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An Ordinance to amend the Inland Revenue Ordinance to allow profits tax exemption for certain funds whether or not the central management and control of the funds is exercised in Hong Kong; and to provide for related matters.

Enacted by the Legislative Council.

1. **Short title and commencement**
   (1) This Ordinance may be cited as the Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Ordinance 2019.
   (2) This Ordinance comes into operation on 1 April 2019.

2. **Inland Revenue Ordinance amended**
   The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 12.

   (1) Section 20AB, heading—

废除
在“20AD”之後的所有字句
代以
“20AE 及 20AF 條及附表 15、15A 及 16 的釋義”。
(2) 第 20AB(1) 條——
废除
“20AE、20AF、20AG、20AH、20AI、20AJ、20AK 及 20AL 條及附表 15、15A、15B、16A 及 16B”
代以
“20AE 及 20AF 條及附表 15、15A 及 16”。

4. 修訂第 20AC 條 (非居港者的某些利润獲税項豁免)
在第 20AC(1) 條之後——
加入
“(1A) 在 2019 年 4 月 1 日當日及之後，在本條中提及之非
居港者，並不包括第 20AM 條所指的基金。
(1B) 第 (1A) 款只適用於在 2019 年 4 月 1 日當日或之後
開始的課稅年度。”。

5. 廢除第 20AG 至 20AL 條
第 20AG、20AH、20AI、20AJ、20AK 及 20AL 條——
廢除該等條文。

6. 加入第 20AM 至 20AY 條
在第 20B 條之前——
加入

Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Ordinance 2019

Repeal everything after “20AD,”
Substitute “20AE and 20AF and Schedules 15, 15A and 16”.

(2) Section 20AB(1)—
Substitute “20AE and 20AF and Schedules 15, 15A and 16”.

4. Section 20AC amended (certain profits of non-resident persons exempt from tax)
After section 20AC(1)—
Add “(1A) On and after 1 April 2019, a reference in this section to a non-resident person does not include a fund
within the meaning of section 20AM.
(1B) Subsection (1A) applies only for any year of
assessment commencing on or after 1 April 2019.”.

5. Sections 20AG to 20AL repealed
Sections 20AG, 20AH, 20AI, 20AJ, 20AK and 20AL—
Repeal the sections.

6. Sections 20AM to 20AY added
Before section 20B—
Add

(1) In sections 20AN, 20AO, 20AP, 20AQ, 20AR, 20AS, 20AT, 20AU, 20AV, 20AW, 20AX and 20AY and Schedules 15C, 15D and 16C, *fund* (基金) has the meaning given to it by this section.

(2) An arrangement in respect of any property is a *fund* for a year of assessment if at all times during the basis period for the year of assessment—

(a) either or both of the following apply—

(i) under the arrangement, the property is managed as a whole by, or on behalf of, the person operating the arrangement;

(ii) the contributions of the persons participating in the arrangement (participating persons), and the profits or income from which payment is made to them, are pooled under the arrangement;

(b) under the arrangement, the participating persons do not have day-to-day control over the management of the property (whether or not they have the right to be consulted on, or to give directions in respect of, the management); and

(c) the purpose or effect (or pretended purpose or effect) of the arrangement is to enable the participating persons, whether by acquiring any right, interest, title or benefit in the property or any part of the property or otherwise, to participate in or receive—
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(i) profits, income or other returns represented to arise (or to be likely to arise) from the acquisition, holding, management or disposal of the property (or any part of the property), or sums represented to be paid (or to be likely to be paid) out of any such profits, income or other returns; or

(ii) a payment or other returns arising from the acquisition, holding or disposal of, the exercise of any right in, the redemption of, or the expiry of, any right, interest, title or benefit in the property or any part of the property.

(3) In subsection (2)—

property (財產) includes—

(a) money, goods, choses in action and land (whether in Hong Kong or elsewhere); and

(b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incidental to property mentioned in paragraph (a).

(4) An arrangement (commonly known as a sovereign wealth fund) that is established and funded by a state or government (or any political subdivision or local authority of a state or government) for the purposes of—

(a) carrying out financial activities; and

(b) holding and managing a pool of assets, for the benefit of the state or government (or the political subdivision or local authority) is also a fund.

(5) A fund does not include an arrangement if—

(i) profits, income or other returns represented to arise (or to be likely to arise) from the acquisition, holding, management or disposal of the property (or any part of the property), or sums represented to be paid (or to be likely to be paid) out of any such profits, income or other returns; or

(ii) a payment or other returns arising from the acquisition, holding or disposal of, the exercise of any right in, the redemption of, or the expiry of, any right, interest, title or benefit in the property or any part of the property.
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(a) the arrangement is operated by a person otherwise than by way of business;

(b) each of the persons participating in the arrangement (participating persons) is a corporation in the same group of companies as the operator of the arrangement;

(c) each of the participating persons of the arrangement is—
   (i) a bona fide employee or former employee of a corporation in the same group of companies as the operator of the arrangement; or
   (ii) a spouse, widow, widower, minor child (natural or adopted) or minor step-child of such employee or former employee;

(d) the arrangement is a franchise arrangement under which the franchisor or franchisee earns profits or income by exploiting a right conferred by the arrangement to use a trade name or design or other intellectual property or goodwill attached to it;

(e) money under the arrangement is taken by a solicitor (whether from his or her client or as a stakeholder) acting in his or her professional capacity in the ordinary course of practice;

(f) the arrangement is made for the purposes of a fund or scheme maintained by—
   (i) the Securities and Futures Commission within the meaning of the Securities and Futures Ordinance (Cap. 571); or
(ii) a recognized exchange company, a recognized clearing house, a recognized exchange controller or a recognized investor compensation company, within the meaning of that Ordinance, under that Ordinance for providing compensation in the event of default by an exchange participant, or a clearing participant, within the meaning of that Ordinance;

(g) the arrangement is made by a credit union registered under the Credit Unions Ordinance (Cap. 119) in accordance with the objects of the credit union;

(h) the arrangement is made for the purposes of any chit-fund permitted to operate under the Chit-Fund Businesses (Prohibition) Ordinance (Cap. 262); or

(i) the arrangement is a mutual fund, unit trust or similar investment scheme falling within the descriptions in section 26A(1A)(a)(i) and (ii).

(6) Also, a business undertaking for general commercial or industrial purposes is not a fund.

(7) In subsection (6), the reference to a business undertaking for general commercial or industrial purposes includes a business undertaking that directly engages in any one or more of the following—

(a) a commercial activity that involves—

(i) any purchase, sale or exchange of goods or commodities; or

(ii) any supply of services;
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(a) an industrial activity that involves any production of goods or construction of immovable property as defined by section 20AP(4);

(b) property development or property holding;

(c) finance, including—

(i) banking;

(ii) providing capital (other than providing capital to a special purpose entity, or an investee private company, as defined by section 20AO(4));

(iii) leasing;

(iv) factoring;

(v) securitization; and

(vi) money-lending;

(d) insurance business;

(e) construction or direct acquisition of infrastructure as defined by section 20AP(4);

(f) making direct investments that derive rent, royalties or lease payments.

20AN. Certain profits of certain funds exempt from payment of profits tax

(1) This section applies subject to section 20AS.

(2) If, in respect of a fund, a condition specified in subsection (3) is met at all times during the basis period for a year of assessment, the fund is, subject to sections 20AP and 20AQ, exempt from the payment of tax otherwise chargeable under this Part.

