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 2020-21, earnings and profits tax assessed decreased by $22.4 billion (9.3%) (**Schedule 2**) as compared with the previous year. The total amount of duties and fees collected increased by $20.5 billion (23%).

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 2019-20, the two-tiered profits tax rates remain unchanged. The profits tax rate for the first $2 million of assessable profits is 8.25% for corporations and 7.5% for unincorporated businesses. Profits above that amount are subject to the tax rate of 16.5% and 15% respectively. For two or more connected entities, only one of them may elect for the two-tiered profits tax rates. The amount of profits tax assessed in 2020-21 was $138.9 billion, which was $22.2 billion (13.8%) less 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 on corporations for the year of assessment 2019-20, the property, financial and banking sectors together contributed 52.5% and the distribution sector generated 19.9% (**Figure 6**).

Figure 5 Profits tax assessed

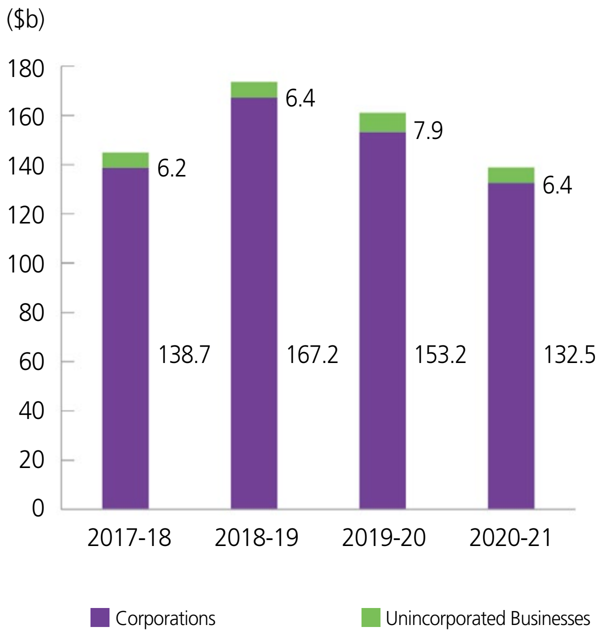
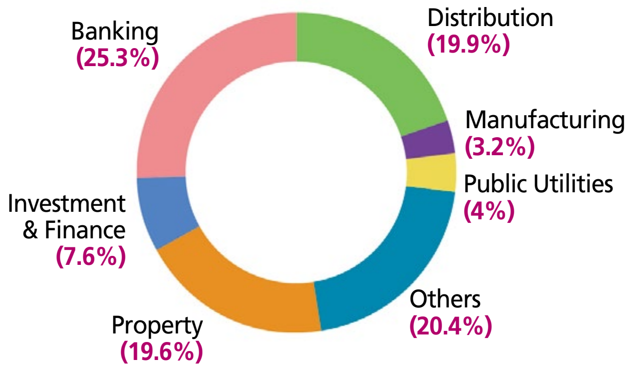


Figure 6 Ratios of corporation profits tax assessed under 2019-20 final assessments by business sectors

