

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 2014-15, earnings and profits tax assessed increased by \$14.4 billion (7.7%) (**Schedule 2**) as compared with the previous year. The total amount of duties and fees collected also rose significantly by \$36.9 billion (61.5%).

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 2014-15, the tax rates for corporations and non-corporate persons remained unchanged at 16.5% and 15% respectively.

Reflecting the growth in banking sector, the amount of profits tax assessed in 2014-15 was \$132.2 billion, which was \$9.3 billion (7.6%) more than that of the previous year (**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 2013-14, the property and financial sectors together contributed 44% and the distribution sector generated 25% (**Figure 6**).

Figure 5 Profits tax assessed

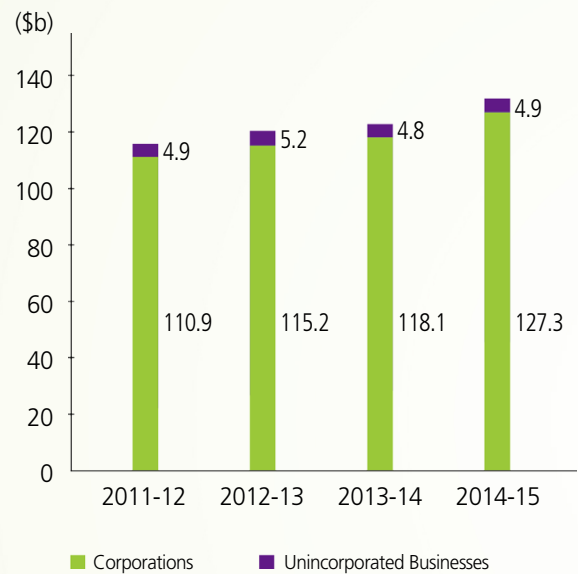
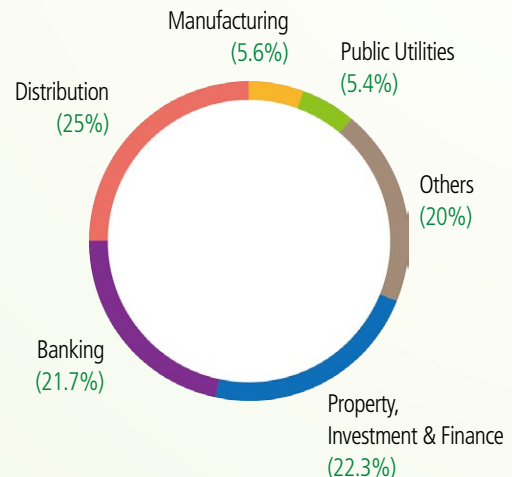


Figure 6 Ratios of corporation profits tax assessed under 2013-14 final assessments by business sectors