(b) 涉及货物生產或第 20AP(4) 條所界定的不動產的建造的工業活動；

(c) 物業發展或物業持有；

(d) 金融，包括——

(i) 銀行業務；

(ii) 提供資本 (向第 20AO(4) 條所界定的特定目的實體或獲投資私人公司提供資本除外)；

(iii) 租賃；

(iv) 應收帳款通；

(v) 證券化業務；及

(vi) 放債業務；

(e) 保險業務；

(f) 第 20AP(4) 條所界定的基礎設施的建造或直接取得；

(g) 作出衍生租金、特許權使用費或租約付款的直接投資。

20AN. 某些基金的某些利潤獲豁免繳付利得稅

(1) 除第 20AS 條另有規定外，本條適用。

(2) 就某基金而言，如在某課稅年度的評稅基期內的所有時間，第 (3) 款指明的某條件一直獲符合，則除第 20AP 及 20AQ 條另有規定外，該基金即獲豁免，無需繳付如無本條規定便根據本部須就該基金在該
評税基期內從以下交易賺取的應評稅利潤而徵收的稅款——
(a) 屬附表 16C 指明的類別的資產的交易 (合資格交易);
(b) 除第 (4) 款另有規定外，屬附帶於進行合資格交易的交易 (附帶交易)；及
(c) 如該基金是開放式基金型公司——不屬附表 16C 指明的類別的資產的交易。

(3) 有關條件是——
(a) 有關基金的合資格交易——
(i) 是由某指明人士 (或透過某指明人士) 在香港進行的；或
(ii) 是由某指明人士在香港安排的；或
(b) 有關基金屬合資格投資基金。

(4) 如按照以下公式計算得出的百分率超過 5%，則第 (2) 款的豁免，並不適用於從附帶交易賺取的應評稅利潤——

\[
\frac{A}{B} \times 100\% 
\]

公式中——
A = 在有關評稅基期內，有關基金來自附帶交易的營業收入；
B = 在有關評稅基期內，有關基金來自合資格交易的營業收入，以及來自附帶交易的營業收入，兩者的總和。

in respect of its assessable profits for the basis period earned from—
(a) transactions in assets of a class specified in Schedule 16C (qualifying transactions);
(b) subject to subsection (4), transactions incidental to the carrying out of qualifying transactions (incidental transactions); and
(c) if the fund is an open-ended fund company—transactions in assets of a class that is not specified in Schedule 16C.

(3) The condition is—
(a) that the qualifying transactions of the fund are—
(i) carried out in Hong Kong by or through a specified person; or
(ii) arranged in Hong Kong by a specified person; or
(b) that the fund is a qualified investment fund.

(4) The exemption under subsection (2) does not apply to assessable profits earned from incidental transactions if the percentage calculated according to the following formula exceeds 5%—

\[
\frac{A}{B} \times 100\% 
\]

where—
A = the fund’s trading receipts from incidental transactions in the basis period;
B = the total of the fund’s trading receipts from qualifying transactions and incidental transactions in the basis period.
(5)  The Commissioner may by notice published in the Gazette amend Schedule 16C.

(6)  In this section—

aggregate capital commitment (資本認繳總額), in relation to a qualified investment fund, means the total of the capital commitments made by the investors, the originator and the originator’s associates;

associate (相聯者)—

(a)  in relation to a natural person, means—

(i)  a relative of the person;

(ii)  a partner of the person;

(iii)  if a partner of the person is a natural person—a relative of the partner;

(iv)  a partnership in which the person is a partner;

(v)  a corporation controlled by—

(A)  the person;

(B)  if the person is a natural person—a relative of the person;

(C)  a partner of the person;

(D)  if a partner of the person is a natural person—a relative of that partner; or

(E)  a partnership in which the person is a partner; or

(vi)  a director or principal officer of a corporation mentioned in subparagraph (v);

(b)  in relation to a corporation, means—

(i)  a person who controls the corporation;

(ii)  a director or principal officer of the corporation;

(iii)  if a director or principal officer of the corporation is a natural person—a relative of that director or principal officer; or

(iv)  a partnership in which the person is a partner; or

(v)  a corporation controlled by—

(A)  the person;

(B)  if the person is a natural person—a relative of the person;

(C)  a partner of the person;

(D)  if a partner of the person is a natural person—a relative of that partner; or

(E)  a partnership in which the person is a partner; or

(vi)  a director or principal officer of a corporation mentioned in subparagraph (v);
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(ii) a partner of the person mentioned in subparagraph (i);

(iii) if the person mentioned in subparagraph (i) is a natural person—a relative of the person;

(iv) if the partner mentioned in subparagraph (ii) is a natural person—a relative of the partner;

(v) a director or principal officer of—

(A) the corporation; or

(B) an associated corporation of the corporation;

(vi) a relative of the director or principal officer mentioned in subparagraph (v);

(vii) a partner of the corporation;

(viii) if a partner of the corporation is a natural person—a relative of the partner;

(ix) a partnership in which the corporation is a partner; or

(x) an associated corporation of the corporation;

(c) in relation to a partnership, means—

(i) a partner in the partnership;

(ii) if a partner in the partnership is a natural person—a relative of the partner;

(iii) if a partner in the partnership is another partnership—

(A) a partner in the other partnership (Partner A); or
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Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Ordinance 2019

(B) a partner with the other partnership in any other partnership (Partner B);
(iv) if Partner A is a partnership—a partner in Partner A (Partner C);
(v) if Partner B is a partnership—a partner in Partner B (Partner D);
(vi) if Partner A, Partner B, Partner C or Partner D is a natural person—a relative of the partner;
(vii) a corporation controlled by—
(A) the partnership;
(B) a partner in the partnership;
(C) if a partner in the partnership is a natural person—a relative of the partner; or
(D) a partnership in which the partnership is a partner;
(viii) a director or principal officer of the corporation mentioned in subparagraph (vii);
(ix) a corporation of which a partner in the partnership is a director or principal officer; or
(x) an associated partnership of the partnership;

associated corporation (相聯法團), in relation to a corporation, means—
(a) another corporation over which the corporation has control;
(b) another corporation that has control over the corporation; or
(c) another corporation that is under the control of the same person as is the corporation;

*associated partnership* (相聯合夥), in relation to a partnership, means—
(a) another partnership over which the partnership has control;
(b) another partnership that has control over the partnership; or
(c) another partnership that is under the control of the same person as is the partnership;

*capital commitment* (資本認繳), in relation to a qualified investment fund, means a commitment—
(a) in the form of an amount of money payable by an investor, the originator or the originator's associate to the fund under an agreement governing the operation of the fund; and
(b) in respect of which the originator may make capital calls from time to time according to the terms of the agreement;

*control* (控制)—
(a) in relation to a corporation, means the power of a person to secure—
(i) by means of the holding of shares or the possession of voting power in or in relation to the corporation or any other corporation; or
(ii) by virtue of any powers conferred by the articles of association or other document
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regulating the corporation or any other corporation,
that the affairs of the corporation are conducted
in accordance with the wishes of the person;

(b) in relation to a partnership, means the power of
a person to secure—

(i) by means of the holding of interests or the
possession of voting power in or in relation
to the partnership or any other
partnership; or

