

3 Assessing Functions

The Department raises revenue through taxes, duties and fees in accordance with the relevant legislation. Earnings and profits tax are assessed by reference to the incomes / profits of the taxpayers in the previous year, whereas duties and fees are charged at the time the relevant activities occur. For 2016-17, earnings and profits tax assessed increased by \$724 million (0.3%) (**Schedule 2**) as compared with the previous year. Yet, the total amount of duties and fees collected dropped by \$2.2 billion (2.6%).

Profits Tax

Profits tax is levied on individuals, corporations, bodies of persons and partnerships, in respect of assessable profits arising in or derived from Hong Kong. For the year of assessment 2016-17, the tax rates for corporations and non-corporate persons remained unchanged at 16.5% and 15% respectively.

The amount of profits tax assessed in 2016-17 was \$138.2 billion, which was \$0.8 billion (0.6%) less than that of the previous year, reflecting a modest decline in the Hong Kong economy (**Figure 5**).

The amounts of final tax assessed in respect of different business sectors are shown in **Schedules 3** and **4**. Of the total final tax assessed for the year of assessment 2015-16, the property, financial and banking sectors together contributed 46.6% and the distribution sector generated 21.7% (**Figure 6**).

Figure 5 Profits tax assessed

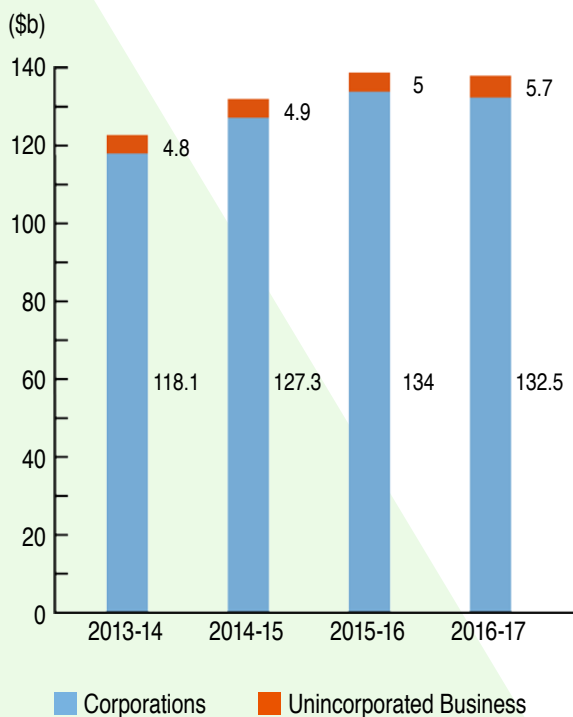
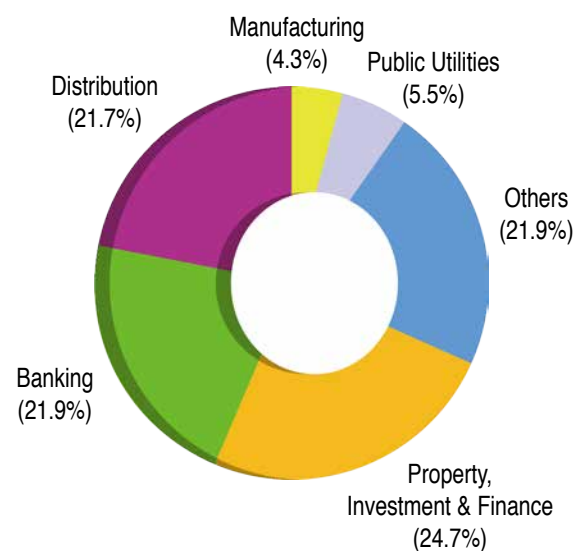


Figure 6 Ratios of corporation profits tax assessed under 2015-16 final assessments by business sectors