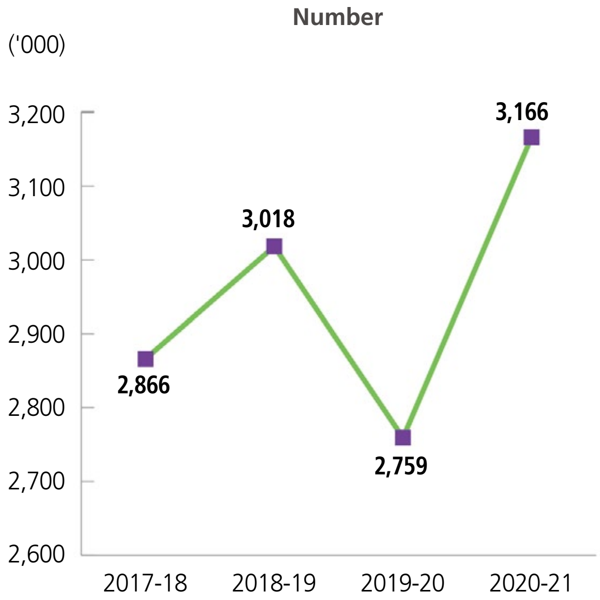


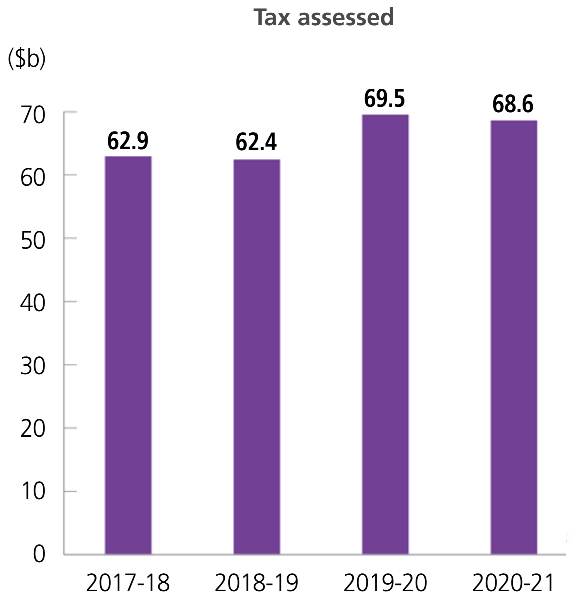
Salaries Tax

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 (15%) on the net total income (without deduction of allowances) of the individual concerned.

As compared with the previous year, the number of salaries tax assessments made during 2020-21 increased by 14.8%. However, the increase in unemployment rate has resulted in reduction of income chargeable to tax which led to a 1.3% decrease in the 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 2019-20 are provided in **Schedules 5** and **6**.

For the year of assessment 2019-20, the number of standard rate taxpayers increased by 410 to 25,099. These taxpayers together contributed 35.7% of the final salaries tax assessed, a drop of 1.9% compared with last year (**Figure 8**).

Figure 8 Salaries Tax - standard rate taxpayers

Percentage of total number of taxpayers

Year of Assessment	2018-19	2019-20
Total number of taxpayers	1,837,824	**1,909,611**
Standard rate taxpayers	24,689	**25,099**
Percentage	1.3%	**1.3%**

Figure 8 Salaries Tax - standard rate taxpayers (continued)

Percentage of total final tax assessed

Year of Assessment	2018-19	2019-20
Total final tax assessed ($M)	63,258	**65,683**
Final tax contributed by standard rate taxpayers ($M)	23,800	**23,442**
Percentage	37.6%	**35.7%**

Notification Requirements of Employers

Employers are required to notify the Department of commencements and cessations of employment as well as employees' impending departure from Hong Kong for more than 1 month. Besides, employers are required to prepare annual employer's returns to report the emoluments of each of their employees. During the year, 393,996 employers filed employer's returns with the Department.