(ii) by virtue of any powers conferred by the
partnership agreement or other document
regulating the partnership or any other
partnership,

that the affairs of the partnership are conducted
in accordance with the wishes of the person;

final closing of sale of interests (權益出售最終截止日), in
relation to a qualified investment fund, means the
date on which the originator last accepts
subscriptions from investors for making capital
commitments;

investor (投資者), in relation to a qualified investment
fund, means a person, other than the originator or
the originator’s associates, who makes capital
commitment to the fund;

net proceeds (淨收益), in relation to a qualified investment
fund at a particular time, means an amount
calculated by—

(a) adding together—

(i) the sum of the cumulative distributions
received by the investors, the originator
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and the originator’s associates from the fund by the particular time; and

(ii) the value at the particular time of all assets, if any, held by the fund; and

(b) subtracting the cumulative capital contributions of the investors, the originator and the originator’s associates by the particular time;

originator (發起人), in relation to a qualified investment fund, means a person who directly or indirectly—

(a) originates or sponsors the fund; and

(b) has the power to make investment decisions on behalf of the fund;

principal officer (主要職員), in relation to a corporation, means—

(a) a person employed by the corporation who, either alone or jointly with one or more other persons, is responsible, under the immediate authority of the directors of the corporation, for the conduct of the business of the corporation; or

(b) a person so employed who, under the immediate authority of a director of the corporation or a person to whom paragraph (a) applies, exercises managerial functions in respect of the corporation;

qualified investment fund (合資格投資基金) means a fund in relation to which—

(a) at all times after the final closing of sale of interests—

(i) the number of investors exceeds 4; and
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(ii) the capital commitments made by investors exceed 90% of the aggregate capital commitments; and

(b) an agreement governing the operation of the fund provides that not more than 30% of the net proceeds arising out of the transactions of the fund are to be received by the originator and the originator’s associates, after deducting the portion attributable to their capital contributions (which is proportionate to that attributable to the investors’ capital contributions);

relative (親屬), in relation to a person, means the spouse, parent, child, brother or sister of the person, and, in deducing such a relationship—

(a) an adopted child is to be regarded as a child of both the natural parents and any adoptive parent; and

(b) a step child is to be regarded as a child of both the natural parents and any step parent;

specified person (指明人士) means a corporation licensed under Part V of the Securities and Futures Ordinance (Cap. 571) to carry on, or an authorized financial institution registered under that Part for carrying on, a business in any regulated activity as defined by Part 1 of Schedule 5 to that Ordinance.

(7) Section 21 of Schedule 17A (specified alternative bond scheme and its tax treatment) provides for modifications to this section.
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20AO. Certain profits of special purpose entities exempt from payment of profits tax

(1) This section applies to a special purpose entity owned by a fund that is exempt from the payment of tax under section 20AN in respect of its assessable profits for a year of assessment.

(2) The special purpose entity is, subject to sections 20AP and 20AQ, exempt to the extent provided by subsection (3) from the payment of tax chargeable under this Part in respect of its assessable profits for the year of assessment earned from—

(a) transactions in shares, stocks, debentures, loan stocks, funds, bonds or notes (specified securities) of, or issued by, an investee private company or an interposed special purpose entity;
(b) transactions in rights, options or interests (whether described as units or otherwise) in, or in respect of, the specified securities; and
(c) transactions in certificates of interest or participation in, temporary or interim certificates for, receipts for, or warrants to subscribe for or purchase, the specified securities.

(3) The extent of exemption under subsection (2) is the percentage equal to the percentage of the fund's ownership of the special purpose entity in the year of assessment.

(4) In this section—

**interposed special purpose entity** (中間特定目的實體) means—
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(a) in relation to a special purpose entity that has an indirect beneficial interest in an investee private company through an interposed person that is a special purpose entity—the interposed person;

(b) in relation to a special purpose entity that has an indirect beneficial interest in an investee private company through a series of 2 or more interposed persons each of which is a special purpose entity—any of the interposed persons;

investee private company (獲投資私人公司), in relation to a fund, means a private company held by a special purpose entity or an interposed special purpose entity as a shareholder on behalf of the fund;

private company (私人公司) means a company (whether incorporated in or outside Hong Kong) that is not allowed to issue any invitations to the public to subscribe for any shares or debentures of the company;

special purpose entity (特定目的實體) means a corporation, partnership, trustee of a trust estate or any other entity that—

(a) is wholly or partially owned by a fund;

(b) is established solely for the purpose of holding (whether directly or indirectly) and administering one or more investee private companies;

(c) is incorporated, registered or appointed in or outside Hong Kong;
(d) does not carry on any trade or activities except for the purpose of holding (whether directly or indirectly) and administering one or more investee private companies; and
(e) is not itself a fund or an investee private company.

20AP. When does exemption under section 20AN or 20AO not apply to specified body holding immovable property through another company

(1) Subject to section 20AR, this section applies if, during the basis period for a year of assessment—
(a) a specified body carries out transactions in shares, stocks, debentures, loan stocks, funds, bonds or notes (specified securities) of, or issued by, a private company (relevant company); and
(b) the relevant company holds (whether directly or indirectly)—
(i) immovable property in Hong Kong; or
(ii) share capital (however described) in another private company that holds (whether directly or indirectly) immovable property in Hong Kong.

(2) If the aggregate value of the immovable property and share capital held by the relevant company—
(a) exceeds 10% of the value of its assets—the specified body is not exempt from the payment of tax under this Part in respect of its assessable profits for the period earned from the transactions; or

(d) 除了為持有 (不論是直接或間接持有) 和管理一間或多於一間獲投資私人公司而進行買賣或活動之外，沒有進行任何買賣或活動；及
(e) 本身不屬基金或獲投資私人公司；

獲投資私人公司 (investee private company) 就某基金而言，指由特定目的實體或中間特定目的實體以股東身分代該基金持有的私人公司。

20AP. 第 20AN 或 20AO 條的豁免，何時不適用於透過另一公司持有不動產的指明團體

(1) 除第 20AR 條另有規定外，本條在以下情況下適用：
在某課稅年度的評稅基期內——
(a) 某指明團體進行以下項目的交易：某私人公司 (有關公司) 的 (或該公司發行的) 股份、股額、債權證、債權股額、基金、債券或票據 (指明證券)；及
(b) 有關公司直接或間接持有——
(i) 在香港的不動產；或
(ii) 另一私人公司的股本 (不論如何描述)，而該私人公司直接或間接持有在香港的不動產。

(2) 如上述不動產及有關公司持有的股本的總價值——
(a) 超過該公司的資產價值的 10%——上述指明團體不得獲豁免繳付根據本條就其在上述期間內從上述交易賺取的應課稅利潤而徵收的稅款；或
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(b) does not exceed 10% of the value of its assets—the specified body is not, unless a condition specified in subsection (3) is met in good faith by the specified body, exempt from the payment of tax under this Part in respect of its assessable profits for the period earned from the transactions.

(3) The condition is—

(a) that the specified body disposes of, through a transaction or a series of transactions, the specified securities not less than 2 years after they are acquired (whether or not the specified body has control over the relevant company); or

(b) that the specified body disposes of, through a transaction or a series of transactions, the specified securities less than 2 years after they are acquired and—

(i) the specified body does not have control over the relevant company; or

(ii) if the specified body has control over the relevant company—the relevant company holds (whether directly or indirectly) short-term assets the aggregate value of which does not exceed 50% of the value of the relevant company's assets.