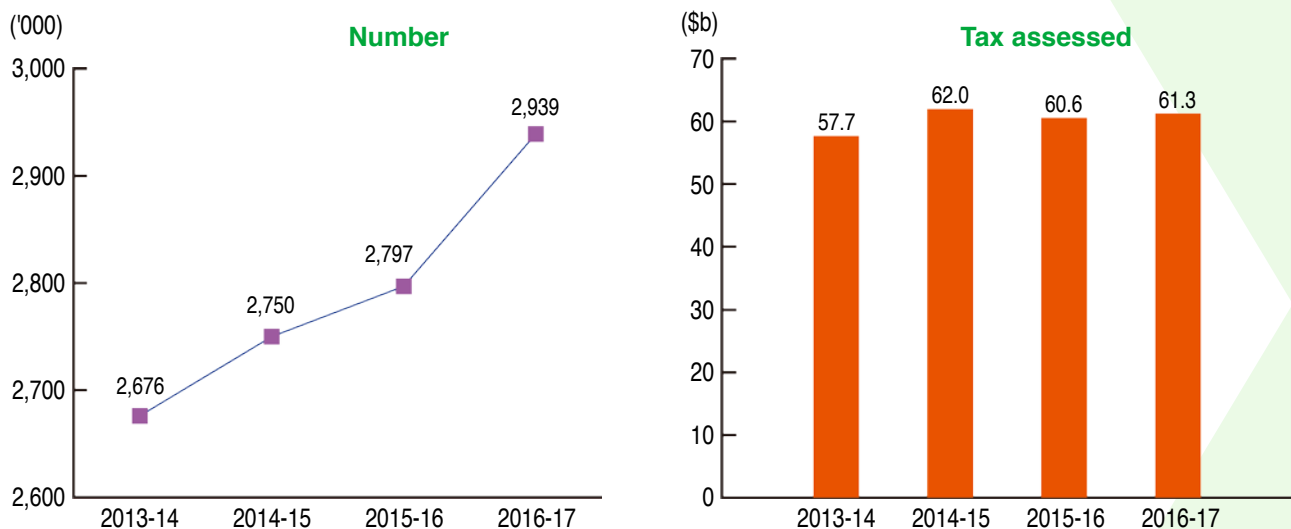


Salaries Tax

Salaries tax is charged on all incomes from any office (e.g. a directorship) or employment and pension arising in or derived from Hong Kong. The total amount of tax payable is restricted to the standard rate on the net total income (without allowances) of the individual concerned. For the year of assessment 2016-17, the standard rate remained unchanged at 15%.

As compared with the previous year, the number of salaries tax assessments made during 2016-17 increased by 5.1%. However, there was only 1.2% increase in the total amount of tax assessed after implementing the salaries tax relief measures in the 2016-17 Budget (**Figure 7**).

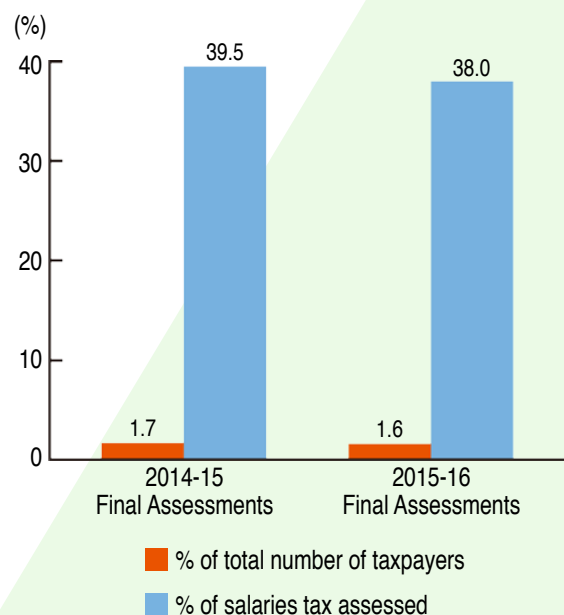
Figure 7 Salaries tax assessments



Analyses of salaries tax assessments and allowances granted in respect of taxpayers at various income levels for the year of assessment 2015-16 are provided in **Schedules 5** and **6**.

For the year of assessment 2015-16, the number of standard rate taxpayers increased by 134 to 29,826. These taxpayers together contributed 38.0% of the salaries tax assessed, a decrease of 1.5% compared with last year (**Figure 8**).

Figure 8 Standard rate taxpayers



Notification Requirements of Employers

Employers are required to notify the Department of commencements and cessations of employment as well as employees' impending departure from Hong Kong for more than 1 month. Besides, employers are required to prepare annual employer's returns to report the emoluments of each of their employees. During the year, 385,542 employers filed employer's returns with the Department.

