

# Assessing Functions

The Department raises revenue through taxes, duties and fees in accordance with the relevant legislations. While the duties and fees collected for a year are based on the actual results of the year, the Earnings and Profits Tax assessed are principally computed by reference to the incomes/profits of the taxpayers in the previous year. For 2006-07, the Earnings and Profits Tax assessed increased by \$5.9 billion (5%), as compared with the previous year. The total of duties and fees collected rose significantly by 20%.

## 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 2006-07, the Profits Tax rates for corporations and non-corporate persons remained unchanged at 17.5% and 16% respectively.

Reflecting the continuing strong performance of the economy, Profits Tax assessed in 2006-07 increased by \$3.7 billion (5%) as compared with the previous year. Total Profits Tax assessed during the year amounted to \$79.9 billion (Figure 5). Of the total tax assessed, the property and financial sectors together contributed 39.7% (Figure 6). Further statistics relating to the tax assessed in respect of different business sectors are shown in Schedules 3 and 4.

## Salaries Tax

Salaries Tax is charged on all income arising in or derived from Hong Kong from any office (e.g. a directorship), employment or pension. The total tax payable is restricted to an amount not exceeding the standard rate of Salaries Tax of the net total income (without allowances) of the individual concerned. For the year of assessment 2006-07, the standard rate remained unchanged at 16%.

Figure 5 Profits Tax assessed

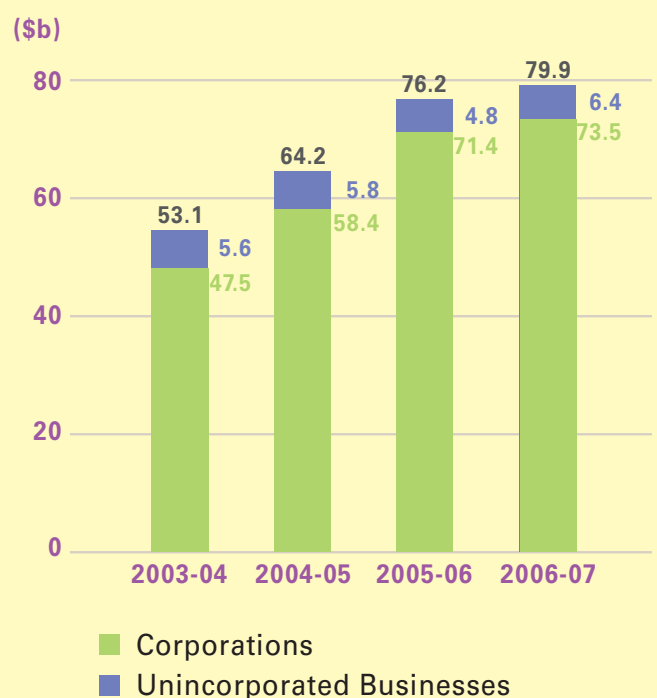
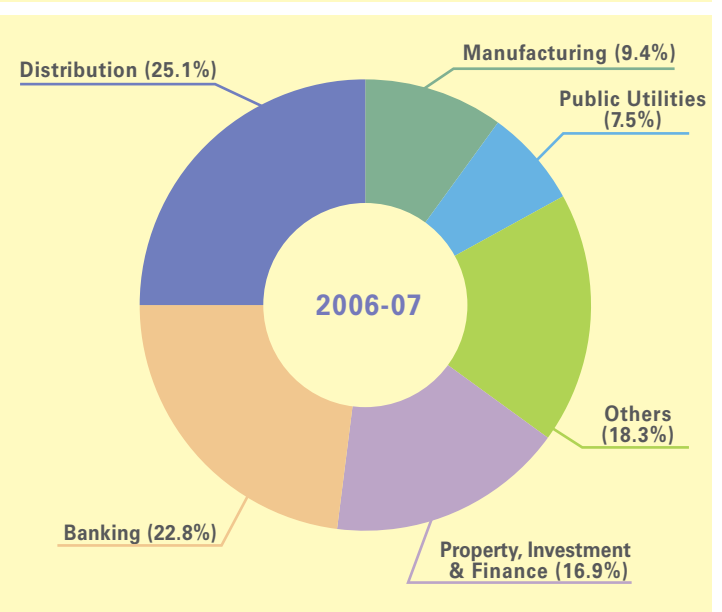
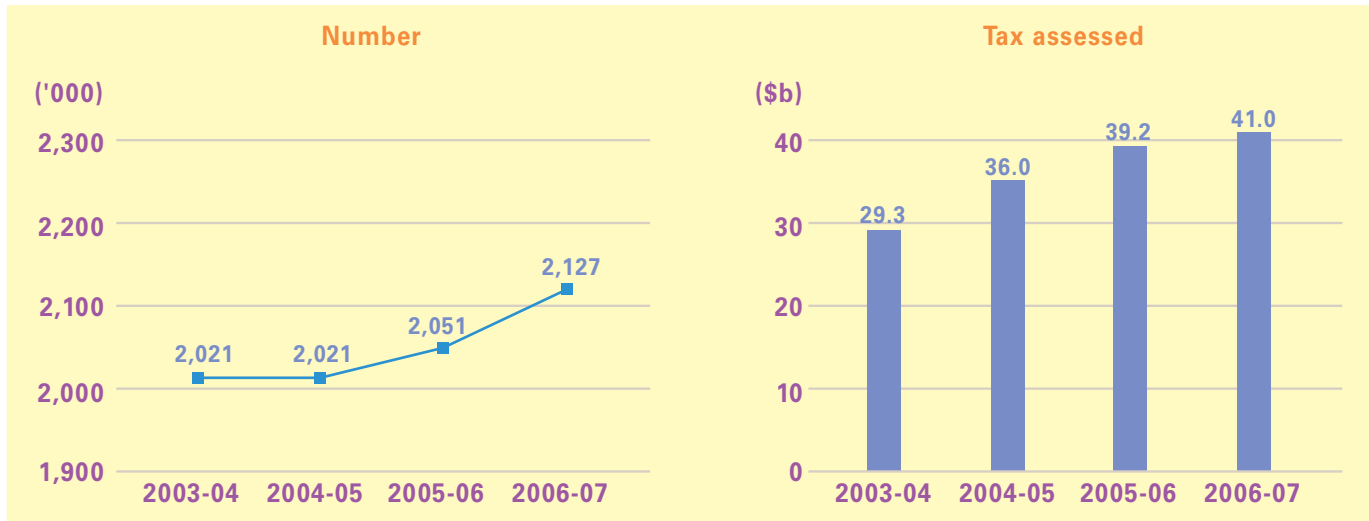


