## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Short title</td>
<td>A165</td>
</tr>
<tr>
<td>2. Inland Revenue Ordinance amended</td>
<td>A165</td>
</tr>
<tr>
<td>3. Section 2 amended (interpretation)</td>
<td>A165</td>
</tr>
<tr>
<td>4. Section 14 amended (charge of profits tax)</td>
<td>A167</td>
</tr>
<tr>
<td>5. Sections 14O to 14ZB added</td>
<td>A167</td>
</tr>
<tr>
<td>14O. Ship leasing tax concessions: interpretation</td>
<td>A167</td>
</tr>
<tr>
<td>14P. Ship leasing tax concessions: concession for qualifying ship lessor</td>
<td>A189</td>
</tr>
<tr>
<td>14Q. Ship leasing tax concessions: allowance for capital expenditure on ship</td>
<td>A194</td>
</tr>
<tr>
<td>14R. Ship leasing tax concessions: calculation of net lease payments for operating leases</td>
<td>A195</td>
</tr>
<tr>
<td>14S. Ship leasing tax concessions: calculation of net payments of finance charges or interest for funding leases</td>
<td>A203</td>
</tr>
<tr>
<td>14T. Ship leasing tax concessions: concession for qualifying ship leasing manager</td>
<td>A207</td>
</tr>
<tr>
<td>14U. Ship leasing tax concessions: safe harbour rule</td>
<td>A211</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>14V. Ship leasing tax concessions: Commissioner’s determination</td>
<td>A219</td>
</tr>
<tr>
<td>14W. Ship leasing tax concessions: carrying out of activities in Hong Kong</td>
<td>A219</td>
</tr>
<tr>
<td>14X. Ship leasing tax concessions: losses sustained by qualifying ship lessor or qualifying ship leasing manager</td>
<td>A220</td>
</tr>
<tr>
<td>14Y. Ship leasing tax concessions: anti-avoidance provisions relating to arm’s length principle</td>
<td>A221</td>
</tr>
<tr>
<td>14Z. Ship leasing tax concessions: anti-avoidance provisions relating to release of ownership obligation</td>
<td>A224</td>
</tr>
<tr>
<td>14ZA. Ship leasing tax concessions: anti-avoidance provisions relating to arrangement to obtain tax benefit</td>
<td>A225</td>
</tr>
<tr>
<td>14ZB. Ship leasing tax concessions: power to amend Schedule 17FA</td>
<td>A229</td>
</tr>
<tr>
<td>6. Section 15 amended (certain amounts deemed trading receipts)</td>
<td>A229</td>
</tr>
<tr>
<td>7. Section 15G added</td>
<td>A231</td>
</tr>
<tr>
<td>15G. Sums derived from funding leases of ships</td>
<td>A231</td>
</tr>
<tr>
<td>8. Section 16 amended (ascertainment of chargeable profits)</td>
<td>A233</td>
</tr>
</tbody>
</table>
Inland Revenue (Amendment) (Ship Leasing Tax Concessions) Ordinance 2020

Section Page
9. Section 19CA amended (treatment of losses: concessionary trading receipts) .................................................. A235
10. Section 37 amended (initial and annual allowances, machinery or plant) ............................................................ A237
11. Section 38 amended (balancing allowances and charges, machinery or plant) .......................................................... A239
12. Section 39B amended (initial and annual allowances on machinery or plant under the pooling system) .................. A239
13. Section 39D amended (balancing allowances and charges under the pooling system) .................................................. A241
14. Section 63H amended (amount of provisional profits tax) .......................................................................................... A241
15. Section 89 amended (transitional provisions) ........................................................................................................ A243
16. Section 100 amended (reduction of taxes) ................................................................................................................ A243
17. Schedule 8 amended (rate of profits tax in respect of a corporation) ................................................................. A243
18. Schedule 8C added ............................................................................................................................. A243
19. Schedule 17FA added ........................................................................................................................................ A245

Schedule 8C Rate of Profits Tax for Qualifying Ship Lessor or Qualifying Ship Leasing Manager ........................................ A245

Schedule 17FA Ship Leasing Tax Concessions ........................................ A245

Schedule 17FA Ship Leasing Tax Concessions ........................................ A245

Schedule 17FA Ship Leasing Tax Concessions ........................................ A245
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.</td>
<td>A255</td>
</tr>
</tbody>
</table>

Schedule 51
Transitional Provisions for Inland Revenue (Amendment) (Ship Leasing Tax Concessions) Ordinance 2020
1. 簡稱
本條例可引稱為《2020年稅務（修訂）（船舶租賃稅務寬減）條例》。

2. 修訂《稅務條例》
《稅務條例》(第112章)現予修訂，修訂方式列於第3至20條。

3. 修訂第2條 (釋義)
(1) 第2(1)條，租約的定義——
廢除
“及附表17F”

An Ordinance to amend the Inland Revenue Ordinance to give profits tax concessions to qualifying ship lessors and qualifying ship leasing managers; to make provisions for profits tax purposes about businesses in connection with ships; and to make related amendments.

Enacted by the Legislative Council.
Inland Revenue (Amendment) (Ship Leasing Tax Concessions) Ordinance 2020

Section 4

Substitute

“，the ship leasing tax concessions provisions and Schedules 17F and 17FA”.

(2) Section 2(1)—
Add in alphabetical order

“ship leasing tax concessions provisions (船舶租賃稅務寬減條文) means sections 14O, 14P, 14Q, 14R, 14S, 14T, 14U, 14V, 14W, 14X, 14Y, 14Z, 14ZA and 14ZB;”.

4. Section 14 amended (charge of profits tax)
Section 14(5)—
Repeal
“or 14J(5)(b)”
Substitute
“, 14J(5)(b), 14P(4)(b) or 14T(5)(b)”.