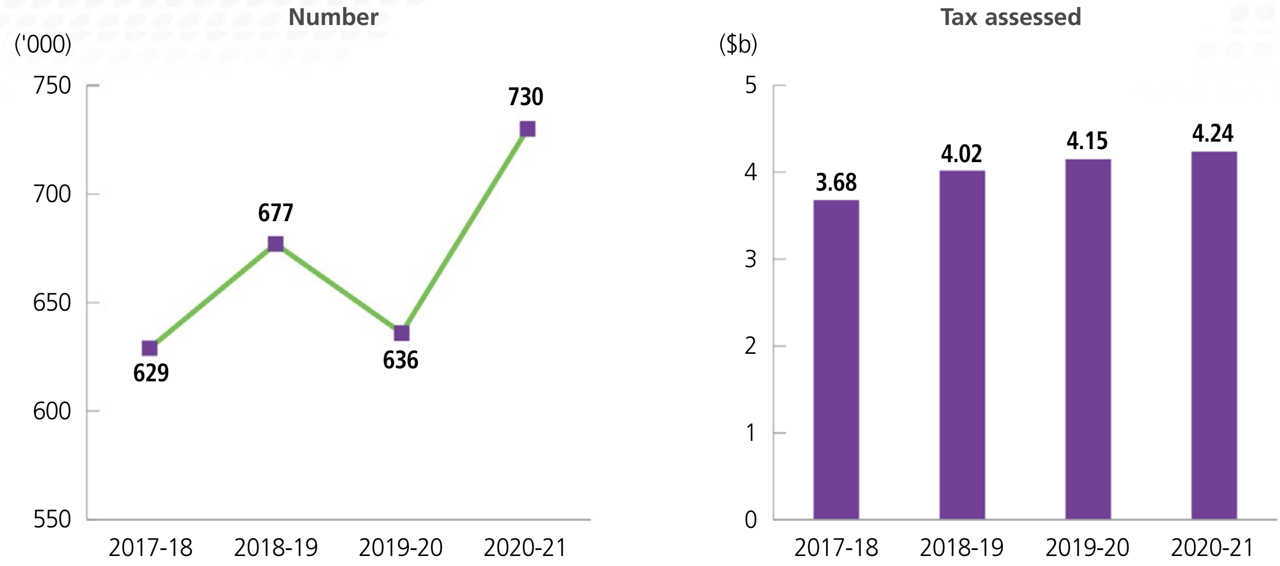
The Department provides e-Seminars and disseminates tax information to employers on the IRD website to help them understand the relevant statutory requirements. The contents cover completion of employer's returns, employer's obligations and answers to frequently asked questions. Employers can also obtain 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 (15%) in respect of the net assessable value of the property. Rents received from properties solely owned by individuals should be declared in Tax Returns - Individuals (BIR60); whilst rents received from properties jointly owned or co-owned by individuals or properties held by corporations / bodies of persons should be declared in Property Tax Returns (BIR57 / BIR58). Property owners that pay property tax in respect of premises used for their businesses can have such payments set off against their profits tax liabilities. For corporations, income arising from properties owned by them is also subject to profits tax at the corporation rate. To obviate the need for yearly set-off of property tax against profits tax, a corporation can apply for exemption of property tax on the property concerned.

Statistics on the classification of properties and classification by number of owners, based on the records of the Department, are provided in **Schedule 7**. The number of assessments made in 2020-21 was more than that in the previous year by 14.8%. The amount of property tax assessed increased by 2.2% (**Figure 9**).

