
Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Bill 2019

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A BILL

To

Amend the Inland Revenue Ordinance to provide for profits tax concessions for general reinsurance business and certain types of general insurance business of direct insurers and certain types of insurance brokerage business of licensed insurance broker companies; to correct a cross-reference in section 63H(1D) of the Ordinance; to make technical drafting amendments (including reorganizing Part 4 of the Ordinance into Divisions and Subdivisions with headings); and to provide for related matters.

Enacted by the Legislative Council.

1. Short title and commencement

- (1) This Ordinance may be cited as the Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Ordinance 2019.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

2. Inland Revenue Ordinance amended

- (1) The Inland Revenue Ordinance (Cap. 112) is amended as set out in sections 3 to 17.

- (2) Division and Subdivision headings are added to Part 4 of that Ordinance as set out in the Schedule.

3. Section 2 amended (interpretation)

- (1) Section 2(1)—

Repeal the definition of *corporation*

Substitute

“*corporation* (法團)—

- (a) means any company that is either incorporated or registered under any enactment or charter in force in Hong Kong or elsewhere; and
- (b) includes—
 - (i) Lloyd’s; and
 - (ii) an approved association of underwriters; but
- (c) does not include a co-operative society or a trade union;”.

- (2) Section 2(1)—

Add in alphabetical order

“*approved association of underwriters* (獲認可的承保人組織) means an association of underwriters approved by the Insurance Authority as mentioned in section 6(1)(c) of the Insurance Ordinance (Cap. 41);

***Lloyd’s* (勞合社) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41);”.**

4. Section 14AB added

Before section 14B—

Add

“14AB. Qualifying insurance business and insurance brokerage business: interpretation

(1) In this Subdivision—

authorized captive insurer (獲授權專屬自保保險人) means a company that—

- (a) is a captive insurer within the meaning of section 2(7)(a) of the Insurance Ordinance (Cap. 41); and
- (b) is authorized under section 8 of that Ordinance to carry on in or from Hong Kong insurance business as a captive insurer;

contract of insurance (保險合約) includes a contract referred to in column 3 of Part 3 of Schedule 1 to the Insurance Ordinance (Cap. 41) that is described in that column as a contract other than a contract of insurance;

Note—

For example, contracts for fidelity bonds referred to in that column of class 15.

general insurance business (一般保險業務) means a business of a class specified in Part 3 of Schedule 1 to the Insurance Ordinance (Cap. 41);

general reinsurance business (一般再保險業務) means a business of providing reinsurance of liabilities under a contract of insurance effected by an insurer or Lloyd’s in the course of—

- (a) carrying on a general insurance business; or
- (b) carrying on a business similar to a general insurance business under the law of a place outside Hong Kong;

insurer (保險人) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41);

licensed insurance broker company (持牌保險經紀公司) has the meaning given by section 2(1) of the Insurance Ordinance (Cap. 41);

professional reinsurer (專業再保險人) means a company authorized under section 8 of the Insurance Ordinance (Cap. 41) to carry on in or from Hong Kong reinsurance business only;

qualifying regulated activity (合資格受規管活動) means an act that—

- (a) is specified in Part 1 of Schedule 1A to the Insurance Ordinance (Cap. 41); and
- (b) relates to a contract of insurance effected by a professional reinsurer or a specified insurer in the course of carrying on a business specified in section 14B(1)(a) or (c);

series of transactions (一系列交易)—see subsections (2) and (3);

specified general insurance business (指明一般保險業務) means a business that—

- (a) is a general insurance business; but
- (b) is not a business of effecting and carrying out a contract of insurance that covers any of the risks and liabilities specified and described in Schedule 49;

specified insurer (指明保險人) means any of the following persons carrying on in or from Hong Kong a class of insurance business specified in Schedule 1 to the Insurance Ordinance (Cap. 41)—

- (a) a company authorized by the Insurance Authority under section 8 of the Insurance Ordinance (Cap. 41) to carry on the business, except a professional reinsurer and an authorized captive insurer;
- (b) Lloyd's;
- (c) an approved association of underwriters;

transaction (交易) includes any operation, scheme, arrangement, understanding and mutual practice (whether express or implied, and whether or not enforceable or intended to be enforceable by legal proceedings).

- (2) References in section 14B to a series of transactions include a number of transactions each entered into (whether or not one after the other) in pursuance of, or in relation to, the same matter.
- (3) For the purposes of section 14B(2A), a series of transactions is not prevented from being regarded as a series of transactions by means of which a corporation sells or purchases insurance or reinsurance to or from any person, even if one or more of the following applies—
 - (a) there is no transaction in the series to which the corporation and the person are parties;
 - (b) the parties to any arrangement or scheme in pursuance of which the transactions in the series are entered into do not include one or both of the corporation and the person;
 - (c) there is one or more transactions in the series to which neither the corporation nor the person is a party.

