



Hong Kong Tax Newsflash

Passage of the enhanced aircraft leasing preferential tax regime

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The Bill¹ on the enhancements of the aircraft leasing preferential tax regime was passed by the Legislative Council on 21 February 2024. The enhancements include:

- **New deduction for acquisition cost:** providing qualifying aircraft lessors with tax deduction of the acquisition cost of aircraft;
- **Expanded scope of lease:** expanding the scope of the regime to include wet lease and funding lease and removing the one-year term of lease restriction;
- **Broadened coverage:** providing for a more general meaning of “aircraft leasing activity” so that the regime will cover leasing activities other than leasing aircraft to aircraft operators;
- **New deduction for interest expense:** allowing deduction of interest payable for acquisition of aircraft to a financier outside Hong Kong who is not a financial institution and may be an associate of the borrower; and
- **Prescribed thresholds for substance requirement:** prescribing threshold requirements for aircraft lessors and aircraft leasing

managers qualifying for the regime to comply with the OECD's requirements.

The enhancements apply retrospectively from the year of assessment 2023/24. For the details of the enhancements, please refer to our [Hong Kong Tax Newsflash Issue 199](#).

In the meantime, the Inland Revenue Department (IRD) updated the [guidance](#) and [frequently asked questions](#) (FAQs) on the aircraft leasing regime on its website. Some key points mentioned in the FAQs are highlighted below:

- **Transitional treatment: 20% tax base concession / new deduction for acquisition cost**

The 20% tax base concession only applies to the lease payments of an operating lease in respect of an aircraft acquired and used before the year of assessment 2023/24 by the aircraft lessor in carrying out qualifying leasing activities. If the aircraft lessor opted to claim depreciation allowances on the aircraft, a notional allowance for the years of assessment for which the 20% tax base concession was allowed would be excluded for deduction and its assessable profits would be computed on an actual basis.

For aircrafts acquired in or after the year of assessment 2023/24, the relevant assessable profits should be computed on an actual basis with depreciation allowances on the aircraft.

- **New deduction for interest expense**

If a loan is partly used for financing the acquisition cost of an aircraft and partly used for other purposes, interest expenses would be allowed on an apportionment basis. Interest expenses attributable to that part of the loan used for financing the acquisition cost of the aircraft would be allowed for deduction, provided that the other relevant conditions are met.

Interest expenses on a subsequent loan obtained to wholly or exclusively refinance the outstanding balance of the previous loan obtained for financing the provision of aircraft would be allowed for deduction, provided that the other conditions are met.

- **Thresholds for substance requirements on full-time employees**

A director that possesses the required qualification and carries out the core income generating activities (CIGAs) in Hong Kong can be counted as a full-time employee.

In case an employee serves multiple aircraft lessors or other non-aircraft leasing group companies, the IRD would allow the splitting of the employee by reference to the amount of time spent by the employee in carrying out of the CIGAs for each aircraft lessor for the purpose of counting the number of full-time employees as long as there is no double counting.

- **Aircraft operator versus aircraft lessor under a wet lease² arrangement**

The aircraft leasing preferential tax regime only applies to qualifying aircraft lessor who must not be an aircraft operator. As such, it is important to distinguish an aircraft operator from an aircraft lessor. The IRD explained that whether or not a corporation is an aircraft operator is a question of fact. All the relevant facts and circumstances should be considered. In general, if the aircraft owner has no control over where and when the aircraft flies during the contractual period and is not a holder of Aircraft Operator's Certificate or similar permit, the aircraft owner is likely not an aircraft operator.

We welcome the enhancements to the aircraft leasing preferential regime as it would strengthen Hong Kong's competitiveness in the global aircraft leasing industry. Taxpayers planning to apply for the regime should seek professional advice where appropriate.

¹ [Inland Revenue \(Amendment\) \(Aircraft Leasing Tax Concessions\) Bill 2023](#)

² A wet lease is typically a short-term lease for seasonal needs including the aircraft, crew, maintenance and insurance during the period of the lease.

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