(4) In this section—

control (控制) has the meaning given by section 20AN(6);

immovable property (不動產) means—

(a) land (whether covered by water or not); and

(b) any estate, right, interest or easement in or over any land; and
(c) things attached to land or permanently fastened to anything attached to land, but does not include infrastructure;

`infrastructure` (基礎設施) means any publicly or privately owned facility providing or distributing services for the benefit of the public, and includes any water, sewage, energy, fuel, transportation or communication facility;

`private company` (私人公司) has the meaning given by section 20AO(4);

`short-term asset` (短期資產), in relation to a private company the shares, stocks, debentures, loan stocks, funds, bonds or notes of, or issued by, which are being disposed of by a fund, means an asset—

(a) that is of a class not specified in Schedule 16C;
(b) that is not immovable property in Hong Kong; and
(c) that has been held by the company for less than 3 consecutive years before the date of disposal;

`special purpose entity` (特定目的實體) has the meaning given by section 20AO(4);

`specified body` (指明團體) means a fund or a special purpose entity.

### 20AQ. When does exemption under section 20AN or 20AO not apply to specified body not holding immovable property through another company

(1) Subject to section 20AR, this section applies if, during the basis period for a year of assessment—

(a) a specified body carries out transactions in shares, stocks, debentures, loan stocks, funds,
債權證、債權股額、基金、債券或票據（指明證券）；及

(b) 有關公司並無直接或間接持有——

(i) 在香港的不動產；或
(ii) 另一私人公司的股本（不論如何描述），而該私人公司直接或間接持有在香港的不動產。

(2) 上述指明團體除非真誠地符合第(3)款指明的某條件，否則不得獲豁免繳付根據本部須就其在上述期間內從上述交易賺取的應評稅利潤而徵收的稅款。

(3) 有關條件是——

(a) （不論上述指明團體是否控制有關公司）該指明團體在取得指明證券之後滿2年或以後，透過某項交易或一系列交易，處置該等證券；或

(b) 上述指明團體在取得指明證券後未滿2年期間，透過某項交易或一系列交易，處置該等證券，而——

(i) 該指明團體並無控制有關公司；或
(ii) 如該指明團體控制有關公司——有關公司直接或間接持有短期資產，而該等資

bonds or notes (specified securities) of, or issued by, a private company (relevant company); and

(b) the relevant company does not hold (whether directly or indirectly)—

(i) immovable property in Hong Kong; or
(ii) share capital (however described) in another private company that holds (whether directly or indirectly) immovable property in Hong Kong.

(2) The specified body is not, unless a condition specified in subsection (3) is met in good faith by the specified body, exempt from the payment of tax chargeable under this Part in respect of its assessable profits for the period earned from the transactions.

(3) The condition is—

(a) that the specified body disposes of, through a transaction or a series of transactions, the specified securities not less than 2 years after they are acquired (whether or not the specified body has control over the relevant company); or

(b) that the specified body disposes of, through a transaction or a series of transactions, the specified securities less than 2 years after they are acquired and—

(i) the specified body does not have control over the relevant company; or

(ii) if the specified body has control over the relevant company—the relevant company holds (whether directly or indirectly) short-term assets the aggregate value of which
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does not exceed 50% of the value of the relevant company’s assets.

(4) In this section—
control (控制) has the meaning given by section 20AN(6);
immovable property (不動產) has the meaning given by section 20AP(4);
private company (私人公司) has the meaning given by section 20AO(4);
short-term asset (短期資產) has the meaning given by section 20AP(4);
special purpose entity (特定目的實體) has the meaning given by section 20AO(4);
specified body (指明團體) has the meaning given by section 20AP(4).

20AR. Supplementary provision to sections 20AP and 20AQ

(1) Sections 20AP and 20AQ do not apply to a partner fund carrying on a trade, profession or business that involves transactions in shares of an investee company during the basis period for a year of assessment.

(2) In this section—
investee company (獲投資公司) means—
(a) a corporation that has ITVFC and a partner fund as shareholders under the ITVF Scheme;
or
(b) a corporation that—
(i) had, at any time, ITVFC and a partner fund (Fund A) as shareholders under the ITVF Scheme; and
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(ii) has, since that time, continued to have a partner fund (whether Fund A or another partner fund) as a shareholder;

*ITVF Scheme* (創基計劃) means the Innovation and Technology Venture Fund Scheme established by the Innovation and Technology Commission;

*ITVFC* (創基公司) means The Innovation and Technology Venture Fund Corporation incorporated under the Companies Ordinance (Cap. 622);

*partner fund* (夥伴基金) means a fund that is a party (whether or not through an agent) to an agreement—

(a) to which ITVFC is also a party;

(b) that stipulates the overall rights and obligations of ITVFC and the fund in respect of their participation in the ITVF Scheme; and

(c) that is valid and in force.

20AS. When does exemption under section 20AN not apply to open-ended fund companies

Despite section 20AN, if, during the basis period for a year of assessment, an open-ended fund company—

(a) carries on a direct trading or direct business undertaking in Hong Kong in assets of a class that is not specified in Schedule 16C (*non-Schedule 16C class*); or

(b) holds assets of a non-Schedule 16C class that are utilized to generate income, the company is not exempt from the payment of tax chargeable under this Part in respect of its assessable profits for the basis period earned from the trading, business undertaking or utilization.
20AT. Sub-funds of open-ended fund companies

(1) This section applies in relation to an open-ended fund company.

(2) If the instrument of incorporation of the company (main company) provides for the division of its scheme property into separate parts (each of which is a sub-fund), then, when applying section 14 to the main company—

(a) a reference to assessable profits in that section is a reference to the total of the assessable profits of all of its sub-funds; and

(b) for computing the assessable profits of the sub-funds—

(i) each sub-fund is to be regarded as an open-ended fund company;

(ii) the main company is to be regarded as not being an open-ended fund company; and

(iii) the provisions of this Part apply to a sub-fund as if it were an open-ended fund company.

(3) The part of the profits tax chargeable on the main company that is attributable to the assessable profits of one of the sub-funds may only be paid out of the assets of the sub-fund.

(4) If the condition for exemption from payment of tax under section 20AN is met in respect of a sub-fund, the sub-fund is exempt under that section even if the condition is not met in respect of another sub-fund of the main company.
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20AU. Losses sustained by funds (other than open-ended fund companies) and special purpose entities

(1) This section applies in relation to a fund (other than an open-ended fund company) and a special purpose entity.

(2) If a fund is exempt from the payment of tax under section 20AN in respect of its assessable profits for a year of assessment, any loss sustained by the fund from a transaction referred to in section 20AN(2)(a) or (b) in the year of assessment is not available for set off against any of its assessable profits for the year of assessment or any subsequent year of assessment.

(3) If a special purpose entity is exempt from the payment of tax under section 20AO in respect of its assessable profits for a year of assessment, any loss sustained by the entity from a transaction referred to in section 20AO(2) in the year of assessment is not available for set off against any of its assessable profits for the year of assessment or any subsequent year of assessment.

(4) In this section—

special purpose entity (特定目的實體) has the meaning given by section 20AO(4).
20AV. Losses sustained by open-ended fund companies

(1) This section applies in relation to an open-ended fund company.

(2) If the company is exempt from the payment of tax under section 20AN in respect of its assessable profits for a year of assessment, any loss sustained by the company from a transaction referred to in section 20AN(2)(a), (b) or (c) in the year of assessment is not available for set off against any of its assessable profits for the year of assessment or any subsequent year of assessment.