- (4) The Secretary for Financial Services and the Treasury may by notice published in the Gazette amend Schedule 49.
- (5) A note located in the text of this section is provided for information only and has no legislative effect.”.

5. Section 14B amended (qualifying reinsurance business and captive insurance business)

- (1) Section 14B, heading—

Repeal

“**Qualifying reinsurance business and captive insurance business**”

Substitute

“**Qualifying insurance business and insurance brokerage business: profits tax concessions**”.

- (2) Section 14B(1)(a)—

Repeal

“or”.

- (3) Section 14B(1)(b)—

Repeal the full stop

Substitute a semicolon.

- (4) After section 14B(1)(b)—

Add

- “(c) the assessable profits of the corporation derived from any of the following businesses as a specified insurer—
- (i) specified general insurance business;
 - (ii) general reinsurance business; or

(d) the assessable profits of the corporation derived from the business of carrying on a qualifying regulated activity as a licensed insurance broker company.”.

(5) Section 14B(2)(a)—

Repeal

“or (b)”

Substitute

“, (b), (c) or (d)”.

(6) After section 14B(2)—

Add

“(2A) Subsection (1)(c) does not apply to the assessable profits of a corporation derived from a transaction or a series of transaction if—

(a) the corporation enters into the transaction or the series of transactions with a person for the sale or purchase of insurance or reinsurance to or from the person or another person; and

(b) the main purpose, or one of the main purposes, of the corporation in entering into the transaction or the series of transactions is to avoid or postpone any liability to pay tax or reduce the amount of the liability.”.

(7) Section 14B—

Repeal subsection (4).

6. Section 19C amended (treatment of losses after 1 April 1975)

Section 19C(3A)—

Repeal

“19CA(2)(b)”

Substitute

“19CAB(3)”.

7. Section 19CA substituted

Section 19CA—

Repeal the section

Substitute

“19CA. Treatment of unabsorbed losses under sections 19CAB and 19CAC: interpretation

In this section and sections 19CAB and 19CAC—

adjustment factor (調整分數), in relation to a year of assessment, means the factor calculated in accordance with the formula—

$$\frac{A}{B}$$

where: A means the rate specified in Schedule 1 or 8, as may be applicable, for that year of assessment; and

B in relation to any concessionary trading receipts, means the rate specified in the relevant concession provision for that year of assessment;

chargeable concessionary trading receipts (應課稅的獲特惠的營業收入), in relation to any person for any year of assessment, means—

(a) if the assessable profits in respect of the concessionary trading receipts do not fall within the description in section 14B(1)(a), (b) or (c)—

the amount of the concessionary trading receipts as—

(i) reduced by the aggregate of—

(A) the amount of any outgoings and expenses deductible under this Part to the extent to which they are incurred during the basis period for that year of assessment by the person in the production of the concessionary trading receipts; and

(B) the amount of any allowances made under Part 6 for that year of assessment to the person to the extent to which the relevant assets are used during the basis period for that year of assessment in the production of the concessionary trading receipts; and

(ii) increased by the amount of any balancing charge directed to be made on the person under Part 6 for that year of assessment to the extent to which the relevant assets are used in the production of the concessionary trading receipts; and

(b) if the assessable profits in respect of the concessionary trading receipts fall within the description in section 14B(1)(a), (b) or (c)—the amount of the assessable profits ascertained in accordance with Subdivision 1 of Division 11;

chargeable normal trading receipts (應課稅的一般營業收入), in relation to any person for any year of assessment, means—

- (a) if the person has only normal trading receipts that are not in respect of a business of insurance for the year of assessment—the amount of the normal trading receipts as—
 - (i) reduced by the aggregate of—
 - (A) the amount of any outgoings and expenses deductible under this Part to the extent to which they are incurred during the basis period for that year of assessment by the person in the production of the normal trading receipts; and
 - (B) the amount of any allowances made under Part 6 for that year of assessment to the person to the extent to which the relevant assets are used during the basis period for that year of assessment in the production of the normal trading receipts; and
 - (ii) increased by the amount of any balancing charge directed to be made on the person under Part 6 for that year of assessment to the extent to which the relevant assets are used in the production of the normal trading receipts;
- (b) if the person has only normal trading receipts in respect of a business of insurance for the year of assessment—the amount of the assessable profits of the business ascertained in accordance with Subdivision 1 of Division 11 (excluding sections 23AB and 23AC), as—