5. Sections 14O to 14ZB added
After section 14N—
Add

“14O. Ship leasing tax concessions: interpretation
(1) In the ship leasing tax concessions provisions—
actual residual value (實際剩餘價值), in relation to a ship, means the actual fair market value of the ship at the end of the term of a lease or its useful economic life;
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) 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 the 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 has control over the corporation;
   (ii) a partner of a person mentioned in subparagraph (i);
   (iii) if a person mentioned in subparagraph (i) is a natural person—a relative of the person;
   (iv) if a 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


Section 5

(B) an associated corporation of the corporation;
(vi) a relative of a director (if the director is a natural person) 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
(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—
Section 5

(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 a 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;

*connected person* (有關連者), in relation to a corporation, means—

(a) an associated corporation of the corporation;

(b) a person (other than a corporation)—

(i) over whom the corporation has control;

(ii) who has control over the corporation; or

(iii) who is under the control of the same person as is the corporation; or

(c) a partnership in which the corporation or its associate is a partner;

*control* (控制), in relation to the definitions of *associate*, *associated corporation*, *associated partnership* and *connected person*—see subsection (2);

*estimated residual value* (估計剩餘價值), in relation to a ship, means an estimated fair market value of the ship at the end of the term of a lease or its useful economic life;

*funding lease* (融購租約) means an arrangement—

(a) under which a right to use a ship is granted by a person (*lessor*) to another person (*lessee*) for a term exceeding 1 year;

(b) that satisfies one of the following conditions at its inception—

(i) the arrangement is accounted for as a finance lease or loan by the lessor in accordance with—

(A) the Hong Kong Financial Reporting Standards issued by the Hong
Section 5

Kong Institute of Certified Public Accountants, as in force from time to time; or

(B) the International Financial Reporting Standards issued by the International Accounting Standards Board, as in force from time to time;

(ii) the present value of the aggregate minimum lease payments (whether or not they are periodic payments and including any sum payable under a residual value guarantee) during the term of the arrangement is equal to or more than 80% of the fair market value of the ship;

(iii) the term of the arrangement is equal to or more than 65% of the remaining useful economic life of the ship; and

(c) under which the property in the ship will or may pass to the lessee, or an associate of the lessee, at the end of its term,

and includes an agreement or another arrangement in connection with such an arrangement;

Note—

See also subsection (3).

lease (租約), when used as a noun, means—

(a) an operating lease; or

(b) a funding lease,

and lease (租賃), when used as a verb, is to be construed accordingly;

operating lease (營運租約)
(a) means—

(i) an arrangement under which a right to use a ship is granted by an owner of the ship to another person for a term exceeding 1 year (specified head lease); or

(ii) an arrangement under which a right to use a ship is granted by a lessee under a specified head lease (or by a sub-lessee or any other person deriving the right under the lessee) to another person; and

(b) does not include a funding lease;

own (擁有) includes—

(a) to hold as a lessee under a funding lease;

(b) to hold as a bailee under a hire-purchase agreement; and

(c) to hold as a buyer under a conditional sale agreement;

Note—
See also subsection (4).

permanent establishment (常設機構)—

(a) means a branch, management or other place of business; but

(b) does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of a principal;

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
Section 5

Inland Revenue (Amendment) (Ship Leasing Tax Concessions) Ordinance 2020

Ord. No. 5 of 2020

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 employed by the corporation 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;

qualifying ship leasing activity (合資格船舶租賃活動)—see subsection (5);

qualifying ship leasing management activity (合資格船舶租賃管理活動)—see subsection (7);

qualifying ship leasing manager (合資格船舶租賃管理人)—see section 14T(2);

qualifying ship lessor (合資格船舶出租人)—see section 14P(2);

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 adopting parent; and

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

residual value guarantee (剩餘價值擔保), in relation to a ship, means a financial commitment to pay a sum by reference to the amount by which the estimated residual value of the ship exceeds the actual residual value of the ship;


拥(own)包括——

(a) 順照融購租約，以承租人身分持有；
(b) 順照租購協議，以受寄人身分持有；及
(c) 順照有條件售賣協議，以買方身分持有；

附註——

請亦參閱第 (4) 款。

融購租約 (funding lease) 指一項符合以下說明的安排——

(a) 在該項安排之下，某人(出租人)將某船舶的使用權批予另一人(承租人)，為期超過 1 年；
(b) 該項安排於訂立時，符合以下條件中的其中一項——

(i) 出租人按照以下準則，將該項安排作為融資租賃或貸款入帳——

(A) 由香港會計師公會發出的《香港財務報告準則》(以不時有效的版本為準)；或

(B) 由國際會計準則委員會發出的《國際財務報告準則》(以不時有效的版本為準)；

(ii) 在該項安排的租期內，最低租約付款總數 (不論是否分期付款，並包括根據剩餘價值擔保而須支付的任何款項) 的現值，等於或多於該船舶的公平市值的 80%；

(iii) 該項安排的租期，等於或多於該船舶尚餘的經濟效用期的 65%；及
Section 5

Inland Revenue (Amendment) (Ship Leasing Tax Concessions) Ordinance 2020

ship (船舶) means a vessel of any description capable of navigating in water and—
(a) includes—
(i) a barge or lighter;
(ii) an air-cushion vehicle; and
(iii) a dynamically supported craft as defined by section 2 of the Shipping and Port Control Ordinance (Cap. 313); and
(b) does not include—
(i) a junk as defined by section 2 of the Merchant Shipping Ordinance (Cap. 281);
(ii) a vessel propelled by oars; or
(iii) a vessel solely for military use;

ship leasing activity (船舶租賃活動)—see section 1(1) of Schedule 17FA;

ship leasing management activity (船舶租賃管理活動)—see section 1(1) of Schedule 17FA;

ship leasing management asset (船舶租賃管理資產), in relation to a corporation, means an asset of the corporation used by it to carry out a qualifying ship leasing management activity;

ship leasing management profits (船舶租賃管理利潤), in relation to a corporation, means any profits of the corporation that are derived from a qualifying ship leasing management activity;

ship leasing manager (船舶租賃管理商) means a person carrying on a business of carrying out ship leasing management activities;

ship lessor (船舶出租商) means a person carrying on a business of carrying out ship leasing activities;
ship operation business (船舶營運業務)—
(a) means a business of operating ships as an owner or a charterer for providing services for the carriage by ships of passengers, cargo or mail; but
(b) does not include dealing in ships or agency business in connection with sea transport;

ship operator (船舶營運商) means a person carrying on a ship operation business.

(2) For the purposes of the definitions of associate, associated corporation, associated partnership and connected person in subsection (1)—
(a) a person has control over a corporation if the person has the power to secure—
(i) by means of the holding of shares or the possession of voting power in or in relation to that or any other corporation; or
(ii) by virtue of any powers conferred by the articles of association or other document regulating that or any other corporation, that the affairs of the first-mentioned corporation are conducted in accordance with the wishes of that person;

(b) a person has control over a partnership if the person has the power to secure—
(i) by means of the holding of interests or the possession of voting power in or in relation to that or any other partnership; or
(ii) by virtue of any powers conferred by the partnership agreement or other document regulating that or any other partnership,
that the affairs of the first-mentioned partnership are conducted in accordance with the wishes of that person; and

(c) a person (first-mentioned person) has control over another person who is a natural person (second-mentioned person) if the second-mentioned person is accustomed or under an obligation (whether express or implied, and whether or not enforceable or intended to be enforceable by legal proceedings) to act, in relation to the investment or business affairs of the second-mentioned person, in accordance with the directions, instructions or wishes of the first-mentioned person.

