

## 香港税务快讯

### 拟议与航运有关活动的税务宽减



为海运业务推行的税务优惠将于下周提交立法会审议。《2022 年税务（修订）（与航运有关的某些活动的税务宽减）条例草案》（《条例草案》）旨在向船舶代理商<sup>1</sup>、船舶管理商<sup>2</sup>和船舶经纪商<sup>3</sup>（合称航运业商业主导人）给予利得税宽减。

#### 拟议税务优惠的主要特点

条例草案建议，在符合条件的情况下，合资格航运业商业主导人在香港进行合资格活动所得的利润将享有：

- 8.25%的利得税税率；
- 如为享有 0%<sup>4</sup> 或 8.25%<sup>5</sup> 优惠税率的相联船舶出租商/船舶租赁管理商进行合资格活动，合资格航运业商业主导人将享有相同的优惠税率（即 0%或 8.25%）；
- 如为享有入息豁免征税<sup>6</sup>的相联船舶营运商/船舶拥有人进行合资格活动，合资格航运业商业主导人将享有相同的入息豁免征税。

合资格航运业商业主导人须以书面方式作出选择才可享税务宽减，选择一经作出即不能撤回。

## 合资格航运业商业主导人

合资格航运业商业主导人的中央管理及控制须在香港进行，其须为只从事合资格活动的独立法团实体，或符合安全港规则（即相关合资格活动的利润及资产占其总利润及资产不低于 75%）。

## 合资格活动

由合资格航运业商业主导人进行的船舶代理、船舶管理或船舶经纪活动，如果该活动是在该主导人在香港经营业务的通常运作过程中进行，则该活动是合资格活动。

## 实质活动要求

合资格航运业商业主导人须在香港进行主要的赚取收入活动。拟议雇员人数和营运开支款额的最低要求如下：

在香港的全职合资格雇员人数	在香港发生的每年营运开支
不少于 1 人	不少于 100 万港元

## 防滥用和防避税条文

- 合资格航运业商业主导人与其相联者的任何商业交易必须符合独立交易原则。
- 如合资格航运业商业主导人订立某项安排的主要目的，或其中一个主要目的，是在税务条例或税收协议下取得税务利益，则不会享有利得税宽减。
- 支付人向可享此税务优惠的有关连合资格航运业商业主导人支付的服务费的税收减免将减少，从而无法获得整体税务利益。

## 生效日期

待法例颁布，上述税务优惠将适用于在 2022 年 4 月 1 日或之后所收取或累算的款项。

## 我们的评论

近年，政府不遗余力制定利便海运业公司运营的策略，以巩固香港国际海运中心地位。现时，船舶拥有人、船舶营运商、船舶租赁和海事保险业务均可在香港享受税务优惠待遇。拟议的条例草案的推出将扩大税务优惠的范围，为海运业提供更全面的税务优惠制度。我们相信拟议的税务优惠将提升香港的竞争力，吸引更多海运企业落户香港及发展高端海运服务，并促进香港作为领先国际海运中心的地位。

<sup>1</sup> 船舶代理商是指代表船舶拥有人、租用人或船舶出租商，在港口协助提高船舶停泊效率的各单位。典型的船舶代理服务包括处理港口货运事宜、向有关当局申请船舶清关，以及提供港口和船舶进出港服务。

<sup>2</sup> 船舶管理商为船舶提供管理服务，使其可适当及安全地营运和航行。有关服务通常涉及船舶的技术、船员和商业方面的管理，以及其保险安排。

<sup>3</sup> 船舶经纪商会按不同船舶使用者（包括但不限于船舶拥有人、租用人、出租商、准船舶买家或承租人）的利益，协助他们达成船舶业务交易。

<sup>4</sup> 根据《税务条例》第 14P(1)条及第 14T(1)条，合资格船舶出租商 / 船舶租赁管理商从合资格船舶租赁活动（包括营运租约（主租约及次租约）及为期超过 1 年的融购租约）/ 为相联合资格船舶出租商提供合资格船舶租赁管理活动获取的利润可享有 0% 的优惠税率。

<sup>5</sup> 根据《税务条例》第 14T(1)条，合资格船舶租赁管理商为非相联合资格船舶出租商提供合资格船舶租赁管理活动获取的利润可享有 8.25% 的优惠税率。

<sup>6</sup> 根据《税务条例》第 23B 条，某些航运收入获豁免征税。

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如有任何疑问，请联系我们的专业服务团队：

### 作者

**陈嘉华**

合伙人

+852 2852 1628

[sarahchan@deloitte.com.hk](mailto:sarahchan@deloitte.com.hk)

**戚维之**

总监

+852 2852 6608

[dchik@deloitte.com.hk](mailto:dchik@deloitte.com.hk)

**張嘉雯**

经理

+852 2740 8660

[carmcheung@deloitte.com.hk](mailto:carmcheung@deloitte.com.hk)

### 全球企业服务

**全国领导人**

**朱桢**

合伙人

+86 10 8520 7508

[andzhu@deloitte.com.cn](mailto:andzhu@deloitte.com.cn)

**香港**

**邓伟文**

合伙人

+852 2852 6661

[raytang@deloitte.com.hk](mailto:raytang@deloitte.com.hk)

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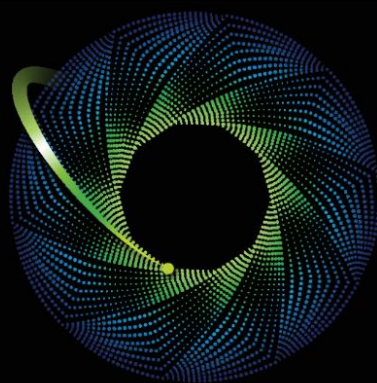
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## Hong Kong Tax Newsflash

### Proposed tax concessions for shipping-related activities



A new tax concession for maritime businesses will be introduced into the Legislative Council next week. The Inland Revenue (Amendment) (Tax Concessions for Certain Shipping-Related Activities) Bill 2022 (the Bill) seeks to give profits tax concessions to certain ship agents<sup>1</sup>, ship managers<sup>2</sup> and ship brokers<sup>3</sup> (collectively "shipping commercial principals").