- (i) reduced by the chargeable concessionary trading receipts of the business, ascertained in accordance with section 23AB; or
 - (ii) increased by the amount of the unabsorbed loss in respect of the concessionary trading receipts of the business, ascertained in accordance with sections 19D and 23AB; and
- (c) if the person has both the normal trading receipts described in paragraph (a) and the normal trading receipts described in paragraph (b) for the year of assessment—the aggregate of—
- (i) the chargeable normal trading receipts ascertained in accordance with paragraph (a) for the normal trading receipts described in the paragraph; and
 - (ii) the chargeable normal trading receipts ascertained in accordance with paragraph (b) for the normal trading receipts described in the paragraph;

concession provision (寬減條文) means—

- (a) section 14A(1);
- (b) section 14B(1);
- (c) section 14D(1);
- (d) section 14H(1); or
- (e) section 14J(1);

concessionary trading receipts (獲特惠的營業收入) means any trading receipts and other sums in respect of which assessable profits are chargeable to tax at the rate specified in a concession provision;

normal trading receipts (一般營業收入) means any trading receipts and other sums in respect of which assessable profits are chargeable to tax at the rate specified in Schedule 1 or 8;

unabsorbed loss in respect of the concessionary trading receipts (關乎獲特惠的營業收入的未吸納虧損), in relation to any person for any year of assessment, means—

- (a) if the assessable profits in respect of the concessionary trading receipts do not fall within the description in section 14B(1)(a), (b) or (c)—any loss ascertained by—
 - (i) adding to the amount of the concessionary trading receipts the amount of any balancing charge directed to be made on the person under Part 6 for that year of assessment to the extent to which the relevant assets are used in the production of the concessionary trading receipts; and
 - (ii) reducing from the resulting amount the aggregate of—
 - (A) the amount of any outgoings and expenses deductible under this Part to the extent to which they are incurred during the basis period for that year of assessment by the person in the production of the concessionary trading receipts; and
 - (B) the amount of any allowances made under Part 6 for that year of assessment to the person to the extent to which the relevant assets are used

during the basis period for that year of assessment in the production of the concessionary trading receipts; and

- (b) if the assessable profits in respect of the concessionary trading receipts fall within the description in section 14B(1)(a), (b) or (c)—any loss ascertained in accordance with section 19D and Subdivision 1 of Division 11;

unabsorbed loss in respect of the normal trading receipts (關乎一般營業收入的未吸納虧損), in relation to any person for any year of assessment, means—

- (a) if the person has only normal trading receipts that are not in respect of a business of insurance for the year of assessment—any loss ascertained by—
 - (i) adding to the amount of the normal trading receipts the amount of any balancing charge directed to be made on the person under Part 6 for that year of assessment to the extent to which the relevant assets are used in the production of the normal trading receipts; and
 - (ii) reducing from the resulting amount the aggregate of—
 - (A) the amount of any outgoings and expenses deductible under this Part to the extent to which they are incurred during the basis period for that year of assessment by the person in the production of the normal trading receipts; and

- (B) the amount of any allowances made under Part 6 for that year of assessment to the person to the extent to which the relevant assets are used during the basis period for that year of assessment in the production of the normal trading receipts;
- (b) if the person has only normal trading receipts in respect of a business of insurance for the year of assessment—any loss ascertained in accordance with section 19D and Subdivision 1 of Division 11 (excluding sections 23AB and 23AC), as—
 - (i) reduced by the amount of the unabsorbed loss in respect of the concessionary trading receipts of the business, ascertained in accordance with sections 19D and 23AB; or
 - (ii) increased by the chargeable concessionary trading receipts of the business, ascertained in accordance with section 23AB; and
- (c) if the person has both the normal trading receipts described in paragraph (a) and the normal trading receipts described in paragraph (b) for the year of assessment—the aggregate of—
 - (i) any loss ascertained in accordance with paragraph (a) for the normal trading receipts described in the paragraph; and
 - (ii) any loss ascertained in accordance with paragraph (b) for the normal trading receipts described in the paragraph.”.