Figure 6 Corporate Profits Tax assessed ratios by business sectors



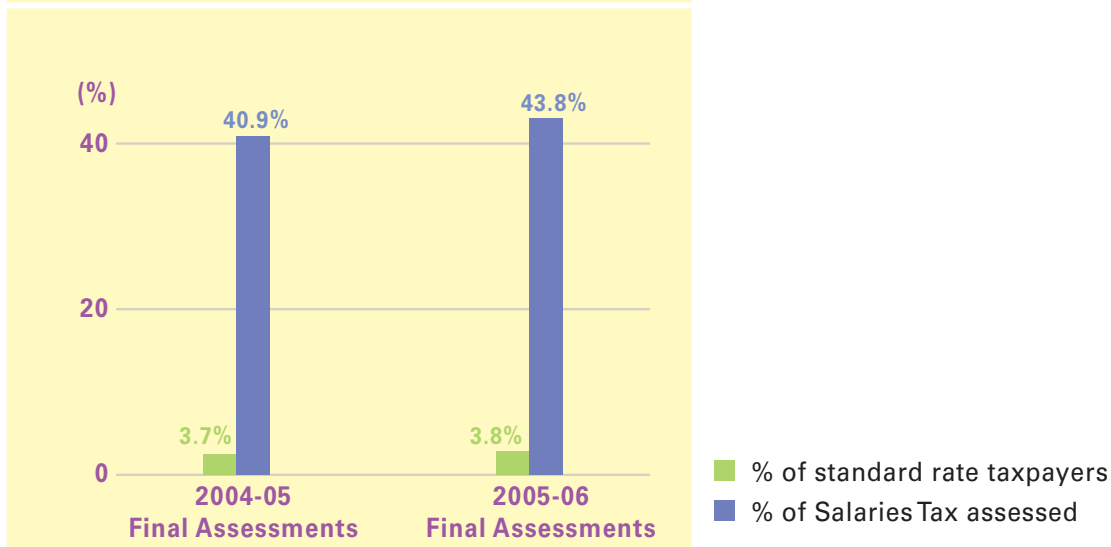
As compared with the previous year, the number of assessments made increased by 3.7% and 4.6% more tax was assessed during 2006-07 (**Figure 7**). Analyses of tax assessed and allowances granted in respect of taxpayers at various income levels are provided in **Schedules 5** and **6**.