(3) Any loss sustained by the company from a specified activity in respect of which there is not an exemption from the payment of tax for assessable profits under section 20AN or 20AS for a year of assessment is only available for set off against any assessable profits of the company earned from the specified activity for the year of assessment or any subsequent year of assessment.

(4) In this section—

specified activity (指明活動) means a transaction, a direct trading, a direct business undertaking or utilization of assets.

20AW. Interpretation of sections 20AX and 20AY and Schedules 15C and 15D

(1) This section applies to the interpretation of sections 20AX and 20AY and Schedules 15C and 15D.

(2) In relation to any year of assessment, a person is to be regarded as a resident person if—

(a) where the person is a natural person who is not a trustee of a trust estate, the person—

指明活動 (specified activity) 指交易、直接貿易、直接業務或資產運用。
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(i) ordinarily resides in Hong Kong in the year of assessment; or

(ii) stays in Hong Kong for a period or a number of periods amounting to—

(A) more than 180 days during the year of assessment; or

(B) more than 300 days in 2 consecutive years of assessment one of which is the year of assessment;

(b) where the person is a corporation that is not a trustee of a trust estate—the central management and control of the corporation is exercised in Hong Kong in the year of assessment;

(c) where the person is a partnership that is not a trustee of a trust estate—the central management and control of the partnership is exercised in Hong Kong in the year of assessment; or

(d) where the person is a trustee of a trust estate—the central management and control of the trust estate is exercised in Hong Kong in the year of assessment.

(3) In relation to any year of assessment, a person is a non-resident person if the person is not a resident person in relation to the year of assessment.

(4) A person (the person) is to be regarded as having a direct beneficial interest in another person (the other person) if—
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(a) where the other person is a corporation that is not a trustee of a trust estate—the person holds any of the issued share capital (however described) of the corporation;

(b) where the other person is a partnership that is not a trustee of a trust estate—the person, as a partner in the partnership, is entitled to any of the profits of the partnership;

(c) where the other person is a trustee of a trust estate, the person—
   (i) benefits under the trust estate; or
   (ii) not being a trustee of the trust estate or, if the trustee is a corporation, a director of the trustee—is able (or might reasonably be expected to be able) to control the activities of the trust estate or the application of its corpus or income, otherwise than through the other person; or

(d) where the other person is an entity that does not fall within any of paragraphs (a), (b) and (c)—the person has any of the ownership interests in the entity.

(5) A person (the person) is to be regarded as having an indirect beneficial interest in another person (the other person) if—

(a) where the other person is a corporation that is not a trustee of a trust estate—the person is interested in any of the issued share capital (however described) of the corporation;
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(b) where the other person is a partnership that is not a trustee of a trust estate—the person is entitled to any of the profits of the partnership;

(c) where the other person is a trustee of a trust estate, the person—

(i) benefits under the trust estate; or

(ii) not being a trustee of the trust estate or, if the trustee is a corporation, a director of the trustee—is able (or might reasonably be expected to be able) to control the activities of the trust estate or the application of its corpus or income; or

(d) where the other person is an entity that does not fall within any of paragraphs (a), (b) and (c)—the person has any of the ownership interests in the entity, through a third person (interposed person), or through a series of 2 or more interposed persons, who is or are related to the person and the other person in the way described in subsections (6) and (7).

(6) If there is one interposed person—

(a) the person has a direct beneficial interest in the interposed person; and

(b) the interposed person has a direct beneficial interest in the other person.

(7) If there is a series of 2 or more interposed persons—

(a) the person has a direct beneficial interest in the first interposed person in the series;
(b) each interposed person (other than the last interposed person) in the series has a direct beneficial interest in the next interposed person in the series; and
(c) the last interposed person in the series has a direct beneficial interest in the other person.

(8) If the partners in a partnership are not entitled to its profits but are only entitled to a distribution of its assets on its dissolution—a reference to an entitlement to the profits of a partnership is taken to be a reference to an entitlement to a distribution of the assets of the partnership on its dissolution.

(9) A reference to the issued share capital of a corporation does not include the shares comprised in the issued share capital that do not entitle their holders to receive dividends (whether in cash or in kind) and a distribution of the corporation's assets on its dissolution other than a return of capital.

20AX. Assessable profits of funds regarded as assessable profits of resident persons

(1) If, in a year of assessment commencing on or after 1 April 2019—

(a) a resident person has, during any period of time, a beneficial interest (whether direct or indirect or both) in a fund to the extent set out in subsection (2); and
(b) the fund is exempt from the payment of tax under section 20AN,

the assessable profits of the fund for the period of time that would have been chargeable to tax under this Part but for that section are to be regarded as
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the assessable profits arising in, or derived from, Hong Kong of the resident person for the year of assessment from a trade, profession or business carried on by the resident person in Hong Kong.

(2) The extent of a resident person's beneficial interest in a fund referred to in subsection (1) is that the person, either alone or jointly with any of the person's associates (whether a resident person or not)—

(a) if the fund is a corporation that is not a trustee of a trust estate—holds or is interested in not less than 30% of the issued share capital (however described) of the corporation;

(b) if the fund is a partnership that is not a trustee of a trust estate—is entitled to not less than 30% of the profits of the partnership;

(c) if the fund is a trustee of a trust estate—is interested in not less than 30% in value of the trust estate; or

(d) if the fund is an entity that does not fall within any of paragraphs (a), (b) and (c)—has not less than 30% of the ownership interests in the fund.

(3) If, in a year of assessment commencing on or after 1 April 2019—

(a) a resident person has, during any period of time, a beneficial interest (whether direct or indirect or both) in a fund;

(b) the fund is exempt from the payment of tax under section 20AN; and

(c) the fund is an associate of the resident person,
則該基金在該段期間內若非有該條規定則本須根據本部課稅的應評稅利潤，即視為在該課稅年度內，從該居港者在香港經營某行業、專業或業務中，於香港產生或得自香港的該居港者的應評稅利潤。

(4) 不論某居港者是否已 (或是否會) 直接或間接從有關基金，收取代表在有關課稅年度內該基金的利潤的任何金錢或其他財產，第 (1) 及 (3) 款仍就該居港者而適用。

(5) 如某居港者因能夠 (或按理可被預期能夠) 控制某信託產業的活動，或控制該信託產業本身財產或其入息的運用，而對該信託產業受託人享有直接或間接實益權益，則就本條而言，該居港者即視為對該信託產業的 100% 價值享有權益。

(6) 居港者對基金享有實益權益的程度，須按照附表 15C 第 2 部釐定。

(7) 根據第 (1) 或 (3) 款視為某課稅年度內某居港者的應評稅利潤的款額，須按照附表 15C 確定。

(8) 如局長信納，某基金的實益權益的持有情況，屬真正的財產權分散，則就對該基金享有直接或間接實益權益的居港者而言，第 (1) 及 (3) 款並不適用。

the assessable profits of the fund for the period of time that would have been chargeable to tax under this Part but for that section are to be regarded as the assessable profits arising in, or derived from, Hong Kong of the resident person for the year of assessment from a trade, profession or business carried on by the resident person in Hong Kong.

(4) Subsections (1) and (3) apply in relation to a resident person irrespective of whether the person has received or will receive (whether directly or indirectly) from the fund concerned any money or other property representing the profits of the fund for the relevant year of assessment.

(5) A resident person who has a direct or indirect beneficial interest in a trustee of a trust estate because of the fact that the resident person is able (or might reasonably be expected to be able) to control the activities of the trust estate or the application of its corpus or income is, for the purposes of this section, to be regarded as being interested in 100% of the value of the trust estate.