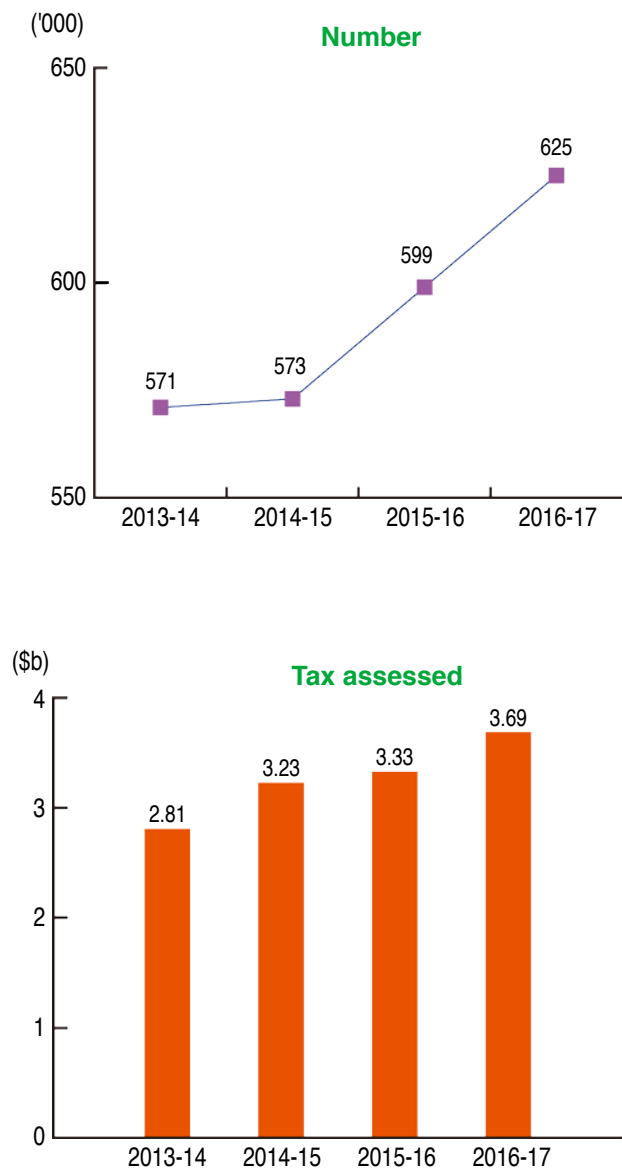
The Department provides e-Seminars and disseminates tax information to employers on the IRD website to help them understand the relevant statutory requirements. The contents cover completion of employer's returns, employer's obligations and answers to frequently asked questions. Employers can also obtain specimens of completed employer's returns and notification through the Fax-A-Form service.

Property Tax

Property owners (including corporations) are subject to property tax which is charged at the standard rate in respect of the net assessable value of the property. For the year of assessment 2016-17, the standard rate remained unchanged at 15%. Rents received from properties solely owned by individuals should be declared in Tax Returns-Individuals (BIR60); whilst rents received from properties jointly owned or co-owned by individuals or properties held by corporations / bodies of persons should be declared in Property Tax Returns (BIR57 / BIR58). Property owners that pay property tax in respect of premises used for their businesses can have such payments set off against their profits tax liabilities. For corporations, income arising from properties owned by them is also subject to profits tax at the corporation rate. To obviate the need for yearly set-off of property tax against profits tax, a corporation can apply for exemption of property tax on the property concerned.

Statistics on the classification of properties and classification by number of owners, based on the records of the Department, are provided in **Schedule 7**. The number of assessments made in 2016-17 was more than that in the previous year by 4.3%. The total amount of property tax assessed also increased by 10.8% (**Figure 9**).