8. Sections 19CAB and 19CAC added

After section 19CA—

Add

“19CAB. Treatment of unabsorbed losses: concessionary trading receipts

- (1) This section applies if—
 - (a) a person has chargeable normal trading receipts for any year of assessment; and
 - (b) there is an unabsorbed loss in respect of the concessionary trading receipts of the person for that year of assessment.
- (2) If the amount of the unabsorbed loss does not exceed the amount arrived at by multiplying the chargeable normal trading receipts by the adjustment factor (*adjusted chargeable normal trading receipts amount*)—
 - (a) for the purpose of ascertaining the assessable profits of the person—the chargeable normal trading receipts are to be reduced by an amount arrived at by dividing the amount of the unabsorbed loss by the adjustment factor; and
 - (b) for other purposes—the amount of the unabsorbed loss is taken to be zero.
- (3) If the amount of the unabsorbed loss exceeds the adjusted chargeable normal trading receipts amount—
 - (a) for the purpose of ascertaining the loss sustained by the person—

- (i) the amount of the unabsorbed loss is to be reduced by the adjusted chargeable normal trading receipts amount; and
 - (ii) the balance of the unabsorbed loss is to be dealt with in accordance with sections 19C and 19CB; and
- (b) for other purposes—the chargeable normal trading receipts are taken to be zero.

19CAC. Treatment of unabsorbed losses: normal trading receipts

- (1) This section applies if—
- (a) a person has chargeable concessionary trading receipts for any year of assessment; and
 - (b) there is an unabsorbed loss in respect of the normal trading receipts of the person for that year of assessment.
- (2) If the amount of the unabsorbed loss does not exceed the amount arrived at by dividing the chargeable concessionary trading receipts by the adjustment factor (*adjusted chargeable concessionary trading receipts amount*)—
- (a) for the purpose of ascertaining the assessable profits of the person—the chargeable concessionary trading receipts are to be reduced by an amount arrived at by multiplying the amount of the unabsorbed loss by the adjustment factor; and
 - (b) for other purposes—the amount of the unabsorbed loss is taken to be zero.

- (3) If the amount of the unabsorbed loss exceeds the adjusted chargeable concessionary trading receipts amount—
- (a) for the purpose of ascertaining the loss sustained by the person—
 - (i) the amount of the unabsorbed loss is to be reduced by the adjusted chargeable concessionary trading receipts amount; and
 - (ii) the balance of the unabsorbed loss is to be dealt with in accordance with sections 19C and 19CB; and
 - (b) for other purposes—the chargeable concessionary trading receipts are taken to be zero.”.

9. Section 19CB amended (set off: concessionary trading receipts)

- (1) Section 19CB(4), English text, definition of *loss*—

Repeal the full stop

Substitute a semicolon.

- (2) Section 19CB(4)—

Repeal the definition of *adjustment factor*, *concessionary trading receipts* and *normal trading receipts*.

- (3) Section 19CB(4)—

Add in alphabetical order

“*adjustment factor* (調整分數) has the meaning given by section 19CA;

concessionary trading receipts (獲特惠的營業收入) has the meaning given by section 19CA;

normal trading receipts (一般營業收入) has the meaning given by section 19CA.”.

10. Section 23A substituted

Section 23A—

Repeal the section

Substitute

“23A. Ascertainment of assessable profits: non-life insurance business

- (1) The assessable profits for any year of assessment of an insurance corporation, whether mutual or proprietary, from a business of insurance other than life insurance (*non-life insurance business*), are ascertained in accordance with the formula—

$$P + X - Y$$

where: $P = P_1 - P_2$

$$X = X_1 + X_2 + X_3$$

$$Y = Y_1 + Y_2 + Y_3 + Y_4 + Y_5$$

and where each variable set out in column 1 of the Table represents the amount of the item set out in column 2 of the Table opposite to it.

Table

Column 1

Column 2

P_1	gross premiums from non-life insurance business in Hong Kong
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Column 1	Column 2
P_2	the aggregate of any premiums from non-life insurance business in Hong Kong returned to an insured and any premiums paid on corresponding reinsurance
X_1	interest or other income arising in or derived from Hong Kong
X_2	balancing charge directed to be made under Part 6
X_3	reserve for unexpired risks at the commencement of the basis period
Y_1	reserve for unexpired risks at the end of the basis period
Y_2	actual losses less any amount recoverable in respect of the losses under reinsurance
Y_3	agency expenses in Hong Kong
Y_4	allowances made under Part 6 to the extent to which the relevant assets are used in the production of the assessable profits
Y_5	a fair proportion of any expenses of the head office of the corporation

- (2) However, if the Commissioner is satisfied that it would be unreasonable to require a non-resident insurance corporation to furnish the particulars necessary for ascertaining the assessable profits according to subsection (1) because of the limited extent of the non-life insurance business transacted in Hong Kong by the corporation, subsection (3) applies.

(3) The Commissioner may allow the assessable profits of the corporation from the non-life insurance business to be ascertained—

- (a) by reference to the proportion of the total profits and income of the corporation corresponding to the proportion that its premiums from non-life insurance business in Hong Kong bears to its total premiums; or
- (b) on any other basis that appears to the Commissioner to be fair.