(6) The extent of a resident person’s beneficial interest in a fund is to be determined in accordance with Part 2 of Schedule 15C.

(7) The amount regarded as the assessable profits of a resident person for a year of assessment under subsection (1) or (3) is to be ascertained in accordance with Schedule 15C.

(8) Subsections (1) and (3) do not apply in relation to a resident person who has a direct or indirect beneficial interest in a fund if the Commissioner is satisfied that the beneficial interests in the fund are bona fide widely held.
(9) If—
(a) a resident person is liable to tax in respect of
the profits of a fund by the operation of
subsection (1) or (3) because the person has an
indirect beneficial interest in the fund through
an interposed person (or through a series of
2 or more interposed persons); and
(b) the interposed person (or any of the interposed
persons) is a resident person who is also liable
to tax in respect of the profits by the operation
of subsection (1) or (3),
the resident person mentioned in paragraph (a) is
discharged from the person’s liability to tax in respect
of the profits.

(10) In this section—
associate (相聯者) has the meaning given by section
20AN(6).

20AY. Assessable profits of special purpose entities held by funds
regarded as assessable profits of resident persons

(1) If, in a year of assessment commencing on or after
1 April 2019—
(a) a resident person has, during any period of
time, a beneficial interest (whether direct or
indirect or both) in a fund to the extent set out
in section 20AX(2);
(b) the fund is exempt from the payment of tax
under section 20AN;
(c) the fund has, during the period of time, a
beneficial interest (whether direct or indirect or
both) in a special purpose entity; and
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(d) the special purpose entity is exempt from the payment of tax under section 20AO,
the assessable profits of the special purpose entity for the period of time that are chargeable to tax under this Part and in respect of which tax would have been payable but for section 20AO are to be regarded as the assessable profits arising in, or derived from, Hong Kong of the resident person for the year of assessment from a trade, profession or business carried on by the resident person in Hong Kong.

(2) If, in a year of assessment commencing on or after 1 April 2019—

(a) a resident person has, during any period of time, a beneficial interest (whether direct or indirect or both) in a fund;
(b) the fund is exempt from the payment of tax under section 20AN;
(c) the fund is an associate of the resident person;
(d) the fund has, during the period of time, a beneficial interest (whether direct or indirect or both) in a special purpose entity; and
(e) the special purpose entity is exempt from the payment of tax under section 20AO,
the assessable profits of the special purpose entity for the period of time that are chargeable to tax under this Part and in respect of which tax would have been payable but for section 20AO are to be regarded as the assessable profits arising in, or derived from, Hong Kong of the resident person for the year of assessment from a trade, profession or business carried on by the resident person in Hong Kong.
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(3) Subsections (1) and (2) apply in relation to a resident person irrespective of whether the person has received or will receive (whether directly or indirectly) from the special purpose entity concerned any money or other property representing the profits of the special purpose entity for the relevant year of assessment.

(4) A resident person who has a direct or indirect beneficial interest in a trustee of a trust estate because of the fact that the resident person is able (or might reasonably be expected to be able) to control the activities of the trust estate or the application of its corpus or income is, for the purposes of this section, to be regarded as being interested in 100% of the value of the trust estate.

(5) The extent of a fund’s beneficial interest in a special purpose entity is to be determined in accordance with Part 2 of Schedule 15D.

(6) The amount regarded as the assessable profits of a resident person for a year of assessment under subsection (1) or (2) is to be ascertained in accordance with Schedule 15D.

(7) Subsections (1) and (2) do not apply in relation to a resident person who has a direct or indirect beneficial interest in a fund if the Commissioner is satisfied that the beneficial interests in the fund are bona fide widely held.
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(8) If—

(a) a resident person is liable to tax in respect of the profits of a special purpose entity by the operation of subsection (1) or (2) because the person has an indirect beneficial interest in the special purpose entity through an interposed person (or through a series of 2 or more interposed persons); and

(b) the interposed person (or any of the interposed persons) is a resident person who is also liable to tax in respect of the profits by the operation of subsection (1) or (2),

the resident person mentioned in paragraph (a) is discharged from the person’s liability to tax in respect of the profits.

(9) In this section—

*associate* (相聯者) has the meaning given by section 20AN(6);

*special purpose entity* (特定目的實體) has the meaning given by section 20AO(4).”.

7. Schedule 15B repealed (provisions for ascertaining amount of assessable profits of resident person under section 20AK)

Schedule 15B—

Repeal the Schedule.

8. Schedules 15C and 15D added

Before Schedule 16—

Add
Provisions for Ascertaining Amount of Assessable Profits of Resident Person under Section 20AX

Part 1

1. The amount regarded as the assessable profits of a resident person for a year of assessment is the total sum arrived at by adding up the assessable profits of the fund that are chargeable to tax under Part 4 and in respect of which tax would have been payable but for section 20AN (exempt profits) for each day in the period in the year of assessment during which the resident person has a direct or indirect beneficial interest in the fund.

2. For the purposes of section 1 of this Part, the exempt profits of a fund for a particular day in a year of assessment are to be ascertained in accordance with the following formula—

\[
A = \frac{B \times C}{D}
\]

where: \(A\) means the exempt profits of the fund for a particular day in a year of assessment;
B means the extent of the resident person's beneficial interest in the fund on the particular day, expressed as a percentage determined in accordance with Part 2 of this Schedule;

C means the exempt profits of the fund for the accounting period of the fund in which the particular day falls;

D means the total number of days in the accounting period of the fund in which the particular day falls.

Part 2

1. For a resident person having a direct beneficial interest in a fund, the extent of the beneficial interest of the resident person in the fund is—
   (a) if the fund is a corporation that is not a trustee of a trust estate—the percentage of the issued share capital (however described) of the corporation held by the resident person;
   (b) if the fund is a partnership that is not a trustee of a trust estate—the percentage of the profits of the partnership to which the resident person is entitled;
   (c) if the fund is a trustee of a trust estate—the percentage in value of the trust estate in which the resident person is interested; or
(d) 如該基金屬不符合 (a)、(b) 及 (c) 段中任何一段描述的實體——該居港者對該實體享有的擁有權權益的百分率。

2. 就對某基金享有間接實益權益的某居港者而言，該居港者對該基金享有的實益權益的程度，是——

(a) 如只有一名中間人——將代表該居港者對該中間人享有的實益權益程度的百分率，與代表該中間人對該基金享有的實益權益程度的百分率，兩者相乘而得出的百分率；或

(b) 如有多於一名中間人成的一系列中間人——將代表該居港者對系列中首名中間人享有的實益權益程度的百分率，乘以下述百分率而得出的百分率——

(i) 代表該系列中每名中間人（最後一名中間人除外）對該系列中下一名中間人享有的實益權益程度的百分率；及

(ii) 代表該系列中最後一名中間人對該基金享有的實益權益程度的百分率。

(d) if the fund is an entity that does not fall within any of paragraphs (a), (b) and (c)—the percentage of ownership interests that the resident person has in the entity.

