

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 2010-11, earnings and profits tax assessed attained a growth of \$18.8 billion (15.3%) (**Schedule 2**). The total amount of duties and fees collected also increased by \$10.1 billion (18.1%).

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 2010-11, the tax rates for corporations and non-corporate persons remained unchanged at 16.5% and 15% respectively.

Having overcome the challenges from the global recession, profits tax assessed in 2010-11 increased to \$89 billion, \$14.8 billion (20%) more than that of the previous year (**Figure 5**). Of the total tax assessed, the property and financial sectors together contributed 43.7% (**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

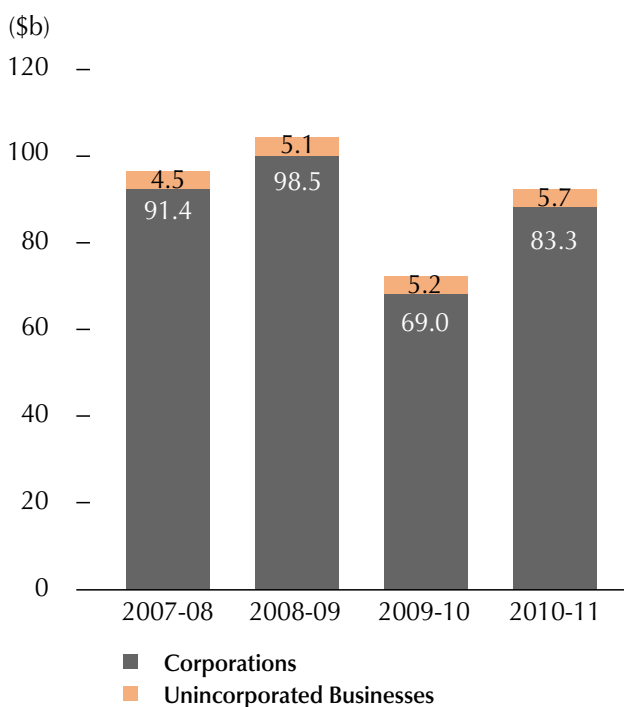
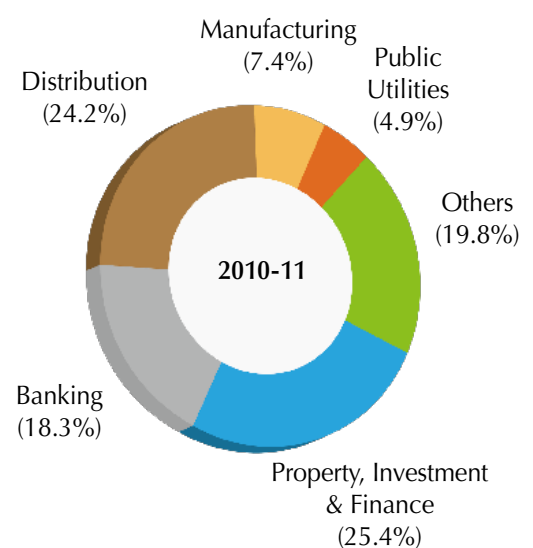


