



## **Hong Kong Tax Newsflash**

### Introduction of concessionary measures for Hong Kong Insurers

– *What has changed?*

The Hong Kong government introduced the new tax incentives for insurance businesses. The Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Bill 2019 (the "Bill") was introduced to the Legislative Council on 18 December 2019. The Bill seeks to (i) provide concessionary profits tax rate (i.e. 8.25%) for direct insurers of selected general insurance business; (ii) extend the concessionary tax rate currently applicable to professional reinsurers to general reinsurers of a specified insurer; and (iii) introduce the concessionary treatment to selected insurance brokerage business.

#### **The Insurance Sector**

Currently within the insurance sector, tax incentives are only offered to captive insurers and professional reinsurers. The Hong Kong government has recognised that many jurisdictions have introduced different measures such as tax incentives to enhance the competitiveness of their insurance sector. In this connection, Hong Kong, which is one of the global insurance hubs, is looking to introduce tax incentives through the Bill to ensure that Hong Kong insurers are on a level playing field with other jurisdictions as well as attract more insurers into Hong Kong.

#### **A Broad Overview**

The Bill looks to introduce the concessionary tax regime i.e. reduce profits tax rate by 50% (i.e. 8.25%) for eligible profits to the following insurance businesses:

#### **General insurance business**

The Bill provides concessionary tax rate i.e. 8.25% on eligible profits to *specified insurers* in respect of their general insurance business subject to various exceptions.

A *specified insurer* in accordance to the Bill refers to (i) a corporation which carries on in or from Hong Kong a class of insurance business as specified in Schedule 1 to the Insurance Ordinance (Cap 41) ("IO"); and (ii) is either (a) a company authorised by the Insurance Authority under section 8 of the IO to carry on business, except a professional reinsurer and an authorized captive insurer; (b) Lloyds; or (c) approved association of underwriters.

Schedule 1 of the IO lists out 17 classes of non-life general insurance business:

- Accident
- Land Vehicles
- Aircraft
- Goods in Transit
- Damage to Property
- Aircraft Liability
- General Liability
- Suretyship
- Legal Expenses
- Sickness
- Railway Rolling Stock
- Ships
- Fire and Natural Forces
- Motor Vehicle Liability
- Liability for Ships
- Credit
- Miscellaneous Financial Loss

The exceptions are set out in Schedule 49 of the Bill, and are as follows:

- Health Risk
- Mortgage Guarantee Risk
- Motor Vehicle Damage Risk
- Employees Compensation Liability
- Owners' corporation third party liability

### **General reinsurance business**

Additionally, the concessionary tax rate would also be available to general reinsurance businesses. It is proposed that the tax concession currently available to professional reinsurers will be extended to all general reinsurance business of *specified insurers*. Under the Bill, a general reinsurance business means a business of providing reinsurance of liabilities under a contract of insurance effected by an insurer or Lloyd's in the course of (a) carrying on a general insurance business; or (b) carrying on a business similar to a general insurance business under the law of a place outside Hong Kong.

### **Insurance brokerage business**

To further enhance the attractiveness of the Hong Kong insurance ecosystem, the concessionary regime also extends to licensed insurance brokers which serve as professional advisors to their clients in selecting an appropriate insurance product. Under the Bill, profits from the licensed insurance broker related to the contract on insurance effected by (a) a professional reinsurer; or (b) a specified insurer which is eligible for the concessionary tax regime should be eligible to the concessionary regime.

### **Other details**

Common across the other concessionary regimes in Hong Kong (e.g. aircraft leasing, research and development) the concession requires specified insurers and licensed insurance brokers to substantially carry out their business activities in Hong Kong. That is – the activities which generate the eligible profits (subject to the concessionary regime) be carried out in Hong Kong. Nevertheless, the threshold is not provided in the Bill.

In the instance where total profit or loss of the claimant is subject to the concessionary rate of 8.25% and in part the full rate (for out of scope insurance activities) at 16.5%, the Bill contains various provisions which allow the Commissioner of Inland Revenue ("CIR") to apportion the allocation of income and expenses to what it deems as being reasonable. The Bill also provides powers to the CIR to adjust the composition of tax losses suffered by the claimant in respect to the parts which are included within the concessionary regime and the part which is outside of the regime.

Finally, as with all concessionary regimes in Hong Kong, there are anti-avoidance provisions embedded within the Bill. Specifically, the Bill proposes that the eligibility to avail of the concessions will be subject to the "main purpose test". Broadly speaking, under the main purpose test, where the main purpose or one of the main purposes of the taxpayer entering into a transaction or a series of transactions is to avoid, postpone or reduce the tax liability, the profits from the relevant transaction(s) would not be eligible for the tax concession.

### Our views

We welcome the introduction of the Bill and expanding the scope of the current tax concessions which are only applicable to limited reinsurers to the wider insurance sector, ultimately making Hong Kong insurers more competitive in the international and regional market. In particular, the proposed Bill will make Hong Kong generally competitive in comparison with Singapore, which currently provides a concessionary tax rate of 8% for specialized business and 10% for marine insurance business and brokerage business. These initiatives alongside other initiatives which have been introduced by the Hong Kong government support in preserving Hong Kong's reputation as a global financial centre.

For many insurers the tax concession represents opportunity to drive greater tax efficiency in your operations. We would be pleased to discuss with you the opportunities that this Bill may present to your organisation.

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If you have any questions, please contact our professionals:

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