



# Assessing Functions

The Inland Revenue Department raises revenue through taxes, duties and fees in accordance with the relevant legislations. While the duties and fees collected in a year are based on the actual performance of the relevant activities in the year, earnings and profits tax are principally assessed by reference to the incomes / profits of the taxpayers in the previous year. In 2009-10, earnings and profits tax assessed dropped by \$23.6 billion (16.2%) compared with the previous year (**Schedule 2**). The total of duties and fees collected, however, increased by \$10.6 billion (23.3%).

## Profits Tax

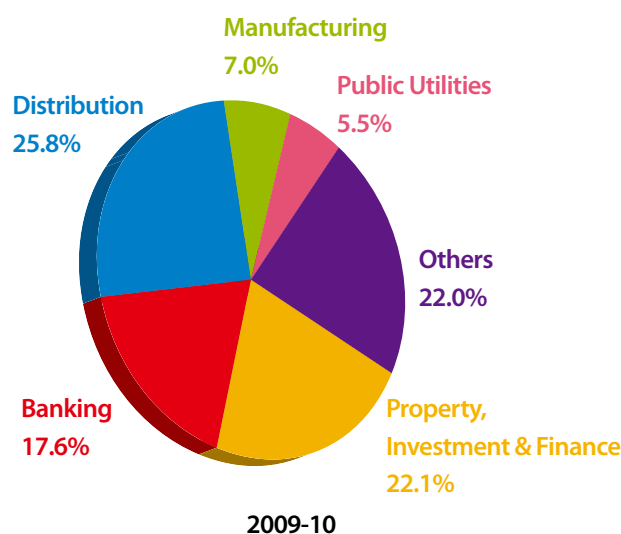
Profits tax is levied on individuals, corporations, bodies of persons and partnerships, in respect of assessable profits arising in or derived from Hong Kong. For the year of assessment 2009-10, the tax rates for corporations and non-corporate persons remained unchanged at 16.5% and 15% respectively.

Hong Kong was hit by the financial tsunami. Profits tax assessed in 2009-10 dropped to \$74.2 billion, \$29.4 billion (28.4%) less than that of the previous year (**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**.

**Figure 5 Profits tax assessed**



**Figure 6 Corporation profits tax assessed ratios by business sectors**



## 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 which is the standard rate of the net total income (without allowances) of the individual concerned. For the year of assessment 2009-10, the standard rate remained unchanged at 15%.

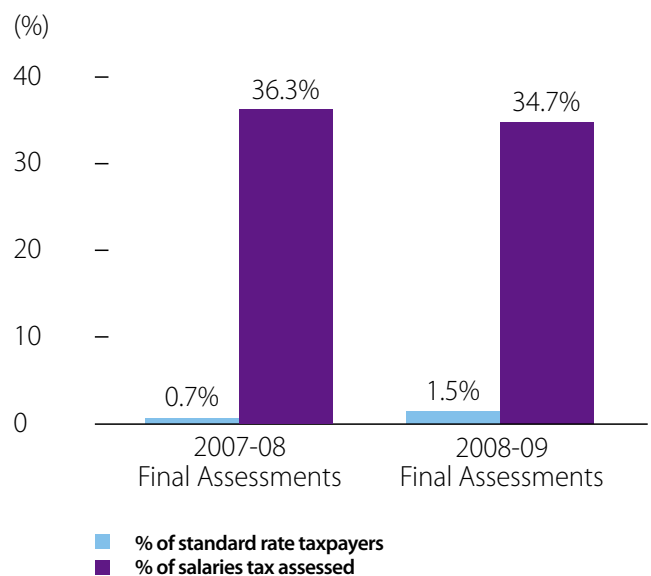
**Figure 7 Salaries tax assessments**



Compared with the previous year, the number of assessments made increased by 4.7%, and 8.7% more tax was assessed during 2009-10 (**Figure 7**). For the year of assessment 2008-09, with the 100% tax reduction up to \$8,000 per case, many low income taxpayers enjoyed full tax reduction. Therefore, out of the total 1.378 million taxpayers, only some 0.623 million were required to pay tax after the tax reduction. Analyses of tax assessed and allowances granted in respect of taxpayers at various income levels are provided in **Schedules 5** and **6**.

