Inland Revenue (Amendment) (Tax Concessions for Certain Shipping-related Activities) Ordinance 2022

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An Ordinance to amend the Inland Revenue Ordinance to give profits tax concessions to certain ship agents, ship managers and ship brokers; to make technical drafting amendments to Division 2 of Part 4 of the Ordinance; and to make related and miscellaneous amendments.

Enacted by the Legislative Council.

[22 July 2022]

1. **Short title**
This Ordinance may be cited as the Inland Revenue (Amendment) (Tax Concessions for Certain Shipping-related Activities) Ordinance 2022.

2. **Inland Revenue Ordinance amended**
The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 13 and the Schedule.

3. **Section 14 amended (charge of profits tax)**
Section 14(5)—
Repeal
“or 14T(5)(b)”
Inland Revenue (Amendment) (Tax Concessions for Certain Shipping-related Activities) Ordinance 2022

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4. Part 4, Division 2, Subdivisions 6, 7 and 8 added

Add

“Subdivision 6—Ship Agency

14ZC. Interpretation of Subdivision 6 of Division 2 of Part 4

(1) In this Subdivision—

qualifying ship agency activity (合資格船舶代理活動)—see subsection (3);

qualifying ship agent (合資格船舶代理商)—see section 14ZD(4);

ship agency activity (船舶代理活動)—see section 2 of Schedule 17FB.

(2) Also, Part 1 of Schedule 17FB contains interpretation provisions that apply to this Subdivision in accordance with their terms.

(3) A ship agency activity carried out by a corporation is a qualifying ship agency activity if the activity is carried out in the ordinary course of the corporation’s business carried on in Hong Kong.

(4) A note located in the text of this Subdivision is provided for information only and has no legislative effect.
14ZD. Concession for qualifying ship agent

(1) For the purposes of this Part and subject to subsections (7) and (9), the assessable profits of a corporation that is a qualifying ship agent 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 agency activity—

(i) that is carried out for its associated qualifying ship lessor; or

(ii) that is carried out—

(A) for its associated qualifying ship leasing manager; and

(B) in respect of that manager’s qualifying ship leasing management activity carried out for that manager’s associated qualifying ship lessor—

the rate specified in Schedule 8C; or

(b) to the extent to which those profits are assessable profits derived from its qualifying ship agency activity other than one mentioned in paragraph (a)—one-half of the rate specified in Schedule 8.

(2) In ascertaining the assessable profits of a corporation for the purposes of subsection (1), there are to be excluded, to the extent specified in subsection (3), any profits derived by the corporation from its qualifying ship agency activity that is carried out—

(a) for its connected person that is a ship operator; and
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(b) in respect of any activity carried out by the connected person in the operation of a ship.

(3) The extent specified for subsection (2) is the extent to which the activity mentioned in paragraph (b) of that subsection generates income—

(a) that is a sum falling within paragraph (a) or (b) of the definition of exempt sums in section 23B(12); or

(b) that is not—

(i) a sum falling within paragraph (a) of the definition of relevant sums in that section; or

(ii) a sum derived from, attributable to, or in respect of, any charter hire as described in paragraph (b) of the definition of relevant sums in that section.

(4) A corporation is a qualifying ship agent for a year of assessment if, for the year of assessment—

(a) it satisfies the conditions specified in subsection (5);

(b) it satisfies the safe harbour rule under section 14ZE; or

(c) it has obtained the Commissioner’s determination under section 14ZF(1).

(5) The conditions specified for subsection (4)(a) are—

(a) that the corporation has carried out in Hong Kong one or more qualifying ship agency activities; and
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(b) 除合資格船舶代理活動外，沒有在香港進行其他活動。

(6) 為施行第(5)(b)款，在斷定某法團除合資格船舶代理活動外有否進行其他活動時，只須考慮為該法團產生入息的活動。

(7) 只有在以下情況下，第(1)款方就某課稅年度而適用於某法團——

(a) 在該課稅年度的評稅基期內——

(i) 該法團的中央管理及控制，是在香港進行的；

(ii) 產生其該年度的合資格利潤的活動——

(A) 是由該法團在香港進行的；或

(B) 是由該法團安排在香港進行的；及

(iii) 該等活動並非由該法團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14ZG條。

(8) 第(7)(b)款所指的選擇，一經作出，即不能撤回。

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(b) that the corporation has not carried out in Hong Kong any activity other than a qualifying ship agency activity, during the basis period for the year of assessment.

(6) For the purposes of subsection (5)(b), in determining whether a corporation has carried out any activity other than a qualifying ship agency activity, only activities that generate income to the corporation are to be taken into account.

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

(a) during the basis period for the 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 the 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 of the corporation outside Hong Kong; and

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

Note—

See also section 14ZG.

(8) An election under subsection (7)(b), once made, is irrevocable.
(9) 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 (7)(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.

(10) 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) (as read together with subsection (2)).

14ZE. Safe harbour rule—qualifying ship agent
(1) For the purposes of section 14ZD(4)(b), a corporation satisfies the safe harbour rule for a year of assessment (subject year) if—
(a) the corporation falls within the 1-year safe harbour under subsection (2); or
(b) the corporation falls within the multiple-year safe harbour under subsection (3).

(2) A corporation falls within the 1-year safe harbour if, for the subject year—
(a) its SAP percentage is not lower than the profits percentage prescribed in section 3 of Schedule 17FB; and
(b) its SAA percentage is not lower than the asset percentage prescribed in section 4 of that Schedule.
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A corporation falls within the multiple-year safe harbour if, for the specified years—

(a) its average SAP percentage is not lower than the profits percentage prescribed in section 3 of Schedule 17FB; and

(b) its average SAA percentage is not lower than the asset percentage prescribed in section 4 of that Schedule.

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).

The SAP percentage of a corporation for a year of assessment is calculated in accordance with the following formula—

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

where: SAP means the aggregate amount of the ship agency profits of the corporation during the basis period for the year of assessment; and
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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 SAA percentage of a corporation for a year of assessment is calculated in accordance with the following formula—

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

where: SAA means the aggregate value of the ship agency 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 agency assets of a corporation, if a ship agency asset is used partly to carry out a qualifying ship agency 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 agency activity is to be taken into account.

(8) A reference to the average SAP percentage of a corporation for the specified years is a reference to the percentage arrived at by—
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(a) if subsection (4)(a) applies—dividing the sum of the SAP percentages of the corporation for the 2 years by 2; or
(b) if subsection (4)(b) applies—dividing the sum of the SAP percentages of the corporation for the 3 years by 3.

(9) A reference to the average SAA 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 SAA percentages of the corporation for the 2 years by 2; or
(b) if subsection (4)(b) applies—dividing the sum of the SAA percentages of the corporation for the 3 years by 3.

(10) In this section—

_ship agency asset_ (船舶代理資產), in relation to a corporation, means an asset of the corporation used by it to carry out one or more qualifying ship agency activities;

_ship agency profits_ (船舶代理利潤), in relation to a corporation, means any profits of the corporation that are derived from one or more qualifying ship agency activities.

14ZF. Commissioner’s determination—qualifying ship agent

(1) For the purposes of section 14ZD(4)(c), the Commissioner may, on application by a corporation, determine that the corporation is a qualifying ship agent for a year of assessment.
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A corporation may apply for the Commissioner's determination under subsection (1) only if, for the year of assessment, the corporation satisfies neither of the following—

(a) the conditions specified in section 14ZD(5);
(b) the safe harbour rule under section 14ZE.