2. For a resident person having an indirect beneficial interest in a fund, the extent of the beneficial interest of the resident person in the fund is—

(a) if there is only one interposed person—the percentage arrived at by multiplying the percentage representing the extent of the beneficial interest of the resident person in the interposed person by the percentage representing the extent of the beneficial interest of the resident person in the fund; or

(b) if there is a series of 2 or more interposed persons—the percentage arrived at by multiplying the percentage representing the extent of the beneficial interest of the resident person in the first interposed person in the series by—

(i) the percentage representing the extent of the beneficial interest of each interposed person (other than the last interposed person) in the series in the next interposed person in the series; and

(ii) the percentage representing the extent of the beneficial interest of the last interposed person in the series in the fund.
3. For the purposes of section 2 of this Part—
(a) section 1 of this Part applies in determining the extent of the beneficial interest of a resident person in an interposed person as if the references to a fund in that section were references to an interposed person;
(b) section 1 of this Part applies in determining the extent of the beneficial interest of an interposed person in a fund as if the references to a resident person in that section were references to an interposed person; and
(c) section 1 of this Part applies in determining the extent of the beneficial interest of an interposed person (Interposed Person A) in another interposed person (Interposed Person B) as if—
   (i) the references to a resident person in that section were references to Interposed Person A; and
   (ii) the references to a fund in that section were references to Interposed Person B.
Section 8

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Schedule 15D

[ss. 20AM, 20AW & 20AY]

Provisions for Ascertaining Amount of Assessable Profits of Resident Person under Section 20AY

Part 1

1. The amount regarded as the assessable profits of a resident person for a year of assessment is the total sum arrived at by adding up the assessable profits of the special purpose entity that are chargeable to tax under Part 4 and in respect of which tax would have been payable but for section 20AO (exempt profits) for each day in the period in the year of assessment during which the resident person has an indirect beneficial interest in the special purpose entity.

2. For the purposes of section 1 of this Part, the exempt profits of a special purpose entity for a particular day in a year of assessment are to be ascertained in accordance with the following formula—

\[ A = \frac{B_1 \times B_2 \times C}{D} \]

where: A means the exempt profits of the special purpose entity for a particular day in a year of assessment;
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B1 means the extent of the resident person's beneficial interest in the fund on the particular day, expressed as a percentage determined in accordance with Part 2 of Schedule 15C;

B2 means the extent of the fund's beneficial interest in the special purpose entity on the particular day, expressed as a percentage determined in accordance with Part 2 of this Schedule;

C means the exempt profits of the special purpose entity for the accounting period of the special purpose entity in which the particular day falls;

D means the total number of days in the accounting period of the special purpose entity in which the particular day falls.

3. In this Part—

   special purpose entity (特定目的實體) has the meaning given by section 20AO(4).

Part 2

1. For a fund having a direct beneficial interest in a special purpose entity, the extent of the beneficial interest of the fund in the special purpose entity is—

(a) if the special purpose entity is a corporation that is not a trustee of a trust estate—the percentage of the issued share capital (however described) of the corporation held by the fund;
2. 就對某特定目的實體享有間接實益權益的某基金而言，
該基金對該實體享有的實益權益的程度，是——
(a) 如只有一名中間人——將代表該基金對該中
間人享有的實益權益程度的百分率，與代表該
中間人對該實體享有的實益權益程度的百分
率，兩者相乘而得出的百分率；或
(b) 如有由多於一名中間人串成的一系列中間
人——將代表該基金對系列中首名中間人享
有的實益權益程度的百分率，乘以下述百分率
而得出的百分率——
(i) 代表該系列中每名中間人 (最後一名中間
人除外) 對該系列中下一名中間人享有的
實益權益程度的百分率；及

(b) if the special purpose entity is a partnership
that is not a trustee of a trust estate—the
percentage of the profits of the partnership to
which the fund is entitled;
(c) if the special purpose entity is a trustee of a
trust estate—the percentage in value of the trust
estate in which the fund is interested; or
(d) if the special purpose entity is an entity that
does not fall within any of paragraphs (a), (b)
and (c)—the percentage of ownership interests
that the fund has in the entity.

2. For a fund having an indirect beneficial interest in a
special purpose entity, the extent of the beneficial interest
of the fund in the special purpose entity is—
(a) if there is only one interposed person—the
percentage arrived at by multiplying the
percentage representing the extent of the
beneficial interest of the fund in the interposed
person by the percentage representing the extent
of the beneficial interest of the interposed
person in the special purpose entity; or
(b) if there is a series of 2 or more interposed
persons—the percentage arrived at by
multiplying the percentage representing the extent
of the beneficial interest of the fund in
the first interposed person in the series by—
(i) the percentage representing the extent of
the beneficial interest of each interposed
person (other than the last interposed
person) in the series in the next interposed
person in the series; and
3. For the purposes of section 2 of this Part—
   (a) section 1 of this Part applies in determining the extent of the beneficial interest of a fund in an interposed person as if the references to a special purpose entity in that section were references to an interposed person;
   (b) section 1 of this Part applies in determining the extent of the beneficial interest of an interposed person in a special purpose entity as if the references to a fund in that section were references to an interposed person; and
   (c) section 1 of this Part applies in determining the extent of the beneficial interest of an interposed person (Interposed Person A) in another interposed person (Interposed Person B) as if—
      (i) the references to a fund in that section were references to Interposed Person A; and
      (ii) the references to a special purpose entity in that section were references to Interposed Person B.

4. In this Part—
   special purpose entity (特定目的實體) has the meaning given by section 20AO(4).”.

9. Schedule 16 amended (specified transactions)

   Schedule 16—
10. Schedules 16A and 16B repealed
Schedules 16A and 16B—
Repeal the Schedules.

11. Schedule 16C added
Before Schedule 17—
Add

“Schedule 16C
[ss. 20AM, 20AN, 20AP & 20AS & Sch. 17A]

Classes of Assets Specified for Transactions for Purposes of Section 20AN

Part 1

1. Securities
2. Shares, stocks, debentures, loan stocks, funds, bonds or notes of, or issued by, a private company
3. Futures contracts
第 11 條

4. 符合以下說明的外匯交易合約：在該合約下，合約各方協定在某特定日期，兌換不同貨幣

5. 存款 (以放債業務的形式作出的存款除外)

6. 存放於銀行 (《證券及期貨條例》(第 571 章) 附表 1 第 1 部所界定者) 的存款 (《銀行業條例》(第 155 章) 第 2(1) 條所界定者)

7. 《證券及期貨條例》(第 571 章) 附表 1 第 1 部所界定的存款

8. 交易所買賣商品

9. 外幣

10. 《證券及期貨條例》(第 571 章) 附表 1 第 1 部所界定的場外衍生工具產品

11. 由夥伴基金與創基公司根據創基計劃共同投資的獲投資公司的股份

第 2 部

1. 在本附表中——

交易所買賣商品 (exchange-traded commodity) 指在《商品交易所 (禁止經營) 條例》(第 82 章) 憑藉該條例第 3(d) 條而不適用的位於香港的商品交易所買賣的黃金或銀；

4. Foreign exchange contracts under which the parties to the contracts agree to exchange different currencies on a particular date

5. Deposits other than those made by way of a money-lending business

6. Deposits (as defined by section 2(1) of the Banking Ordinance (Cap. 155)) made with a bank (as defined by Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571))

7. Certificates of deposit (as defined by Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571))

8. Exchange-traded commodities

9. Foreign currencies

10. OTC derivative products (as defined by Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571))

11. An investee company’s shares co-invested by a partner fund and ITVF under the ITVF Scheme

Part 2

1. In this Schedule—

collective investment scheme (集體投資計劃) means an arrangement in respect of any property—