The number of standard rate taxpayers increased by 11,671 from 9,469 last year to 21,140 this year because of the decrease of the standard rate from 16% to 15% for the year of assessment 2008-09. These taxpayers together contributed 34.7% of the salaries tax assessed, compared to 36.3% 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, 273,218 employers filed employer's returns with the Department.

Inland Revenue Department provides e-Seminars and disseminates tax information to employers on the IRD Homepage in order to enhance their understanding of the relevant statutory requirements. The contents relate to completion of employer's return, employer's obligation, answers to frequently asked questions etc. Employers can also obtain specimens of completed employer's return and notification forms 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 2009-10, the standard rate remained unchanged at 15%. 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. For corporations, income arising from properties owned by them is also subject to profits tax at the corporate 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 in 2009-10 was 2.3% more than the previous year. For the year of assessment 2007-08, property tax was

subject to tax reduction. The amount of tax assessed dropped significantly. Tax reduction was not applicable to property tax for the year of assessment 2008-09, the amount of property tax assessed in 2009-10 increased by 111% (**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 the incomes of the taxpayer and his or her spouse are aggregated and, after the deduction of all allowances, 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).

For the year of assessment 2007-08, tax reduction is available to all tax types. Fewer taxpayers are electing personal assessment. This caused a decrease in last year's assessment number and tax assessed. For the year of assessment 2008-09, tax reduction is available under personal assessment but not profits tax and property tax. More taxpayers are electing personal assessment. The number of assessments made in 2009-10 was 27% more than the previous year and the amount of tax assessed increased by 70.1% compared with last year (**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. The applicant is required to pay an initial 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 supplied with the application and further information from the applicant is not required.

During the year, 39 advance ruling applications were processed (**Figure 11**). Most of the applications were for rulings on profits tax matters.



**Figure 11 Advance ruling**

	2008-09 Number	2009-10 Number
Awaiting decision at the beginning of the year	12	19
Add: Application received during the year	49	35
	<u>61</u>	<u>54</u>
Less: Disposed of —		
Ruling made	29	23
Application withdrawn	8	9
Ruling declined	5	7
	<u>42</u>	<u>39</u>
Awaiting decision at the end of the year	<u>19</u>	<u>15</u>

## Objection

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 68,500 objections (**Figure 12**).

**Figure 12 Objection statistics**

	2008-09 Number	2009-10 Number
Awaiting settlement at the beginning of the year	24,059	24,960
Add: Received during the year	64,214	69,391
	<u>88,273</u>	<u>94,351</u>
Less: Disposed of —		
Settled without determination	62,378	67,834
Determinations:		
Assessment confirmed	452	410
Assessment reduced	348	172
Assessment increased	119	94
Assessment annulled	16	15
	<u>935</u>	<u>691</u>
Awaiting settlement at the end of the year	<u>24,960</u>	<u>25,826</u>

## Appeal 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 2010, the Board consisted of a chairman and 5 deputy chairmen, who have legal training and experience, as well as 97 other members. During the year, the Board processed 109 appeals (**Figure 13**).

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

	<b>Number</b>
Awaiting hearing or decision as at 1 April 2009	74
Add: Lodged during the year	103
	<u>177</u>
Less: Disposed of —	
Withdrawn	30
Assessment confirmed	45
Assessment reduced in full	0
Assessment reduced in part	19
Assessment increased	11
Assessment annulled	1
Others	3
	<u>109</u>
Awaiting hearing or decision as at 31 March 2010	<u><u>68</u></u>

## Appeal 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, where both parties agree, an appeal can be transmitted to the Court of First Instance direct under section 67 of the Inland Revenue Ordinance without a hearing before the Board.

During 2009-10 the Court of First Instance ruled on four cases (including two related cases) concerning the

Inland Revenue Ordinance. The issues involved were the taxability of payments received by a taxpayer upon termination of employment, validity of the personal assessment in question and whether certain profits were trading in nature and not exempt from profits tax.