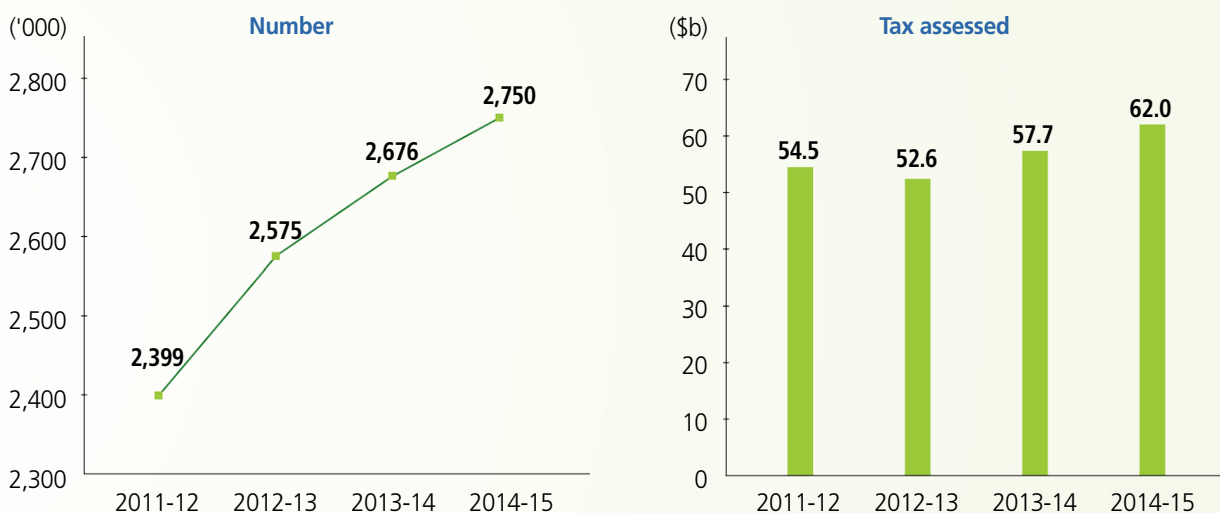


Salaries Tax

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 2014-15, the standard rate remained unchanged at 15%.

As compared with the previous year, the continued growth in wages and earnings has resulted in a 2.8% increase in the number of salaries tax assessments made during 2014-15 and a 7.5% increase in the total amount of tax assessed (**Figure 7**).

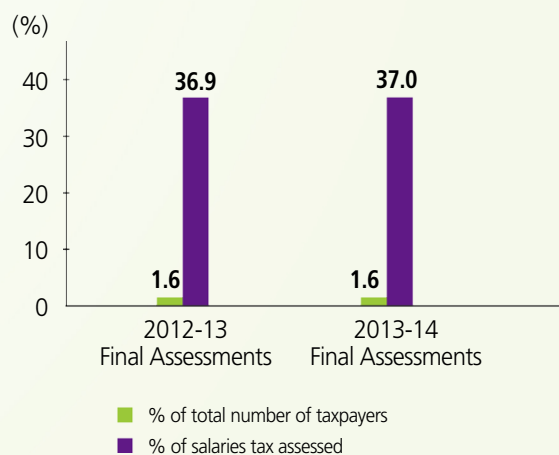
Figure 7 Salaries tax assessments



Analyses of salaries tax assessments and allowances granted in respect of taxpayers at various income levels for the year of assessment 2013-14 are provided in **Schedules 5** and **6**.

For the year of assessment 2013-14, the number of standard rate taxpayers increased by 1,561 to 27,851. These taxpayers together contributed 37% of the salaries tax assessed, a slight increase of 0.1% compared with last year (**Figure 8**).

Figure 8 Standard rate taxpayers



Notification Requirements of Employers

Apart from reporting commencements and cessations of employment, employers are required to prepare annual employer's returns to report the emoluments of each of their employees. During the year, 376,397 employers filed employer's returns with the Department.