Figure 6 Corporation profits tax assessed ratios by business sectors

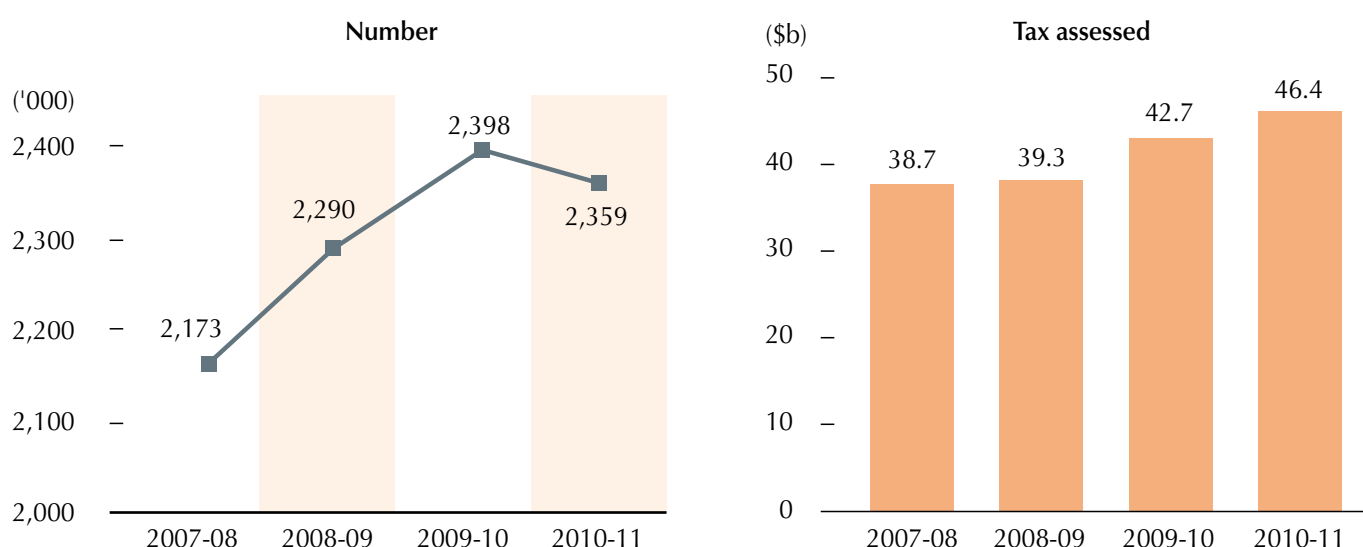


Salaries Tax

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 2010-11, the standard rate remained unchanged at 15%.

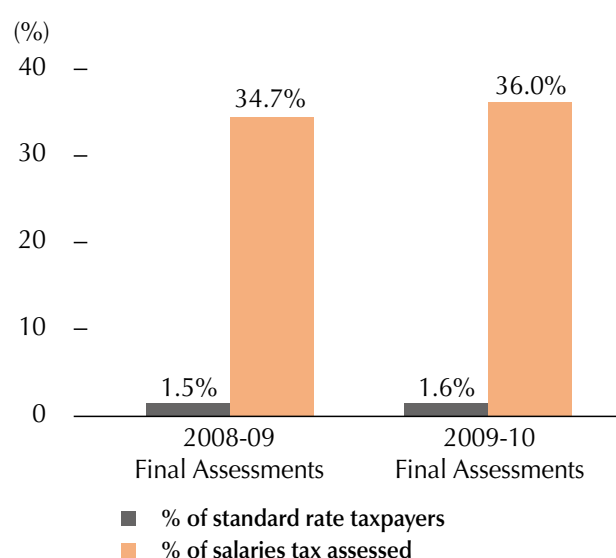
Compared with the previous year, the number of assessments made decreased by 1.6%, and 8.7% more tax was assessed during 2010-11 (**Figure 7**). Analyses of tax assessed and allowances granted in respect of taxpayers at various income levels are provided in **Schedules 5** and **6**.

Figure 7 Salaries tax assessments



The number of standard rate taxpayers increased by 1,267 from 21,140 last year to 22,407 this year. These taxpayers together contributed 36.0% of the salaries tax assessed, compared to 34.7% 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, 326,824 employers filed employer's returns for the year of assessment 2009-10 with the Department.