**Figure 7 Salaries Tax assessments**



The number of standard rate taxpayers slightly increased by 1,638, from 45,817 last year to 47,455 this year. These taxpayers together contributed 43.8% of the Salaries Tax assessed, compared to 40.9% last year (**Figure 8**).

**Figure 8 Standard rate taxpayers**



### Notification Requirements of Employers

Apart from reporting commencements and cessations of employments, employers are required to prepare annual returns to report the emoluments of each of their employees. During the year, 269,030 employers filed employer's returns with the Department.

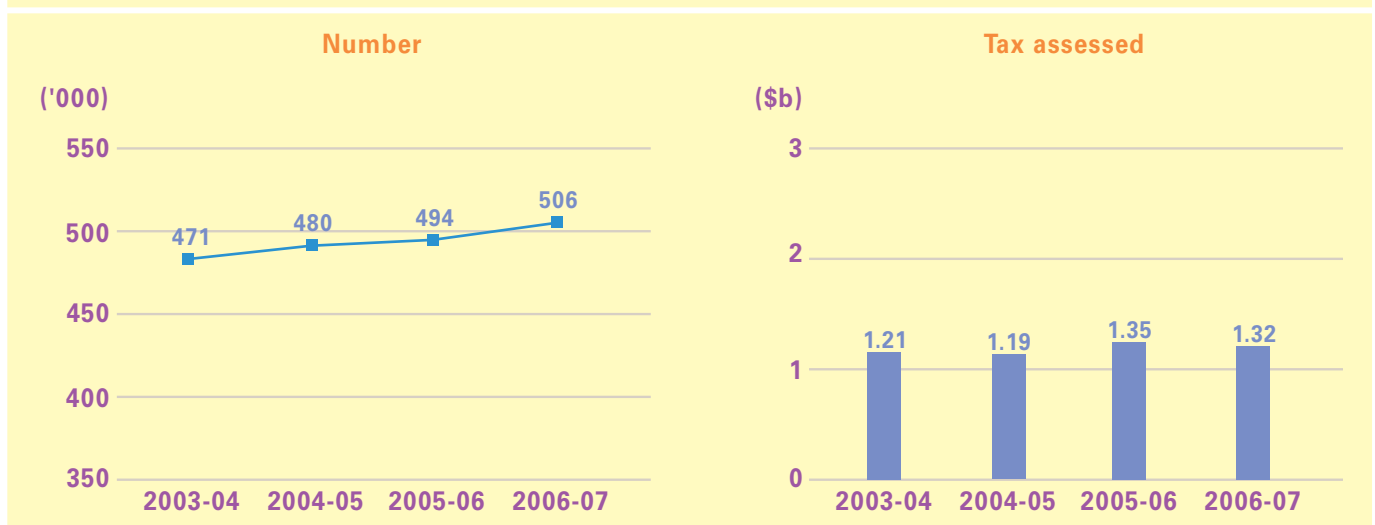
The Department provides venues for e-Seminar and disseminates tax information for employers on the IRD Homepage in order to enhance their understanding of the relevant statutory requirements. The contents include information about completion of employer's return, employer's obligation, answers to frequently asked questions etc. Employers can also obtain specimens of completed employer's returns and notifications 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 2006-07, the standard rate remained unchanged at 16%. Incorporated and unincorporated businesses that pay Property Tax in respect of their business premises can have such payments set off against their Profits Tax liabilities. As for corporations, income arising from properties owned by them is also subject to Profits Tax at the corporate tax 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.