Figure 9 Property tax assessments

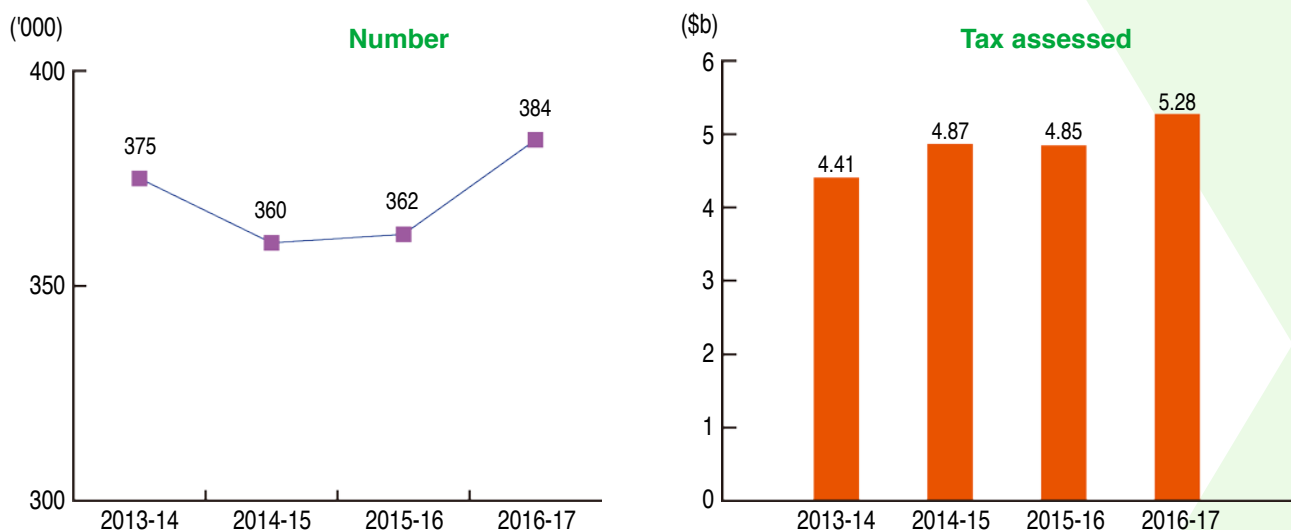


Personal Assessment

If an individual has income chargeable to profits tax and /or property tax, he/she may elect for personal assessment. Under personal assessment, all the incomes of the taxpayer and his or her spouse (if married) are aggregated and, after deduction of all allowances, are assessed at the progressive tax rates applicable to salaries tax. In appropriate circumstances, this would reduce the total tax liability of the taxpayer and his or her spouse.

As compared with the previous year, the number of assessments made in 2016-17 increased by 6.1% and the amount of tax assessed was 8.9% higher (**Figure 10**).

Figure 10 Assessments made under personal assessment



Tax Treaty Network

Double taxation arises where the same item of income or profit of a taxpayer is subject to tax in Hong Kong as well as in another tax jurisdiction. To establish a tax treaty network can help minimise exposure of Hong Kong residents and residents of the tax treaty partners to double taxation. It will also facilitate the flows of trade, investment and talent between Hong Kong and the rest of the world, and enhance Hong Kong's competitiveness as an international financial, investment and commercial hub.

As at 31 March 2017, Hong Kong has signed comprehensive double taxation agreements (covering various types of income) with 37 jurisdictions. They are Austria, Belarus, Belgium, Brunei, Canada, the Czech Republic, France, Guernsey, Hungary, Indonesia, Ireland, Italy, Japan, Jersey, Korea, Kuwait, Latvia, Liechtenstein, Luxembourg, the Mainland of China, Malaysia, Malta, Mexico, the Netherlands, New Zealand, Pakistan, Portugal, Qatar, Romania, Russia, South Africa, Spain, Switzerland, Thailand, the United Arab Emirates, the United Kingdom and Vietnam.

Hong Kong, as a responsible member of the international community, is committed to enhancing tax transparency and preventing tax evasion. To comply with the latest international standard on exchange of information, Hong Kong entered into tax information exchange agreements with

appropriate partners since 2014. As at 31 March 2017, Hong Kong has signed tax information exchange agreements with 7 jurisdictions. They are Denmark, the Faroes, Greenland, Iceland, Norway, Sweden and the United States of America.

Advance Rulings

Taxpayers may apply for an advance ruling on how a provision of the Inland Revenue Ordinance applies in relation to a particular arrangement. A fee is charged for the service on a “cost recovery” basis. The applicant is required to pay an initial application fee of \$30,000 for a ruling concerning the application of the “Territorial Source Principle” in a profits tax case, or \$10,000 for a ruling on any other matter. An additional fee is payable if the processing time exceeds the specified limit. The Department endeavours to respond within 6 weeks of the date of application, provided that all relevant information is supplied with the application and further information from the applicant is not required.

During 2016-17, the Department completed the processing of 51 advance ruling applications (**Figure 11**). Most of the applications were for rulings on profits tax matters.

Figure 11 Advance rulings

	2015-16 Number	2016-17 Number
Awaiting decision at the beginning of the year	20	26
Add: Applications received during the year	35	43
	<u>55</u>	<u>69</u>
Less: Disposed of -		
Rulings made	16	36
Applications withdrawn	12	12
Rulings declined	1	3
	<u>29</u>	<u>51</u>
Awaiting decision at the end of the year	<u>26</u>	<u>18</u>

Advance Pricing Arrangement

An Advance Pricing Arrangement (APA) is an arrangement that determines in advance an appropriate set of criteria for the determination of the transfer pricing of cross-border transactions between associated enterprises. The APA process gives enterprises the opportunity to reach agreements with tax administrations on the method of applying the arm’s length principle so that transfer pricing issues can be more efficiently dealt with in real time, thus avoiding the risk of transfer pricing audit later. This arrangement enables enterprises to better assess their tax exposure and facilitates their business operation.

A unilateral APA is an arrangement between the Commissioner and the enterprise concerning the transfer pricing of its cross-border transactions with an associated enterprise. As the APA process

does not involve the agreement with a comprehensive avoidance of double taxation agreement (CDTA) partner, it does not guarantee the agreement of the CDTA partner to the arrangement made.

