = HK\$9

Tax rates for Belgium are based on assessment year 2003. Surcharges are not included.

The corporation tax rate for Hong Kong is based on year of assessment 2003/04.

Example 1 - Belgian company having a branch in Hong Kong

Company A, a Belgian resident, carries on business in Hong Kong through a branch (the only overseas establishment of A). For the year ended 31 December 2004, the branch derives assessable profits of HK\$360,000 (or EUR40,000) from Hong Kong. The total profits of Company A (including the Hong Kong branch profits) is EUR85,000.

(a) Tax liability in the absence of CDTA

- (i) In Hong Kong for the branch profits of HK\$360,000 (year of assessment 2004/05)
= HK\$360,000 x 17.5% = **HK\$63,000**

- (ii) In Belgium for the total profit of EUR85,000 (including EUR40,000 Hong Kong branch profits)

Taxable profits	EUR85,000	
Tax at progressive rates(28% to 36%)		EUR28,600
Net tax payable		EUR28,600 [HK\$257,400]

Total tax liability = HK\$(63,000 + 257,400) = HK\$320,400

(b) Tax liability under CDTA

- (i) In Hong Kong for the branch profits of HK\$360,000: same as above, i.e. at **HK\$63,000**
- (ii) In Belgium for the total profits of EUR85,000 (including EUR40,000 Hong Kong branch profits)

Taxable profits (EUR85,000 – 40,000)
EUR45,000

Net tax payable (EUR45,000 at progressive rates 28% to 36%) **EUR14,200**
[HK\$127,800]

Total tax liability = HK\$(63,000 + 127,800) = HK\$190,800

TAX SAVINGS = HK\$320,400 - HK\$190,800 = HK\$129,600
(or 40.45%)

Example 2 - Belgian individual deriving income from employment and immovable property in Hong Kong

Mr B, a Belgian resident, is employed by a Belgian company as the Finance Manager for the Asian Region and frequently travels to Hong Kong on business. For the year ended 31 March 2005, he stays in Hong Kong for 209 days. His income for the year ended 31 March 2005 is EUR70,000 (HK\$630,000). Mr B has bought a flat in Hong Kong and rented it out. The rental income for the year ended 31 March 2005 is HK\$112,500 (EUR12,500). Mr B is single.

(a) Tax liability in the absence of CDTA

(i) In Hong Kong

Salaries tax

Assessable income		
(HK\$630,000 x ²⁰⁹ / ₃₆₅)	HK\$360,000 ¹	
<u>less personal allowance</u>	<u>(HK\$100,000)</u>	
Net chargeable income	<u>HK\$260,000</u>	
Tax at progressive rates		HK\$41,200

Property tax

Assessable value	HK\$112,500	
<u>less 20% deductions</u>	<u>(HK\$ 22,500)</u>	
Net assessable value	<u>HK\$ 90,000</u>	
Tax at 16% standard rate		HK\$14,400

Net tax payable **HK\$55,600**
[EUR6,177]

(ii) In Belgium for taxable period 1 January to 31 December 2004 (assuming income same as year ended 31 March 2005)

Taxable income	EUR82,500	
<u>less tax paid in Hong Kong</u>	<u>(EUR6,177)</u>	
<u>less basic allowance</u>	<u>(EUR5,480)</u>	
	<u>EUR70,843</u>	
Tax at progressive rates (25% to 55%)		EUR33,645
[Average tax rate is ^{33,645} / _{70,843} = 47.49%]		

less double taxation relief (50% reduction of the tax on income already charged in Hong Kong, [40,000 + 12,500 – 3,487(basic allowance attributable to overseas income)] x 47.49%) (EUR11,638)

¹ The income attributable to services in Hong Kong by reference to days of presence is HK\$360,739. For this example, we shall round down the assessable income to HK\$360,000 i.e. EUR 40,000.

Net tax payable **EUR22,007**
[HK\$198,063]

Total tax liability = HK\$(55,600 + 198,063) = HK\$ 253,663

(b) Tax liability under CDTA

- (i) In Hong Kong for salaries income and property income: same as above, i.e. at **HK\$55,600**
- (ii) In Belgium for the total income of EUR82,500 (including Hong Kong income of (360,000 + 112,500)/9=EUR52,500)

Taxable Income
EUR[82,500-52,500 – 1,993 (basic allowance
attributable to Belgian income)]
EUR28,007

Net tax payable at 47.49%² **EUR13,300**
[HK\$119,700]

Total tax liability = HK\$(55,600 + 119,700= HK\$175,300

TAX SAVINGS = HK\$ 253,663 - HK\$ 175,300 = HK\$ 78,363
(or 30.89%)

² The income derived from Hong Kong (in this case the portion of salaries and the rental income from property) is exempt from tax in Belgium. However, the relevant income has to be included in computing the applicable tax rate. Therefore, the average tax rate of 47.49% remains unchanged.