The Commissioner may make a determination under subsection (1) only if the Commissioner is of the opinion that the corporation would, in its ordinary course of business, have satisfied the conditions specified in section 14ZD(5), or the safe harbour rule under section 14ZE, for the year of assessment.

14ZG. Carrying out of activities in Hong Kong—qualifying ship agent

(1) For the purposes of section 14ZD(7)(a)(ii), an activity producing the assessable profits of a corporation that fall within section 14ZD(1) (as read together with section 14ZD(2)) 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 the year of assessment unless the prescribed requirements are met.

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

(3) In this section—

prescribed requirements (訂明要求) means the requirements prescribed in section 5 of Schedule 17FB.
14ZH. Losses sustained by qualifying ship agent

(1) Any loss sustained by a corporation from a qualifying ship agency activity in a year of assessment is, to the extent specified in subsection (2), not available for set off against any of its assessable profits for the year of assessment or any subsequent year of assessment if the activity is carried out—

(a) for its connected person that is a ship operator; and

(b) in respect of any activity carried out by the connected person in the operation of a ship.

(2) The extent specified for subsection (1) is the extent to which the activity mentioned in paragraph (b) of that subsection generates income—

(a) that is a sum falling within paragraph (a) or (b) of the definition of exempt sums in section 23B(12); or

(b) that is not—

(i) a sum falling within paragraph (a) of the definition of relevant sums in that section; or

(ii) a sum derived from, attributable to, or in respect of, any charter hire as described in paragraph (b) of the definition of relevant sums in that section.

(3) If section 14ZD(1)(a) applies to a corporation for a year of assessment for which the rate of profits tax specified in Schedule 8C is 0%, any loss sustained by the corporation from a qualifying ship agency activity—
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(a) that is carried out for its associated qualifying ship lessor; or

(b) that is carried out—

(i) for its associated qualifying ship leasing manager; and

(ii) in respect of that manager’s qualifying ship leasing management activity carried out for that manager’s associated qualifying ship lessor,

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.

14ZI. Anti-avoidance provisions relating to arm’s length principle—qualifying ship agent

(1) Subsection (2) applies if—

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

(b) the conditions differ from those that would be made or imposed 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.
14Z.J. Anti-avoidance provisions relating to arrangement to obtain tax benefit—qualifying ship agent

(1) If—

(a) a corporation that is a qualifying ship agent 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—

(i) to obtain a tax benefit (whether for the corporation or another person) in relation to a liability to pay profits tax under this Ordinance; or

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

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

14Z.K. Power to amend Part 2 of Schedule 17FB

The Commissioner may by order published in the Gazette amend Part 2 of Schedule 17FB.
第 7 次分部 —— 船舶管理

第 4 部第 2 分部第 7 次分部的释義

14ZL.  (1) 在本次分部中——

合資格船舶管理活動 (qualifying ship management activity) —— 參閱第 (3) 款；

合資格船舶管理商 (qualifying ship manager) —— 參閱第 14ZM(4) 欄；

船舶管理活動 (ship management activity) —— 參閱附表 17FB 第 6(1) 欄。

(2) 此外，附表 17FB 第 1 部所載釋義條文，按照其內容適用於本次分部。

(3) 如某法團進行船舶管理活動，而該活動是在該法團於香港經營的業務中進行，該活動即屬合資格船舶管理活動。

(4) 在本次分部文本中的附註，僅供備知，並無立法效力。

14ZM. 合資格船舶管理商適用的寬減

(1) 為施行本部，在第 (7) 及 (9) 款的規限下，屬合資格船舶管理商的法團就某課稅年度而言的應評稅利潤，須按訂明稅率，根據本部課稅——

(a) 在該等利潤屬自該法團的符合以下說明的合資格船舶管理活動的應評稅利潤的範圍內——

Subdivision 7—Ship Management

14ZL. Interpretation of Subdivision 7 of Division 2 of Part 4

(1) In this Subdivision—

qualifying ship management activity (合資格船舶管理活動)—see subsection (3);

qualifying ship manager (合資格船舶管理商)—see section 14ZM(4);

ship management activity (船舶管理活動)—see section 6(1) of Schedule 17FB.

(2) Also, Part 1 of Schedule 17FB contains interpretation provisions that apply to this Subdivision in accordance with their terms.

(3) A ship management activity carried out by a corporation is a qualifying ship management activity if the activity is carried out in the ordinary course of the corporation's business carried on in Hong Kong.

(4) A note located in the text of this Subdivision is provided for information only and has no legislative effect.

14ZM. Concession for qualifying ship manager

(1) For the purposes of this Part and subject to subsections (7) and (9), the assessable profits of a corporation that is a qualifying ship 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 management activity—
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(i) that is carried out for its associated qualifying ship lessor; or

(ii) that is carried out—

(A) for its associated qualifying ship leasing manager; and

(B) in respect of that leasing manager’s qualifying ship leasing management activity carried out for that leasing manager’s associated qualifying ship lessor—

the rate specified in Schedule 8C; or

(b) to the extent to which those profits are assessable profits derived from its qualifying ship management activity other than one mentioned in paragraph (a)—one-half of the rate specified in Schedule 8.

(2) In ascertaining the assessable profits of a corporation for the purposes of subsection (1), there are to be excluded, to the extent specified in subsection (3), any profits derived by the corporation from its qualifying ship management activity that is carried out—

(a) for its connected person that is a ship operator; and

(b) in respect of any activity carried out by the connected person in the operation of a ship.

(3) The extent specified for subsection (2) is the extent to which the activity mentioned in paragraph (b) of that subsection generates income—
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(a) that is a sum falling within paragraph (a) or (b) of the definition of exempt sums in section 23B(12); or

(b) that is not—

(i) a sum falling within paragraph (a) of the definition of relevant sums in that section; or

(ii) a sum derived from, attributable to, or in respect of, any charter hire as described in paragraph (b) of the definition of relevant sums in that section.

(4) A corporation is a qualifying ship manager for a year of assessment if, for the year of assessment—

(a) it satisfies the conditions specified in subsection (5);

(b) it satisfies the safe harbour rule under section 14ZN; or

(c) it has obtained the Commissioner’s determination under section 14ZO(1).

(5) The conditions specified for subsection (4)(a) are—

(a) that the corporation has carried out in Hong Kong 2 or more qualifying ship management activities; and

(b) that the corporation has not carried out in Hong Kong any activity other than a qualifying ship management activity, during the basis period for the year of assessment.
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(6) For the purposes of subsection (5)(b), in determining whether a corporation has carried out any activity other than a qualifying ship management activity, only activities that generate income to the corporation are to be taken into account.

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

(a) during the basis period for the 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 the 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 of the corporation outside Hong Kong; and

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

Note—
See also section 14ZP.

(8) An election under subsection (7)(b), once made, is irrevocable.

(9) 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 (7)(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.

(10) 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) (as read together with subsection (2)).

14ZN. Safe harbour rule—qualifying ship manager

(1) For the purposes of section 14ZM(4)(b), a corporation satisfies the safe harbour rule for a year of assessment (subject year) if—

(a) the corporation falls within the 1-year safe harbour under subsection (2); or
(b) the corporation falls within the multiple-year safe harbour under subsection (3).