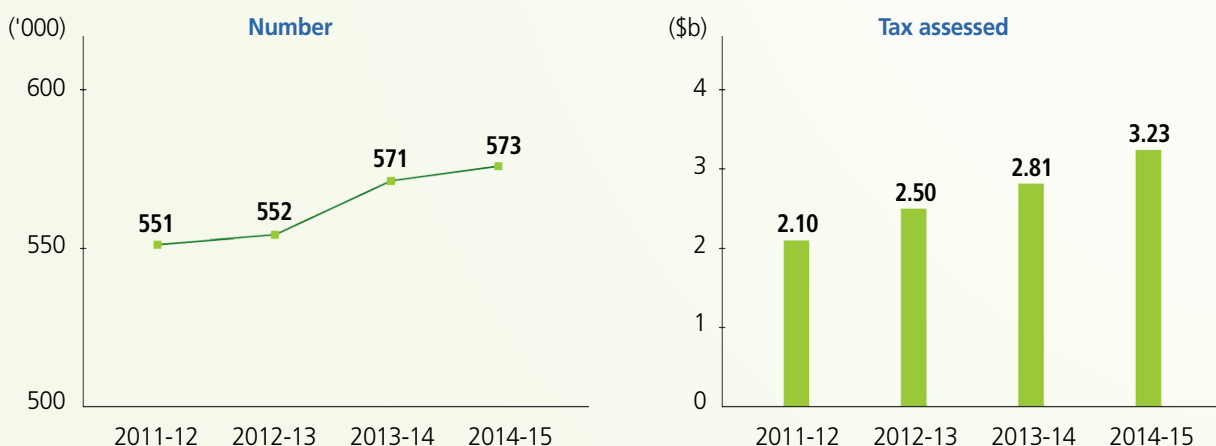
The Department provides e-Seminars and disseminates tax information to employers on the IRD website to help them understand the relevant statutory requirements. The contents cover completion of employer's returns, employer's obligations and answers to frequently asked questions. Employers can also obtain 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 2014-15, the standard rate remained unchanged at 15%. 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 2014-15 was slightly more than that in the previous year by 0.4%. Reflecting a continuous rising trend in rent, the total amount of property tax assessed increased by 14.9% (**Figure 9**).

Figure 9 Property tax assessments



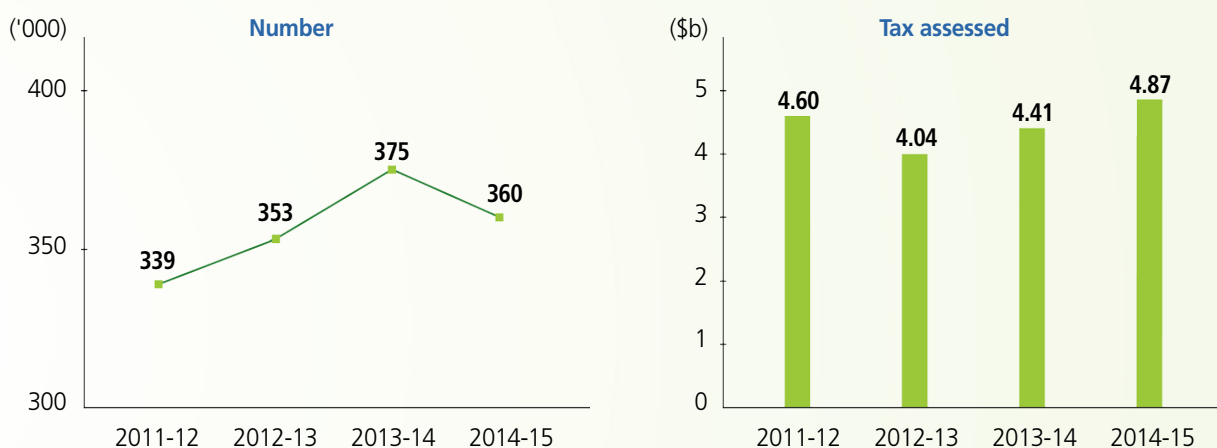


Personal Assessment

An individual may elect for 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 deduction of all allowances, are assessed at the graduated tax rates. 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 2014-15 decreased by 4% but the amount of tax assessed was 10.4% 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 2015, Hong Kong has signed comprehensive double taxation agreements (covering various types of income) with 32 jurisdictions. They are Belgium, Thailand, the Mainland of China, Luxembourg, Vietnam, Brunei, the Netherlands, Indonesia, Hungary, Kuwait, Austria, the United Kingdom, Ireland, Liechtenstein, France, Japan, New Zealand, Switzerland, Portugal, Spain, the Czech Republic, Malta, Jersey, Malaysia, Mexico, Canada, Italy, Guernsey, Qatar, Korea, South Africa and the United Arab Emirates.

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 2015, Hong Kong has signed tax information exchange agreements with 7 jurisdictions. They are the United States of America, Denmark, the Faroes, Greenland, Iceland, Norway and Sweden.