(3) For the purposes of the definition of funding lease in subsection (1), an arrangement does not fall within paragraph (c) of the definition if, in the opinion of the Commissioner, the property in the ship concerned would reasonably be expected not to pass to the lessee, or an associate of the lessee, under the arrangement at the end of its term.

(4) In the definition of own in subsection (1), a reference to a hire-purchase agreement or conditional sale agreement does not include one under which, in the opinion of the Commissioner, the property in the ship concerned would reasonably be expected not to pass to the bailee or buyer (as the case may be).

(5) A ship leasing activity carried out by a corporation in respect of a ship is a qualifying ship leasing activity if—

(a) the activity is carried out in the ordinary course of the corporation’s business carried on in Hong Kong; and
Section 5

(b) the ship is—
(i) of over 500 gross tonnage; and
(ii) navigating solely or mainly outside the waters of Hong Kong.

(6) For the purposes of subsection (5)(b)(i), a ship's gross tonnage is determined in accordance with the formula set out in regulation 6 of the Merchant Shipping (Registration) (Tonnage) Regulations (Cap. 415 sub. leg. C).

(7) A ship leasing management activity carried out by a corporation in respect of a ship is a qualifying ship leasing management activity if—
(a) the activity is carried out in the ordinary course of the corporation's business carried on in Hong Kong;
(b) the activity is carried out for another corporation during the basis period of the other corporation for a year of assessment;
(c) the other corporation is a qualifying ship lessor for that year of assessment; and
(d) the ship is leased by the other corporation to a ship lessor, ship leasing manager or ship operator when the activity is carried out.

(8) A note located in the text of the ship leasing tax concessions provisions is provided for information only and has no legislative effect.

14P. Ship leasing tax concessions: concession for qualifying ship lessor

(1) For the purposes of this Part and subject to subsections (4) and (6), the assessable profits of a
corporation that is a qualifying ship lessor for a year of assessment are chargeable to tax under this Part at the rate specified in Schedule 8C to the extent to which those profits are assessable profits derived from its qualifying ship leasing activity.

(2) A ship lessor is a qualifying ship lessor for a year of assessment if, during the basis period for that year of assessment—

(a) it is not a ship operator;
(b) it has carried out in Hong Kong one or more qualifying ship leasing activities; and
(c) it has not carried out in Hong Kong any activity other than a qualifying ship leasing activity.

(3) For the purposes of subsection (2)(c), in determining whether a ship lessor has carried out any activity other than a qualifying ship leasing activity, only activities that generate income to the ship lessor are to be taken into account.

(4) Subsection (1) applies to a corporation for a year of assessment only if—

(a) during the basis period for that year of assessment—

(i) the central management and control of the corporation is exercised in Hong Kong;

(ii) the activities that produce its qualifying profits for that year are—

(A) carried out in Hong Kong by the corporation; or

(B) arranged by the corporation to be carried out in Hong Kong; and
(iii) those activities are not carried out by a permanent establishment outside Hong Kong; and

(b) the corporation has elected in writing that subsection (1) applies to it.

Note—
See also section 14W.

(5) An election under subsection (4)(b), once made, is irrevocable.

(6) If subsection (1) does not apply to a corporation for a year of assessment (cessation year) while it did for the previous year of assessment—

(a) the election made by the corporation under subsection (4)(b) ceases to be effective; and

(b) despite anything in this section, subsection (1) is not to apply to the corporation for the year of assessment that follows the cessation year.

(7) A ship owned by a corporation is to be treated as a capital asset of the corporation for the purposes of this Part if—

(a) the corporation uses the ship for carrying out a qualifying ship leasing activity for a continuous period of not less than 3 years immediately before it disposes of the ship; and

(b) subsection (1) applies in relation to that activity for any year of assessment.

(8) In this section—

*qualifying profits* (合資格利潤), in relation to a corporation, means the assessable profits of the corporation that fall within subsection (1).
14Q. Ship leasing tax concessions: allowance for capital expenditure on ship

(1) If section 14P(1) applies to a corporation for a year of assessment, the corporation is not entitled to be granted any allowance under Part 6 for that year of assessment in respect of the capital expenditure incurred on the provision of the ship concerned.

(2) If—
   (a) a person (initial transferor), whether alone or with others and whether directly or through an interposed person, transfers a ship by way of sale to a corporation (initial transferee);
   (b) the initial transferee subsequently leases the ship to the initial transferor, or to an associate of the initial transferor, under a funding lease (leaseback activity); and
   (c) the leaseback activity is a qualifying ship leasing activity, and the initial transferee is a qualifying ship lessor for a year of assessment by virtue of carrying out the activity,

for the purposes of Part 6, the transfer is not treated as a sale of the ship concerned.

14R. Ship leasing tax concessions: calculation of net lease payments for operating leases

(1) If section 14P(1) applies to a corporation for a year of assessment, and the qualifying ship leasing activity concerned relates to an operating lease, then the assessable profits of the corporation derived from the activity for that year of assessment are calculated in accordance with this section.
(2) Unless subsection (3) applies, the net lease payments for the right to use a ship under the operating lease are to be calculated in accordance with the following formula—

\[ A = (B - C) \times D \]

where:
- \( A \) means the net lease payments;
- \( B \) means the aggregate amount of the gross lease payments (whether or not they are periodic payments and including any sum payable under a residual value guarantee) earned by or accrued to the corporation under the operating lease during the basis period for the year of assessment;
- \( C \) means the aggregate amount of any outgoings and expenses deductible under this Part to the extent to which they are incurred during the basis period for the year of assessment; and
- \( D \) means the percentage prescribed in section 2 of Schedule 17FA.

(3) If there are special circumstances in relation to a year of assessment, the net lease payments for the right to use a ship under the operating lease are to be calculated in accordance with the following formula—

\[ A = B - C \]

where:
- \( A \) means the net lease payments;
Section 5

B means the aggregate amount of the gross lease payments (whether or not they are periodic payments and including any sum payable under a residual value guarantee) earned by or accrued to the corporation under the operating lease during the basis period for the year of assessment; and

C means the aggregate amount of any outgoings and expenses deductible under this Part to the extent to which they are incurred during the basis period for the year of assessment by the corporation in the production of those gross lease payments.