(2) A corporation falls within the 1-year safe harbour if, for the subject year—

(a) its SMP percentage is not lower than the profits percentage prescribed in section 7 of Schedule 17FB; and
(b) its SMA percentage is not lower than the asset percentage prescribed in section 8 of that Schedule.

(3) A corporation falls within the multiple-year safe harbour if, for the specified years—
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(a) its average SMP percentage is not lower than the profits percentage prescribed in section 7 of Schedule 17FB; and

(b) its average SMA percentage is not lower than the asset percentage prescribed in section 8 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 SMP percentage of a corporation for a year of assessment is calculated in accordance with the following formula—

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

where: SMP means the aggregate amount of the ship management profits of the corporation during the basis period for the year of assessment; and
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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 SMA percentage of a corporation for a year of assessment is calculated in accordance with the following formula—

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

where: SMA means the aggregate value of the ship 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 management assets of a corporation, if a ship management asset is used partly to carry out a qualifying ship 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 management activity is to be taken into account.

(8) A reference to the average SMP percentage of a corporation for the specified years is a reference to the percentage arrived at by—
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(a) if subsection (4)(a) applies—dividing the sum of the SMP percentages of the corporation for the 2 years by 2; or

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

(9) A reference to the average SMA 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 SMA percentages of the corporation for the 2 years by 2; or

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

(10) In this section—

ship management asset (船舶管理資產), in relation to a corporation, means an asset of the corporation used by it to carry out 2 or more qualifying ship management activities;

ship management profits (船舶管理利潤), in relation to a corporation, means any profits of the corporation that are derived from 2 or more qualifying ship management activities.

14ZO. Commissioner's determination—qualifying ship manager

(1) For the purposes of section 14ZM(4)(c), the Commissioner may, on application by a corporation, determine that the corporation is a qualifying ship manager for a year of assessment.

(14ZO. 委員會的決定—合資格船舶管理商

(1) 為施行第 14ZM(4)(c) 條，委員會可應某法團的申請，決定就某課稅年度而言，該法團屬合資格船舶管理商。
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(2) A corporation may apply for the Commissioner’s determination under subsection (1) only if, for the year of assessment, the corporation satisfies neither of the following—
(a) the conditions specified in section 14ZM(5);  
(b) the safe harbour rule under section 14ZN.

(3) The Commissioner may make a determination under subsection (1) only if the Commissioner is of the opinion that the corporation would, in its ordinary course of business, have satisfied the conditions specified in section 14ZM(5), or the safe harbour rule under section 14ZN, for the year of assessment.

14ZP. Carrying out of activities in Hong Kong—qualifying ship manager

(1) For the purposes of section 14ZM(7)(a)(ii), an activity producing the assessable profits of a corporation that fall within section 14ZM(1) (as read together with section 14ZM(2)) 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 the year of assessment unless the prescribed requirements are met.

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

(3) In this section—

prescribed requirements (訂明要求) means the requirements prescribed in section 9 of Schedule 17FB.
### 14ZQ. 合資格船舶管理商蒙受的虧損

(1) 某法團在某課稅年度內，因進行符合以下說明的合資格船舶管理活動而蒙受的任何虧損，在屬第 (2) 款所指明的範圍內，不得用以抵銷該法團就該課稅年度或任何隨後課稅年度的任何應課稅利潤——

(a) 是為該法團的有關連者而進行的，而該有關連者是船舶營運商；及

(b) 是就該有關連者在營運船舶過程中進行的任何活動而進行的。

(2) 就第 (1) 款而言，指明的範圍是指該款 (b) 段所述的活動產生符合以下說明的入息的範圍——

(a) 該入息屬第 23B(12) 條中豁免款項的定義 (a) 或 (b) 段所指的款項；或

(b) 該入息不屬——

(i) 該條中有關款項的定義 (a) 段所指的款項；或

(ii) 得自或可歸因於任何租船費 (該條中有關款項的定義 (b) 段所描述者) 的款項，或就任何該等租船費而得的款項。

(3) 如就某課稅年度而言，第 14ZM(1)(a) 條適用於某法團，而就該課稅年度，附表 8C 指明的利得稅率是 0%，則該法團在該課稅年度內，因進行符合以下說明的合資格船舶管理活動而蒙受的任何虧損——

### 14ZQ. Losses sustained by qualifying ship manager

(1) Any loss sustained by a corporation from a qualifying ship management activity in a year of assessment is, to the extent specified in subsection (2), not available for set off against any of its assessable profits for the year of assessment or any subsequent year of assessment if the activity is carried out—

(a) for its connected person that is a ship operator; and

(b) in respect of any activity carried out by the connected person in the operation of a ship.

(2) The extent specified for subsection (1) is the extent to which the activity mentioned in paragraph (b) of that subsection generates income—

(a) that is a sum falling within paragraph (a) or (b) of the definition of exempt sums in section 23B(12); or

(b) that is not—

(i) a sum falling within paragraph (a) of the definition of relevant sums in that section; or

(ii) a sum derived from, attributable to, or in respect of, any charter hire as described in paragraph (b) of the definition of relevant sums in that section.

(3) If section 14ZM(1)(a) applies to a corporation for a year of assessment for which the rate of profits tax specified in Schedule 8C is 0%, any loss sustained by the corporation from a qualifying ship management activity—
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(a) that is carried out for its associated qualifying ship lessor; or

(b) that is carried out—

(i) for its associated qualifying ship leasing manager; and

(ii) in respect of that manager’s qualifying ship leasing management activity carried out for that manager’s associated qualifying ship lessor,

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.

14ZR. Anti-avoidance provisions relating to arm’s length principle—qualifying ship manager

(1) Subsection (2) applies if—

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

(b) the conditions differ from those that would be made or imposed 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.
14ZS. Anti-avoidance provisions relating to arrangement to obtain tax benefit—qualifying ship manager

(1) If—
   (a) a corporation that is a qualifying ship 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—
       (i) to obtain a tax benefit (whether for the corporation or another person) in relation to a liability to pay profits tax under this Ordinance; or
       (ii) 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 14ZM(1) does not apply in relation to any assessable profits accrued to the corporation during a basis period relevant to the arrangement.

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

14ZT. Power to amend Part 3 of Schedule 17FB

The Commissioner may by order published in the Gazette amend Part 3 of Schedule 17FB.
第 8 次分部——船舶經紀

14ZU. 第 4 部第 2 分部第 8 次分部的釋義
(1) 在本次分部中——
合資格船舶經紀活動 (qualifying ship broking activity)——參閱第 (3) 款；
合資格船舶經紀商 (qualifying ship broker)——參閱第 14ZV(4) 條；
船舶經紀活動 (ship broking activity)——參阅附表 17FB第 10(1) 條。
(2) 此外，附表 17FB 第 1 部所載釋義條文，按照其內容適用於本次分部。
(3) 如某法團進行船舶經紀活動，而該活動是在該法團於香港經營的業務的通常運作過程中進行，該活動即屬合資格船舶經紀活動。
(4) 在本次分部文本中的附註，僅供備知，並無立法效力。

14ZV. 合資格船舶經紀商適用的寬減
(1) 為施行本部，在第 (7) 及 (9) 款的規限下，屬合資格船舶經紀商的法團就某課稅年度而言的應評稅利潤，須按訂明稅率，根據本部課稅——
(a) 在該等利潤屬得自該法團的符合以下說明的合資格船舶經紀活動的應評稅利潤的範圍內——

Subdivision 8—Ship Broking

14ZU. Interpretation of Subdivision 8 of Division 2 of Part 4
(1) In this Subdivision—
qualifying ship broker (合资格船舶经纪商)—see section 14ZV(4);
qualifying ship broking activity (合资格船舶经纪活动)— see subsection (3);
ship broking activity (船舶经纪活动)—see section 10(1) of Schedule 17FB.
(2) Also, Part 1 of Schedule 17FB contains interpretation provisions that apply to this Subdivision in accordance with their terms.
(3) A ship broking activity carried out by a corporation is a qualifying ship broking activity if the activity is carried out in the ordinary course of the corporation’s business carried on in Hong Kong.
(4) A note located in the text of this Subdivision is provided for information only and has no legislative effect.