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 2014-15, the Department completed the processing of 33 advance ruling applications (**Figure 11**). Most of the applications were for rulings on profits tax matters.

Figure 11 Advance rulings

	2013-14 Number	2014-15 Number
Awaiting decision at the beginning of the year	11	7
Add: Applications received during the year	<u>35</u>	<u>46</u>
	46	53
Less: Disposed of -		
Rulings made	25	19
Applications withdrawn	6	9
Rulings declined	<u>8</u>	<u>5</u>
	39	33
Awaiting decision at the end of the year	<u><u>7</u></u>	<u><u>20</u></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 CDTAs.

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 2015, the Department has received quite a number of applications in relation to CDTA with different partners including the Mainland of China, Japan, Malaysia and the Netherlands. 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 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 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, which are not agreed, are ultimately referred to the Commissioner for determination. During 2014-15, the Department completed the processing of 79,742 objections (**Figure 12**).

Figure 12 Objections

	2013-14 Number			2014-15 Number		
Being processed at the beginning of the year	31,165			32,871		
Add: Received during the year	<u>78,349</u>			<u>82,293</u>		
	109,514			115,164		
Less: Disposed of -						
Settled without determination	76,229			79,323		
Determinations:						
Assessments confirmed	243			246		
Assessments reduced	86			93		
Assessments increased	72			66		
Assessments annulled	13	414	<u>76,643</u>	14	419	<u>79,742</u>
Being processed at the end of the year	<u>32,871</u>			<u>35,422</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 2015, the Board consisted of a chairman and 8 deputy chairmen, who have legal training and experience, as well as 70 other members. During 2014-15, the Board settled 56 appeal cases (**Figure 13**).



Figure 13 Appeals to the Board of Review

	Number		
Awaiting hearing or decision as at 1 April 2014			53
Add: Received during the year			51
			104
Less: Disposed of -			
Withdrawn		28	
Decided:			
Assessments confirmed	19		
Assessments reduced in full	1		
Assessments reduced in part	3		
Assessments increased	5	28	56
			48
Awaiting hearing or decision as at 31 March 2015			48

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 arising from its decision for the opinion of the Court of First Instance. In addition, according to section 67 of the Inland Revenue Ordinance whereby a notice of appeal has been given to the Board, if both parties so agree, an appeal can be transferred to the Court of First Instance direct without a hearing before the Board.

During 2014-15, the Court of First Instance, by the parties' consent, ordered to discontinue a case concerning the Inland Revenue Ordinance on whether deduction of marketing commission was caught by the anti-avoidance provisions.

On the other hand, the Court of Appeal handed down judgments on appeal by the taxpayers in 2 related cases. The issue involved in these 2 related cases was whether certain profits were trading in nature and not exempt from profits tax. The Court of Appeal ruled against the Commissioner. The Commissioner has applied for leave to appeal to the Court of Final Appeal against judgments of the Court of Appeal. As regards the remaining case brought forward from 2013-14, it remained unsettled as at 31 March 2015.

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 2014-15, the Court of Final Appeal handed down judgment on 1 case dismissing the Commissioner's appeal concerning balancing charges on certain fixed assets.

Figure 14 sets out the statistics concerning appeals to the Courts during 2014-15.

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 2014	4	3	1	8
Add: Lodged during the year	1	0	0	1
	<u>5</u>	<u>3</u>	<u>1</u>	9
Less: Disposed of -				
Decided	0	2	1	3
Discontinued	1	0	0	1
	<u>4</u>	<u>1</u>	<u>0</u>	5
Awaiting hearing or decision as at 31 March 2015	<u>4</u>	<u>1</u>	<u>0</u>	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 2015 stood at 1,405,702, which was an all time high. It was 53,047 more than that as at 31 March 2014 (**Figure 15**).