(a) under which either or both of the following apply—
存款 (deposit) 指符合以下说明的款项——

(a) 有利息的；或
(b) 須按溢價付還的，或須連同屬金錢或金錢等值的代價付還的；

私人公司 (private company) 具有第 20AO(4) 條所給予的涵義；

股份 (share) 指法團股本中的股份，而除非股額與股份之間有明訂或隱含的分別，否則亦包括股額；

差價合約 (contract for differences) 指符合以下說明的協議：協議的目的或作用，是參照任何種類的財產的價值或價格的波動，或參照一個指數或就該目的而在協議內指定的其他因素的波動，以獲取利潤或避免損失；

特定目的實體 (special purpose entity) 具有第 20AO(4) 條所給予的涵義；

財產 (property) 具有第 20AM(3) 條所給予的涵義；

創基公司 (ITVFC) 具有第 20AR(2) 條所給予的涵義；

創基計劃 (ITVF Scheme) 具有第 20AR(2) 條所給予的涵義；

期貨市場 (futures market) 具有《證券及期貨條例》(第 571 章) 附表 1 第 1 部第 1 條所給予的涵義；

(i) the property is managed as a whole by, or on behalf of, the person operating the arrangement;

(ii) the contributions of the persons participating in the arrangement (participating persons) and the profits or income from which payments are made to them are pooled;

(b) under which the participating persons do not have day-to-day control over the management of the property (whether or not they have the right to be consulted on, or to give directions in respect of, the management); and

(c) the purpose or effect (or pretended purpose or effect) of which is to enable the participating persons (whether by acquiring any right, interest, title or benefit in the property or any part of the property or otherwise) to participate in or receive—

(i) profits, income or other returns represented to arise (or to be likely to arise) from the acquisition, holding, management or disposal of the property (or any part of the property), or sums represented to be paid (or to be likely to be paid) out of any such profits, income or other returns; or

(ii) a payment or other returns arising from the acquisition, holding or disposal of, the exercise of any right in, the redemption of, or the expiry of, any right, interest, title or benefit in the property (or any part of the property);
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contract for differences (差價合約) means an agreement the purpose or effect of which is to obtain a profit or avoid a loss by reference to fluctuations in the value or price of property of any description or in an index or other factor designated for that purpose in the agreement;

debenture (債權證) includes debenture stocks, bonds, and other debt securities of a corporation (whether constituting a charge on the assets of the corporation or not);

deposit (存款) means a loan of money—
(a) at interest; or
(b) repayable at a premium or repayable with any consideration in money or money's worth;

exchange-traded commodity (交易所買賣商品) means gold or silver traded on a commodity exchange in Hong Kong to which the Commodity Exchanges (Prohibition) Ordinance (Cap. 82) does not apply by virtue of section 3(d) of that Ordinance;

futures contract (期貨合約) means—
(a) a contract or an option on a contract made under the rules or convention of a futures market; or
(b) any other contract for differences—
(i) that is listed on a specified stock exchange, or traded on a specified futures exchange, within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);
(ii) that an authorized institution within the meaning of the Banking Ordinance (Cap.
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155) may enter into under that Ordinance; or

(iii) the transaction in respect of which is regulated by or under, or is carried out in compliance with, the Securities and Futures Ordinance (Cap. 571);

futures market (期货市场) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

investee company (獲投資公司) has the meaning given by section 20AR(2);

ITVF Scheme (創基計劃) has the meaning given by section 20AR(2);

ITVFC (創基公司) has the meaning given by section 20AR(2);

partner fund (夥伴基金) has the meaning given by section 20AR(2);

private company (私人公司) has the meaning given by section 20AO(4);

property (財產) has the meaning given by section 20AM(3);

securities (證券) means—

(a) subject to section 21(6) of Schedule 17A (specified alternative bond scheme and its tax treatment), shares, stocks, debentures, loan stocks, funds, bonds or notes of, or issued by, a body (including a special purpose entity), whether incorporated or unincorporated, or a government or municipal government authority;
12. 修訂附表 17A（指明另類債券計劃及其稅務處理）

(1) 附表 17A——
廢除

(b) 上述股份、股額、債權證、債權股額、基金、債券或票據中的（或關乎該等項目的）權利、期權或權益（不論以單位或其他方式描述）；

c) 上述股份、股額、債權證、債權股額、基金、債券或票據的權益證明書、參與證明書、臨時證明書、中期證明書、收據，或認購或購買該等項目的權證；

d) 集體投資計劃中的權益；

e) 通常稱為證券的權益、權利或財產（不論屬文書或其他形式）；或

(f) 符合以下說明的結構性產品：就該產品發出的、載有請公眾作出《證券及期貨條例》（第 571 章）第 103(1)(a) 條提述的作為的邀請（或屬該等邀請）的廣告、邀請或文件，已根據該條例第 105(1) 條獲認可，或須如此獲認可。”。

(b) rights, options or interests (whether described as units or otherwise) in, or in respect of, such shares, stocks, debentures, loan stocks, funds, bonds or notes;

c) certificates of interest or participation in, temporary or interim certificates for, receipts for, or warrants to subscribe for or purchase, such shares, stocks, debentures, loan stocks, funds, bonds or notes;

d) interests in any collective investment scheme;

e) interests, rights or property (whether in the form of an instrument or otherwise) commonly known as securities; or

(f) a structured product in respect of which the issue of any advertisement, invitation or document that is or contains an invitation to the public to do any act referred to in section 103(1)(a) of the Securities and Futures Ordinance (Cap. 571) is authorized, or required to be authorized, under section 105(1) of that Ordinance;

*share* (股份) means any share in the share capital of a corporation, and, except where a distinction between stock and shares is express or implied, includes stock;

*special purpose entity* (特定目的實體) has the meaning given by section 20AO(4).”.

12. Schedule 17A amended (specified alternative bond scheme and its tax treatment)

(1) Schedule 17A——
Repeal
Inland Revenue (Profits Tax Exemption for Funds) (Amendment) Ordinance 2019

Ord. No. 5 of 2019

Section 12

“26A(2) & (4), 40AB, 51C(5), 60(4), 64(11), 79(4), 80(6) & 82A(8) & Schs. 6, 16”

Substitute
“20AN(7), 26A(2) & (4), 40AB, 51C(5), 60(4), 64(11), 79(4), 80(6) & 82A(8) & Schs. 6, 16, 16C”.

(2) Schedule 17A, section 21(6)—
Repeal
“Section 20AC”

Substitute
“Sections 20AC and 20AN”.

(3) Schedule 17A, section 21(6)—
Repeal
“Schedule 16”

Substitute
“Schedules 16 and 16C”.

(4) Schedule 17A, section 21(6)—
Repeal
“that Schedule”

Substitute
“those Schedules”.

2019年第5號條例
A874 第12條

“26A(2)及 (4)、40AB、51C(5)、60(4)、64(11)、79(4)、80(6)及 82A(8)條及附表 6、16”

代以
“20AN(7)、26A(2)及 (4)、40AB、51C(5)、60(4)、64(11)、79(4)、80(6)及 82A(8)條及附表 6、16、16C”。

(2) 附表 17A，第 21(6) 條，在“20AC”之後——
加入
“及 20AN”。

(3) 附表 17A，第 21(6) 條，在“附表 16”之後——
加入
“及 16C”。

(4) 附表 17A，第 21(6) 條，在“附表中”之前——
加入
“等”。

《2019年稅務 (豁免基金繳付利得稅) (修訂) 條例》