14ZV. Concession for qualifying ship broker
(1) For the purposes of this Part and subject to subsections (7) and (9), the assessable profits of a corporation that is a qualifying ship broker 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 broking activity—
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(i) that is carried out for its associated qualifying ship lessor; or

(ii) that is carried out—

(A) for its associated qualifying ship leasing manager; and

(B) in respect of that manager’s qualifying ship leasing management activity carried out for that manager’s associated qualifying ship lessor—

the rate specified in Schedule 8C; or

(b) to the extent to which those profits are assessable profits derived from its qualifying ship broking activity other than one mentioned in paragraph (a)—one-half of the rate specified in Schedule 8.

(2) In ascertaining the assessable profits of a corporation for the purposes of subsection (1), there are to be excluded, to the extent specified in subsection (3), any profits derived by the corporation from its qualifying ship broking activity that is carried out—

(a) for its connected person that is a ship operator; and

(b) in respect of any activity carried out by the connected person in the operation of a ship.

(3) The extent specified for subsection (2) is the extent to which the activity mentioned in paragraph (b) of that subsection generates income—

(a) that is a sum falling within paragraph (a) or (b) of the definition of exempt sums in section 23B(12); or

(b) that is not—
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4. If, for the year of assessment—

(a) the corporation satisfies the conditions specified in subsection (5); or

(b) the corporation satisfies the safe harbour rule under section 14ZW; or

(c) the corporation has obtained the Commissioner’s determination under section 14ZX(1).

(5) The conditions specified for subsection (4)(a) are—

(a) that the corporation has carried out in Hong Kong one or more qualifying ship broking activities; and

(b) that the corporation has not carried out in Hong Kong any activity other than a qualifying ship broking activity, during the basis period for the year of assessment.

(6) For the purposes of subsection (5)(b), in determining whether a corporation has carried out any activity other than a qualifying ship broking activity, only activities that generate income to the corporation are to be taken into account.

(7) Subsection (1) applies to a corporation for a year of assessment only if—
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(a) during the basis period for the 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 the 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 of the corporation outside Hong Kong; and

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

Note—
See also section 14ZY.

(8) An election under subsection (7)(b), once made, is irrevocable.

(9) 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 (7)(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.

(10) In this section—
qualifying profits (合資格利潤)，在 relate to a corporation，means the assessable profits of the corporation that fall within subsection (1) (as read together with subsection (2)).

14ZW. Safe harbour rule—qualifying ship broker

(1) For the purposes of section 14ZV(4)(b)，a corporation satisfies the safe harbour rule for a year of assessment (subject year) if—

(a) the corporation falls within the 1-year safe harbour under subsection (2); or

(b) the corporation falls within the multiple-year safe harbour under subsection (3).

(2) A corporation falls within the 1-year safe harbour if, for the subject year—

(a) its SBP percentage is not lower than the profits percentage prescribed in section 11 of Schedule 17FB; and

(b) its SBA percentage is not lower than the asset percentage prescribed in section 12 of that Schedule.

(3) A corporation falls within the multiple-year safe harbour if, for the specified years—

(a) its average SBP percentage is not lower than the profits percentage prescribed in section 11 of Schedule 17FB; and

(b) its average SBA percentage is not lower than the asset percentage prescribed in section 12 of that Schedule.

(4) In this section, a reference to the specified years for a corporation is a reference to—
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(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 SBP percentage of a corporation for a year of assessment is calculated in accordance with the following formula—

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

where: SBP means the aggregate amount of the ship broking 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 SBA percentage of a corporation for a year of assessment is calculated in accordance with the following formula—

\[
\frac{\text{SBA}}{\text{A}}
\]
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where: SBA means the aggregate value of the ship broking 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 broking assets of a corporation, if a ship broking asset is used partly to carry out a qualifying ship broking 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 broking activity is to be taken into account.

(8) A reference to the average SBP 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 SBP percentages of the corporation for the 2 years by 2; or

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

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

公式中： SBA 指在該課稅年度的評稅基期結束時，該法團的船舶經紀資產的總值；及

A 指在該課稅年度的評稅基期結束時，該法團的所有資產的總值，不論該等資產是否在香港。

(7) 為施行第 (6) 款，在計算某法團的船舶經紀資產的總值時，如某船舶經紀資產有部分用於進行合資格船舶經紀活動，另有部分用於另一用途，則須計算在總值內的該資產的價值的部分，只限於與該資產用於進行合資格船舶經紀活動的程度相稱者。

(8) 提述某法團就指明年度而言的船舶經紀利潤平均百分率，即提述按以下方法計算的百分率——

(a) 如第 (4)(a) 款適用——將該法團於有關的 2 個年度的船舶經紀利潤百分率的總和，除以 2；或

(b) 如第 (4)(b) 款適用——將該法團於有關的 3 個年度的船舶經紀利潤百分率的總和，除以 3。

(9) 提述某法團就指明年度而言的船舶經紀資產平均百分率，即提述按以下方法計算的百分率——
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(a) if subsection (4)(a) applies—dividing the sum of the SBA percentages of the corporation for the 2 years by 2; or
(b) if subsection (4)(b) applies—dividing the sum of the SBA percentages of the corporation for the 3 years by 3.

(10) In this section—

- **ship broking asset** (船舶经纪资产), in relation to a corporation, means an asset of the corporation used by it to carry out one or more qualifying ship broking activities;
- **ship broking profits** (船舶经纪利润), in relation to a corporation, means any profits of the corporation that are derived from one or more qualifying ship broking activities.

14ZX. Commissioner’s determination—qualifying ship broker

(1) For the purposes of section 14ZV(4)(c), the Commissioner may, on application by a corporation, determine that the corporation is a qualifying ship broker for a year of assessment.

(2) A corporation may apply for the Commissioner’s determination under subsection (1) only if, for the year of assessment, the corporation satisfies neither of the following—

(a) the conditions specified in section 14ZV(5);
(b) the safe harbour rule under section 14ZW.

(3) The Commissioner may make a determination under subsection (1) only if the Commissioner is of the opinion that the corporation would, in its ordinary course of business, have satisfied the conditions
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14ZY. Carrying out of activities in Hong Kong—qualifying ship broker

(1) For the purposes of section 14ZV(7)(a)(ii), an activity producing the assessable profits of a corporation that fall within section 14ZV(1) (as read together with section 14ZV(2)) 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 the year of assessment unless the prescribed requirements are met.