Figure 9 Property tax assessments

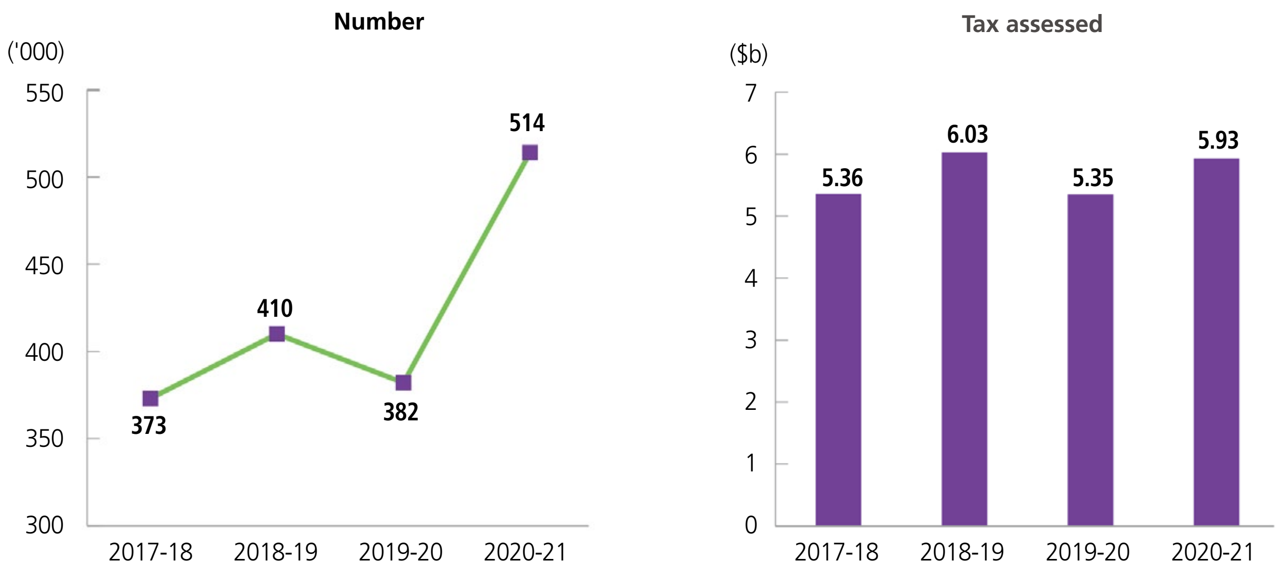


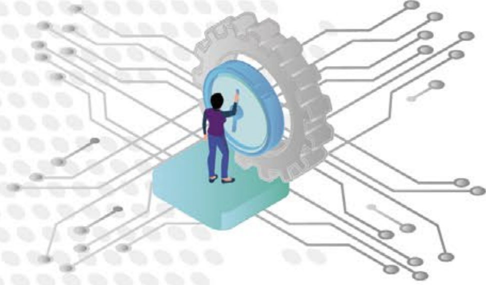
Personal Assessment

If an individual has income chargeable to profits tax and/or property tax, the individual may elect for personal assessment. Under personal assessment, all the incomes of the taxpayer are aggregated and, after deduction of allowances, are assessed at the progressive tax rates applicable to salaries tax. From the year of assessment 2018-19 onwards, a married person may elect for personal assessment separately from or jointly with the person's spouse. In appropriate circumstances, this would reduce the tax liability of the taxpayer or the total tax liability of the taxpayer and the taxpayer's spouse.

As compared with the previous year, the number of personal assessments made in 2020-21 increased by 34.6% and the amount of tax assessed was 10.8% 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. A wide 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 2021, Hong Kong has signed comprehensive avoidance of double taxation agreements / arrangements (CDTAs) with 45 jurisdictions, which cover various types of income. They are Austria, Belarus, Belgium, Brunei, Cambodia, Canada, the Mainland of China, the Czech Republic, Estonia, Finland, France, Georgia, Guernsey, Hungary, India, Indonesia, Ireland, Italy, Japan, Jersey, Korea, Kuwait, Latvia, Liechtenstein, Luxembourg, Macao Special Administrative Region, Malaysia, Malta, Mexico, the Netherlands, New Zealand, Pakistan, Portugal, Qatar, Romania, Russia, Saudi Arabia, Serbia, South Africa, Spain, Switzerland, Thailand, the United Arab Emirates, the United Kingdom and Vietnam.

To comply with the international standard on exchange of information, Hong Kong entered into tax information exchange agreements (TIEAs) with appropriate partners since 2014. As at 31 March 2021, Hong Kong has signed TIEAs with 7 jurisdictions. They are Denmark, the Faroes, Greenland, Iceland, Norway, Sweden and the United States of America.

Hong Kong is committed to enhancing tax transparency and preventing tax evasion. The Central People's Government has deposited a declaration to the Organisation for Economic Cooperation and Development (OECD) for extending the application of the Convention on Mutual Administrative Assistance in Tax Matters (the Convention) to Hong Kong. With the entry into force of the Convention in Hong Kong on 1 September 2018, Hong Kong can now ride on a multilateral platform under the Convention to implement various forms of administrative co-operation in the assessment and collection of taxes, including exchange of information on request, automatic exchange of financial account information and automatic exchange of country-by-country reports and spontaneous exchange of information on tax rulings under the base erosion and profit shifting package promulgated by the OECD.

Advance Pricing Arrangement

An Advance Pricing Arrangement (APA) is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria for the determination of the transfer pricing for those transactions over a fixed period of time. It provides a tool for multinational enterprises to manage and mitigate the transfer pricing risk on a prospective basis.