(4) In this section—

contract of insurance (保險合約) has the meaning given by section 14AB(1);

premiums from non-life insurance business in Hong Kong (從香港非人壽保險業務所得的保費) includes—

- (a) all premiums on contracts of insurance, other than life insurance, made in Hong Kong; and
- (b) all premiums on contracts of insurance, other than life insurance, the proposals for which were made to a corporation in Hong Kong;

reserve for unexpired risks at the commencement of the basis period (評稅基期開始時的未過期風險儲備金) means any reserve that—

- (a) is outstanding for the unexpired risks of the non-life insurance business at the commencement of the basis period for which the assessable profits are ascertained; and
- (b) is calculated at the percentage adopted by the corporation in relation to its operations as a whole for those unexpired risks;

reserve for unexpired risks at the end of the basis period (評稅基期結束時的未過期風險儲備金) means any reserve that—

- (a) is set aside for the unexpired risks of the non-life insurance business at the end of the basis period for which the assessable profits are ascertained; and
- (b) is calculated at the percentage adopted by the corporation in relation to its operations as a whole for those unexpired risks.”.

11. Section 23AA substituted

Section 23AA—

Repeal the section

Substitute

“23AA. Mutual insurance corporations

- (1) For the purposes of this Part, a mutual insurance corporation is taken to carry on an insurance business.
- (2) The surplus from the insurance business is—
 - (a) to be ascertained in the way provided in sections 23, 23A, 23AB and 23AC for ascertaining assessable profits; and
 - (b) taken to be assessable profits chargeable to tax under section 14.”.

12. Sections 23AB and 23AC added

After section 23AA—

Add

“23AB. Ascertainment of assessable profits: general reinsurance business or specified general insurance business of specified insurer

- (1) The assessable profits for any year of assessment of a specified insurer from a qualifying insurance business are ascertained in accordance with the formula—

$$P + X - Y$$

where: $P = P_1 - P_2$

$$X = X_1 + X_2 + X_3$$

$$Y = Y_1 + Y_2 + Y_3 + Y_4 + Y_5$$

and where each variable set out in column 1 of the Table represents the amount of the item set out in column 2 of the Table opposite to it.

Table

Column 1	Column 2
P_1	gross premiums from the qualifying insurance business
P_2	the aggregate of any premiums from the qualifying insurance business returned to an insured and any premiums paid on corresponding reinsurance
X_1	interest or other income arising in or derived from Hong Kong attributable to the qualifying insurance business
X_2	balancing charge to the extent to which the relevant assets are used in the production of the assessable profits, as directed to be made under Part 6

Column 1	Column 2
X ₃	reserve for unexpired risks at the commencement of the basis period
Y ₁	reserve for unexpired risks at the end of the basis period
Y ₂	actual losses incurred for the qualifying insurance business less any amount recoverable in respect of the losses under reinsurance
Y ₃	agency expenses in Hong Kong attributable to the qualifying insurance business
Y ₄	allowances made under Part 6 to the extent to which the relevant assets are used in the production of the assessable profits
Y ₅	a fair proportion of any expenses of the head office of the specified insurer attributable to the qualifying insurance business

- (2) However, if the Commissioner is satisfied that it would be unreasonable to require a non-resident specified insurer to furnish the particulars necessary for ascertaining the assessable profits according to subsection (1) because of the limited extent of the qualifying insurance business transacted in Hong Kong by the specified insurer, subsection (3) applies.
- (3) The Commissioner may allow the assessable profits from the qualifying insurance business of the specified insurer to be ascertained—

- (a) by reference to the proportion of the total profits and income of the specified insurer corresponding to the proportion that its premiums from the qualifying insurance business bears to its total premiums; or
- (b) on any other basis that appears to the Commissioner to be fair.

(4) In this section—

contract of insurance (保險合約) has the meaning given by section 14AB(1);

general reinsurance business (一般再保險業務) has the meaning given by section 14AB(1);

premiums from the qualifying insurance business (從有關合資格保險業務所得的保費) includes—

- (a) all premiums on contracts of insurance of the qualifying insurance business made in Hong Kong; and
- (b) all premiums on contracts of insurance of the qualifying insurance business the proposals for which were made to a specified insurer in Hong Kong;

qualifying insurance business (合資格保險業務) means any of the following businesses carried on by a specified insurer—

- (a) specified general insurance business;
- (b) general reinsurance business;

reserve for unexpired risks at the commencement of the basis period (評稅基期開始時的未過期風險儲備金) means any reserve that—

