

15F. Sums derived from intellectual property by non-Hong Kong resident associates

- (1) For the purposes of this section, a person makes value creation contributions in relation to any intellectual property if the person has made contributions in relation to the intellectual property through—
 - (a) performing the functions of and assuming risks relating to the development, enhancement, maintenance, protection or exploitation of the intellectual property; or
 - (b) providing assets in and assuming risks relating to the development, enhancement, maintenance, protection or exploitation of the intellectual property.
- (2) This section applies if—
 - (a) a person has made value creation contributions in Hong Kong in relation to any intellectual property;
 - (b) a sum (*relevant sum*) accrues to an associate of the person, or is received by or for the benefit of the associate, in respect of—
 - (i) the exhibition or use of, or a right to exhibit or use, (whether in or outside Hong Kong) the intellectual property; or
 - (ii) the imparting or undertaking to impart knowledge directly or indirectly connected with the use (whether in or outside Hong Kong) of the intellectual property; and
 - (c) the associate is a non-Hong Kong resident person.
- (3) The part of the relevant sum that is attributable to the person's value creation contributions in Hong Kong (*attributable amount*) is to be regarded as a trading receipt arising in or derived from Hong Kong by the person from a trade, profession or business carried on in Hong Kong and the person is accordingly chargeable to profits tax in respect of the attributable amount.
- (4) The associate is not to be chargeable to profits tax in respect of the attributable amount.
- (5) In this section—

associate (相聯者) has the meaning given by section 20AC(6);

intellectual property (知識產權) means—

 - (a) cinematograph or television film or tape, any sound recording, any advertising material connected with such film, tape or recording; or
 - (b) patent, design, trade mark, copyright material, layout-design (topography) of an integrated circuit, performer's right, plant variety right, secret process or formula, or other property or right of a similar nature;

non-Hong Kong resident person (非香港居民人士) has the meaning given by section 50AAC(1);

performer (表演者) has the meaning given by section 200(2) of the Copyright Ordinance (Cap. 528).

(Added 27 of 2018 s. 14)