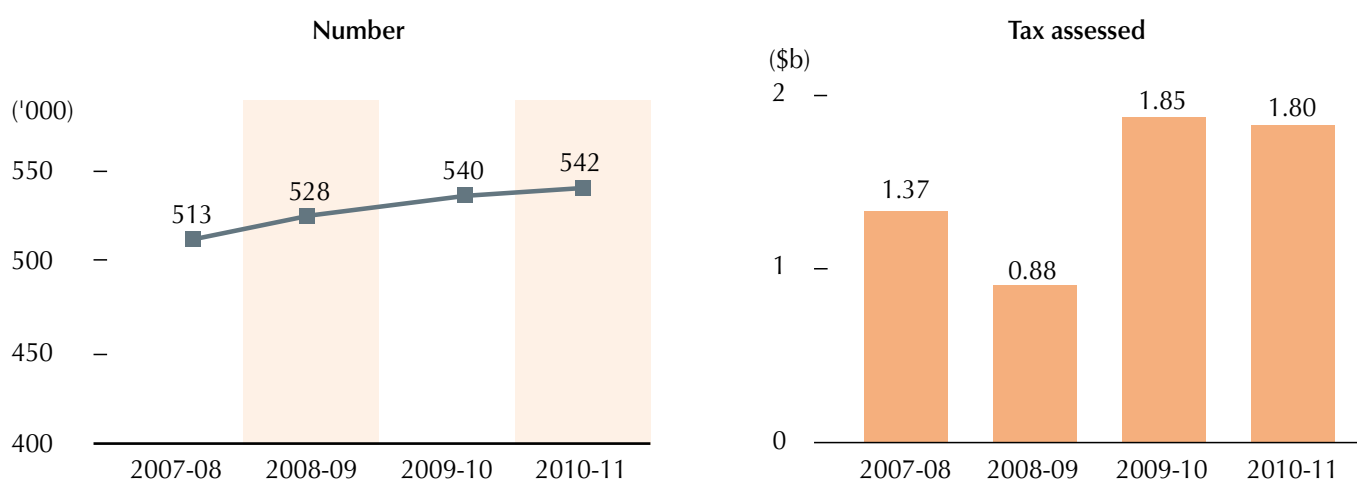
Inland Revenue Department provides e-Seminars and disseminates tax information to employers on the IRD Homepage to assist them in understanding the relevant statutory requirements. The contents cover completion of employer's returns, employer's obligations and answers to frequently asked questions. Employers can also obtain specimens of a 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 2010-11, 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 2010-11 was 0.4% slightly more than the previous year while the total amount of property tax assessed decreased by 2.7% (**Figure 9**).

Figure 9 Property tax assessments

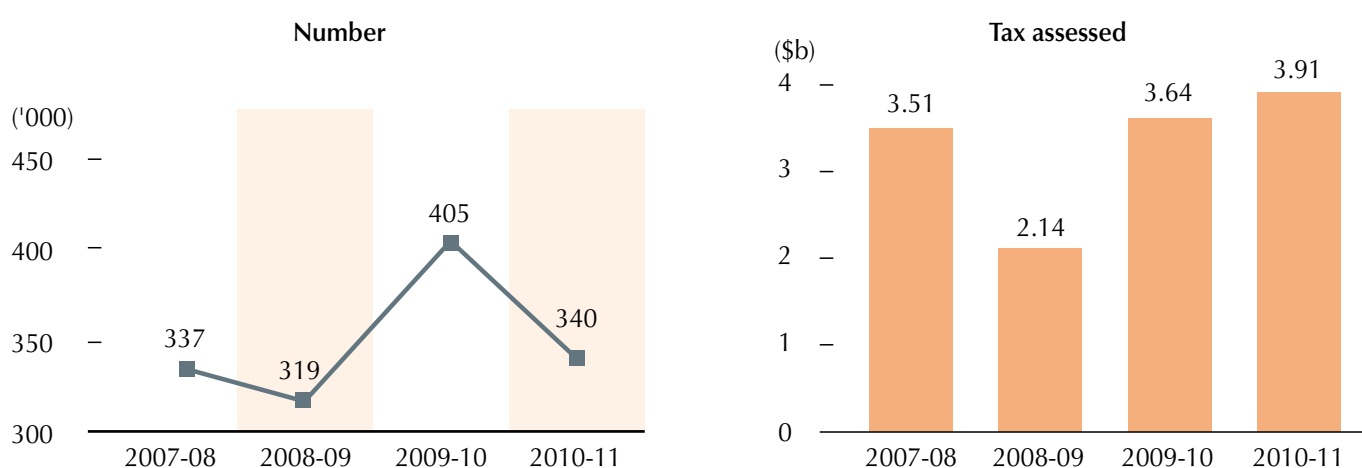


Personal Assessment

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).

Under personal assessment, taxpayers are granted a tax reduction at 75% of the final tax payable for year of assessment 2009-10, subject to a ceiling of \$6,000 per case. As the magnitude of the tax reduction is lower than that of the previous year, the number of assessments made in 2010-11 was 16% less than 2009-10, but the amount of tax assessed was 7.6% higher (Figure 10).