A unilateral APA is an arrangement between the Commissioner and a person concerning the transfer pricing of controlled transactions. As the APA process does not involve the agreement with a 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 the competent authority of a CDTA partner concerning the transfer pricing of controlled transactions. It provides certainty to a person 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 and introduced a statutory APA regime in July 2018. Up to 31 March 2021, the Department has received quite a number of unilateral and bilateral APA applications which involve CDTA with different partners including the Mainland of China, Italy, Japan, Korea, Malaysia, the Netherlands, Thailand and the United Kingdom. These cases are currently under different stages of the APA programme and a few of them have already been completed.

Automatic Exchange of Financial Account Information

For the purpose of enhancing tax transparency and combating cross-border tax evasion, the OECD released in July 2014 a new international standard for automatic exchange of financial account information in tax matters (AEOI). In September 2014, Hong Kong indicated its support for implementing AEOI on a reciprocal basis with appropriate partners with a view to commencing the first exchanges in 2018. So far, over 100 jurisdictions have committed to implementing this international standard.

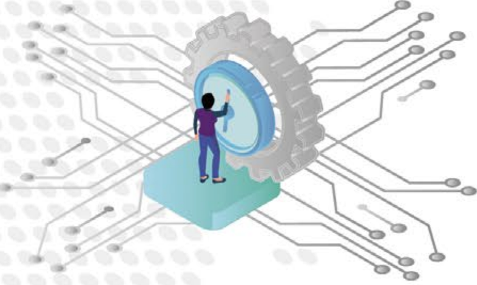
Hong Kong put in place a legislative framework for implementing AEOI in 2016. Furthermore, the Department has developed the AEOI Portal to facilitate reporting financial institutions to file their Financial Account Information Returns and fulfill other obligations related to AEOI. In 2020-21, compound penalties were imposed on four reporting financial institutions for their failure to submit Financial Account Information Returns on time.

Hong Kong will only conduct AEOI with a reportable jurisdiction when an arrangement is in place with the reportable jurisdiction concerned to provide the basis for exchange. Hong Kong first adopted a bilateral basis in implementing AEOI. Later, after the Convention came into force in Hong Kong on 1 September 2018, Hong Kong has been able to take a multilateral approach in implementing AEOI. Hong Kong's network for tax information exchange has been expanded accordingly.

Up to 2020, Hong Kong smoothly completed three rounds of AEOI with other jurisdictions through the OECD Common Transmission system.

Automatic Exchange of Country-by-Country Reports

Hong Kong put in place a legislative framework for implementing the country-by-country reporting in 2018. The requirements for filing a country-by-country return only apply to a multinational enterprise group whose annual consolidated group revenue reaches the specified threshold amount of HK$6.8 billion. The primary



obligation of filing a country-by-country return is on the ultimate parent entity resident in Hong Kong. A Hong Kong entity of a reportable group whose ultimate parent entity is not resident in Hong Kong will be subject to a secondary obligation of filing if certain conditions are met. The mandatory filing of country-by-country return commenced for accounting period beginning on or after 1 January 2018.

To facilitate Hong Kong entities to comply with their reporting obligations and implementation of automatic exchange of country-by-country reports, the Department has launched the CbC Reporting Portal for submission of returns and data files. Hong Kong has smoothly completed the automatic exchange of country-by-country reports for 2018 and 2019 with exchange partners.

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 $45,000 for a ruling concerning the application of the "Territorial Source Principle" in a profits tax case, or $15,000 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 2020-21, the Department completed the processing of 25 advance ruling applications (**Figure 11**). Most of the applications were for rulings on profits tax matters.

Figure 11 Advance rulings

		2019-20 Number		**2020-21 Number**
Awaiting decision at the beginning of the year		11		**27**
Add: Applications received during the year		33		**16**
		44		**43**
Less: Disposed of -				
Rulings made	14		**16**	
Applications withdrawn	2		**7**	
Rulings declined	1	17	**2**	**25**
Awaiting decision at the end of the year		27		**18**

Objections

A taxpayer who is aggrieved by an assessment may lodge a notice of objection to the Commissioner within the prescribed time limit. If the objection is against an estimated assessment raised in the absence of a tax return, a properly completed return, together with the supporting accounts where applicable, must also be accompanied with the notice of objection. A significant proportion of the objections received each year arise from estimated assessments. Most of these objections are settled promptly by reference to the returns subsequently received. Many of the other types of objections are also settled by agreement between the taxpayers and the assessors concerned. Only relatively few objections are ultimately referred to the Commissioner for determination. During 2020-21, the Department completed the processing of 79,551 objections (**Figure 12**).