#### Key features of the proposed tax concession regime

The Bill proposes that, subject to conditions, the profits derived by a qualifying shipping commercial principal from carrying out a qualifying activity in Hong Kong will be subject to:

- profits tax rate at 8.25%;
- if the qualifying activity is carried out for an associated ship lessor / ship leasing manager, which is entitled to a concessionary tax rate of 0%<sup>4</sup> or 8.25%<sup>5</sup>, the same concessionary tax rate (i.e. 0% or 8.25%) applies to the qualifying shipping commercial principal;
- if the qualifying activity is carried out for an associated ship operator / ship owner, whose income are exempt from tax<sup>6</sup>, the same income exemption applies to the qualifying shipping commercial principal.

A written election for the tax concession is required. Once the election is made, it is irrevocable.

### Qualifying shipping commercial principal

A qualifying shipping commercial principal is required to exercise central management and control in Hong Kong. It should be a standalone corporate entity solely carrying out qualifying activities or satisfying the safe harbour rule (i.e. the percentage of profits and assets related to qualifying activities should not be lower than 75% of its aggregate profits and assets).

### Qualifying activity

A ship agency, ship management or ship broking activity carried out by a qualifying shipping commercial principal is a qualifying activity if the activity is carried out in the ordinary course of the principal's business carried on in Hong Kong.

### Substantial activities requirements

A qualifying shipping commercial principal is required to carry out core income generating activities in Hong Kong. The proposed minimum requirements of employee and operating expenditure are as follows:

Number of full-time qualified employees in Hong Kong	Annual operating expenditure in Hong Kong
Not less than 1	Not less than HKD 1 million

### Anti-abuse and anti-avoidance provisions

- Any business transactions between a qualifying shipping commercial principal and its associated party must be on an arm's length basis.
- If the main purpose, or one of the main purposes, of the arrangement is to obtain a tax benefit for profits tax or under a tax treaty, the profits tax concession will be denied.
- Tax deduction for service fee paid by a payer to its connected qualifying shipping commercial principal subject to the preferential tax treatment would be reduced so that no overall tax benefit can be obtained.

## Effective date

Subject to the enactment of the legislation, the proposed tax concessions will apply to sums received or accrued on or after 1 April 2022.

## Our comments

With a view to consolidating Hong Kong's position as an international maritime centre, the Government has spared no efforts in formulating strategies to facilitate business operations of the maritime industry in recent years. Ship-owners, ship operators, ship leasing businesses and marine insurance businesses can enjoy favourable tax treatments in Hong Kong under the current tax law. The introduction of the above Bill expands the scope of the tax concessions and provides a more comprehensive concessionary tax regime for the maritime sector. We believe the proposed tax concessions would enhance Hong Kong's competitiveness in attracting more maritime enterprises to establish a presence and develop high end maritime services in Hong Kong, and foster Hong Kong's position as a leading international maritime centre.

<sup>1</sup> Ship agents refer to parties who represent ship owners, charterers or ship lessors at ports to facilitate efficient port calls of ships. Typical ship agency services include handling cargo operation matters with the port, seeking clearance for ships from relevant authorities and provision of port and husbandry services.

<sup>2</sup> Ship managers provide management services for a ship to render it fit and safe for operation and voyage. Such services usually relate to the management of technical, crew and commercial aspects of a vessel, as well as its insurance arrangements.

<sup>3</sup> Ship brokers act on the interests of different ship users including but not limited to ship owners, charterers, ship lessors, prospective ship buyers or lessees to facilitate the conclusion of business deals relating to a ship among different ship users.

<sup>4</sup> Qualifying ship lessors and ship leasing managers can enjoy concessionary tax rate of 0% on profits derived from qualifying ship leasing activities (include operating lease (head lease and sub-lease) and funding lease exceeding 1 year) / qualifying ship leasing management activities to associated qualifying ship lessors under sections 14P(1) and 14T(1) of the Inland Revenue Ordinance (IRO).

<sup>5</sup> Qualifying ship leasing managers can enjoy concessionary tax rate of 8.25% on profits derived from qualifying ship leasing management activities to non-associated qualifying ship lessors under section 14T(1) of the IRO.

<sup>6</sup> Certain shipping income are exempt or excluded from tax under section 23B of the IRO.

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If you have any questions, please contact our professionals:

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### Authors

**Sarah Chan**

Tax Partner

+852 2852 1628

[sarahchan@deloitte.com.hk](mailto:sarahchan@deloitte.com.hk)

**Doris Chik**

Tax Director

+852 2852 6608

[dchik@deloitte.com.hk](mailto:dchik@deloitte.com.hk)

**Carmen Cheung**

Tax Manager

+852 2740 8660  
[carmcheung@deloitte.com.hk](mailto:carmcheung@deloitte.com.hk)

## Global Business Tax Services

### National Leader

**Andrew Zhu**

Tax Partner

+86 10 8520 7508

[andzhu@deloitte.com.cn](mailto:andzhu@deloitte.com.cn)

### Hong Kong

**Raymond Tang**

Tax Partner

+852 2852 6661

[raytang@deloitte.com.hk](mailto:raytang@deloitte.com.hk)

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