(4) For the purposes of subsection (3), there are special circumstances in relation to a year of assessment if, in relation to the year—

(a) the corporation carries out the qualifying ship leasing activity other than as an owner of the ship concerned;

(b) the corporation has not incurred capital expenditure on the provision of the ship concerned;

(c) allowances under Part 6 have been granted to the corporation or a connected person of the corporation in respect of the capital expenditure incurred on the provision of the ship concerned;

(4) 就第 (3) 款而言，如就某課稅年度而言有以下情況，即屬就該課稅年度而言有特殊情況——

(a) 該法團進行有關的合資格船舶租賃活動，但並非以有關船舶的擁有人身分進行；

(b) 該法團沒有為了提供有關船舶而招致資本開支；

(c) 該法團或其有關連者，已就為了提供有關船舶而招致的資本開支，獲得第 6 部所訂的免稅額；
(d) 該法團的有關連者，就該課稅年度而在香港或香港境外地區，就為了提供有關船舶而招致的資本開支，獲得資本免稅額；或

(e) 該法團以有關船舶的擁有人身分，進行有關的合資格船舶租賃活動，而在該法團取得該船舶之前，該船舶——

(i) 是由承租人（不論單獨或聯同他人）擁有和使用的；或

(ii) 是由承租人的相聯者擁有和使用的。

(5) 然而，在以下情況下，第 (4)(e) 款不適用——

(a) 有關船舶是有關法團向該款所述的承租人或其相聯者（最終使用者）取得的，而取得的代價，並不於最終使用者為向另一人（供應商）取得該船舶而付給供應商的代價；及

(b) 在該法團取得該船舶之前，最終使用者並沒有就該船舶，獲得第 6 部所訂的初期免稅額或每年免稅額。

(6) 如最終使用者在以下期間內，藉向局長發出書面通知放棄有關免稅額，則就第 (5)(b) 款而言，該免稅額須視為未有給予——

(d) capital allowances are granted to a connected person of the corporation, whether in Hong Kong or in a territory outside Hong Kong, for the year of assessment in respect of the capital expenditure incurred on the provision of the ship concerned; or

(e) the corporation carries out the qualifying ship leasing activity as an owner of the ship concerned, and the ship was, before the acquisition of the ship by the corporation—

(i) owned and used by the lessee (whether alone or with others); or

(ii) owned and used by an associate of the lessee.

(5) However, subsection (4)(e) does not apply if—

(a) the ship concerned was acquired by the corporation from the lessee, or the associate of the lessee, mentioned in that subsection (end-user) with a consideration not more than the consideration paid by the end-user to another person (supplier) for acquiring the ship from the supplier; and

(b) no initial or annual allowances under Part 6 have been granted to the end-user in respect of the ship before the acquisition of the ship by the corporation.

(6) For the purposes of subsection (5)(b), an allowance is to be regarded as not having been granted if the end-user disclaims the allowance by giving the Commissioner a written notice within——
Section 5

(a) 3 months of the date on which the capital expenditure giving rise to the allowance is incurred; or

(b) any further time that the Commissioner permits in a particular case.

(7) If a ship is leased under the operating lease together with other dealings in pursuance of one bargain, then for calculating the net lease payments under subsection (2) or (3), the Commissioner must, having regard to all the circumstances of the bargain, allocate an amount of gross lease payments for the right to use the ship under the lease.

(8) The outgoings and expenses taken into account in calculating the net lease payments under this section may not otherwise be claimed for deduction under this Part.

(9) In this section—

acquisition (取得) means acquisition by a person as owner and includes holding or hiring under a hire-purchase agreement or, if the hire-purchase agreement is a conditional sale agreement, holding as purchaser;

lessee (承租人) means the lessee under the operating lease concerned.

14S. Ship leasing tax concessions: calculation of net payments of finance charges or interest for funding leases

(1) If section 14P(1) applies to a corporation for a year of assessment, and the qualifying ship leasing activity concerned relates to a funding lease, then the assessable profits of the corporation derived from the activity for that year of assessment are calculated in accordance with this section.
(2) The net payments of finance charges or interest in relation to the right to use a ship under the funding lease are to be calculated in accordance with the following formula—

\[ E = F - G \]

where:

- \( E \) means the net payments of finance charges or interest;
- \( F \) means the aggregate amount of the gross payments of finance charges or interest (whether or not they are periodic payments) earned by or accrued to the corporation under the funding lease during the basis period for the year of assessment; and
- \( G \) means the aggregate amount of any outgoings and expenses deductible under this Part to the extent to which they are incurred during the basis period for the year of assessment by the corporation in the production of those gross payments of finance charges or interest.

(3) If a ship is leased under the funding lease together with other dealings in pursuance of one bargain, then for calculating the net payments of finance charges or interest under subsection (2), the Commissioner must, having regard to all the circumstances of the bargain, allocate an amount of gross payments of finance charges or interest in relation to the right to use the ship under the lease.
(4) The outgoings and expenses taken into account in calculating the net payments of finance charges or interest under this section may not otherwise be claimed for deduction under this Part.

14T. Ship leasing tax concessions: concession for qualifying ship leasing manager

(1) For the purposes of this Part and subject to subsections (5) and (7), the assessable profits of a corporation that is a qualifying ship leasing manager for a year of assessment are chargeable to tax under this Part at—

(a) to the extent to which those profits are assessable profits derived from its qualifying ship leasing management activity carried out other than for an associated corporation—one-half of the rate specified in Schedule 8; or

(b) to the extent to which those profits are assessable profits derived from its qualifying ship leasing management activity carried out for an associated corporation—the rate specified in Schedule 8C.

(2) A ship leasing manager is a qualifying ship leasing manager for a year of assessment if—

(a) during the basis period for that year of assessment, it is not a ship operator; and

(b) for that year of assessment—

(i) it satisfies the conditions specified in subsection (3); and

(ii) it satisfies the safe harbour rule under section 14U; or
Section 5

(iii) it has obtained the Commissioner’s determination under section 14V(1).

(3) For the purposes of subsection (2)(b)(i), the conditions are that, during the basis period for the year of assessment, the ship leasing manager—

(a) has carried out in Hong Kong one or more qualifying ship leasing management activities; and

(b) has not carried out in Hong Kong any activity other than a qualifying ship leasing management activity.

(4) For the purposes of subsection (3)(b), in determining whether a ship leasing manager has carried out any activity other than a qualifying ship leasing management activity, only activities that generate income to the ship leasing manager are to be taken into account.