Figure 12 Objections

			2019-20 Number			**2020-21 Number**
Being processed at the beginning of the year			43,233			**37,703**
Add: Received during the year			55,207			**83,219**
			98,440			**120,922**
Less: Disposed of -						
Settled without determination		60,069			**78,833**	
Determinations:						
Assessments confirmed	353			**384**		
Assessments reduced	169			**183**		
Assessments increased	130			**139**		
Assessments annulled	16	668	60,737	**12**	**718**	**79,551**
Being processed at the end of the year			37,703			**41,371**

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 2021, the Board consisted of a chairman and 10 deputy chairmen, who have legal training and experience, as well as 65 members. During 2020-21, the Board settled 43 appeal cases (**Figure 13**).

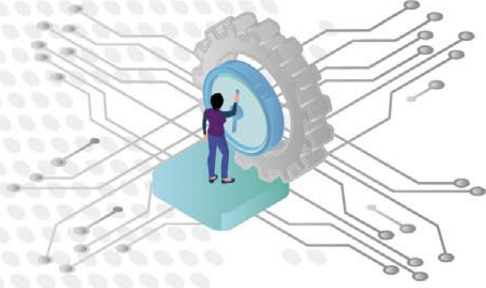


Figure 13 Appeals to the Board of Review

			Number
Awaiting hearing or decision as at 1 April 2020			29
Add: Received during the year			52
			81
Less: Disposed of -			
Withdrawn		20	
Decided:			
Assessments confirmed	5		
Assessments reduced in full	4		
Assessments reduced in part	6		
Assessments increased	8	23	43
Awaiting hearing or decision as at 31 March 2021			38

Appeals to the Courts

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

During 2020-21, the Court of First Instance handed down a judgment on appeal by the taxpayer concerning the deductibility of amortization of spectrum utilization fees. The Court of First Instance ruled against the taxpayer and the taxpayer has appealed to the Court of Appeal. The Court of First Instance also heard two tax appeal cases concerning computation of income derived from services rendered outside Hong Kong under section 8(1A)(c) of the Inland Revenue Ordinance and the chargeability of shares and dividends received during an employment.

During the year, the Court of Appeal did not hand down any judgment for any tax appeal case.

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 2020-21, there was no tax appeal to the Court of Final Appeal.

Figure 14 sets out the statistics concerning appeals to the Courts during 2020-21.

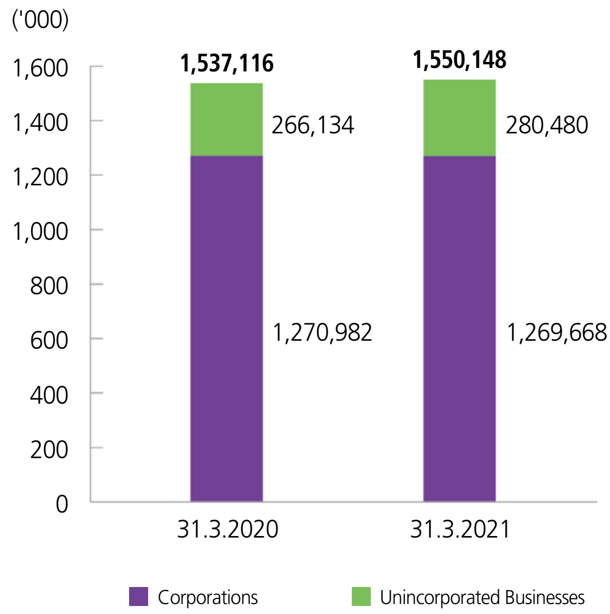
Figure 14 Appeals to the Courts

	Court of First Instance	Court of Appeal	Court of Final Appeal	**Total**
Awaiting hearing or decision as at 1 April 2020	6	0	0	**6**
Add: Lodged during the year	2	4	0	**6**
	8	4	0	**12**
Less: Disposed of	3	0	0	**3**
Awaiting hearing or decision as at 31 March 2021	5	4	0	**9**

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 2021 stood at 1,550,148. It was 13,032 more than that as at 31 March 2020 (**Figure 15**).