Business registration certificates are generally valid for one year, but businesses may elect for 3-year certificates. As at 31 March 2015, 18,318 businesses held 3-year certificates.

As the waiver of business registration fees expired on 1 April 2014, the amount of business registration fees and penalties collected in 2014-15 increased significantly to \$2,481 million, an increase of 3,276% compared with last year (**Figure 16**). Business registration statistics are set out in **Schedule 8**.

Figure 15 Number of business registrations

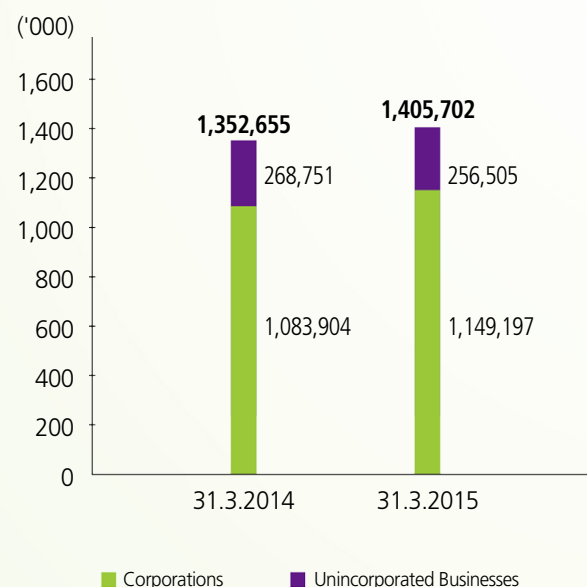




Figure 16 Business registration statistics

	2013-14	2014-15	Increase/Decrease
Number of certificates with fees collected (Main and Branch)	1,403,124	1,382,214	-1.5%
Fees (inclusive of penalties) (\$m)	73.5	2,481	+3,276%

Under the Business Registration Ordinance, a small business with average monthly sales or receipts below a specified limit, i.e. \$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. Due to the reinstatement of business registration fees in 2014-15, the number of successful applications for exemption in 2014-15 rose to 13,834, representing an increase of 41% . No appeal case was received by the Board during the year (**Figure 17**).

Figure 17 Appeals to the Administrative Appeals Board

	2013-14 Number	2014-15 Number
Awaiting hearing at the beginning of the year	0	0
Add: Lodged during the year	<u>1</u>	<u>0</u>
	1	0
Less: Disposed of -		
Appeal allowed	0	0
Appeal dismissed	0	0
Appeal withdrawn	<u>1</u>	<u>0</u>
	1	0
Awaiting hearing at the end of the year	<u><u>0</u></u>	<u><u>0</u></u>

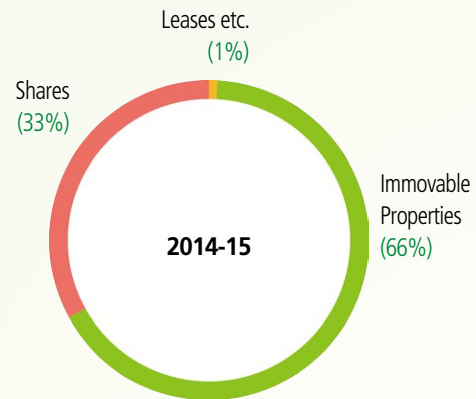
Stamp Duty

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

The Stamp Duty (Amendment) (No.2) Ordinance 2014 ("Amendment Ordinance") was gazetted on 25 July 2014. The Amendment Ordinance introduced higher Scale 1 rates of ad valorem stamp duty ("AVD") on certain

instruments relating to immovable properties executed on or after 23 February 2013; and advanced the charging of AVD on instruments relating to non-residential property transactions from the conveyance on sale to the agreement for sale executed on or after that date. Besides, upon gazettal of the Amendment Ordinance, certain instruments relating to immovable properties executed during the transitional period (from 23 February 2013 to 24 July 2014) were chargeable to additional stamp duty. All these factors have contributed to the sharp increase in the stamp duty collections from property transactions in 2014-15 by 171% to \$49.2 billion.