- (a) is outstanding for the unexpired risks of the qualifying insurance business at the commencement of the basis period for which the assessable profits are ascertained; and
- (b) is calculated at the percentage adopted by the specified insurer in relation to its operations as a whole for those unexpired risks;

reserve for unexpired risks at the end of the basis period (評稅基期結束時的未過期風險儲備金) means any reserve that—

- (a) is set aside for the unexpired risks of the qualifying insurance business at the end of the basis period for which the assessable profits are ascertained; and
- (b) is calculated at the percentage adopted by the specified insurer in relation to its operations as a whole for those unexpired risks;

specified general insurance business (指明一般保險業務) has the meaning given by section 14AB(1);

specified insurer (指明保險人) has the meaning given by section 14AB(1).

23AC. Ascertainment of assessable profits under section 23AB: Commissioner's powers to exclude or apportion certain sums

- (1) For the purposes of section 23AB, if the Commissioner is of the opinion that any part of the investment fund or shareholders' fund of a specified insurer is not required to support a qualifying insurance business of the specified insurer, the Commissioner may exercise the power under subsection (3)(a).

- (2) For the purposes of this section or section 23AB, if the Commissioner is of the opinion that an item of allowance, balancing charge, expenditure, gain, income or profit falls to be apportioned between the qualifying insurance business and other businesses of the specified insurer, the Commissioner may exercise the power under subsection (3)(b).
- (3) The Commissioner may—
 - (a) for the purposes of subsection (1)—exclude from the total interest, profits or other income of the qualifying insurance business, a portion of the income, gains or profits derived from the funds referred to in that subsection, as the Commissioner considers reasonable in the circumstances; and
 - (b) for the purposes of subsection (2)—apportion an item referred to in that subsection as the Commissioner considers reasonable in the circumstances.
- (4) In this section—

qualifying insurance business (合資格保險業務) has the meaning given by section 23AB(4);

specified insurer (指明保險人) has the meaning given by section 14AB(1).”.

13. Section 26AB amended (threshold requirements relating to concession condition provisions)

Section 26AB(1)(a)—

Repeal

“or (b)”

Substitute

“, (b), (c) or (d)”.

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

Section 63H(1D)—

Repeal

“14B(2)(a)”

Substitute

“14B(2)(b)”.

15. Section 89 amended (transitional provisions)

After section 89(24)—

Add

“(25) Schedule 50 sets out transitional provisions that have effect for the purposes of the amendments to this Ordinance made by the Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Ordinance 2019 (of 2019).”.

16. Schedule 1 amended (standard rate)

Schedule 1—

Repeal

“19CA(4)]”

Substitute

“19CA]”.

17. Schedules 49 and 50 added

After Schedule 48—

Add

“Schedule 49

[s. 14AB]

**Specified Risks and Liabilities for Definition of
Specified General Insurance Business in Section
14AB**

Column 1 Item	Column 2 Risks and liabilities	Column 3 Description
1.	Health risk	The risk of loss to a person attributable to sickness or infirmity.
2.	Mortgage guarantee risk	The risk of loss to a mortgage loan provider arising from any default in payment by a mortgagor in respect of a mortgage loan for property.
3.	Motor vehicle damage risk	The risk of loss of or damage to vehicles used on land, including motor vehicles but excluding railway rolling stock, or the risk of damage arising out of or in connection with the use of motor vehicles on land, including third-party risks and carrier’s liability.
4.	Employees’ compensation liability	The liability of an employer to pay compensation for the injury by accident or for the death of an employee that arises out of and in the course of employment.

Column 1 Item	Column 2 Risks and liabilities	Column 3 Description
5.	Owners' corporation third-party liability	The liability of a corporation of the owners of flats in a multi-storey building, insofar as the liability relates to the common parts of the building or the property of the corporation, that is incurred by the corporation in respect of the death of, or bodily injury to, any person.

Schedule 50

[s. 89(25)]

Transitional Provisions for Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Ordinance 2019

1. In this Schedule—

commencement date (生效日期) means the date on which the Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Ordinance 2019 comes into operation.

2. In computing the assessable profits of a corporation that fall within section 14B(1)(c) or (d), sums received by or accrued to the corporation before the commencement date are not to be taken into account.”

Schedule

[s. 2]

Addition of Division and Subdivision Headings to Part 4 of Inland Revenue Ordinance

1. Part 4, Division 1 heading added

Before section 14—

Add

“Division 1—Charge of Profits Tax”.

2. Part 4, headings added

Before section 14A—

Add

“Division 2—Profits Tax Concessions

Subdivision 1—Qualifying Debt Instruments”.