A bilateral APA is an arrangement between the Commissioner and a CDTA partner concerning the transfer pricing of the abovementioned cross-border transactions. It therefore provides certainty to enterprises that double taxation will not arise. The same also applies to a multilateral APA which is a similar arrangement involving the partners of two or more CDAs.

The Department rolled out the APA programme in April 2012. At present, the Department will only consider bilateral or multilateral APA applications due to resource constraints and the deficiency of a unilateral APA. Up to 31 March 2017, the Department has received quite a number of applications in relation to CDTA with different partners including the Mainland of China, Japan, Malaysia, the Netherlands and Thailand. These cases are currently under different stages of the APA programme and a few of them have already been completed.

Objections

A taxpayer who is aggrieved by an assessment may lodge a notice of objection to the Commissioner within the prescribed time limit. If the objection is against an estimated assessment raised in the absence of a tax return, a properly completed return, together with the supporting accounts where applicable, must also be accompanied with the notice of objection. A significant proportion of the objections received each year arise from estimated assessments. Most of these objections are settled promptly by reference to the returns subsequently received. Many of the other types of objections are also settled by agreement between the taxpayers and the assessors concerned. Only relatively few objections are ultimately referred to the Commissioner for determination. During 2016-17, the Department completed the processing of 88,755 objections (**Figure 12**).

Figure 12 Objections

		2015-16 Number	2016-17 Number
Being processed at the beginning of the year		35,422	37,660
Add: Received during the year		<u>82,237</u>	<u>91,106</u>
		117,659	128,766
Less: Disposed of -			
Settled without determination	79,483		88,238
Determinations:			
Assessments confirmed	313		298
Assessments reduced	113		128
Assessments increased	86		82
Assessments annulled	4	516	9
		<u>79,999</u>	<u>517</u>
Being processed at the end of the year		<u><u>37,660</u></u>	<u><u>40,011</u></u>

Appeals to the Board of Review

A taxpayer who is dissatisfied with the Commissioner's determination of his objection may appeal to the Board of Review (Inland Revenue Ordinance) (the Board). The Board is an independent statutory body. As at 31 March 2017, the Board consisted of a chairman and 8 deputy chairmen, who have legal training and experience, as well as 68 members. During 2016-17, the Board settled 55 appeal cases (**Figure 13**).

Figure 13 Appeals to the Board of Review

		Number
Awaiting hearing or decision as at 1 April 2016		45
Add:	Received during the year	42
		<u>87</u>
Less:	Disposed of -	
	Withdrawn	23
	Decided:	
	Assessments confirmed	17
	Assessments reduced in full	1
	Assessments reduced in part	4
	Assessments increased	6
	Assessments annulled	1
	Others	3
		<u>32</u>
Awaiting hearing or decision as at 31 March 2017		<u>55</u>
		<u>32</u>

Appeals to the Courts

A decision of the Board is final, provided that either the taxpayer or the Commissioner may, pursuant to section 69 of the Inland Revenue Ordinance, appeal to the Court of First Instance against the Board's decision on a question of law. Before 1 April 2016, taxpayers or the Commissioner may only appeal to the court by way of case stated from the Board. With effect from that date, the case stated procedure was abolished and no appeal may be made unless leave to appeal has been granted by the court, on the application of the taxpayer or the Commissioner.

During 2016-17, the Court of First Instance heard a tax appeal by way of case stated applied for by both the Commissioner and the taxpayer. The principal issue of that appeal was whether there had been a change of the taxpayer's intention with respect to a piece of land.

During the year, the Court of Appeal received an appeal filed by a taxpayer against the judgment of the Court of First Instance. The subject of the appeal was the chargeability of benefits accrued upon termination of employment.

The Hong Kong Court of Final Appeal Ordinance provides that, a taxpayer or the Commissioner may, with the leave of the Court of Appeal or the Court of Final Appeal, appeal against the judgment of the Court of Appeal. During 2016-17, there was no tax appeal to the Court of Final Appeal.

Figure 14 sets out the statistics concerning appeals to the Courts during 2016-17.