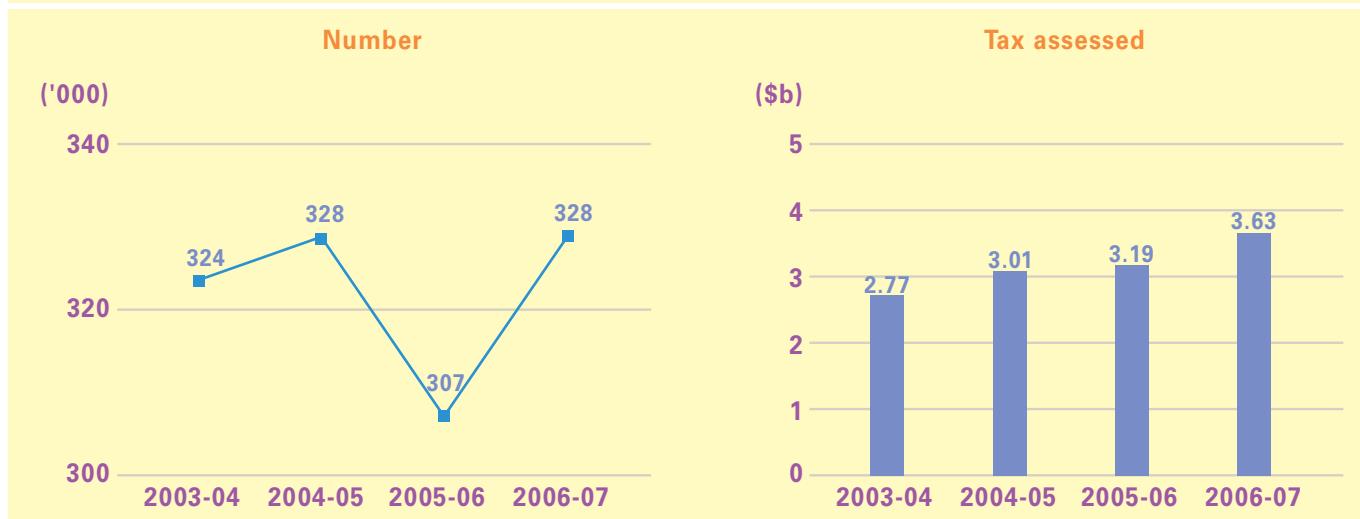
Statistics on the classification and ownership of properties, based on the records of the Department, are provided in **Schedule 7**. The number of assessments made during the year increased by 2.5%, as compared with the previous year. However, with the increase in the number of Personal Assessment elections, the amount of Property Tax assessed slightly decreased by 2.6% (**Figure 9**).

**Figure 9 Property Tax assessments**



## Personal Assessment

An individual may elect Personal Assessment in respect of his or her total income. Under Personal Assessment, all of the income of the taxpayer and his or her spouse is aggregated and, after the deduction of all allowances, is assessed at the graduated tax rates. In appropriate circumstances, this reduces the total tax liability of the individual (e.g. an individual who would otherwise be chargeable at the standard rate on each separate income source). The number of assessments made in 2006-07 was 6.7% more than that in the previous year and the amount of tax assessed also increased by 13.9% (**Figure 10**).

**Figure 10 Assessments made under Personal Assessment**

## Advance Ruling

The advance ruling service allows a person to apply for a 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. Initially, the applicant is required to pay an application fee of \$30,000 for a ruling concerning the "Territorial Source Principle", or \$10,000 for a ruling on any other matter.

The Department endeavours to provide a ruling within 6 weeks of the date of application, provided that all relevant information is furnished with the application and further consultation with the applicant is not required.

During the year, 42 advance ruling applications were processed (**Figure 11**). Most of the applications were for rulings on Profits Tax matters.

**Figure 11 Advance Ruling**

	2005-06 Number	2006-07 Number
Awaiting decision at the beginning of the year	13	10
Add: Applications received during the year	30	47
	<u>43</u>	<u>57</u>
Less: Disposed of -		
Ruling made	27	31
Application withdrawn	5	9
Ruling declined	1	2
	<u>33</u>	<u>42</u>
Awaiting decision at the end of the year	<u>10</u>	<u>15</u>

## Objections

A taxpayer who is aggrieved by an assessment made under the Inland Revenue Ordinance may lodge an objection to the Commissioner. A significant proportion of the objections received each year arises from estimated assessments issued to taxpayers who fail to lodge returns on time. An objection of this nature must be supported by a completed return and, where applicable, by supporting accounts. Most of these objections are settled promptly by reference to the returns subsequently submitted. Many of the other types of objections are also settled by agreements between the taxpayers and the assessors concerned. Relatively few objections are ultimately referred to the Commissioner for determination. During the year, the Department processed over 75,000 objections (**Figure 12**).

**Figure 12 Objection statistics**

		2005-06	2006-07
		Number	Number
Awaiting settlement at the beginning of the year		24,354	<b>26,605</b>
Add:	Received during the year	<u>72,192</u>	<u><b>75,394</b></u>
		96,546	<b>101,999</b>
Less:	Disposed of -		
	Settled or withdrawn	69,137	<b>74,237</b>
	Assessment confirmed	459	<b>510</b>
	Assessment reduced	213	<b>202</b>
	Assessment increased	119	<b>113</b>
	Assessment annulled	<u>13</u>	<u><b>8</b></u>
		69,941	<b>75,070</b>
Awaiting settlement at the end of the year		<u><u>26,605</u></u>	<u><u><b>26,929</b></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) to have the determination reviewed. As at 31 March 2007, the Board consisted of a chairman and 8 deputy chairmen, who have legal training and experience, as well as 112 other members. During the year, the Board processed 150 appeals (**Figure 13**).