(5) Subsection (1) applies to a corporation for a year of assessment only if—

(a) during the basis period for that year of assessment—

(i) the central management and control of the corporation is exercised in Hong Kong;

(ii) the activities that produce its qualifying profits for that year are—

(A) carried out in Hong Kong by the corporation; or

(B) arranged by the corporation to be carried out in Hong Kong; and

(b) it has obtained the Commissioner’s determination under section 14V(1).
(iii) 該等活動並非由位於香港境外的常設機構進行；及

(b) 該法團以書面方式，選擇第(1) 款對其適用。

附註——
請亦參閱第 14W 條。

(6) 第(5)(b)款所指的選擇，一經作出，即不能撤回。

(7) 如第(1)款就某課稅年度 (停止年度) 言，不適用於某法團，而該款就停止年度的對上一個課稅年度而言，曾適用於該法團，則——

(a) 該法團根據第(5)(b)款作出的選擇，停止有效；及

(b) 儘管有本條的規定，就停止年度的下一個課稅年度而言，第(1)款不適用於該法團。

(8) 在本條中——

合資格利潤 (qualifying profits) 就某法團而言，指符合第 (1) 款描述的該法團的應評利潤。

14U. 船舶租賃稅務寬減：安全港規則

(1) 為施行第 14T(2)(b)(ii) 條，在以下情況下，某法團就某課稅年度 (標的年度) 言，即屬符合安全港規則——

(a) 該法團處於第 (2) 款所指的 1 年安全港；或

(b) 該法團處於第(3)款所指的多年安全港。

(iii) those activities are not carried out by a permanent establishment outside Hong Kong; and

(b) the corporation has elected in writing that subsection (1) applies to it.

Note—
See also section 14W.

(6) An election under subsection (5)(b), once made, is irrevocable.

(7) If subsection (1) does not apply to a corporation for a year of assessment (cessation year) while it did for the previous year of assessment—

(a) the election made by the corporation under subsection (5)(b) ceases to be effective; and

(b) despite anything in this section, subsection (1) is not to apply to the corporation for the year of assessment that follows the cessation year.

(8) In this section—

qualifying profits (合資格利潤), in relation to a corporation, means the assessable profits of the corporation that fall within subsection (1).
(2) A corporation falls within the 1-year safe harbour if, for the subject year—
(a) its SLMP percentage is not lower than the profits percentage prescribed in section 3 of Schedule 17FA; and
(b) its SLMA percentage is not lower than the asset percentage prescribed in section 4 of that Schedule.

(3) A corporation falls within the multiple-year safe harbour if, for the specified years—
(a) its average SLMP percentage is not lower than the profits percentage prescribed in section 3 of Schedule 17FA; and
(b) its average SLMA percentage is not lower than the asset percentage prescribed in section 4 of that Schedule.

(4) In this section, a reference to the specified years for a corporation is a reference to—
(a) if the corporation has carried on a trade, profession or business in Hong Kong for less than 2 consecutive years of assessment immediately before the subject year—the subject year and the preceding year of assessment (*the 2 years*); or
(b) if the corporation has carried on a trade, profession or business in Hong Kong for 2 or more consecutive years of assessment immediately before the subject year—the subject year and the preceding 2 years of assessment (*the 3 years*).
(5) The SLMP percentage of a corporation for a year of assessment is calculated in accordance with the following formula—

\[
\frac{\text{SLMP}}{P}
\]

where: \(\text{SLMP}\) means the aggregate amount of the ship leasing management profits of the corporation during the basis period for the year of assessment; and

\(P\) means the aggregate amount of profits accruing to the corporation from all sources, whether in Hong Kong or not, during the basis period for the year of assessment.

(6) The SLMA percentage of a corporation for a year of assessment is calculated in accordance with the following formula—

\[
\frac{\text{SLMA}}{A}
\]

where: \(\text{SLMA}\) means the aggregate value of the ship leasing management assets of the corporation as at the end of the basis period for the year of assessment; and

\(A\) means the aggregate value of all assets, whether in Hong Kong or not, of the corporation as at the end of the basis period for the year of assessment.
(7) For the purposes of subsection (6), in computing the aggregate value of the ship leasing management assets of a corporation, if a ship leasing management asset is used partly to carry out a qualifying ship leasing management activity and partly for another purpose, only the part of the value of the asset that is proportionate to the extent to which the asset is used to carry out a qualifying ship leasing management activity is to be taken into account.

(8) A reference to the average SLMP percentage of a corporation for the specified years is a reference to the percentage arrived at by—

(a) if subsection (4)(a) applies—dividing the sum of the SLMP percentages of the corporation for the 2 years by 2; or

(b) if subsection (4)(b) applies—dividing the sum of the SLMP percentages of the corporation for the 3 years by 3.

(9) A reference to the average SLMA percentage of a corporation for the specified years is a reference to the percentage arrived at by—

(a) if subsection (4)(a) applies—dividing the sum of the SLMA percentages of the corporation for the 2 years by 2; or

(b) if subsection (4)(b) applies—dividing the sum of the SLMA percentages of the corporation for the 3 years by 3.
14V. Ship leasing tax concessions: Commissioner’s determination

(1) For the purposes of section 14T(2)(b)(iii), the Commissioner may, on application by a corporation, determine that the corporation is a qualifying ship leasing manager for a year of assessment.

(2) A corporation may apply for the Commissioner’s determination under subsection (1) only if—

(a) it is not a ship operator; and

(b) for the year of assessment, it satisfies neither of the following—

(i) the conditions specified in section 14T(3);

(ii) the safe harbour rule under section 14U.

(3) The Commissioner may make a determination under subsection (1) only if the Commissioner is of the opinion that the conditions specified in section 14T(3), or the safe harbour rule under section 14U, would, in the ordinary course of business of the corporation, have been satisfied for the year of assessment.

14W. Ship leasing tax concessions: carrying out of activities in Hong Kong

(1) For the purposes of section 14P(4)(a)(ii), an activity producing the assessable profits of a corporation that fall within section 14P(1) for a year of assessment is not considered to be carried out in Hong Kong by the corporation or arranged by the corporation to be carried out in Hong Kong during the basis period for that year of assessment unless the threshold requirements are met.
Section 5

(2) For the purposes of section 14T(5)(a)(ii), an activity producing the assessable profits of a corporation that fall within section 14T(1) for a year of assessment is not considered to be carried out in Hong Kong by the corporation or arranged by the corporation to be carried out in Hong Kong during the basis period for that year of assessment unless the threshold requirements are met.

(3) To avoid doubt, the fact that the threshold requirements are not met for the purposes of subsection (1) or (2) does not imply that the assessable profits mentioned in that subsection do not arise in or are not derived from Hong Kong.