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

(3) In this section—

prescribed requirements (訂明要求) means the requirements prescribed in section 14ZV(5), or the safe harbour rule under section 14ZW, for the year of assessment.

14ZZ. Losses sustained by qualifying ship broker

(1) Any loss sustained by a corporation from a qualifying ship broking activity in a year of assessment is, to the extent specified in subsection (2), not available for set off against any of its assessable profits for the year of assessment or any subsequent year of assessment if the activity is carried out—

(a) for its connected person that is a ship operator; and
(b) 係就該有關連者在營運船舶過程中進行的任何活動而進行的。

(2) 就第 (1) 款而言，指明的範圍是指該款 (b) 段所述的活動產生符合以下說明的入息的範圍——

(a) 該入息屬第 23B(12) 條中豁免款項的定義 (a) 或 (b) 段所指的款項；或

(b) 該入息不屬——

(i) 該條中有關款項的定義 (a) 段所指的款項；或

(ii) 得自或可歸因於任何租船費 (該條中有關款項的定義 (b) 段所描述者) 的款項，或就任何該等租船費而得的款項。

(3) 如就某課稅年度而言，第 14ZV(1)(a) 條適用於某法團，而就該課稅年度，附表 8C 指明的利得稅率是 0%，則該法團在該課稅年度內，因進行符合以下說明的合資格船舶經紀活動而蒙受的任何虧損——

(a) 該活動是為該法團的相聯合資格船舶出租商而進行的；或

(b) 該活動是——

(i) 為該法團的相聯合資格船舶租賃管理商而進行的；及

(ii) 就該管理商的合資格船舶租賃管理活動 (為該管理商的相聯合資格船舶出租商而進行者) 而進行的，

(b) in respect of any activity carried out by the connected person in the operation of a ship.

(2) The extent specified for subsection (1) is the extent to which the activity mentioned in paragraph (b) of that subsection generates income——

(a) that is a sum falling within paragraph (a) or (b) of the definition of exempt sums in section 23B(12); or

(b) that is not——

(i) a sum falling within paragraph (a) of the definition of relevant sums in that section; or

(ii) a sum derived from, attributable to, or in respect of, any charter hire as described in paragraph (b) of the definition of relevant sums in that section.

(3) If section 14ZV(1)(a) applies to a corporation for a year of assessment for which the rate of profits tax specified in Schedule 8C is 0%, any loss sustained by the corporation from a qualifying ship broking activity——

(a) that is carried out for its associated qualifying ship lessor; or

(b) that is carried out——

(i) for its associated qualifying ship leasing manager; and

(ii) in respect of that manager’s qualifying ship leasing management activity carried out for that manager’s associated qualifying ship lessor,
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.

14ZZA. Anti-avoidance provisions relating to arm’s length principle—qualifying ship broker

(1) Subsection (2) applies if—
(a) conditions are made or imposed between a corporation that is a qualifying ship broker and a person who is an associate of the corporation, in their commercial or financial relations in connection with a qualifying ship broking activity; and
(b) the conditions differ from those that would be made or imposed 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.

14ZZB. Anti-avoidance provisions relating to arrangement to obtain tax benefit—qualifying ship broker

(1) If—
(a) a corporation that is a qualifying ship broker 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—

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14ZZA. 關乎獨立交易原則的防避稅條文——合資格船舶經紀商

(1) 在以下情況下，第 (2) 款適用——
(a) 一個屬合資格船舶經紀商的法團，與該該法團的相聯者的人，維持關於合資格船舶經紀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或施加的條件，有所不同。

(2) 如任何利潤若非因第 (1)(a) 款提及的條件，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。

14ZZB. 關乎取得稅務利益安排的防避稅條文——合資格船舶經紀商

(1) 如——
(a) 屬合資格船舶經紀商的某法團，訂立某項安排；及
(b) 局長信納該法團訂立該項安排的主要目的，或其中一個主要目的，是——
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(i) to obtain a tax benefit (whether for the corporation or another person) in relation to a liability to pay profits tax under this Ordinance; or

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

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

5. Section 16 amended (ascertainment of chargeable profits)

(1) Section 16(1A)(c) and (1B)—

Repeal
“or 14T(1)”, 14T(1), 14ZD(1), 14ZM(1) or 14ZV(1)”.

Substitute
“14T(1), 14ZD(1), 14ZM(1) or 14ZV(1)”.

(2) Section 16(1D)—

Repeal
“or 14T(1)”

Substitute
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(3) Section 16(1D), after “section 14G(1)”—
Add
“or 14O(1) or section 1(1) of Schedule 17FB (whichever is applicable)”.  

6. Section 19CA amended (treatment of unabsorbed losses under sections 19CAB and 19CAC: interpretation)

(1) Section 19CA, definition of concession provision, paragraph (g)—
Repeal
“or”.

(2) Section 19CA, definition of concession provision, after paragraph (g)—
Add
“(ga) section 14ZD(1);  
(gb) section 14ZM(1);  
(gc) section 14ZV(1); or”.  

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

Section 63H(1D)—
Repeal
“or 14T(5)(b)”  
Substitute
“14T(5)(b), 14ZD(7)(b), 14ZM(7)(b) or 14ZV(7)(b)”.  

“、14T(1), 14ZD(1), 14ZM(1) or 14ZV(1)”。

(3) 第 16(1D) 條——
代以
“14G(1) 條或附表 17FB 第 1(1) 條 (取何者適用而定)”。

6. 修訂第 19CA 條 (根據第 19CAB 及 19CAC 條對未吸納虧損的處理：釋義)

(1) 第 19CA 條，寬減條文的定義，(g) 段——
“或”。

(2) 第 19CA 條，寬減條文的定義，在 (g) 段之後——
加入
“(ga) 第 14ZD(1) 條;  
(gb) 第 14ZM(1) 條;  
(gc) 第 14ZV(1) 條; 或”。

7. 修訂第 63H 條 (暫繳利得稅的稅額)

第 63H(1D) 條——
代以
“、14T(5)(b)、14ZD(7)(b)、14ZM(7)(b) 或 14ZV(7)(b)”。
Section 89 amended (transitional provisions)

(1) Section 89, Chinese text, heading—

Repeal

“性”.

(2) Section 89—

Add

“(28) Schedule 53 sets out a transitional provision that has effect for the purposes of amendments to this Ordinance made by the Inland Revenue (Amendment) (Tax Concessions for Certain Shipping-related Activities) Ordinance 2022 (10 of 2022).”.

Section 100 amended (reduction of taxes)

Section 100(2)(a)—

Repeal

“and 14T”

Substitute

“, 14T, 14ZD, 14ZM and 14ZV”.

Schedule 8 amended (rate of profits tax in respect of a corporation)

Schedule 8, after “14T,”—

Add

“14ZD, 14ZM, 14ZV,”.
11. Schedule 8C amended (rate of profits tax for qualifying ship lessor or qualifying ship leasing manager)

(1) Schedule 8C, heading—

Repeal
“or Qualifying Ship Leasing Manager”
Substitute
“, Qualifying Ship Leasing Manager, etc.”.

(2) Schedule 8C—

Repeal
“& 14X”
Substitute
“, 14X, 14ZD, 14ZH, 14ZM, 14ZQ, 14ZV & 14ZZ”.