Figure 15 Number of business registrations



Business registration certificates are generally valid for one year, but businesses may elect for 3-year certificates. As at 31 March 2021, 27,478 businesses held 3-year certificates.

To help business enterprises, the Government waived the business registration fees for 2020-21. Businesses were still required to pay the levy on their business registration certificates. For a 1-year certificate, the levy was $250. For businesses electing for 3-year certificates, they were required to pay $3,200 for the business registration fees and $750 for the levy.

Businesses that were not required to renew their registration certificates in 2020-21 could obtain concessionary refunds if they had paid the registration fees for that year. Up to 31 March 2021, the Department had issued concessionary refunds to 18,257 businesses totaling $23 million.

Due to the waiver of business registration fees for the whole financial year 2020-21, the amount of business registration fees and penalties collected in 2020-21 was reduced to $73 million. It represents a significant decrease of 61.4% compared with last year, notwithstanding that 3.3% more certificates were paid (**Figure 16**). Business registration statistics are set out in **Schedule 8**.

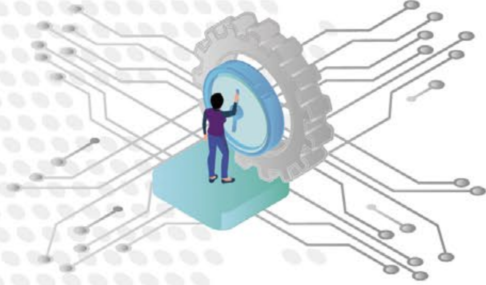


Figure 16 Business registration statistics

	2019-20	**2020-21**	Increase/Decrease
Number of certificates paid (Main and Branch)	1,536,705	**1,587,411**	+3.3%
Fees (inclusive of penalties) collected ($m)	189	**73**	-61.4%

Under the Business Registration Ordinance, a small business with average monthly sales or receipts below a specified limit ($10,000 for businesses deriving profits mainly from the sale of services, and $30,000 for other businesses) can apply for exemption from payment of the business registration fee and levy. Where an application for exemption is not allowed, the business operator may appeal to the Administrative Appeals Board. The number of exemptions granted during 2020-21 was 9,850, representing a decrease of 13.6% from the previous year. Only one appeal case was received by the Board during 2020-21 (**Figure 17**).

Figure 17 Appeals to the Administrative Appeals Board

		2019-20 Number		**2020-21 Number**
Awaiting hearing at the beginning of the year		1		**0**
Add: Lodged during the year		0		**1**
		1		**1**
Less: Disposed of -				
Appeal allowed	0		**0**	
Appeal dismissed	1		**0**	
Appeal withdrawn	0	1	**1**	**1**
Awaiting hearing at the end of the year		0		**0**

Stamp Duty

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

Overall, there was an increase of 32.5% ($21.8 billion) in the total stamp duty collection for the year 2020-21 (**Figure 19** and **Schedule 9**). The increase in the total stamp duty collection is attributable to the substantial increase in stamp duty collected from share transactions.