(4) In this section—

threshold requirements (門檻要求) means—

(a) for the purposes of subsection (1)—the requirements prescribed in section 5 of Schedule 17FA; or

(b) for the purposes of subsection (2)—the requirements prescribed in section 6 of that Schedule.

14X. Ship leasing tax concessions: losses sustained by qualifying ship lessor or qualifying ship leasing manager

(1) If section 14P(1) applies to a corporation for a zero-tax year of assessment, any loss sustained by the corporation in the year of assessment is not available for set off against any of its assessable profits for any subsequent year of assessment.

(2) If section 14T(1)(b) applies to a corporation for a zero-tax year of assessment, any loss sustained by the corporation in the year of assessment is not available
14Y. Ship leasing tax concessions: anti-avoidance provisions relating to arm's length principle

(1) Subsection (2) applies if—

(a) conditions are made or imposed between a corporation that is a qualifying ship lessor and a person who is an associate of that corporation, in their commercial or financial relations in connection with a qualifying ship leasing activity; and

(b) the conditions differ from those that would be made if the person were not such an associate.

(2) Any profits that, but for the conditions referred to in subsection (1)(a), would have accrued to the corporation or the person and, by reason of those conditions, have not so accrued, are to be included in the profits of the corporation or the person and taxed in accordance with this Part.

(3) Subsection (4) applies if—

(a) conditions are made or imposed between a corporation that is a qualifying ship leasing manager and a person who is an associate of that corporation, in their commercial or financial relations in connection with a

zero-tax year of assessment (零税率課稅年度) means a year of assessment for which the rate of profits tax specified in Schedule 8C is 0%.

14Y. 船舶租賃稅務寬減：關乎獨立交易原則的防避稅條文

(1) 在以下情況下，第 (2) 款適用——

(a) 一個屬合資格船舶出租商的法團，與屬該法團的相聯者的人，維持關於合資格船舶租賃活動的商業或財務關係，而某些條件在該關係之中，在該法團與該人之間訂定或施加；及

(b) 該等條件，與假若該人並非該法團的相聯者便會訂定的條件，有所不同。

(2) 如任何利潤若非因第 (1)(a) 款所述的條件，便本應累算歸予有關法團或上述的人，但因為該等條件而沒有如此累算，則該等利潤須計算在該法團或該人的利潤之內，並按照本部徵稅。

(3) 在以下情況下，第 (4) 款適用——

(a) 一個屬合資格船舶租賃管理商的法團，與屬該法團的相聯者的人，維持關於合資格船舶租賃管理活動的商業或財務關係，而某些條件在該
Section 5

qualifying ship leasing management activity; and

(b) the conditions differ from those that would be made if the person were not such an associate.

(4) Any profits that, but for the conditions referred to in subsection (3)(a), would have accrued to the corporation or the person and, by reason of those conditions, have not so accrued, are to be included in the profits of the corporation or the person and taxed in accordance with this Part.

14Z. Ship leasing tax concessions: anti-avoidance provisions relating to release of ownership obligation

If—

(a) a ship is owned by a corporation that is a qualifying ship lessor under an arrangement (ownership arrangement); and

(b) the corporation enters into an arrangement (release arrangement) under which—

(i) it is released from the primary obligation under the ownership arrangement; and

(ii) that obligation is assumed by another person,

the ship leasing tax concessions provisions are to have effect as if the corporation had ceased to own the ship during the time when the release arrangement is in force.

14ZA. Ship leasing tax concessions: anti-avoidance provisions relating to arrangement to obtain tax benefit

(1) If—
Section 5

(a) a corporation that is a qualifying ship lessor or qualifying ship leasing manager enters into an arrangement; and

(b) the Commissioner is satisfied that the main purpose, or one of the main purposes, of the corporation in entering into the arrangement is to obtain a tax benefit, whether for the corporation or another person, in relation to a liability to pay profits tax under this Ordinance, sections 14P(1) and 14T(1) do not apply in relation to any assessable profits accrued to the corporation during a basis period relevant to the arrangement.

(2) If—

(a) a corporation that is a qualifying ship lessor enters into an arrangement; and

(b) the Commissioner is satisfied that the main purpose, or one of the main purposes, of the corporation in entering into the arrangement is to obtain a tax benefit, whether for the corporation or another person, under a tax treaty that is contrary to the purpose of the treaty,

section 14P(1) does not apply in relation to any assessable profits accrued to the corporation during a basis period relevant to the arrangement.

(3) For the purposes of this section, the basis period of a year of assessment is relevant to an arrangement if, in the opinion of the Commissioner, the arrangement has effect during that basis period.

(4) In this section—
14ZB. Ship leasing tax concessions: power to amend Schedule 17FA
The Commissioner may by order published in the Gazette amend Schedule 17FA.”.

6. Section 15 amended (certain amounts deemed trading receipts)
(1) Section 15(1)(m)—
Repeal
“and”.
(2) Section 15(1)(n)(ii)—
Repeal
“Kong.”
Substitute
“Kong; and”.
(3) After section 15(1)(n)—
Add
“(o) sums, not otherwise chargeable to tax under this Part, received by or accrued to a corporation by way of gains or profits (other than those arising from the sale of capital assets) arising through or from the carrying on in Hong Kong by the corporation of—

-tax benefit (稅務利益) means an avoidance, postponement or reduction of a liability to pay tax;
-tax treaty (稅收協定) means an arrangement made between 2 or more jurisdictions (whether including Hong Kong or otherwise) with a view to affording relief from double taxation.
(i) 將某船的使用權批予另一人的業務（船船業務），即使該船是於香港境外使用亦然；或
(ii) 管理某個經營船船業務的法團的業務，或管理某船船業務的業務，即使有關船船是於香港境外使用亦然。”。

(4) 在第 15(1D) 條之後——
加入
“(1E) 為施行第 (1)(o)(i) 條，如有關船船業務，是根據融購租約（第 14O(1) 條所界定者）批出某船船的使用權的業務，則因批出該船船的使用權而由該法團收取的財務費用或利息，或累算歸予該法團的財務費用或利息，須視為由該法團以收益或利潤形式收取的款項，或以收益或利潤形式累算歸予該法團的款項。”。

7. 加入第 15G 條
在第 15F 條之後——
加入
“15G. 得自船船融購租約的款項
為免生疑問，為施行本部，如某人從事的業務，是根據融購租約（第 14O(1) 條所界定者）批出某船船的使用權的業務，則因批出該船船的使用權而由該法團收取的財務費用或利息，或累算歸予該人的財務費用或利息，須視為該人以利息（該人借出的金錢所孳生者）形式收取的款項，或視為以利息（該人借出的金錢所孳生者）形式累算歸予該人的款項。”。

(i) its business of granting a right to use a ship to another person (ship business), even if the ship is used outside Hong Kong; or
(ii) its business of managing a corporation carrying on a ship business or of managing a ship business, even if the ship concerned is used outside Hong Kong.”.