**Figure 13 Appeals to the Board of Review**

		Number
Awaiting hearing or decision as at 1 April 2006		82
Add:	Lodged during the year	<u>120</u>
		202
Less:	Disposed of -	
	Withdrawn	37
	Assessment confirmed	57
	Assessment reduced in full	10
	Assessment reduced in part	30
	Assessment increased	11
	Assessment annulled	3
	Others	<u>2</u>
Awaiting hearing or decision as at 31 March 2007		<u><u>52</u></u>

## Appeals to the Courts

A decision of the Board of Review is final, provided that either the taxpayer or the Commissioner may, pursuant to section 69(1) of the Inland Revenue Ordinance, make an application requiring the Board to state a case on a question of law for the opinion of the Court of First Instance. Apart from appeals by way of case stated, occasionally the parties may lodge appeals to the Court through judicial review proceedings.

During 2006-07, the Court of First Instance ruled on thirteen cases relating to the Inland Revenue Ordinance including one judicial review case initiated by a taxpayer. Except for one case which involved the taxability of lump sum payment received by an employee upon termination of employment and where the taxpayer's appeal was partly allowed, judgments in the other cases were all in favour of the Commissioner. The issues decided in these cases included the deductibility of expenses under Salaries Tax and Profits Tax, share option gains, whether the taxpayers were engaged in the trading of properties, the Commissioner's right to revisit a loss computation of more than six years ago, and whether payment to an employee was a rent reimbursement not subject to Salaries Tax.

Of the thirteen judgments delivered by the Court of First Instance, there were appeals to the Court of Appeal by taxpayers in four cases. Besides, both the taxpayer and the Commissioner lodged appeal in the termination payment case which was partly allowed by the Court of First Instance.

During the year the Court of Appeal handed down eight judgments relating to the Inland Revenue Ordinance, six of which were in favour of the Commissioner. Two of these judgments were related to judicial review proceedings initiated by taxpayers. The other four cases covered the source of brokerage income, the Commissioner's right to revisit a loss computation of more than six years ago, the nature of payment made by an employer to an employee, and the taxability of profits from property redevelopment. The Court ruled against the Commissioner in the remaining two cases. One was the termination payment case. The other one related to application of the anti-avoidance provisions. The Commissioner has lodged an appeal to the Court of Final Appeal against this judgment.

The Court of Final Appeal heard three cases during the year and ruled in favour of the Commissioner in two of them which related to the taxation of royalty income and source of brokerage income. In respect of the remaining case which involved the deductibility of interest expenses under Profits Tax, the Court of Final Appeal allowed the taxpayer's appeal.

**Figure 14** sets out statistics concerning appeals to the Courts for 2006-07.

**Figure 14 Appeals to the Courts**

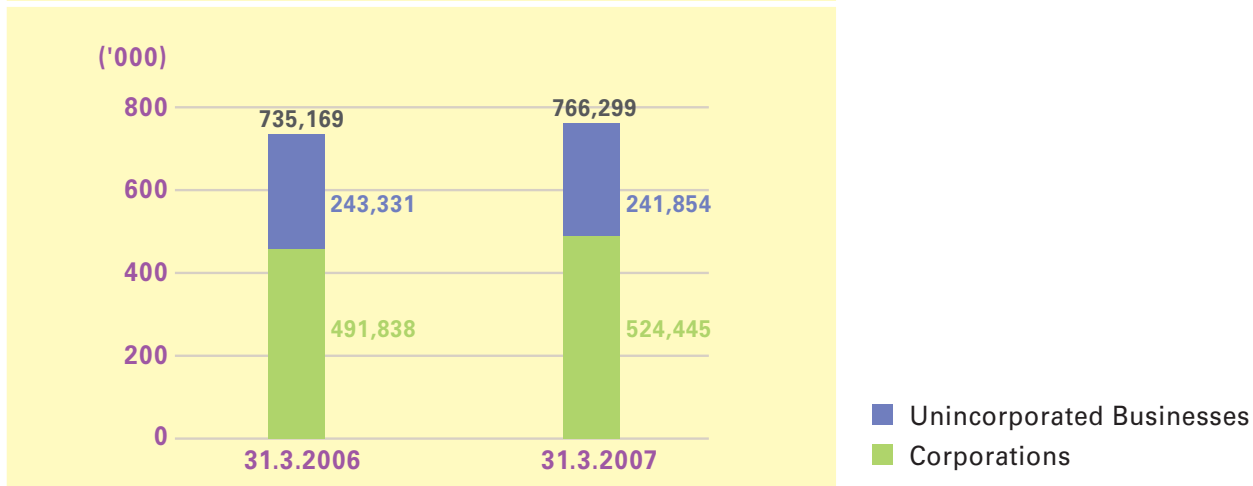
	Court of First Instance	Court of Appeal	Court of Final Appeal	Total
Awaiting hearing or decision as at 1 April 2006	18	8	1	<b>27</b>
Add: Lodged during the year	<u>10</u>	<u>10</u>	<u>7</u>	<u>27</u>
	28	18	8	<b>54</b>
Less: Disposed of -				
Decided	13	8	3	
Discontinued	<u>9</u>	<u>22</u>	<u>-</u>	<u>3</u>
		<u>8</u>	<u>-</u>	<u>33</u>
Awaiting hearing or decision as at 31 March 2007	<u>6</u>	<u>10</u>	<u>5</u>	<u>21</u>