During the year the Court of Appeal handed down three judgments relating to the Inland Revenue Ordinance. One of these judgments was related to the territorial source of the taxpayer's profits. The other two concerned the taxability of certain sums received by a taxpayer upon termination of employment and the finality of assessments respectively.



The Court of Final Appeal decided two cases during the year, both involving the application of the anti-avoidance provisions of the Inland Revenue Ordinance. One of the cases also concerned whether

the expenditure in question was capital in nature.

**Figure 14** sets out statistics concerning appeals to the Courts for 2009-10.

**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 2009	15		4		2		<b>21</b>
Add: Lodged during the year	8		3		2		<b>13</b>
	23		7		4		<b>34</b>
Less: Disposed of —							
Decided	4		3		2		
Discontinued	10	14	0	3	1	3	<b>20</b>
Awaiting hearing or decision as at 31 March 2010	9		4		1		<b>14</b>

## Business Registration

Inland Revenue Department aims to maintain an efficient business registration system. Every person carrying on business in Hong Kong must register the business and pay the required fee. Registered businesses may renew their registration certificates annually or once every 3 years. Up to 31 March 2010, 13,745 businesses had taken the 3-year certificates.

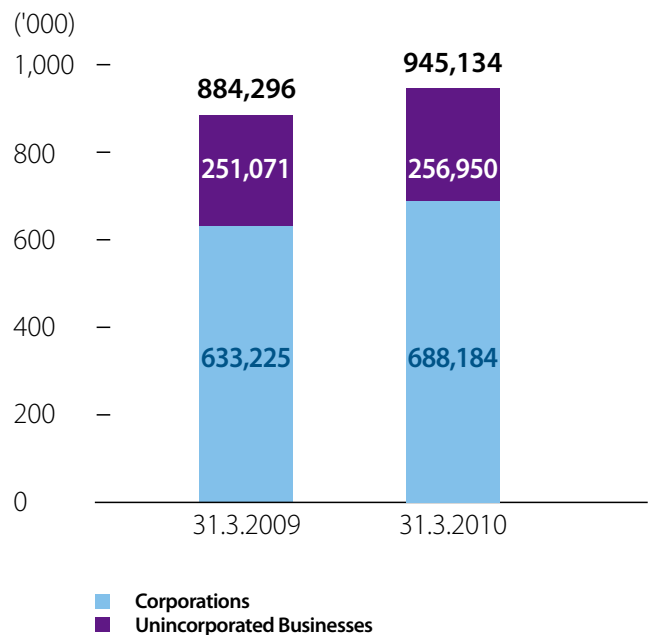
As one of the special relief measures announced by the Financial Secretary in May 2009, business registration fee was waived for one year. The waiver applied to the certificates commencing during the period 1 August 2009 to 31 July 2010 (“Waiver Period”). Businesses electing for 1-year certificate only needed to pay the levy

for the Protection of Wages on Insolvency Fund of \$450. For 3-year certificates, the business registration fee and levy were \$3,200 and \$1,350 respectively.

Concessionary refunds are granted upon application to businesses that have already paid registration fees for the Waiver Period but are not required to renew their registration certificates in the Waiver Period (i.e. businesses holding 3-year certificates with expiry dates on or after 31 July 2010; or businesses whose registration certificates expire between 1 August 2009 and 31 July 2010 but are not required to renew their registration certificates because of cessation of business). Up to 31 March 2010, the Department had issued concessionary refunds to 11,296 businesses and the total amount of refunds is \$16 million.



With the waiver of registration fee, the total number of active registrations increased by 60,838 and reached its record high of 945,134 (**Figure 15**). The total number of new and re-opened registrations in 2009-10 has increased by 4,671 when compared with that for the previous year (**Schedule 8**). There was also a corresponding increase in the number of certificates issued. As the Waiver Period only started on 1 August 2009, businesses having their certificates commencing during the period 1 April 2009 to 31 July 2009 were required to pay business registration fee. The business registration fee collected in 2009-10 reached \$579 million, representing a drastic increase of 274.7% when comparing to the last year's, where the business registration fee for the whole year was waived (**Figure 16**).