Figure 18 Composition of stamp duty collections

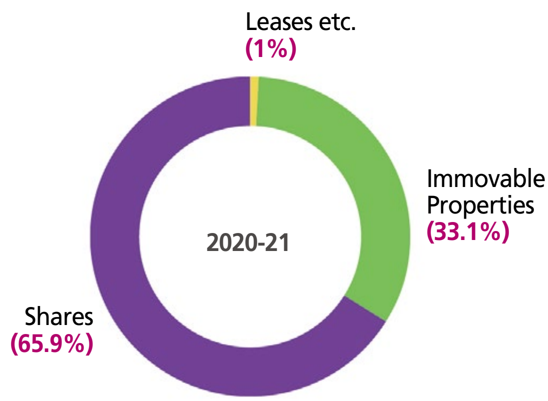


Figure 19 Stamp duty collections

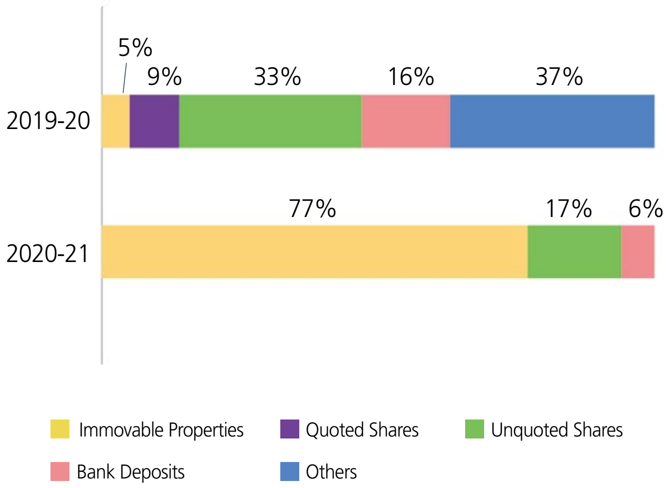
	2019-20 ($m)	**2020-21 ($m)**	Increase/ Decrease
Immovable Properties	33,071	**29,470**	-10.9%
Shares	33,231	**58,645**	+76.5%
Leases and other documents	896	**930**	+3.8%
Total	67,198	**89,045**	+32.5%

Estate Duty

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

The Revenue (Abolition of Estate Duty) Ordinance 2005 came into effect on 11 February 2006 abolishing estate duty in respect of persons who passed away on or after that date. The estate duty chargeable in respect of estates of persons died between the period 15 July 2005 to 10 February 2006, with the principal value exceeding $7.5 million, is reduced to a nominal amount of $100. The number of new cases stood at 356 in 2020-21, a decrease of 21.6% from the last year (**Figure 21**).

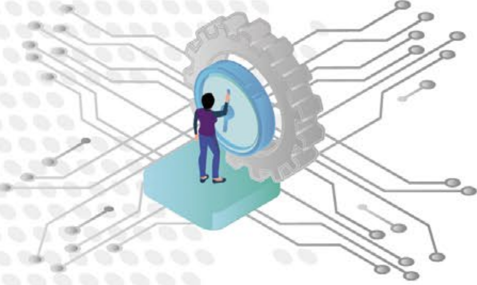
Figure 20 Composition of estates



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

Figure 21 Estate duty cases

	2019-20 Number	**2020-21 Number**
New cases	454	**356**
Cases finalised		
- Dutiable	7	**4**
- Exempt	448	**385**
	455	**389**



Estate duty of $7.4 million was collected during the year (**Schedule 10**), a decrease of $46.2 million (86.2%) 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). $32,000 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 2020-21, the rates of betting duty on these betting activities remained unchanged (**Figure 22**).

Figure 22 Rates of betting duty in 2020-21

		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 2020-21 was 5.2% lower than that of the previous year (**Figure 23** and **Schedule 11**).

Figure 23 Betting duty collections

	2019-20 ($m)	2020-21 ($m)	Increase/ Decrease
Horse racing	12,341.1	**12,893.5**	+4.5%
Mark Six lotteries	1,931.6	**459.0**	-76.2%
Football betting	7,739.5	**7,524.6**	-2.8%
Total	22,012.2	**20,877.1**	-5.2%

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 2020-21, there was an increase of 4.2% in the number but a decrease of 4% in the amount of TRCs sold under the "Electronic Tax Reserve Certificates Scheme". For the "SAYE Scheme", an increase of 3.1% and 1.2% respectively was noted in the number and amount of TRCs sold (**Schedule 12**). Overall, the total amount of TRCs sold decreased by 3.1% (**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