Figure 10 Assessments made under personal assessment



Advance Rulings

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

Figure 11 Advance rulings

	2009-10 Number	2010-11 Number
Awaiting decision at the beginning of the year	19	15
Add: Applications received during the year	<u>35</u>	<u>32</u>
	54	47
Less: Disposed of -		
Rulings made	23	18
Applications withdrawn	9	9
Rulings declined	<u>7</u>	<u>2</u>
	39	29
Awaiting decision at the end of the year	<u>15</u>	<u>18</u>

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 issued because of the failure to lodge a tax return on time, a properly completed return together with the supporting accounts, where applicable, must also be submitted with the notice of objection. A significant proportion of the objections received each year arises from estimated assessments. Most of these objections could be settled promptly by reference to the returns subsequently submitted. Many of the other types of objections are also settled by agreement between the taxpayers and the assessors. Only relatively few objections are ultimately referred to the Commissioner for determination. During 2010-11, the Department settled nearly 66,200 objections (Figure 12).

Figure 12 Objection statistics

	2009-10 Number	2010-11 Number
Awaiting settlement at the beginning of the year	24,960	25,826
Add: Received during the year	<u>69,391</u>	<u>67,049</u>
	94,351	92,875
Less: Disposed of -		
Settled without determination	67,834	65,572
Determinations:		
Assessments confirmed	410	356
Assessments reduced	172	170
Assessments increased	94	84
Assessments annulled	<u>15</u>	<u>4</u>
	691	614
	68,525	66,186
Awaiting settlement at the end of the year	<u>25,826</u>	<u>26,689</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 2011, the Board consisted of a chairman and 6 deputy chairmen, who have legal training and experience, as well as 85 other members. During 2010-11, the Board settled 83 appeal cases (Figure 13).

Figure 13 Appeals to the Board of Review

	Number		
Awaiting hearing or decision as at 1 April 2010			68
Add: Received during the year			81
			149
Less: Disposed of -			
Withdrawn		29	
Decided:			
Assessments confirmed	35		
Assessments reduced in full	0		
Assessments reduced in part	8		
Assessments increased	10		
Assessments annulled	0		
Others	1	54	83
Awaiting hearing or decision as at 31 March 2011			66

Appeals to the Courts

A decision of the Board 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 2010-11, the Court of First Instance ruled on one case relating to the Inland Revenue Ordinance, which was in favour of the Commissioner. The case was concerned with the issue of whether the profits of the taxpayer arose partly in Hong Kong and partly in the Mainland. The taxpayer appealed to the Court of Appeal against the judgment of the Court of First Instance. The appeal was dismissed by the Court of Appeal.

The Court of Final Appeal handed down judgment on one case during the year concerning the Inland Revenue Ordinance. The point at issue was the taxability of certain sums received by a taxpayer upon termination of employment.

Figure 14 sets out the statistics concerning appeals to the Courts during 2010-11.

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 2010	9		4		1		14
Add: Lodged during the year	<u>1</u>		<u>1</u>		<u>0</u>		<u>2</u>
	10		5		1		16
Less: Disposed of -							
Decided	1		1		1		
Discontinued	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>0</u>	<u>1</u>	<u>5</u>
Awaiting hearing or decision as at 31 March 2011	8		3		0		11

Business Registration

Inland Revenue 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. Registered businesses may renew their registration certificates annually or every 3 years. Up to 31 March 2011, 13,651 businesses had taken the 3-year certificates.

On 21 February 2011, the Companies Registry and the Inland Revenue Department jointly launched two one-stop services. Firstly, under the one-stop company and business registration regime, a new company is only required to lodge one single application for both company and business registration. Any person who submits an incorporation form for a local company or an application for registration of a non-Hong Kong company at the Companies Registry will be deemed to make a business registration application at the same time.

Secondly, with the one-stop notification of change of company particulars in place, companies are no longer required to notify the Commissioner separately of changes of the corporate name, address of registered office/address of principal place of business in Hong Kong, and name and address of the authorized representative. After registering the changes of these company particulars, the Registrar of Companies will transmit the same to the Commissioner.

The Financial Secretary suggested to waive Business Registration Fees for one year in the 2010-11 Budget. The annual fees in respect of business and branch registration certificates with commencement date falling within the period from 1 August 2010 to 31 July 2011 ("Waiver Period") are waived. Businesses electing for 1-year certificate

are only required to pay the levy for the Protection of Wages on Insolvency Fund of \$450. For 3-year certificates, the business registration fee and levy are \$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 2011; or between 1 August 2010 and 31 July 2011 but are not required to renew their registration certificates because of cessation of business). Up to 31 March 2011, the Department had issued concessionary refunds to 7,088 businesses and a total of \$9 million was refunded.