(4) After section 15(1D)—
Add
“(1E) For the purposes of subsection (1)(o)(i), if the ship business is a business of granting a right to use a ship under a funding lease as defined by section 14O(1), the finance charges or interest received by or accrued to the corporation for the grant of the right to use the ship are to be regarded as sums received by or accrued to the corporation by way of gains or profits.”.

7. Section 15G added
After section 15F—
Add
“15G. Sums derived from funding leases of ships
To avoid doubt, for the purposes of this Part, if a person is engaged in a business of granting a right to use a ship under a funding lease as defined by section 14O(1), the finance charges or interest received by or accrued to the person for the grant of the right to use the ship are to be regarded as sums received by or accrued to the person by way of interest on money lent by the person.”.
8. **Section 16 amended (ascertainment of chargeable profits)**

(1) After section 16(1)—

Add

"Note—
See also subsection (3D)."

(2) Section 16(1A)(c), (1B) and (1D)—

Repeal

“or 14J(1)”

Substitute

“, 14J(1), 14P(1) or 14T(1)”.

(3) After section 16(3C)—

Add

“(3D) To avoid doubt, if a person is, in the production of profits, granted a right to use a ship under a funding lease as defined by section 14O(1)—

(a) for the purposes of subsection (1)(a), the payments of finance charges or interest by the person for the right to use the ship are to be regarded as sums payable by the person by way of interest on money borrowed by the person (specified loan) for the purpose of producing the profits; and

(b) for the purposes of subsection (2)(e)(i)(A), the specified loan is to be regarded as money borrowed wholly and exclusively to finance capital expenditure incurred by the person on the provision of the ship.

(3E) To avoid doubt, a reference to a reduced tax rate in this section includes a tax rate of 0%.”.

(3D) 為免生疑問，如某人在利潤產生期間，根據第 14O(1) 條所界定的融購租約，獲批予某船舶的使用權，則——

(a) 為施行第 (1)(a) 款，該人得該船舶的使用權而支付的財務費用或利息付款，須視為該人以利息 (指明貸款 (指明貸款) 所生者) 形式支付的款項；及

(b) 為施行第 (2)(e)(i)(A) 款，指明貸款須視為完全和純粹是為以下目的而借入的金錢：為該人在提供該船舶方面招致的資本開支，提供資金。

(3E) 為免生疑問，本條提及的經扣減稅率，包括 0% 稅率。”。
9. Section 19CA amended (treatment of losses: concessionary trading receipts)

(1) Section 19CA(5), definition of *chargeable concessionary trading receipts*, paragraph (a), after “section 14B”—
Add
“or 14P”.

(2) Section 19CA(5), definition of *chargeable concessionary trading receipts*, paragraph (b)—
Repeal
“(2A);”
Substitute
“(2A); or”.

(3) Section 19CA(5), at the end of the definition of *chargeable concessionary trading receipts*—
Add
“(d) where the concessionary trading receipts are of a kind in respect of which assessable profits are chargeable to tax at the rate specified in section 14P, the amount of the assessable profits calculated in accordance with section 14R or 14S;”.

(4) Section 19CA(5), definition of *concession provision*, after paragraph (e)—
Add
“(f) section 14P;
(g) section 14T;”.

(5) Section 19CA(5), definition of *unabsorbed loss in respect of the concessionary trading receipts*, paragraph (a), after “section 14B”—
Add
10. 修訂第 37 條（機械或工業裝置的初期免稅額及每年免稅額）
在第 37(2D) 條之後——
加入
“(2E) 凡某法團曾擁有某船舶，並使用該船舶進行合資格
船舶租賃活動，而第 14P(1) 條就該活動適用，如其
後該法團在另一行業，專業或業務，使用該船舶以
產生根據第 4 部應課稅的利潤，則第 (2F) 款適用。

(2F) 為施行第 (2) 款，就有關船舶而言，資產成本是從
實際成本中，減去假定每年免稅額後所得的款項。

“或 14P”。

(6) 第 19CA(5) 條，關於獲特惠的營業收入的未納稅虧損的
定義，(b) 段——
廢除句號
代以
“；或”。

(7) 第 19CA(5) 條，在關於獲特惠的營業收入的未納稅虧損
的定義的末處——
加入
“(d) 凡應課稅利潤須按第 14P 條指明的稅率，就某類別
獲特惠的營業收入課稅，而有關的獲特惠的營業收
入屬該類別，指按照第 19D 條及第 14R 或 14S 條
得出的虧損。”。

10. Section 37 amended (initial and annual allowances, machinery or
plant)
After section 37(2D)—
Add
“(2E) Subsection (2F) applies if a ship was owned and used
by a corporation for carrying out a qualifying ship
leasing activity in respect of which section 14P(1)
applies before the corporation uses it in another
trade, profession or business to produce profits
chargeable to tax under Part 4.

(2F) For the purposes of subsection (2), the cost of the
asset, in relation to the ship, is the sum computed by
deducting from the actual cost the notional amount
of annual allowances that would have been made under that subsection to the corporation if such annual allowances had been available to the corporation since it acquired the ship.

(2G) In subsections (2E) and (2F)—

qualifying ship leasing activity (合資格船舶租賃活動) has the meaning given by section 14O(5);

ship (船舶) has the meaning given by section 14O(1).”.

11. Section 38 amended (balancing allowances and charges, machinery or plant)

Section 38(2)—

Repeal

“or (2C)”

Substitute

“(2C) or (2F)”.

12. Section 39B amended (initial and annual allowances on machinery or plant under the pooling system)

(1) Section 39B(4), after “(6B)”—

Add

“(6E)”.

(2) After section 39B(6C)—

Add

“(6D) Subsection (6E) applies if a ship was owned and used by a corporation for carrying out a qualifying ship leasing activity in respect of which section 14P(1) applies before the corporation uses it in another trade, profession or business to produce profits chargeable to tax under Part 4.
(6E) For the purposes of subsection (4), the capital expenditure incurred on the provision of the ship is to be computed by deducting from the actual cost the notional amount of annual allowances that would have been made under section 37(2) to the corporation if such annual allowances had been available to the corporation since it acquired the ship.

(6F) In subsections (6D) and (6E)—

*qualifying ship leasing activity* (合資格船舶租賃活動) has the meaning given by section 14O(5);

*ship* (船舶) has the meaning given by section 14O(1).”.

