



## Hong Kong Tax Newsflash

### Passage of Concessionary Measures for Ship Leasing Businesses



The Legislative Council passed the Inland Revenue (Amendment) (Ship Leasing Tax Concessions) Bill 2020 (the Bill) on 10 June 2020 to provide profits tax concessions for qualifying ship lessors and qualifying ship leasing managers. The Ordinance comes into operation today.

#### Highlights of the concessionary measures

1. The tax rate on the qualifying profits of qualifying ship lessor carrying on qualifying ship leasing activity (regardless of whether one is engaged in operating lease or finance lease activities) will be 0%.
2. The tax rates on the qualifying profits of qualifying ship leasing managers providing qualifying ship leasing management activities to associated corporation and non-associated corporation (which are qualifying ship lessors) will be 0% and 8.25% respectively.

For details, please see our [Tax Newsflash - Issue 114](#) published on 24 February 2020.

#### Amendments made to the Bill

Two major amendments were made to address the recommendations of the Organisation for Economic Co-operation and Development (OECD) before the Bill was passed.

## Ship leasing activity

The definition of "ship leasing activity" was amended to include the core income generating activities as set out in paragraph 8 (financing and leasing regimes) at Annex D (substantial activities in regimes other than intellectual property regimes) of OECD's 2017 Progress Report on Preferential Regimes. The revised definition of "ship leasing activity" is an activity comprising (a) the leasing of a ship by the person to a ship lessor, ship leasing manager or ship operator; and (b) any of the following activities carried out by the person:

- (i) agreeing funding terms in relation to the lease concerned;
- (ii) identifying or acquiring the ship to be so leased;
- (iii) setting the terms and duration of that lease;
- (iv) monitoring or revising any funding or other agreements in relation to that lease;
- (v) managing any risks associated with that lease or with an activity mentioned in subparagraph (i), (ii), (iii) or (iv).

## Threshold requirements

To address the recommendation of OECD that the principle of "adequacy" should be included in the threshold requirement for the qualifying ship leasing activity and the qualifying ship leasing management activity, there is an additional condition that the number of full-time employees in Hong Kong who carry out the activity and the total amount of operating expenditure incurred in Hong Kong for the activity are "adequate in the opinion of the Commissioner", on top of meeting the respective thresholds.

In a reply letter to the Legal Service Division of the Legislative Council, the government clarified that the activities carried out by the associated person would be taken into account when considering whether the threshold requirements by a qualifying ship lessor or a qualifying ship leasing manager have been met (i.e. at the group level). The relevant practice for measuring the threshold requirements at group level will be explained in the Departmental Interpretation and Practice Notes to be published by the Inland Revenue Department.

## **Effective date**

The new legislation regarding the tax concession applies retrospectively to sums received or accrued on or after 1 April 2020.

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