With the waiver of registration fee, the total number of active registrations increased by 115,062 and reached its record high of 1,060,196 (**Figure 15**). The total number of new and re-opened registrations in 2010-11 has increased by 55,729 when compared with that of the previous year (**Schedule 8**). There was also a corresponding increase in the number of certificates issued. Since the business registration fee has been waived consecutively for 2 years (from 1 August 2009 to 31 July 2011), business registration fees collected in 2010-11 reduced to \$35.8 million (**Figure 16**).

Figure 15 Active business registration

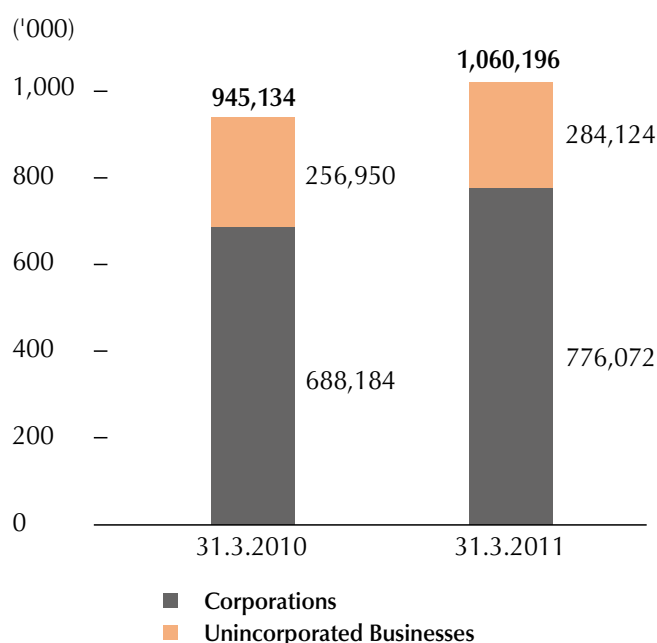


Figure 16 Certificates issued and fees collected

	2009-10	2010-11	Increase/Decrease
Number of certificates issued (Main and Branch)	999,029	1,125,127	+12.6%
Fees (inclusive of penalties) (\$m)	578.7	35.8	-93.8%

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 11,839, representing a decrease of 16.9% from the previous year.

Where an application for exemption is not allowed, the business operator may appeal to the Administrative Appeals Board. No appeal case was received by the Board in 2010-11 (Figure 17).

Figure 17 Appeals to the Administrative Appeals Board

	2009-10 Number	2010-11 Number
Awaiting hearing at the beginning of the year	0	0
Add: Lodged during the year	1	0
	1	0
Less: Disposed of -		
Appeal allowed	0	0
Appeal dismissed	0	0
Appeal withdrawn	1	0
	1	0
Awaiting hearing at the end of the year	0	0

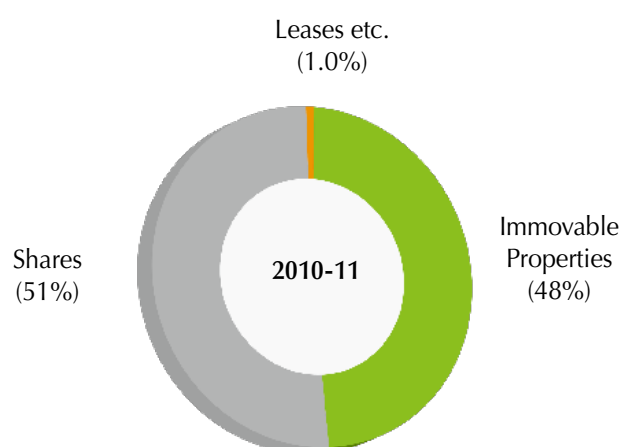
Stamp Duty

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

With the robust economic recovery and persistent low interest rates, the property market was hectic in 2010-11. Both the number and value of property transactions recorded a significant increase. The stamp duty collections from property transactions in 2010-11 increased remarkably by 50.9% to \$24.5 billion. The hectic property market also caused stamp duty collections from leases and other documents to climb to \$624 million, a substantial 46.8% increase from 2009-10.