**Figure 15 Active business registration****Figure 16 Certificates issued and fees collected**

	2008-09	2009-10	Increase
Number of certificates issued (Main and Branch)	951,345	999,029	+5%
Fees (inclusive of penalties) (\$m)	154.4	578.7	+274.7%

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) can apply for exemption from payment of the business registration fee and levy. The number of exemptions granted during the year was 14,244, representing an increase of 3.7% from the previous year.

Where an application for exemption is not allowed, the business operator may appeal to the Administrative Appeals Board. One appeal was received by the Board in 2009-10, but was subsequently withdrawn by the appellant (**Figure 17**).





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

	Number
Awaiting hearing as at 1 April 2009	0
Add: Lodged during the year	1
	<u>1</u>
Less: Disposed of —	
Appeal allowed	0
Appeal dismissed	0
Appeal withdrawn	1
	<u>1</u> <u>1</u>
Awaiting hearing as at 31 March 2010	<u>0</u>

## Stamp Duty

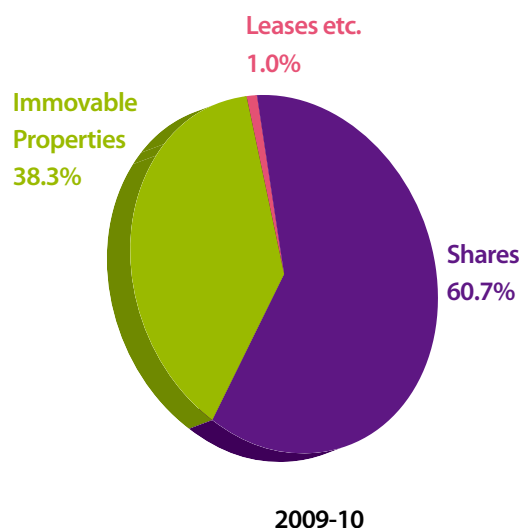
Stamp duty is charged on instruments effecting property and stock transactions and leasing of property in Hong Kong (**Figure 18**).

With the rebound of the economy and influx of capitals, the property market performed strongly in 2009-10. Both the number and value of property transactions recorded a significant increase. The stamp duty collections from property transactions in 2009-10 increased to \$16.2 billion, representing a remarkable 62% increase when compared with the previous year.

The Hong Kong stock market also rebounded. The stamp duty collections from share transactions in 2009-10 increased to \$25.7 billion, an increase of 19% from the previous year.

Overall, there was an increase of 32% in total stamp duty collections during the year and the number of documents being stamped also increased by 8.8% (**Figure 19** and **Schedule 9**).

**Figure 18 Composition of stamp duty collections**



**Figure 19 Stamp duty collections**

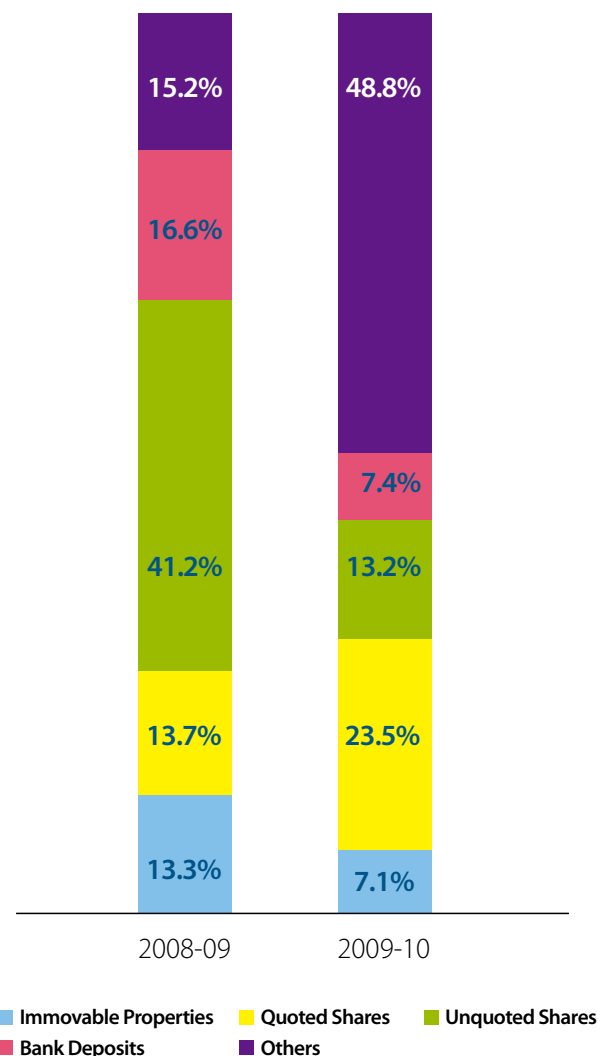
	2008-09 (\$m)	2009-10 (\$m)	Increase / Decrease
Immovable Properties	10,009	<b>16,237</b>	+62%
Shares	21,702	<b>25,721</b>	+19%
Leases etc.	451	<b>425</b>	-6%
<b>Total</b>	32,162	<b>42,383</b>	+32%