## Business Registration

The Department aims to maintain an efficient business registration system. Every person carrying on a business in Hong Kong must register the business and pay the required fee. Registered businesses may renew their registration certificates either annually or once every 3 years. The registration fee and levy for the Protection of Wages on Insolvency Fund are respectively \$2,000 and \$600 if paid annually, or \$5,200 and \$1,800 if paid every three years. Up to 31 March 2007, 11,973 businesses had taken the 3-year certificates.



The total number of new and re-opened registrations in 2006-07 was 6,040 higher than that of the previous year while the number of cancelled registrations also increased by 15,747 (**Schedule 8**). The total number of active registrations recorded a growth of 31,130 for the year (**Figure 15**). There was a corresponding increase in the number of certificates issued, leading to an increase of \$19 million in the business registration fees collections (**Figure 16**).

**Figure 15 Active Business Registration****Figure 16 Certificates issued and Fees collected**

	2005-06	2006-07	Increase
Number of certificates issued (Main and Branch)	796,126	<b>805,915</b>	1.2%
Fees (inclusive of penalties) (\$m)	1,478.8	<b>1,497.9</b>	1.3%

Under the Business Registration Ordinance, a small business with average monthly sales or receipts below a specified limit (\$10,000 for a business mainly deriving profits from the sale of services or \$30,000 for other businesses) could apply for exemption from payment of the fee and levy. The number of total exemptions granted during the year was 18,977, representing an increase of 8% from the previous year.

Where an application for exemption is not allowed, the business operator may appeal to the Administrative Appeals Board. 9 appeals were received by the Board in 2006-07, of which 2 were dismissed by the Board and 5 were subsequently withdrawn by the appellant (**Figure 17**).

**Figure 17 Appeals to the Administrative Appeals Board**

		Number
Awaiting hearing as at 1 April 2006		0
Add: Lodged during the year		9
		<u>9</u>
Less: Disposed of -		
Appeal dismissed	2	
Appeal withdrawn	5	7
		<u>7</u>
Awaiting hearing as at 31 March 2007		<u><u>2</u></u>



## Stamp Duty

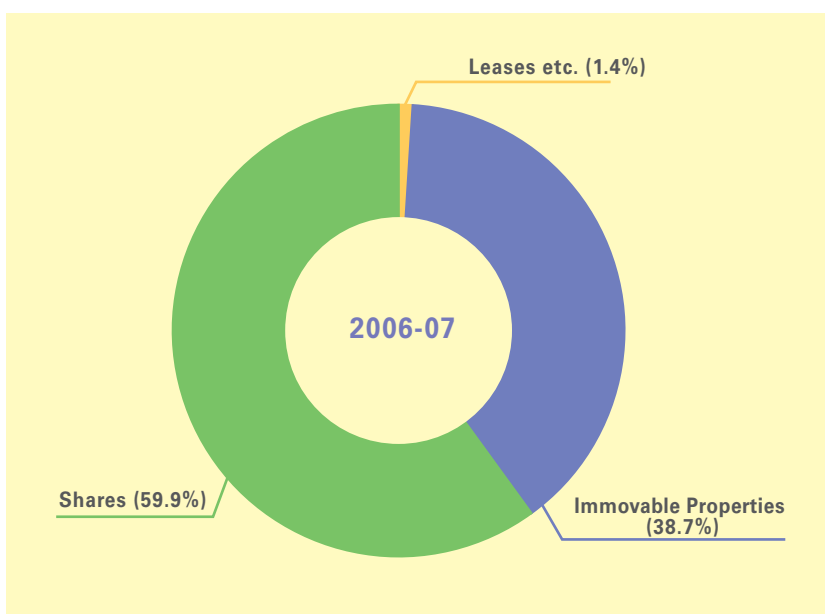
Stamp Duty is charged on instruments effecting property and stock transactions and leasing of property (**Figure 18**).