Figure 14 Appeals to the Courts

	Court of First Instance	Court of Appeal	Total
Awaiting hearing or decision as at 1 April 2016	2	0	2
Add: Lodged during the year	2	1	3
	4	1	5
Less: Disposed of	0	0	0
Awaiting hearing or decision as at 31 March 2017	4	1	5

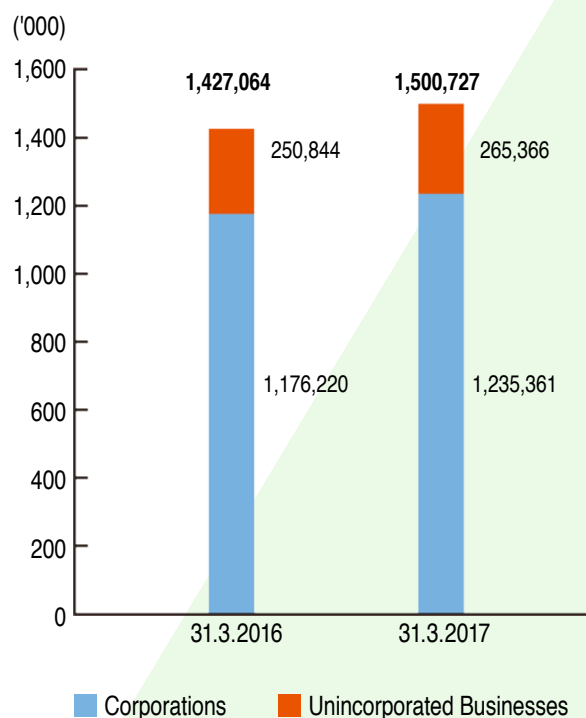
Business Registration

The Department aims to maintain an efficient business registration system. A person carrying on a business in Hong Kong must register the business and pay the required fee and levy. The number of business registrations as at 31 March 2017 stood at 1,500,727, which was an all time high. It was 73,663 more than that as at 31 March 2016 (**Figure 15**).

Business registration certificates are generally valid for one year, but businesses may elect for 3-year certificates. As at 31 March 2017, 22,084 businesses held 3-year certificates.

To help business enterprises, the Government waived the business registration fees for 2016-17. Businesses were still required to pay the levy on their business registration certificates. For a 1-year certificate, the levy was \$250. For businesses electing for 3-year certificates, they were required to pay \$3,200 for the business registration fees and \$750 for the levy.

Figure 15 Number of business registrations



Businesses that were not required to renew their registration certificates in 2016-17 could apply for concessionary refunds if they had paid the registration fees for that year. Up to 31 March 2017, the Department had issued concessionary refunds to 14,774 businesses totaling \$21.8 million.

Due to the waiver of business registration fees for the whole financial year 2016-17, the amount of business registration fees and penalties collected in 2016-17 was reduced to \$228 million. It represents a significant decrease of 91.3% compared with last year, notwithstanding that 9.1% more certificates were paid (**Figure 16**). Business registration statistics are set out in **Schedule 8**.

Figure 16 Business registration statistics

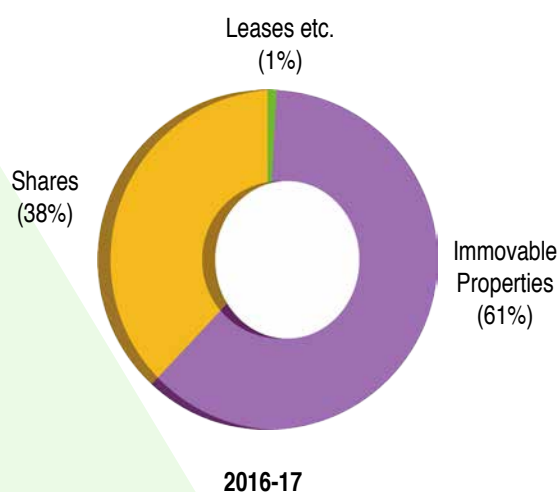
	2015-16	2016-17	Increase/Decrease
Number of certificates paid (Main and Branch)	1,402,548	1,530,879	+9.1%
Fees (inclusive of penalties) collected (\$m)	2,607	228	-91.3%

Under the Business Registration Ordinance, a small business with average monthly sales or receipts below a specified limit (\$10,000 for businesses deriving profits mainly from the sale of services, and \$30,000 for other businesses) can apply for exemption from payment of the business registration fee and levy. Where an application for exemption is not allowed, the business operator may appeal to the Administrative Appeals Board. The number of exemptions granted during 2016-17 was 10,449, representing a decrease of 35.1% from the previous year. No appeal case was received by the Board during the last two years.

Stamp Duty

Stamp duty is charged on instruments effecting property transactions, stock transactions and leasing of property in Hong Kong (**Figure 17**).