12. Schedule 17FB added

After Schedule 17FA—

Add
General Interpretation Provisions

1. Interpretation of Schedule 17FB and Subdivisions 6, 7 and 8 of Division 2 of Part 4

(1) In this Schedule and Subdivisions 6, 7 and 8 of Division 2 of Part 4—

associate (相聯者), in relation to a corporation, means—

(a) a person who has control over the corporation;
(b) a partner of a person mentioned in paragraph (a);
(c) if a person mentioned in paragraph (a) is a natural person—a relative of the person;
(d) if a partner mentioned in paragraph (b) is a natural person—a relative of the partner;
(e) a director or principal officer of—
   (i) the corporation; or
   (ii) an associated corporation of the corporation;
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(f) a relative of a director (if the director is a natural person) or principal officer mentioned in paragraph (e);

(g) a partner of the corporation;

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

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

(j) an associated corporation of the corporation;

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 qualifying ship leasing manager (相聯資格船租賃管理) means an associated corporation that is a qualifying ship leasing manager;

associated qualifying ship lessor (相聯資格船租營商人) means an associated corporation that is a qualifying ship lessor;

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
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**associate** (相聯者) 就某法團而言，指——

(a) 控制該法團的人；
(b) (a) 段所述的人的合夥人；
(c) 如 (a) 段所述的人是自然人——該人的親屬；
(d) 如 (b) 段所述的合夥人是自然人——該合夥人的親屬；
(e) 以下法團的董事或主要職員——
   (i) 該法團；或
   (ii) 該法團的相聯法團；
(f) 段所述的董事 (如該董事是自然人) 或主要職員的親屬；
(g) 該法團的合夥人；
(h) 如該法團的某合夥人是自然人——該合夥人的親屬；
(i) 由該法團擔任合夥人的合夥；或
(j) 該法團的相聯法團；

**permanent establishment** (常設機構)—

(a) 指分支機構、管理機構或其他營業地點；但
(b) 不包括代理機構，除非有關代理人具有一項一般權能，可代表委託人商討和訂立合約，而該代理人慣常行使該權能；

(iii) 誰是受控制的一同人是該公司的人；或
(c) 一個合夥人在該公司是其合夥人；

**control** (控制)，在有關定義的 **associate**, **associated corporation** 和 **connected person**—見 subsection (2)；

**operation** (管理)，在有關一艘船的情況下，包括使用或持有該船；

**principal officer** (主要職員)，在有關公司的情況下，指——

(a) 由該公司僱用的人，該人，單獨或與其他人共同，負責接受董事的直接指揮，並對該公司的業務負責；
(b) 由該公司僱用的人，接受董事或符合段 (a) 的人指揮，執行對該公司的管理職務；

**qualifying ship leasing management activity** (合資格船舶租賃管理活動) 指合資格的船舶租賃活動。
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management activity within the meaning of section 14O(7);

*qualifying ship leasing manager* (合資格船舶租賃管理商) means a qualifying ship leasing manager within the meaning of section 14T(2);

*qualifying ship lessor* (合資格船舶出租商) means a qualifying ship lessor within the meaning of 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;

*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;
船舶營運商 (ship operator) 指經營船舶營運業務的人；

船舶營運業務 (ship operation business) ——
(a) 指以下業務：以擁有人或租用人身分營運船舶，以提供船舶運載乘客、貨物或郵件的服務；但
(b) 不包括船舶買賣，亦不包括與海運相關的代理業務；

稅收協定 (tax treaty) 指由2個或多於2個管轄區 (不論是否包括香港) 為了給予雙重課稅寬免而訂立的安排；

稅務利益 (tax benefit) 指規避、延期或減少對繳付稅項的法律責任；

親屬 (relative) 就某人而言，指該人的配偶、父母、子女或兄弟姊妹，而在推演此種關係時——
(a) 領養的子女視作其親生父母的子女，亦視作其養父或養母的子女；及
(b) 繼子女視作其親生父母的子女，亦視作其繼父或繼母的子女；

營運 (operation) 就船舶而言，包括使用或管有該船舶。

(2) 就第 (1) 款中有關連者、相聯法團及相聯者的定義而言——
(a) 凡任何人有權——

ship leasing manager (船舶租賃管理商) has the meaning given by section 14O(1);

ship lessor (船舶出租商) has the meaning given by section 14O(1);

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;

ship owner (船舶擁有) means the following person who is not a ship operator or ship lessor—
(a) a person registered as the owner of a ship, or in the absence of registration, a person owning a ship; or
(b) a demise charterer of a ship;

tax benefit (稅務利益) means an avoidance, postponement or reduction of a liability to pay tax;

tax treaty (税收協定) means an arrangement made between 2 or more jurisdictions (whether including Hong Kong or otherwise) with a view to affording relief from double taxation.

(2) For the purposes of the definitions of associate, associated corporation and connected person in subsection (1)—
(a) a person has control over a corporation if the person has the power to secure—
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(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; and

(b) a person (first person) has control over another person (other than a corporation) (second person) if the second 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 person, in accordance with the directions, instructions or wishes of the first person.

Part 2

Ship Agency Activity

2. Meaning of ship agency activity

In Subdivision 6 of Division 2 of Part 4—

ship agency activity (船舶代理活动), in relation to a person, means an activity carried out by the person on behalf of a ship lessor, ship leasing manager, ship operator or ship owner (collectively principal) in respect of the principal’s ships, masters and crews, cargoes or customers.
3. Prescribed profits percentage for section 14ZE
   The profits percentage prescribed for the purposes of section 14ZE is 75%.

4. Prescribed asset percentage for section 14ZE
   The asset percentage prescribed for the purposes of section 14ZE is 75%.

5. Prescribed requirements for qualifying ship agency activity
   The requirements prescribed for the purposes of the definition of *prescribed requirements* in section 14ZG(3) are—
   (a) that 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—
      (i) adequate in the Commissioner’s opinion; and
      (ii) in any event not less than one; and
   (b) that the total amount of operating expenditure incurred in Hong Kong for the activity during the basis period for that year of assessment is—
      (i) adequate in the Commissioner’s opinion; and
      (ii) in any event not less than $1,000,000.
Part 3

Ship Management Activity

6. Meaning of ship management activity
   (1) In this section and Subdivision 7 of Division 2 of Part 4—

   ship management activity (船舶管理活動), in relation to a person, means any of the following activities carried out by the person for a ship lessor, ship leasing manager, ship operator or ship owner—
   (a) arranging for or supervising the dry-docking, repair, overhaul, alteration, upkeep, maintenance or lay-up of a ship;
   (b) arranging for the operation, crewing, voyage monitoring, certification, storage or scrapping of a ship;
   (c) ensuring through procurement contracts the adequacy of supplies, provisions, spares, stores and lubricating oil for a ship;
   (d) liaising with relevant authorities or other bodies on safety or manning requirements, or other similar requirements, for a ship;
   (e) appointing a surveyor or any other technical consultant for a ship;
   (f) appointing another person as a ship manager or ship agent, or engaging a stevedore, for a ship;
   (g) supervising the sale (including the physical delivery on sale) of a ship;
   (h) arranging for the provision of bunkers for a ship;
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(i) arranging for the sampling and testing of bunkers for a ship;
(j) ensuring that organizational, flag state, local port state and international requirements applicable to a ship are complied with (including auditing such requirements);
(k) supervising the general efficiency of a ship;
(l) handling crew-related matters such as the provision of a qualified crew, the appointment of a crew manager, the provision of crew training, or the arrangement of crew insurance or payroll, for a ship;
(m) arranging for the transportation of the crew of a ship (including such transportation for their repatriation) or related logistics;
(n) supervising crew efficiency for a ship;
(o) ensuring that requirements concerning medical examinations and the possession of medical certificates applicable to the crew of a ship are complied with;
(p) awarding contracts, entering into alliances, or deciding on pooling, in respect of a ship;
(q) securing the engagement of a ship by a ship operator for the carriage of cargoes;
(r) planning a ship’s route and freight tonnage, including the issuance of voyage instructions;
(s) collecting or arranging for the collection of—
   (i) the freight of a ship; or
   (ii) the charter hire for a ship, or any other payment in exchange for a ship’s use;
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(t) arranging for or providing post-fixture services for a ship, including—