13. Section 39D amended (balancing allowances and charges under the pooling system)

(1) Section 39D(7)(a)—

*Repeal*

“or (2C)”

*Substitute*

“, (2C) or (2F)”.

(2) Section 39D(7)(b)—

*Repeal*

“or (6B)”

*Substitute*

“, (6B) or (6E)”.

14. Section 63H amended (amount of provisional profits tax)

Section 63H(1D)—

*Repeal*

“or 14J(5)(b)”
15. 修訂第 89 條（過渡性條文）
第 89 條——
加入
“(26) 為施行《2020 年稅務 (修訂) (船租船舶稅務寬減) 條例》(2020 年第 5 號) 對本條例所作的修訂而具有
效力的過渡條文，列於附表 51。”。

16. 修訂第 100 條（稅項扣減）
第 100(2)(a) 條——
廢除
“及 14J”
代以
“、14J、14P 及 14T”。

17. 修訂附表 8（與法團有關的利得稅率）
附表 8，在“14J，”之後——
加入
“14T，”。

18. 加入附表 8C
在附表 8B 之後——
加入

Substitute
“，14J(5)(b)，14P(4)(b) or 14T(5)(b)”。

15. Section 89 amended (transitional provisions)
Section 89—
Add
“(26) Schedule 51 sets out transitional provisions that have
effect for the purposes of amendments to this
Ordinance made by the Inland Revenue
(Amendment) (Ship Leasing Tax Concessions)
Ordinance 2020 (5 of 2020).”.

16. Section 100 amended (reduction of taxes)
Section 100(2)(a)—
Repeal
“and 14J”
Substitute
“，14J, 14P and 14T”.

17. Schedule 8 amended (rate of profits tax in respect of a
corporation)
Schedule 8, after “14J,”—
Add
“14T,”.

18. Schedule 8C added
After Schedule 8B—
Add
19. Schedule 17FA added
After Schedule 17F—
Add

“Schedule 17FA
[ss. 2, 14O, 14R, 14U, 14W & 14ZB]
Ship Leasing Tax Concessions
Part 1
Ship Leasing Activity and Ship Leasing Management Activity
1. Meaning of ship leasing activity and ship leasing management activity
(1) In this section and the ship leasing tax concessions provisions—
Section 19

Inland Revenue (Amendment) (Ship Leasing Tax Concessions) Ordinance 2020

**ship leasing activity** (船舶租賃活動), in relation to a person, means 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);

**ship leasing management activity** (船舶租賃管理活動), in relation to a person, means any of the following activities—

(a) managing another person that is a ship lessor;

(b) establishment or administration of a special purpose entity for the purpose of owning a ship by that entity;

(c) providing, or arranging for the provision of, finance in obtaining the ownership of a ship by a special purpose entity wholly or partly owned by the person, or evaluating financial proposals from external financiers in relation to the obtaining of that ownership;
Section 19

(d) providing, or arranging for the provision of, a guarantee in respect of a financial or performance obligation as regards the ship leasing business of a special purpose entity wholly or partly owned by the person, or granting security in respect of that business;

(e) managing leases;

(f) arranging for the procurement or leasing of ships;

(g) arranging for the operation, crewing, voyage monitoring, maintenance, repair, certification, insurance, storage, scrapping or modification of ships, or the port agency services or security services for ships;

(h) arranging for the evaluation, appraisal, provision or inspection of ships or maintenance facilities for ships (including internal audits of ship quality);

(i) arranging for the assessment of the shipping market conditions;

(j) marketing of leases;

(k) providing, or arranging for the provision of, finance in obtaining the ownership of a ship by a shipping enterprise from another person that is a ship lessor;

(l) providing a residual value guarantee or contingent purchase arrangement;

(m) providing services in relation to a ship leasing activity for or to another person that is a ship lessor;
(n) overseeing the design and construction of newbuild ships.

(2) In paragraphs (c) and (d) of the definition of *ship leasing management activity* in subsection (1), a reference to the person includes—
(a) if the person is a corporation—an associated corporation of the person; or
(b) in any other case—an associate of the person.

(3) In paragraph (l) of the definition of *ship leasing management activity* in subsection (1)—
*contingent purchase arrangement* (待確定購買安排) means an arrangement under which a person is required to purchase a ship at a predetermined amount if the actual residual value falls below the estimated residual value.

(4) The words and expressions used in this section and defined in section 14O for the purposes of the ship leasing tax concessions provisions have the same meaning as in those provisions.

**Part 2**

*Prescribed Percentage for Calculation of Net Lease Payments*

2. **Prescribed percentage for calculation of net lease payments**

For the purposes of section 14R, the prescribed percentage is 20%.
Part 3

Prescribed Percentages for Safe Harbour Rule

3. Prescribed profits percentage
   For the purposes of section 14U, the prescribed profits percentage is 75%.

4. Prescribed asset percentage
   For the purposes of section 14U, the prescribed asset percentage is 75%.

Part 4

Threshold Requirements for Section 14W

5. Qualifying Ship Leasing Activity
   For the purposes of paragraph (a) of the definition of threshold requirements in section 14W(4), the requirements are that—
   (a) during the basis period for the year of assessment concerned, the average number of full-time employees in Hong Kong who carry out the activity concerned and have the qualifications necessary for doing so is adequate in the opinion of the Commissioner and in any event not less than 2; and
6. Qualifying Ship Leasing Management Activity

For the purposes of paragraph (b) of the definition of threshold requirements in section 14W(4), the requirements are that—

(a) during the basis period for the year of assessment concerned, the average number of full-time employees in Hong Kong who carry out the activity concerned and have the qualifications necessary for doing so is adequate in the opinion of the Commissioner and in any event not less than 1; and

(b) the total amount of operating expenditure incurred in Hong Kong for the activity during the basis period for that year of assessment is adequate in the opinion of the Commissioner and in any event not less than $1,000,000.”. 

20. Schedule 51 added

The Ordinance—

Add
Transitional Provisions for Inland Revenue (Amendment) (Ship Leasing Tax Concessions) Ordinance 2020

1. In calculating the qualifying profits in relation to a corporation for the purposes of section 14P(1), sums received by or accrued to the corporation before 1 April 2020 are not to be taken into account.

2. In calculating the qualifying profits in relation to a corporation for the purposes of section 14T(1), sums received by or accrued to the corporation before 1 April 2020 are not to be taken into account.

3. Section 15(1)(o) does not apply to sums received or accrued before the Inland Revenue (Amendment) (Ship Leasing Tax Concessions) Ordinance 2020 (5 of 2020) comes into operation.”.