Figure 17 Composition of stamp duty collections





The increase in the number of immovable property transactions in 2016-17 led to a substantial increase in the amount of stamp duty collection from property transactions by 32% (\$9 billion) when compared with that for 2015-16. On the other hand, the decrease in total turnover of the Hong Kong stock market in 2016-17 led to a significant drop in the total amount of stamp duty collection from Hong Kong stock transactions by 29% (\$9.8 billion). The above factors resulted in a slight decrease of 1% in the overall stamp duty collection for the year 2016-17 (**Figure 18** and **Schedule 9**).

Figure 18 Stamp duty collections

	2015-16 (\$m)	2016-17 (\$m)	Increase/Decrease
Immovable Properties	28,494	37,518	+32%
Shares	33,410	23,567	-29%
Leases and other documents	776	814	+5%
Total	62,680	61,899	-1%

Estate Duty

Estate duty is charged on a deceased person's estate situated in Hong Kong. The threshold for levying duty is \$7.5 million and the duty rates range from 5% to 15%, depending on the value of the estate.

The Revenue (Abolition of Estate Duty) Ordinance 2005 came into effect on 11 February 2006 abolishing estate duty in respect of persons passing away on or after that date. The estate duty chargeable in respect of estates of persons died between the period 15 July 2005 to 10 February 2006, with the principal value exceeding \$7.5 million, is reduced to a nominal amount of \$100. With the abolition of estate duty, the number of new cases reduced gradually to 586 in 2016-17, a drop of 24% from the last year (**Figure 20**).

Figures 19 and **20** show the composition of estates and cases processed for the past two years.

Figure 19 Composition of estates

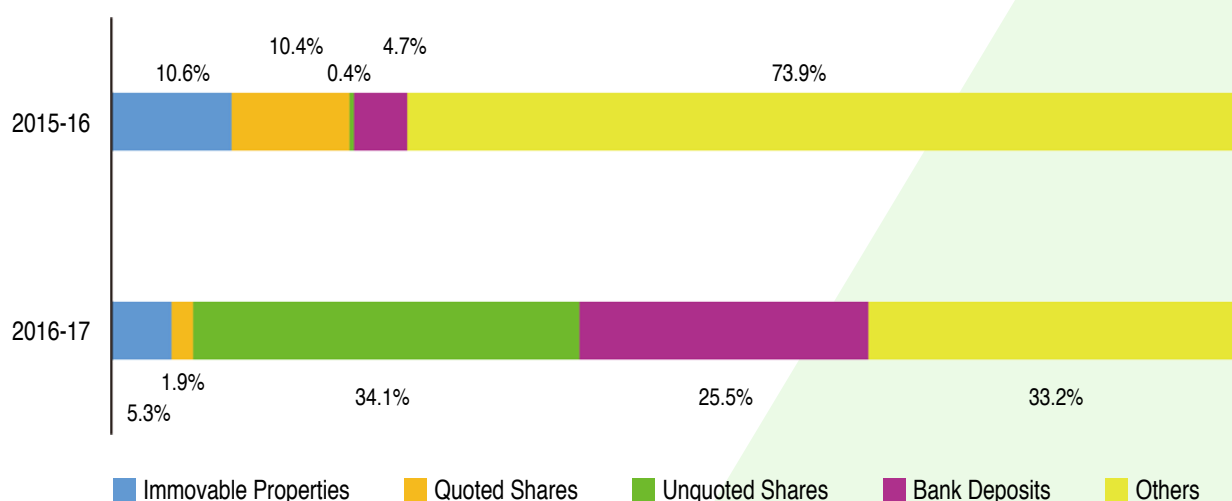


Figure 20 Estate duty cases

	2015-16 Number	2016-17 Number
New cases	771	586
Cases finalised		
- Dutiable	17	11
- Exempt	763	558
	780	569

Estate duty of \$19 million was collected during the year (**Schedule 10**), a decrease of \$11 million (37%) compared with the previous year.

Estate duty is payable on delivery of an estate duty affidavit or account (or within 6 months from the date of the deceased's death, whichever is the earlier). \$0.2 million was received during the year in advance of the issue of formal assessments (**Schedule 10**).

Betting Duty

Betting duty is charged on the net stake receipts from betting on horse races and football matches and on the proceeds of Mark Six lotteries, all administered by the Hong Kong Jockey Club. In 2016-17, the rates of betting duty on these betting activities remained unchanged (**Figure 21**).

Figure 21 Rates of betting duty in 2016-17

		Rate
Horse racing		
Local bets on local horse races	Net stake receipts	
	the first \$11 billion	72.5%
	the next \$1 billion	73%
	the next \$1 billion	73.5%
	the next \$1 billion	74%
	the next \$1 billion	74.5%
	the remainder	75%
Local bets on non-local horse races	Net stake receipts	72.5%
Mark Six lotteries	Proceeds	25%
Football betting	Net stake receipts	50%

The total betting duty collected in 2016-17 was 4.9% higher than that of the previous year (**Figure 22** and **Schedule 11**).