Figure 18 Composition of stamp duty collections



Further, the number of securities transactions has increased noticeably in 2014-15. The stamp duty collections from share transactions in 2014-15 were \$24.9 billion, representing an increase of 10% from the previous year.

Overall, there was an increase of 80% in the total stamp duty collected during the year, whilst the number of documents stamped slightly decreased by below 1% (**Figure 19** and **Schedule 9**).

Figure 19 Stamp duty collections

	2013-14 (\$m)	2014-15 (\$m)	Increase
Immovable Properties	18,161	49,215	+171%
Shares	22,704	24,885	+10%
Leases and other documents	650	745	+15%
Total	41,515	74,845	+80%

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. The estate duty chargeable in respect of estates



of persons dying 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 897 in 2014-15, a drop of 6.2% 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

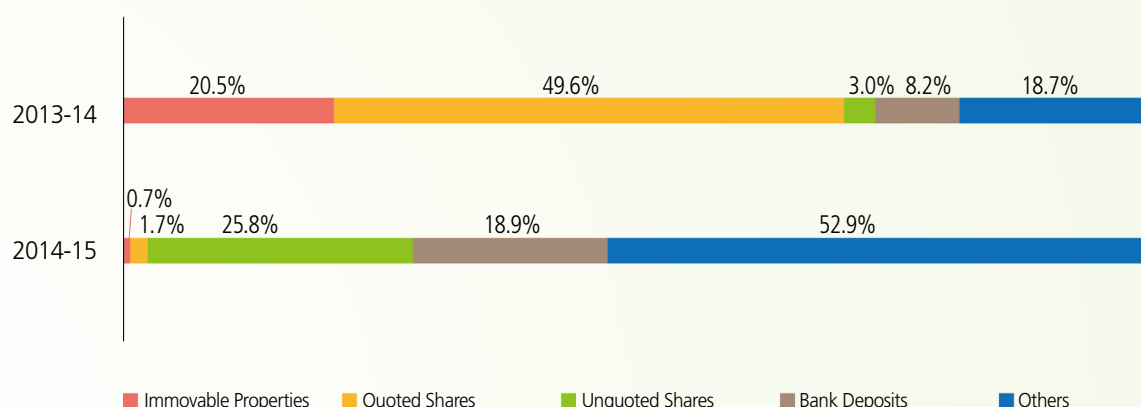


Figure 21 Estate duty cases

	2013-14 Number	2014-15 Number
New cases	956	897
Cases finalised		
- Dutiable	21	7
- Exempt	961	868
	982	875

Estate duty of \$178 million was collected during the year (**Schedule 10**), a decrease of \$210 million (54%) 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). \$46.7 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 2014-15, the rates of betting duty on these betting activities remained unchanged (**Figure 22**).

Figure 22 Rates of betting duty in 2014-15

		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 2014-15 was 7.8% higher than the previous year. All types of betting duty collections increased and the largest percentage increase came from football betting duties (**Figure 23** and **Schedule 11**).

Figure 23 Betting duty collections

	2013-14 (\$m)	2014-15 (\$m)	Increase
Horse racing	11,658.0	11,932.5	+2.4%
Mark Six lotteries	1,931.2	1,970.3	+2.0%
Football betting	4,477.2	5,576.5	+24.6%
Total	18,066.4	19,479.3	+7.8%



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 2014-15, there was an increase of 4.3% and 6.4% respectively in the number and the amount of TRCs sold under the “Electronic Tax Reserve Certificates Scheme” but a slight decrease of 0.9% in the number and an increase of 3.4% in the amount of TRCs sold under the “SAYE Scheme” (**Schedule 12**). Overall, the total amount of TRCs sold increased by 5.9% (**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