The property market remained stable in 2006-07. Despite the reduction of stamp duty rate on property transactions with value between \$1 million and \$2 million from 0.75% to a fixed duty of \$100 on 28 February 2007, the stamp duty collections from property transactions in the year increased slightly by 2% when compared with the previous year.

The stock market remained strong and very active throughout the year. The stamp duty collections from share transactions in 2006-07 reached a new high of \$15 billion, an increase of 85% from the previous year.

Overall, there was an increase of 40% in total stamp duty collections during the year (**Figure 19** and **Schedule 9**). The number of documents being stamped also increased by 17% (**Schedule 10**).

**Figure 18 Composition of Stamp Duty collections**



**Figure 19 Stamp Duty collections**

	2005-06 (\$m)	2006-07 (\$m)	Increase
Immovable Properties	9,466	9,700	+2%
Shares	8,129	15,027	+85%
Leases etc.	272	349	+28%
Total	17,867	25,076	+40%

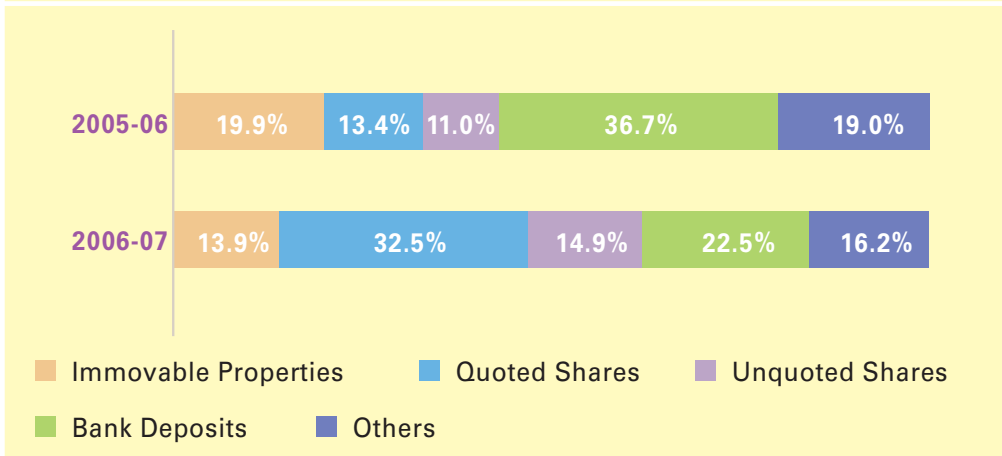
## Estate Duty

Estate duty is charged on that part of 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 ["the Ordinance"] has abolished estate duty in respect of persons passing away on or after 11 February 2006. The Ordinance has extended the benefit of abolition to cases of deaths occurring on or after 15 July 2005 but before 11 February 2006, by imposing a nominal duty of \$100 on such estates if the assessed value exceeds \$7.5 million.

Figures 20 and 21 show the composition of estates and cases processed for the past two years.

**Figure 20 Composition of Estates**



**Figure 21 Estate Duty cases**

	2005-06	2006-07
New cases	<u>16,717</u>	<u>6,362</u>
Cases finalised		
Dutiable	309	412
Exempt	<u>16,696</u>	<u>6,827</u>
	<u>17,005</u>	<u>7,239*</u>

Note: \* The figure does not include the support services provided to the estate beneficiaries of 4,988 cases on behalf of the Secretary for Home Affairs.

Estate Duty of \$777 million was collected during the year (**Schedule 11**), a decrease of \$898 million (53.6%) compared with that of 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). \$549 million was received during the year in advance of the issue of formal assessments (**Schedule 12**).

## Betting Duty

Betting Duty is charged on bets made on totalisators at race meetings conducted by the Hong Kong Jockey Club, on the proceeds of lotteries conducted by the HKJC Lotteries Limited and on the net stake receipts derived from the conduct of authorised betting on football matches by the HKJC Football Betting Limited. Following the enactment of the Betting Duty (Amendment) Ordinance 2006, effective from 1 September 2006, betting duty on horse racing is charged on the net stake receipts derived from the conduct of authorised betting on horse races by the HKJC Horse Race Betting Limited. HKJC is providing a guarantee of \$8 billion on the duty on horse racing betting during each of the first 3 years.

In 2006-07, the rates of duty on lotteries and football betting remained unchanged. The rate of duty on horse racing was amended with effect from 1 September 2006 (**Figure 22**).