Figure 22 Betting duty collections

	2015-16 (\$m)	2016-17 (\$m)	Increase
Horse racing	12,316.5	12,757.9	+3.6%
Mark Six lotteries	2,032.2	2,126.9	+4.7%
Football betting	5,778.5	6,234.2	+7.9%
Total	20,127.2	21,119.0	+4.9%

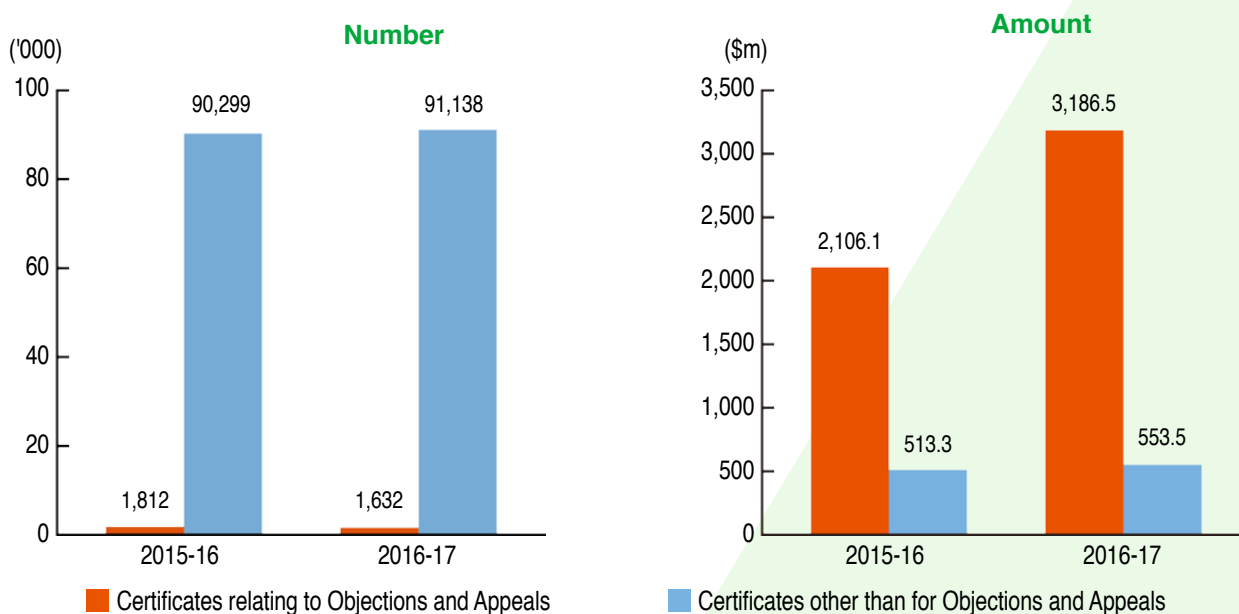
Tax Reserve Certificates

Taxpayers may purchase Tax Reserve Certificates (TRCs) under two situations.

The first situation applies to taxpayers who wish to save for the payment of their future tax liabilities. The Department has set up two schemes, namely the “Electronic Tax Reserve Certificates Scheme” for all taxpayers and the “Save-As-You-Earn” (SAYE) Scheme for civil servants and civil service pensioners. With a Tax Reserve Certificate account, taxpayers may purchase TRCs by various channels, including bank auto-pay, telephone, the Internet and bank ATM. Under the “SAYE Scheme”, civil servants and civil service pensioners can purchase TRCs through monthly deductions from their salaries / pensions. Interest is payable on the TRCs when they are redeemed for settlement of tax liabilities, based on the interest rate prevailing at the time of purchase, for a maximum period of 36 months from the date of purchase.

In 2016-17, there was an increase of 2.6% and 8.8% respectively in the number and the amount of TRCs sold under the “Electronic Tax Reserve Certificates Scheme” but a slight decrease of 0.8% in the number and an increase of 2.1% in the amount of TRCs sold under the “SAYE Scheme” (**Schedule 12**). Overall, the total amount of TRCs sold increased by 7.8% (**Figure 23**).

Figure 23 Certificates sold



The second situation applies to taxpayers who object to tax assessments and are required to purchase TRCs in respect of the tax in dispute. Such TRCs are used to settle any tax found payable upon the finalisation of the objection or appeal. Interest is only payable on the amount of the TRC, if any, subsequently required to be repaid to the taxpayer, and is computed at floating rates over the tenure of the TRC.