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## RSM Tax Advisory (Hong Kong) Limited

羅申美稅務諮詢有限公司

Welcome to Tax Flash – RSM Tax Advisory (Hong Kong) Limited’s Newsletter Covering Technical Development in Taxation

### HONG KONG PROFITS TAX CONCESSION FOR INSURANCE-RELATED BUSINESSES

*To keep the business and regulatory environment conducive to insurance business, on 15 January 2021, the Hong Kong Government gazetted two notices related to the Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Ordinance 2020 (the “Ordinance”). The Ordinance, which has been effective from 19 March 2021, extends the profits tax relief (i.e. concessionary profits tax rate of 8.25%) to three additional types of insurance-related businesses conducting in Hong Kong.*

*In this Tax Flash, we will summarize the salient points of the Ordinance.*

#### 1. OVERVIEW

In the past, tax incentive at 50% of the profits tax rate (i.e. 8.25% as the standard profits tax rate being 16.5%) was only granted to the captive insurance business and reinsurance business of professional reinsurers in Hong Kong. Being one of the most important insurance hubs in the world, Hong Kong keeps enhancing its competitiveness in light of global competition and the new Ordinance extends the concessionary tax regime to three additional types of insurance-related businesses conducted by direct insurers and licensed insurance brokers in Hong Kong:

- general reinsurance business of direct insurers;
- certain specified general insurance business of direct insurers; and
- certain specified insurance brokerage business of licensed insurance broker companies.

The Ordinance outlines the guidance on how to ascertain the assessable profits of the qualifying insurance-related businesses, the treatment of taxation loss, the power of the Commissioner of Inland Revenue to apportion any income or expenses and tax losses, and most importantly, the eligibility criteria of the new tax concession.

## 2. QUALIFYING INSURANCE-RELATED BUSINESSES

The three types of qualifying insurance-related businesses are: -

<b>Qualifying Insurance-related Businesses</b>	
<b>1.</b>	<b>General reinsurance business of direct insurers (or “specified insurer” in line with the Ordinance)</b> <ul style="list-style-type: none"><li>• General reinsurance business means a business of providing reinsurance of liabilities under a contract of insurance effected by an insurer or Lloyd’s in the course of carrying on general insurance business or business similar to a general insurance business under the law of a place outside Hong Kong.</li><li>• Specified insurer represents (1) a company authorized by the Insurance Authority to carry on the business; (2) Lloyd’s; or (3) an approved association of underwriters carrying on in or from Hong Kong a class of insurance business specified in Schedule 1 to the Insurance Ordinance (“IO”).</li></ul>
<b>2.</b>	<b>Specified general insurance business of direct insurers</b> <ul style="list-style-type: none"><li>• Specified general insurance business means a business which is a general insurance business but not a business of effecting and carrying out a contract of insurance that covers any of the five types of risks and liabilities specified as follows:-<ol style="list-style-type: none"><li>(1) Health risk;</li><li>(2) Mortgage guarantee risk;</li><li>(3) Motor vehicle damage risk;</li><li>(4) Employees’ compensation liability; and</li><li>(5) Owners’ corporation third-party liability.</li></ol></li></ul>
<b>3.</b>	<b>Specified insurance brokerage business of licensed insurance broker companies</b> <ul style="list-style-type: none"><li>• The assessable profits of a licensed insurance broker derived from the business of placing all general and long-term reinsurance contracts with professional reinsurers and contracts under the above two types of insurance-related businesses are eligible for the new tax concession.</li><li>• A licensed insurance broker company represents a company that is granted a license under the IO to carry on regulated activities in one or more lines of business and acts as an agent of any policyholder to negotiate or arrange an insurance contract.</li></ul>

### 3. SUBSTANTIAL ACTIVITIES REQUIREMENTS

The new tax concession would be subject to substantial activities requirements. It comprises various indicators for measuring the activity level in Hong Kong to determine whether the qualifying insurance-related businesses are carried out in Hong Kong:

Qualifying Insurance-related Businesses carried by:		Minimum Thresholds	
		Average number of full-time employees with a necessary qualification in Hong Kong	Operating expenditure incurred in Hong Kong
1	A direct insurer/specified insurer which is a mutual insurance corporation <sup>1</sup>	4 employees	HK\$ 2 million
2	A direct insurer/specified insurer which is not a mutual insurance corporation	7 employees	HK\$ 4 million
3	A licensed insurance broker company	3 employees	HK\$ 1 million

Notwithstanding the minimum threshold requirements are provided, it is subject to the Commissioner's discretion to assess if they are adequate for the corporation in order to be qualified for the tax concession.

### 4. ANTI-AVOIDANCE PROVISION

The new rules also contain an anti-avoidance provision to deny the concessions if the main purpose, or one of the main purposes, of the direct insurer in entering into the transaction or the series of transactions is to obtain a tax benefit.

### OUR COMMENTS

Taxation is one of the fundamental considerations for potential insurers or insurance brokers determining their hub location. Under the new tax concession, the qualified taxpayers could enjoy a lower profits tax rate that could strengthen Hong Kong's position as a financial services centre and attract insurance-related businesses relocated to or incorporated in Hong Kong. It also promotes the development of the insurance industry in Hong Kong and enhances its competitiveness in seizing new opportunities, including those arising from the Belt and Road Initiative.

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<sup>1</sup> A mutual insurance corporation is a corporation owned by the policyholders and is insured against each other.

## RSM Tax Advisory (Hong Kong) Limited

RSM Hong Kong's dedicated and experienced tax specialists can:

- Advise on tax efficient holding and operational structures for new cross-border investment, including the formation of Hong Kong and Chinese business entities
- Review existing cross-border investment structures, advise on identified deficiencies, quantify any potential exposure from such deficiencies, and further advise on restructuring approach and procedures
- Assist clients in discussing and clarifying matters with tax officials, including transfer pricing and advance rulings
- Act as client representative in tax audits and tax investigations
- Provide transaction support services on mergers and acquisitions, including tax due diligence, deal structure advice, tax health checks, related human resources arrangements and other tax compliance and consultation services
- Advise on human resources and structuring employment arrangements in a tax-efficient manner
- Advise on tax equalization schemes
- Provide tax compliance services for individual and corporate clients in Hong Kong and China

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