(i) voyage estimating; and

(ii) accounting in respect of, or calculating—

(A) hire;

(B) freight;

(C) demurrage; or

(D) dispatch moneys, due from or to charterers;

(u) arranging for surveys of a ship;

(v) making a purchase or sale of a ship, or a decision regarding its ownership;

(w) deciding on a ship’s flag and registry;

(x) sourcing for or deciding on financing for the acquisition of a ship;

(y) arranging for the insurance for a ship or handling relevant insurance claims;

(z) advising on or supervising the construction, conversion or registration of a ship, including the approval of plans for a ship, based on a ship owner’s requirements;

(za) arranging for, advising on or undertaking any work requiring technical expertise (including basic design and front-end engineering work) for a ship;

(zb) arranging for or providing marine-related consultancy or technology services for a ship (including ones concerning the environmental, technological and vessel performance aspects);
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7. Prescribed profits percentage for section 14ZN

The profits percentage prescribed for the purposes of section 14ZN is 75%.

8. Prescribed asset percentage for section 14ZN

The asset percentage prescribed for the purposes of section 14ZN is 75%.

9. Prescribed requirements for qualifying ship management activity

The requirements prescribed for the purposes of the definition of prescribed requirements in section 14ZP(3) are—

(a) that 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—
第 4 部
船舶經紀活動

10. 船舶經紀活動的涵義

(1) 在第 4 部第 2 分部第 8 次分部中——

船舶經紀活動 (ship broking activity) 就某法團而言，指由該法團為船舶出租商、船舶租賃管理商、船舶營運商或船舶擁有人進行的任何以下活動——

(a) 買賣船舶的經紀活動;
(b) 按有意建造新船舶的船舶擁有人的要求，將擁有人與船廠配對;
(c) 將船舶——
   (i) 與貨物配對；或
   (ii) 與船舶擁有人或船舶租用人配對；
(d) 船舶估值；

(i) 資長認為足夠的；及
(ii) 無論如何不少於一名；及

(b) 在有關課稅年度的評稅基期內，為該活動而在香港招致的營運開支總額——

(i) 資長認為足夠的；及
(ii) 無論如何不少於 $1,000,000。

Part 4
Ship Broking Activity

10. Meaning of ship broking activity

(1) In Subdivision 8 of Division 2 of Part 4—

ship broking activity (船舶經紀活動), in relation to a corporation, means any of the following activities carried out by the corporation for a ship lessor, ship leasing manager, ship operator or ship owner—

(a) the broking of sale and purchase of ships;
(b) the matching of ship owners (who intend to build new ships) to shipyards based on the ship owners' requirements;
(c) the matching of ships to—
   (i) cargoes; or
   (ii) ship owners or ship charterers;
(d) the valuation of ships;
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(e) providing any research, consultancy or advisory service for, or in connection with, an activity mentioned in paragraph (a), (b), (c) or (d) (specified activity) that is carried out by the corporation.

(2) For the purposes of paragraph (e) of the definition of ship broking activity in subsection (1), any research, consultancy or advisory service provided by a corporation for, or in connection with, a specified activity that is carried out by the corporation during the basis period for the year of assessment concerned is taken to be not so provided if the condition specified in subsection (3) is met.

(3) The condition specified for subsection (2) is that the total fees and commissions derived by the corporation from the provision of the service exceed 20% of the aggregate fees and commissions derived by the corporation from the carrying out of all specified activities that are carried out during that basis period.

11. Prescribed profits percentage for section 14ZW

The profits percentage prescribed for the purposes of section 14ZW is 75%.

12. Prescribed asset percentage for section 14ZW

The asset percentage prescribed for the purposes of section 14ZW is 75%.

13. Prescribed requirements for qualifying ship broking activity

The requirements prescribed for the purposes of the definition of prescribed requirements in section 14ZY(3) are—
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13. Schedule 53 added

The Ordinance—

Add

“Schedule 53

[ s. 89(28) ]

Transitional Provision for Inland Revenue (Amendment) (Tax Concessions for Certain Shipping-related Activities) Ordinance 2022 (10 of 2022)

1. In calculating the qualifying profits in relation to a corporation for the purposes of section 14ZD(1), 14ZM(1) or 14ZV(1), sums received by or accrued to the
corporation before 1 April 2022 are not to be taken into account.”.
Technical Drafting Amendments to Division 2 of Part 4 of Inland Revenue Ordinance and Related Amendments

1. **Section 2 amended (interpretation)**
   (1) Section 2(1), definition of *lease*—
       **Repeal**
       “the aircraft leasing tax concessions provisions, the ship leasing tax concessions provisions”
       **Substitute**
       “Subdivisions 4 and 5 of Division 2 of Part 4”.
   (2) Section 2(1)—
       (a) definition of *aircraft leasing tax concessions provisions*;
       (b) definition of *ship leasing tax concessions provisions*—
       **Repeal** the definitions.

2. **Section 14G amended (aircraft leasing tax concessions: interpretation)**
   (1) Section 14G, heading—
       **Repeal**
       “Aircraft leasing tax concessions: interpretation”
       **Substitute**
       “Interpretation of Subdivision 4 of Division 2 of Part 4”.
   (2) Section 14G(1)—
3. **Section 14H heading amended (aircraft leasing tax concessions: concession for qualifying aircraft lessor)**

Section 14H, heading—

Repeal

“Aircraft leasing tax concessions: concession”

Substitute

“Concession”.

4. **Section 14I heading amended (aircraft leasing tax concessions: calculation of net lease payments)**

Section 14I, heading—

Repeal

“Aircraft leasing tax concessions: calculation”

Substitute

“Calculation”.

5. **Section 14J heading amended (aircraft leasing tax concessions: concession for qualifying aircraft leasing manager)**

Section 14J, heading—

Repeal

“Aircraft leasing tax concessions: concession”

Substitute

“Concession”.
6. 修訂第 14K 條標題 (飛機租賃稅務寬減：安全港規則)
第 14K 條，標題——
廢除
“飛機租賃稅務寬減：安全港規則”
代以
“安全港規則——飛機租賃”。

7. 修訂第 14L 條標題 (飛機租賃稅務寬減：局長的決定)
第 14L 條，標題——
廢除
“飛機租賃稅務寬減：局長的決定”
代以
“局長的決定——飛機租賃”。

8. 修訂第 14M 條 (飛機租賃稅務寬減：防避稅條文)
(1) 第 14M 條，標題——
廢除
“飛機租賃稅務寬減：防避稅條文”
代以
“防避稅條文——飛機租賃”。
(2) 第 14M(5) 條——
廢除
“飛機租賃稅務寬減條文”

6. Section 14K heading amended (aircraft leasing tax concessions: safe harbour rule)
Section 14K, heading—
Repeal
“Aircraft leasing tax concessions: safe harbour rule”
Substitute
“Safe harbour rule—aircraft leasing”.

