

NOTES AND INSTRUCTIONS – SUPPLEMENTARY FORM (S5)

1. “Ship-owner” includes a charterer operating a ship under a charter-party.
2. The basis period must be the same as that stated in the relevant Profits Tax Return.
3. “Multinational enterprise group” means a group in the usual sense that includes:
 - (a) two or more enterprises of which the tax residence is in different jurisdictions; or
 - (b) an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax in another jurisdiction with respect to the business carried out through a permanent establishment in that other jurisdiction.
4. This refers to the total consolidated group revenue as reflected in the group’s consolidated financial statements for the period that ends immediately before the basis period. For a group with its ultimate parent entity resident in Hong Kong, the threshold amount of the total consolidated group revenue is HK\$6.8 billion. For a group with its ultimate parent entity resident in a jurisdiction other than Hong Kong, the threshold amount is the one specified under the laws or regulations of that jurisdiction for country-by-country reporting or an amount equivalent to EUR750 million as at January 2015.
5. “Total shipping income” and “total shipping profits/(loss)” mean the worldwide income and worldwide profits/loss from the Taxpayer’s business as a ship-owner reflected in its accounts for the basis period concerned respectively.
6. “Relevant sums” means various sums relating to the operation of ships within or commencing from the waters of Hong Kong which are chargeable to profits tax. These sums exclude exempt sums (section 5) and sums exempted from profits tax pursuant to a DTA (section 6).
7. “Passengers” does not include re-embarking passengers whose tickets in respect of a voyage do not specify Hong Kong as the place of departure or destination.
8. “Goods” includes livestock and mails, but exclude goods in transit (a) which are specified in a bill of lading and brought to Hong Kong by sea solely for the purpose of onward carriage; and (b) in respect of which any freight charges for that onward carriage are not paid or payable in Hong Kong.
9. The towage operation must be undertaken by a ship within or commencing from the waters of Hong Kong.
10. The charter hire must be in respect of the operation of a ship navigating solely or mainly within the waters of Hong Kong. It does not include any sums earned or accrued where the charter-party does not, or does not purport to, extend to the whole of the ship. Such sums shall be deemed to be derived from, attributable to or in respect of the carriage mentioned in sections 4.4.1 and 4.4.2.
11. “Relevant limited partnership” means a limited partnership registered in accordance with the Limited Partnership Ordinance (Cap. 37) on or before 2 December 1990 and continuing to be so registered after that date and whose principal assets include any ship or any interest therein acquired by or on behalf of that partnership on or before that date.
12. “River trade waters” means the waters contained within river trade limits (as defined under the Merchant Shipping Ordinance (Cap. 281) which in effect include the waters in the vicinity of Hong Kong and the inland waterways broadly within the Pearl River delta such as the ports of Macau and Guangzhou) other than the waters of Hong Kong contained within those limits.
13. “Exempt sums” means various sums relating to the operation of ships within or commencing from the waters of Hong Kong which are exempt from profits tax.
14. “Registered ship” means a ship registered under the Merchant Shipping (Registration) Ordinance (Cap. 415).
15. A ship-owner that is resident in a territory outside Hong Kong (“relevant territory”) and is deemed to be carrying on its business in Hong Kong because of the calls of its ships at Hong Kong (see section 3.3) is regarded as having a reciprocity status if any profits derived by a resident ship-owner from its business in the relevant territory are, under the laws of the relevant territory, exempt from a tax which is of substantially the same nature as profits tax. In this regard, “resident ship-owner” refers to a ship-owner that is deemed to be carrying on a business in Hong Kong because it is a company incorporated in Hong Kong or its business is normally controlled or managed in Hong Kong.
16. This amount should be computed as follows:

$$\text{Total shipping profits/(loss) (section 4.2)} \times \frac{\text{Exempt sums (section 5.1)}}{\text{Total shipping income (section 4.1)}}$$

17. See the Inland Revenue Department's website (www.ird.gov.hk/eng/tax/dta1.htm) for the comprehensive/limited double taxation agreements or arrangements of Hong Kong.
18. A person is associated with another person if one of the relevant persons was participating in the management, control or capital of the other relevant person, or the same person or persons was or were participating in the management, control or capital of each of the relevant persons.
19. An example of such situation is that the employees concerned were employed by an associated person of the Taxpayer and were seconded by the associated person to the Taxpayer for the carrying out of the Relevant Activities. The remunerations of the employees were fully or partially borne by the Taxpayer.
20. An example of such situation is that an associated person of the Taxpayer engaged in the provision of shipping-related services. The Relevant Activities were carried out by the associated person at a fee charged to the Taxpayer on an arm's length basis.
21. If associated person(s) was/were involved in the carrying out of the Relevant Activities, the details reported should include those of the employees of the associated person(s) who carried out the Relevant Activities.
22. If associated person(s) was/were involved in the carrying out of the Relevant Activities, the amount of operating expenditure reported should include the remunerations borne by the Taxpayer in respect of the employees of the associated person(s) who carried out the Relevant Activities (see Note 19), and/or the service fee incurred by the Taxpayer for the Relevant Activities carried out by the associated person(s) (see Note 20).
23. This supplementary form must be signed by the same person signing the tax return.