

CONTROLLING OFFICER'S REPLY

(Question Serial No. 3004)

Head: (76) Inland Revenue Department
Subhead (No. & title): ()
Programme: (2) Collection
Controlling Officer: Commissioner of Inland Revenue (TAM Tai Pang)
Director of Bureau: Secretary for Financial Services and the Treasury

Question:

In recent years, many members of the public entered into property transactions through transfer of company shares to avoid paying stamp duties chargeable on the conveyance of properties, including the Buyer's Stamp Duty (BSD). The Inland Revenue Department (IRD) has indicated that it would make vigorous efforts to investigate such cases and recover profits tax. In this regard, I would like to ask:

1. Regarding the companies incorporated in Hong Kong (local companies) and those incorporated outside Hong Kong (non-local companies), how many companies of each of these two categories have paid the BSD for each of the past 5 years? Please advise the (a) total amounts, (b) average amounts, (c) highest amounts of BSD paid by such local companies and non-local companies respectively.
2. Please provide the numbers of cases involving the payment of BSD by local companies and non-local companies respectively for each of the past 5 years by the respective amounts of BSD they paid.
3. Regarding the suspected cases involving property transactions carried out through transfer of company shares, how many cases have been opened for investigation for each of the past 5 years? Of such cases, how many of them have been ascertained as chargeable to profits tax/ additional profits tax? Please advise the total amounts of additional tax chargeable on such cases and the average amounts of tax charged; as well as the number of cases under investigation.
4. Of the 10 cases with the highest amounts of profits tax/ additional profits tax charged, please advise the amounts of tax/ additional tax charged and the transaction values involved in each case. For these cases, please also advise the amount of tax receivable by the IRD if it is calculated as stamp duty charged on normal conveyance of properties, or alternatively, calculated in the form of corporate profits tax. Regarding such cases, how much tax has been received by the IRD which was calculated on the basis of company share transfer?

Asked by: Hon CHAN Pierre (LegCo internal reference no.: 152)

Reply:

- The statistics on the Buyer's Stamp Duty ("BSD") paid by local and non-local companies, for each of the past five financial years are shown in the table below:

Financial Year	BSD Total Amount		BSD Average Amount		BSD Highest Amount	
	Local companies (\$million) [number of cases]	Non-local companies (\$million) [number of cases]	Local companies (\$million)	Non-local companies (\$million)	Local companies (\$million)	Non-local companies (\$million)
2016-17	3,094.2 [959]	426.4 [78]	3.23	5.47	420.00	162.00
2017-18	6,099.4 [2 978]	646.2 [248]	2.05	2.61	174.58	73.95
2018-19	5,939.7 [1 992]	696.4 [187]	2.98	3.72	889.35	99.98
2019-20	3,898.0 [1 423]	454.8 [200]	2.74	2.27	218.09	44.70
2020-21 (As at 28 February 2021)	1,703.0 [423]	707.1 [97]	4.03	7.29	384.90	127.50

- The numbers of cases involving the payment of BSD by local companies and non-local companies respectively for each of the past five financial years by the respective amounts they paid are as follows:

Financial Year	Amount of BSD payable (\$)	Local companies (Number of cases)	Non-local companies (Number of cases)
2016-17	Below 1,000,000	453	17
	1,000,000 to below 2,000,000	244	50
	2,000,000 to below 3,000,000	114	3
	3,000,000 to below 4,000,000	34	0
	4,000,000 to below 5,000,000	27	1
	5,000,000 or above	87	7
2017-18	Below 1,000,000	1 582	67
	1,000,000 to below 2,000,000	693	117
	2,000,000 to below 3,000,000	244	14
	3,000,000 to below 4,000,000	135	13
	4,000,000 to below 5,000,000	59	18
	5,000,000 or above	265	19

Financial Year	Amount of BSD payable (\$)	Local companies (Number of cases)	Non-local companies (Number of cases)
2018-19	Below 1,000,000	644	20
	1,000,000 to below 2,000,000	783	121
	2,000,000 to below 3,000,000	237	17
	3,000,000 to below 4,000,000	83	9
	4,000,000 to below 5,000,000	60	2
	5,000,000 or above	185	18
2019-20	Below 1,000,000	453	22
	1,000,000 to below 2,000,000	520	139
	2,000,000 to below 3,000,000	153	23
	3,000,000 to below 4,000,000	78	6
	4,000,000 to below 5,000,000	58	0
	5,000,000 or above	161	10
2020-21 (As at 28 February 2021)	Below 1,000,000	146	13
	1,000,000 to below 2,000,000	180	35
	2,000,000 to below 3,000,000	36	15
	3,000,000 to below 4,000,000	16	2
	4,000,000 to below 5,000,000	12	1
	5,000,000 or above	33	31

3. In the past five financial years, the statistics on the number of suspected speculation follow-up cases involving transfer of shares in property holding companies and completed review cases recorded by the IRD are shown in the table below:

Financial Year	Number of follow-up cases	Number of completed review cases	Cases subject to profits tax	
			Number of cases	Amount of tax assessed (\$ million)
2016-17	871	859	39	21.04
2017-18	1 414	1 364	36	33.66
2018-19	1 324	1 061	35	19.21
2019-20	788	374	7	5.49
2020-21 (As at 28 February 2021)	643	239	0	0

When stamping the transfer of shares in private companies, the Stamp Office of IRD will screen out cases in which properties constituted the principal assets of the company and pass these cases to the Profits Tax Unit for review. The Profits Tax Unit will examine each case and the relevant facts thoroughly, including the length of the holding period of the shares, the motive for acquiring the shares and the financial arrangements entered into, and determine whether the share transfer amounts to a trading activity and is subject to profits tax.

4. The IRD does not maintain the statistics and analyses requested, and thus cannot provide the relevant information.