Example 3 - Hong Kong resident company receiving dividends from a Belgian resident company

Company C, a Hong Kong resident with no establishment overseas, holds 15% of the share capital of Company D, a resident of Belgium. Company D pays dividends of EUR15,000 (HK\$135,000) to Company C on 1 September 2004.

(a) Tax liability of Company C in the absence of CDTA

- (i) In Hong Kong - not taxed.
- (ii) In Belgium, withholding tax at 25%, i.e. **EUR3,750**.

(b) Tax liability of Company C under CDTA

- (i) No change, i.e. not taxed.
- (ii) In Belgium, withholding tax limited to 5%, i.e. **EUR750**.

**TAX SAVINGS = EUR3,750 - EUR750 = HK\$27,000 (EUR3,000)
(or 80%)**

Example 4 - Hong Kong resident company receiving royalties from a Belgian resident company

Company E, a Hong Kong resident with no establishment overseas, receives royalties of HK\$900,000 (EUR100,000) from Company F, a resident of Belgium, for the accounting year ended 31 December 2004. Company E has no other sources of income during the relevant year and incurs expenses of HK\$500,000 excluding the withholding tax charged in Belgium.

(a) Tax liability of Company E in the absence of a CDTA

(i) In Hong Kong (for year of assessment 2004/05)

Royalty revenue	HK\$900,000	
<i>less</i> expenditure	(HK\$500,000)	
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Assessable profits	<u>HK\$400,000</u>	
Profits tax at 17.5%		HK\$70,000

(ii) In Belgium

Gross income	EUR100,000	
<i>less</i> fixed deduction (at 15%)	(EUR15,000)	
Net income subject to withholding tax	<u>EUR85,000</u>	
Withholding tax (at 15%)		EUR12,750 [HK\$114,750]

Total tax liability = HK\$(70,000 + 114,750) = HK\$ 184,750

(b) Tax liability of Company E under CDTA

(i) In Hong Kong

Royalty revenue	HK\$900,000	
<i>less</i> expenditure	(HK\$500,000)	
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Assessable profits	<u>HK\$400,000</u>	
Profits tax at 17.5%		HK\$70,000
<i>less</i> credit of Belgian withholding tax		<u>(HK\$45,000)</u> (see (ii))
Net tax payable		HK\$25,000

(ii) In Belgium

Gross income	EUR100,000	
Withholding tax limited at 5% (no deduction as lower withholding rate applies)		EUR5,000 [HK\$45,000]

Total tax liability = HK\$(25,000 + 45,000) = HK\$70,000

TAX SAVINGS = HK\$184,750 - HK\$70,000 = HK\$114,750
(or 62.11%)

Example 5 - Hong Kong individual working in Belgium

Mr G, a Hong Kong resident, is employed by Company H, a consultancy company resident in Hong Kong. He is assigned to provide services to a client in Belgium. He travels to Belgium occasionally from June to December 2004 and stays there for an aggregate period of 100 days. His remuneration for the year ended 31 March 2005 amounts to HK\$328,500 (EUR36,500). Mr G is single.

(a) Tax liability of Mr G in the absence of CDTA

(i) Salaries tax liability in Hong Kong

Assessable income	HK\$328,500	
<i>less</i> exemption under section 8(1A)(c) of Inland Revenue Ordinance	(HK\$90,000)	
	(HK\$328,500 x ¹⁰⁰ / ₃₆₅)	
<i>less</i> personal allowance	<u>(HK\$100,000)</u>	
Net chargeable income	<u>HK\$138,500</u>	HK\$16,900

Net tax payable at progressive rates

(ii) Income tax liability in Belgium

Taxable income	(36,500 x ¹⁰⁰ / ₃₆₅)	<u>EUR10,000</u>	
Net tax payable (at progressive rates 25% to 40%)			EUR 2,771 [HK\$ 24,939]

Total tax liability = HK\$(16,900 + 24,939) = HK\$ 41,839.

(b) Tax liability of Mr G under CDTA

(i) In Hong Kong,

Assessable income	HK\$328,500	
<i>less</i> personal allowance	<u>(HK\$100,000)</u>	
Net chargeable income	<u>HK\$228,500</u>	
Net tax payable at progressive rates		HK\$34,900

(ii) In Belgium, income exempt from tax, i.e. **EUR 0**.

Total tax liability = HK\$34,900

Tax savings = HK\$ 41,839 - HK\$34,900 = HK\$ 6,939
(or 16.59%)