7. Section 14L heading amended (aircraft leasing tax concessions: Commissioner’s determination)
Section 14L, heading—
Repeal
“Aircraft leasing tax concessions: Commissioner’s determination”
Substitute
“Commissioner’s determination—aircraft leasing”.

8. Section 14M amended (aircraft leasing tax concessions: anti-avoidance provisions)
(1) Section 14M, heading—
Repeal
“Aircraft leasing tax concessions: anti-avoidance provisions”
Substitute
“Anti-avoidance provisions—aircraft leasing”.
(2) Section 14M(5)——
Repeal
“the aircraft leasing tax concessions provisions are”
9. Section 14N heading amended (aircraft leasing tax concessions: power to amend Schedule 17F)
Section 14N, heading—
Repeal
“Aircraft leasing tax concessions: power”
Substitute
“Power”.

10. Section 14O amended (ship leasing tax concessions: interpretation)
(1) Section 14O, heading—
Repeal
“Ship leasing tax concessions: interpretation”
Substitute
“Interpretation of Subdivision 5 of Division 2 of Part 4”.
(2) Section 14O(1) and (8)—
Repeal
“the ship leasing tax concessions provisions”
Substitute
“this Subdivision”.

11. Section 14P heading amended (ship leasing tax concessions: concession for qualifying ship lessor)
Section 14P, heading—
12. Section 14Q heading amended (ship leasing tax concessions: allowance for capital expenditure on ship)
Section 14Q, heading—
Repeal
“Ship leasing tax concessions: allowance”
Substitute
“Allowance”.

13. Section 14R heading amended (ship leasing tax concessions: calculation of net lease payments for operating leases)
Section 14R, heading—
Repeal
“Ship leasing tax concessions: calculation”
Substitute
“Calculation”.

14. Section 14S heading amended (ship leasing tax concessions: calculation of net payments of finance charges or interest for funding leases)
Section 14S, heading—
Repeal
“Ship leasing tax concessions: calculation”
Substitute
“Calculation”.
15. Section 14T heading amended (ship leasing tax concessions: concession for qualifying ship leasing manager)

Section 14T, heading—

Repeal

“Ship leasing tax concessions: concession”

Substitute

“Concession”.

16. Section 14U heading amended (ship leasing tax concessions: safe harbour rule)

Section 14U, heading—

Repeal

“Ship leasing tax concessions: safe harbour rule”

Substitute

“Safe harbour rule—ship leasing”.

17. Section 14V heading amended (ship leasing tax concessions: Commissioner’s determination)

Section 14V, heading—

Repeal

“Ship leasing tax concessions: Commissioner’s determination”

Substitute

“Commissioner’s determination—ship leasing”.

18. Section 14W heading amended (ship leasing tax concessions: carrying out of activities in Hong Kong)

Section 14W, heading—
19. **Section 14X heading amended (ship leasing tax concessions: carrying out of activities in Hong Kong—ship leasing)**

Section 14X, heading—

Repeal

“Ship leasing tax concessions: carrying out of activities in Hong Kong”

Substitute

“Carrying out of activities in Hong Kong—ship leasing”.

20. **Section 14Y heading amended (ship leasing tax concessions: anti-avoidance provisions relating to arm’s length principle)**

Section 14Y, heading—

Repeal

“Ship leasing tax concessions: anti-avoidance provisions relating to arm’s length principle”

Substitute

“Anti-avoidance provisions relating to arm’s length principle—ship leasing”.

21. **Section 14Z amended (ship leasing tax concessions: anti-avoidance provisions relating to release of ownership obligation)**

(1) Section 14Z, heading—
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Section 22

22. Section 14ZA heading amended (ship leasing tax concessions: anti-avoidance provisions relating to arrangement to obtain tax benefit)

Section 14ZA, heading—

Repeal
“Ship leasing tax concessions: anti-avoidance provisions relating to arrangement to obtain tax benefit”

Substitute
“Anti-avoidance provisions relating to arrangement to obtain tax benefit—ship leasing”.

23. Section 14ZB heading amended (ship leasing tax concessions: power to amend Schedule 17FA)

Section 14ZB, heading—

Repeal
“ship leasing tax concessions provisions are”

Substitute
“this Subdivision is”.

22. 修訂第 14ZA 條標題 (船舶租賃稅務寬減：關乎取得稅務利益安排的防避稅條文)

第 14ZA 條，標題—

廢除
“船舶租賃稅務寬減：關乎取得稅務利益安排的防避稅條文”

代以
“關乎取得稅務利益安排的防避稅條文——船舶租賃”。

23. 修訂第 14ZB 條標題 (船舶租賃稅務寬減：修訂附表 17FA 的權力)

第 14ZB 條，標題—

廢除
“船舶租賃稅務寬減：關乎取得稅務利益安排的防避稅條文”

代以
“關乎取得稅務利益安排的防避稅條文——船舶租賃”。

(2) 第 14Z 條—

廢除
“船舶租賃稅務寬減條文”

代以
“本次分部”。

Repeal
“Ship leasing tax concessions: anti-avoidance provisions relating to release of ownership obligation”

Substitute
“Anti-avoidance provisions relating to release of ownership obligation—ship leasing”.

(2) Section 14Z—

Repeal
“the ship leasing tax concessions provisions are”

Substitute
“this Subdivision is”.

22. 修訂第 14ZA 條標題 (船舶租賃稅務寬減：關乎解除擁有權義務的防避稅條文)

第 14ZA 條，標題—

廢除
“船舶租賃稅務寬減：關乎解除擁有權義務的防避稅條文”

代以
“關乎解除擁有權義務的防避稅條文——船舶租賃”。
24. **Schedule 17F amended (aircraft leasing tax concessions)**

(1) Schedule 17F, section 1(1)—

Repeal

“the aircraft leasing tax concessions provisions”

Substitute

“Subdivision 4 of Division 2 of Part 4”.

(2) Schedule 17F, section 1(4)—

Repeal

“the aircraft leasing tax concessions provisions have the same meaning as in those provisions”

Substitute

“Subdivision 4 of Division 2 of Part 4 have the same meaning as in that Subdivision”.

25. **Schedule 17FA amended (ship leasing tax concessions)**

(1) Schedule 17FA, section 1(1)—

Repeal

“the ship leasing tax concessions provisions”

Substitute

“Subdivision 5 of Division 2 of Part 4”.
(2) Schedule 17FA, section 1(4)—

Repeal
“the ship leasing tax concessions provisions have the same meaning as in those provisions”

Substitute
“Subdivision 5 of Division 2 of Part 4 have the same meaning as in that Subdivision”.

(2) 附表17FA，第1(4)條——

廢除
“船舶租賃稅務寬減條文而界定的字眼及詞句，其涵義與該等字眼及詞句在船舶租賃稅務寬減條文中的涵義相同”

代以
“第4部第2分部第5次分部而界定的字眼及詞句，其涵義與該等字眼及詞句在該次分部中的涵義相同”。