**Figure 22 Rates of Betting Duty in 2006-07**

			Rate
<b>Horse Race Betting</b>			
Up to 31 August 2006			
Standard Bets	win, place, double, quinella and quinella place		12%*
Exotic Bets	six up, treble, tierce, trio, double trio and triple trio		20%
Effective from 1 September 2006			
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%
<b>Lotteries</b>	proceeds		25%
<b>Football Betting</b>	net stake receipts		50%

Note: \* Overseas bets are charged at 6%.

# For overseas bets, the discount rate for specified places (e.g. Macau) is 40%, whereas the discount rate for a place outside Hong Kong (other than specified places) is 50%.

In 2006-07, the racing attendance slightly increased (**Schedule 13**) but the duty collections from horse racing dropped by 3.1%. The lotteries duty collections also decreased by 5.3%. However, the drops were offset by an increase of 18.8% in football betting duty collections. Total betting duty collections in 2006-07 was 0.9% higher than the previous year (**Figure 23**).

**Figure 23 Betting Duty collections**

	2005-06 (\$m)	2006-07 (\$m)	Increase/Decrease
Horse Racing	7,949.9	<b>7,703.5</b>	-3.1%
Lotteries	1,633.4	<b>1,547.4</b>	-5.3%
Football Betting	2,354.8	<b>2,796.5</b>	+18.8%
Total	11,938.1	<b>12,047.4</b>	+0.9%

## Hotel Accommodation Tax

Hotel Accommodation Tax is imposed on hotel and guesthouse accommodation at the rate of 3% of the accommodation charges paid by guests and is collected quarterly in arrears.

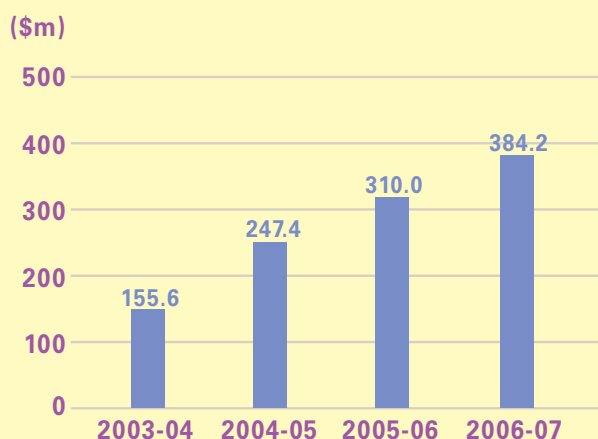
In 2006-07, there was an increase in the number of hotels, boarding houses and taxable rooms (**Figure 24**). Due to the growing number of visitors, the average room occupancy rate slightly increased by 2.6% (**Figure 25**). The average room charge increased in hotels but slightly decreased in boarding houses (**Schedule 14**). Total tax collected in the year was 24% higher than that of the previous year (**Figure 26**).

**Figure 24 Hotels, boarding houses, taxable rooms and exempted rooms**

	2005-06	2006-07	Increase
Hotels and Boarding Houses	199	<b>217</b>	+9.0%
Taxable Rooms	45,710	<b>48,470</b>	+6.0%
Exempted Rooms	6,591	<b>6,776</b>	+2.8%

**Figure 25 Room occupancy rates**

	2005-06	2006-07	Increase
Room Days	12,643,941	<b>13,757,183</b>	+8.8%
Occupancy Rate	84.8%	<b>87.4%</b>	+2.6%

**Figure 26 Hotel Accommodation Tax collections**

## Tax Reserve Certificates

There are two sets of circumstances under which Tax Reserve Certificates are purchased.

The first applies to taxpayers who wish to save for the payment of their future tax liabilities. Two service schemes are offered to these taxpayers: the "Electronic Tax Reserve Certificates Scheme" for all taxpayers and the "Save-As-You-Earn" (SAYE) Scheme for civil servants and civil service pensioners. Under the Electronic Tax Reserve Certificates Scheme, certificates can be purchased using various electronic means, i.e. by bank autopay, telephone, the Internet and bank ATM. Under the SAYE Scheme, certificates are purchased by civil servants and civil service pensioners through monthly deductions from their salaries/pensions. Interest is payable on the certificates 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 2006-07, there was an increase of 2% and 20% in the number and the amount of certificates sold under the Electronic Tax Reserve Certificates Scheme respectively. The number and the amount of certificates sold under the SAYE Scheme slightly dropped by 1% and 3% respectively (**Schedule 15**). Overall, the total amount of certificates sold increased by 12% (**Figure 27**).

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

**Figure 27 Certificates sold**