3. Part 4, Division 2, Subdivision 2 heading added

Before section 14AB—

Add

**“Subdivision 2—Qualifying Insurance Business and
Insurance Brokerage Business”.**

4. Part 4, Division 2, Subdivision 3 heading added

Before section 14C—

Add

“Subdivision 3—Qualifying Corporate Treasury Centre”.

5. Part 4, Division 2, Subdivision 4 heading added

Before section 14G—

Add

“Subdivision 4—Aircraft Leasing”.

6. Part 4, Division 3 heading added

Before section 15—

Add

**“Division 3—Trading Receipts, Trading Stock, Stock
Borrowing and Lending, etc.”.**

7. Part 4, headings added

Before section 16—

Add

“Division 4—Deductions

Subdivision 1—Preliminary”.

8. Part 4, Division 4, Subdivision 2 heading added

Before section 16A—

Add

“Subdivision 2—Contributions to Approved Retirement Schemes”.

9. Part 4, Division 4, Subdivision 3 heading added

Before section 16B—

Add

“Subdivision 3—Expenditures on R&D Activities and Payments for Technical Education”.

10. Part 4, Division 4, Subdivision 4 heading added

Before section 16D—

Add

“Subdivision 4—Approved Charitable Donations”.

11. Part 4, Division 4, Subdivision 5 heading added

Before section 16E—

Add

“Subdivision 5—Purchase and Sale of Patent or Intellectual Property Rights”.

12. Part 4, Division 4, Subdivision 6 heading added

Before section 16F—

Add

**“Subdivision 6—Expenditure on Building Refurbishment
and Prescribed Fixed Assets”.**

13. Part 4, Division 4, Subdivision 7 heading added

Before section 16H—

Add

**“Subdivision 7—Expenditure on Environmental Protection
Facilities”.**

14. Part 4, Division 4, Subdivision 8 heading added

Before section 17—

Add

“Subdivision 8—Non-deductible Expenditure”.

15. Part 4, Division 5 heading added

Before section 17A—

Add

**“Division 5—Treatment of Regulatory Capital
Securities”.**

16. Part 4, Division 6 heading added

Before section 18—

Add

**“Division 6—Basis Period and Computation of
Assessable Profits”.**

17. Part 4, Division 7 heading added

Before section 18G—

Add

“Division 7—Treatment of Financial Instruments”.

18. Part 4, Division 8 heading added

Before section 19—

Add

“Division 8—Treatment of Losses”.

19. Part 4, headings added

After section 19E—

Add

“Division 9—Non-resident Persons, Funds, etc.

Subdivision 1—Agent of Non-resident Persons”.

20. Part 4, Division 9, Subdivision 2 heading added

Before section 20AB—

Add

“Subdivision 2—Non-resident Persons”.

21. Part 4, Division 9, Subdivision 3 heading added

After section 20AF—

Add

“Subdivision 3—Funds”.

22. Part 4, Division 9, Subdivision 4 heading added

Before section 20B—

Add

**“Subdivision 4—Persons Chargeable in respect of Certain
Profits of Non-resident Persons”.**

23. Part 4, Division 9, Subdivision 5 heading added

Before section 21—

Add

**“Subdivision 5—Assessable Profits of Certain Businesses
of Non-resident Persons”.**

24. Part 4, Division 10 heading added

Before section 22—

Add

“Division 10—Partnerships”.

25. Part 4, headings added

Before section 23—

Add

**“Division 11—Assessable Profits of Certain
Businesses**

Subdivision 1—Insurance”.

26. Part 4, Division 11, Subdivision 2 heading added

Before section 23B—

Add

“Subdivision 2—Ship-owners and Aircraft-owners”.

27. Part 4, Division 11, Subdivision 3 heading added

Before section 24—

Add

“Subdivision 3—Clubs, Trade Associations, etc.”.

28. Part 4, Division 12 heading added

Before section 25—

Add

“Division 12—Miscellaneous Provisions”.

Explanatory Memorandum

The main object of this Bill is to amend the Inland Revenue Ordinance (Cap. 112) (*principal Ordinance*) to provide for profits tax concessions for general reinsurance business and certain types of general insurance business of direct insurers and certain types of insurance brokerage business of licensed insurance broker companies.