## 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 ranged 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. No estate duty affidavits and accounts need to be filed and no estate duty clearance papers are needed for the application for a grant of representation in respect of deaths occurring on or after that date. The estate duty chargeable in respect of estates of persons dying on or after 15 July 2005 and before 11 February 2006, with the principal value exceeding \$7.5 million, will be reduced to a nominal amount of \$100. With the abolition of estate duty, the number of new cases reduced gradually. It decreased by 18.8% to 1,691 in 2009-10, as compared with the last year (**Figure 21**).

**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**

	2008-09	2009-10
New cases	<u>2,082</u>	<u>1,691</u>
Cases finalised		
Dutiable	74	71
Exempt	<u>2,078</u>	<u>1,611</u>
	<u>2,152</u>	<u>1,682</u>

Estate duty of \$185 million was collected during the year (**Schedule 10**), an increase of \$9 million (5.1%) 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). \$105 million was received during the year in advance of the issue of formal assessments (**Schedule 10**).

## Betting Duty

Since 1 September 2006, the effective date of the Betting Duty (Amendment) Ordinance 2006, betting duty is charged on the net stake receipts derived from the conduct of authorised betting on horse races by the HKJC Horse Race Betting Limited, 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.

In 2009-10, the rates of duty on horse racing, lotteries and football betting remained unchanged (**Figure 22**).



**Figure 22 Rates of betting duty in 2009-10**

		Rate
Horse race betting	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%
Lotteries	Proceeds	25%
Football betting	Net stake receipts	50%

Note: \* 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 2009-10, collections from horse race betting duty and football betting duty increased respectively by 2.50% and 1.09% (**Schedule 11**), while that from the lotteries

duty decreased by 5.54%. Total betting duty collections in 2009-10 was 1.16% higher than the previous year (**Figure 23**).

**Figure 23 Betting duty collections**

	2008-09 (\$m)	<b>2009-10 (\$m)</b>	Increase / Decrease
Horse racing	8,089.2	<b>8,291.7</b>	+2.50%
Lotteries	1,585.3	<b>1,497.4</b>	-5.54%
Football betting	2,945.8	<b>2,978.0</b>	+1.09%
<b>Total</b>	12,620.3	<b>12,767.1</b>	+1.16%

## Hotel Accommodation Tax

Hotel accommodation tax is imposed on hotel and guesthouse accommodations at the specified rate of the accommodation charges paid by guests and is collected quarterly in arrears. The rate was 3% on or before 30 June 2008.

Effective from 1 July 2008, the rate for hotel accommodation tax was reduced to 0%. During the 0% tax rate period, hotels and guesthouses are not required to impose hotel accommodation tax on accommodations hired by the guests, or to file the hotel accommodation tax return to the Collector of Stamp Revenue quarterly.



## Tax Reserve Certificate

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. IRD 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 2009-10, there was an increase of 5% and 21% respectively in the number and the amount of TRCs sold under the “Electronic Tax Reserve Certificates Scheme” but a decrease of 1% and 5% respectively for the “SAYE Scheme” (**Schedule 12**). Overall, the total amount of TRCs sold increased by 14% (**Figure 24**).

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.

**Figure 24 Certificates sold**