The Hong Kong stock market remained active. The stamp duty collections from share transactions in 2010-11 recorded \$25.9 billion, an increase of 0.6% from the previous year.

Overall, there was an increase of 20% in total stamp duty collections during the year and the number of documents being stamped also increased by 18.6% (Figure 19 and Schedule 9).

Figure 18 Composition of stamp duty collections**Figure 19 Stamp duty collections**

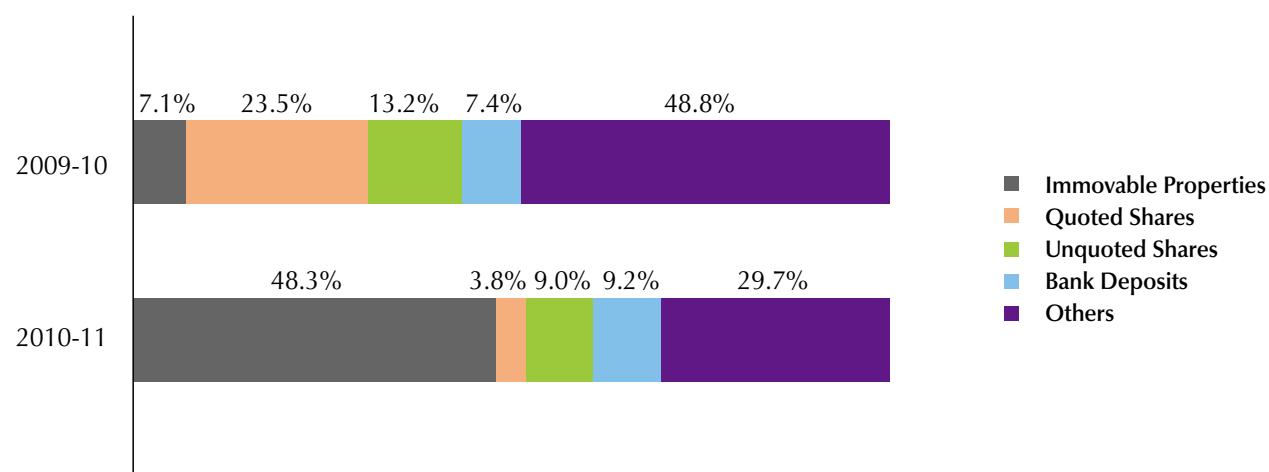
	2009-10 (\$m)	2010-11 (\$m)	Increase/Decrease
Immovable Properties	16,237	24,504	+50.9%
Shares	25,721	25,877	+0.6%
Leases and other documents	425	624	+46.8%
Total	42,383	51,005	+20.3%

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 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 to 1,564 in 2010-11, a drop of 7.5% from 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**

	2009-10	2010-11
New cases	<u>1,691</u>	<u>1,564</u>
Cases finalised		
Dutiable	71	66
Exempt	<u>1,611</u>	<u>1,538</u>
	<u>1,682</u>	<u>1,604</u>

Estate duty of \$213 million was collected during the year (**Schedule 10**), an increase of \$28 million (15%) 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). \$150 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 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 2010-11, the rates of duty on horse racing, lotteries and football betting remained unchanged (**Figure 22**).

Figure 22 Rates of betting duty in 2010-11

		Rate
Horse race betting	Net stake receipts	
	the first \$11billion	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 2010-11, duty collections from horse racing, lotteries and football betting increased by 14.8%, 7.1% and 22.2% respectively (**Schedule 11**). Total betting duty collections in 2010-11 was 15.6% higher than the previous year (**Figure 23**).

Figure 23 Betting duty collections

	2009-10 (\$m)	2010-11 (\$m)	Increase/Decrease
Horse racing	8,291.7	9,516.0	+14.8%
Lotteries	1,497.4	1,604.1	+7.1%
Football betting	2,978.0	3,638.9	+22.2%
Total	12,767.1	14,759.0	+15.6%

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 2010-11, there was an increase of 5% and 10% respectively in the number and the amount of TRCs sold under the “Electronic Tax Reserve Certificates Scheme” but a decrease of 2% and 1% respectively for the “SAYE Scheme” (**Schedule 12**). Overall, the total amount of TRCs sold increased by 7% (**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