2. Clause 1 sets out the short title and provides for commencement.
3. Clause 3 amends section 2 of the principal Ordinance to provide that Lloyd's and associations of underwriters approved by the Insurance Authority as mentioned in section 6(1)(c) of the Insurance Ordinance (Cap. 41) are taken to be corporations for the purposes of the principal Ordinance.
4. Clause 4 adds a new section 14AB to the principal Ordinance to set out the definitions of terms that are used in the new provisions on profits tax concessions. Also, the definitions of *authorized captive insurer* and *professional reinsurer* in the existing section 14B of the principal Ordinance are moved to the new section 14AB.
5. Clause 5 amends section 14B of the principal Ordinance to provide for profits tax concessions for general reinsurance business and certain types of general insurance business of direct insurers and certain types of insurance brokerage business of licensed insurance broker companies.

6. Clause 6 amends section 19C of the principal Ordinance to provide for amendments consequential to replacing section 19CA of the principal Ordinance.
7. Clause 7 replaces section 19CA of the principal Ordinance, which provides for treatment of losses in relation to concessionary trading receipts. The main purpose of the amendments in clause 7 is to take into account the amendments to section 14B of the principal Ordinance relating to profits tax concessions for general reinsurance business and certain types of general insurance business of insurance corporations. The amendments in clause 7 are as follows—
 - (a) the substantive amendment is to replace and amend some existing definitions in existing section 19CA(5) of the principal Ordinance (the definitions are proposed to be placed in new section 19CA) so that, if the assessable profits of the insurance business are chargeable to tax—
 - (i) at the concessionary rate under section 14B(1) of the principal Ordinance—the assessable profits and the unabsorbed loss will be ascertained in accordance with the relevant provisions in Subdivision 1 of Division 11 of Part 4 of the principal Ordinance; or
 - (ii) at the normal rate—the assessable profits and the unabsorbed loss will be ascertained in accordance with the relevant provisions in Subdivision 1 of Division 11 of Part 4 of the principal Ordinance (excluding sections 23AB and 23AC) subject to addition or deduction of any chargeable concessionary trading receipts and any unabsorbed loss in respect of the concessionary trading receipts; and

- (b) the other technical drafting amendments are to—
 - (i) repeal existing section 19CA(1), (2) and (3) that is to be moved to new sections 19CAB and 19CAC (added by clause 8); and
 - (ii) move the existing and unamended definitions to the new section 19CA.
- 8. Clause 8 adds new sections 19CAB and 19CAC to the principal Ordinance to recast the existing section 19CA(1), (2) and (3) for better readability and organization.
- 9. Clause 9 amends section 19CB of the principal Ordinance consequentially to reflect the amendments to section 19CA of the principal Ordinance.
- 10. Clause 10 replaces section 23A of the principal Ordinance to recast it in a more readable style, in line with current drafting practice.
- 11. Clause 11 replaces section 23AA of the principal Ordinance to recast it in a more readable style, in line with current drafting practice. In new section 23AA, the reference to sections 23 and 23A is amended consequentially to sections 23, 23A, 23AB and 23AC.
- 12. Clause 12 adds new sections 23AB and 23AC to the principal Ordinance to provide for the ascertainment of assessable profits from insurance and reinsurance businesses for which profits tax concessions are proposed to be given. Briefly—
 - (a) the new section 23AB provides for the ascertainment of the assessable profits mentioned in section 14B(1) (c) of the principal Ordinance in a way similar to that set out in section 23A of the principal Ordinance

- for assessable profits from non-life insurance business; and
- (b) the new section 23AC empowers the Commissioner of Inland Revenue, for the purposes of the new section 23AB—
- (i) to exclude certain sums in the computation of assessable profits mentioned in section 14B(1)(c) of the principal Ordinance; and
 - (ii) to apportion certain sums between businesses the assessable profits of which are chargeable to tax in the way specified in section 14B(1)(c) of the principal Ordinance and other businesses.
13. Clause 13 amends section 26AB of the principal Ordinance to change the cross-reference to section 14B of the principal Ordinance in view of the proposed amendments to section 14B of the principal Ordinance.
14. Clause 14 amends section 63H(1D) of the principal Ordinance to change the cross-reference to section 14B(2) of the principal Ordinance.
15. Clause 15 amends section 89 of the principal Ordinance to provide for transitional arrangements.
16. Clause 16 amends Schedule 1 to the principal Ordinance consequentially to reflect the amendments to section 19CA of the principal Ordinance.
17. Clause 17 adds a new Schedule 49 to the principal Ordinance to set out the specified risks and liabilities relevant to the new definition of *specified general insurance business* in the new section 14AB.

Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related
Businesses) Bill 2019

Explanatory Memorandum
Paragraph 18

C1373

18. The Schedule adds Division and Subdivision headings to Part 4 of the principal Ordinance to assist readers by making the way in which Part 4 of the principal Ordinance is arranged more transparent.