

## chapter 3

# Assessing Functions

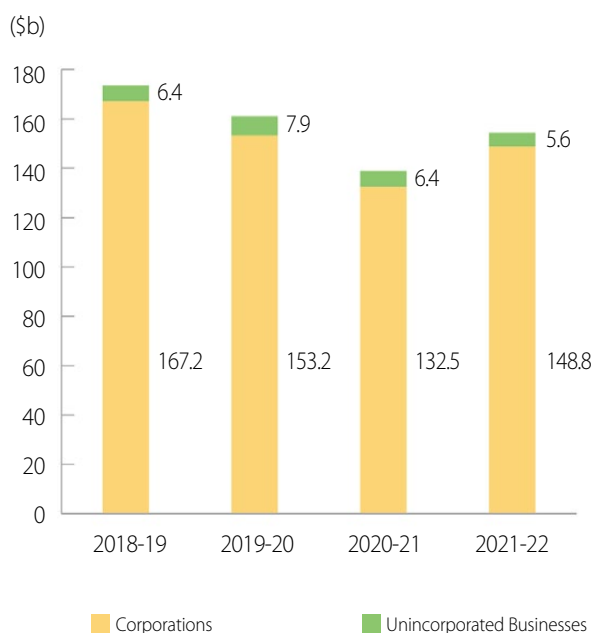
The Department raises revenue through taxes, duties and fees in accordance with the relevant legislation. Earnings and profits tax are assessed by reference to the incomes / profits of the taxpayers in the previous year, whereas duties and fees are charged at the time the relevant activities occur. For 2021-22, earnings and profits tax assessed increased by \$24.6 billion (11.3%) (**Schedule 2**) as compared with the previous year. The total amount of duties and fees collected increased by \$15.2 billion (13.8%).

### Profits Tax

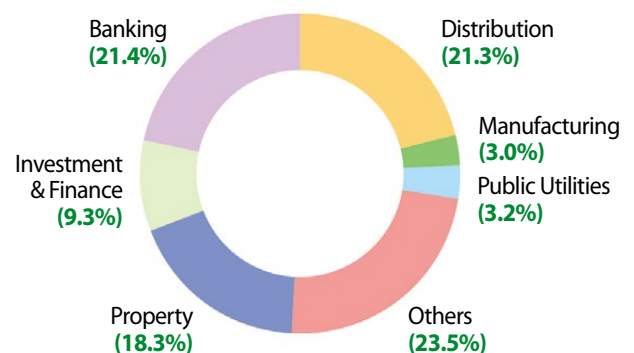
Profits tax is levied on individuals, corporations, bodies of persons and partnerships, in respect of assessable profits arising in or derived from Hong Kong. For the year of assessment 2020-21, the two-tiered profits tax rates remain unchanged. The profits tax rate for the first \$2 million of assessable 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 2021-22 was \$154.4 billion, which was \$15.5 billion (11.1%) 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 on corporations for the year of assessment 2020-21, the property, financial and banking sectors together contributed 49% and the distribution sector generated 21.3% (**Figure 6**).

**Figure 5 Profits tax assessed**



**Figure 6 Ratios of corporation profits tax assessed under 2020-21 final assessments by business sectors**

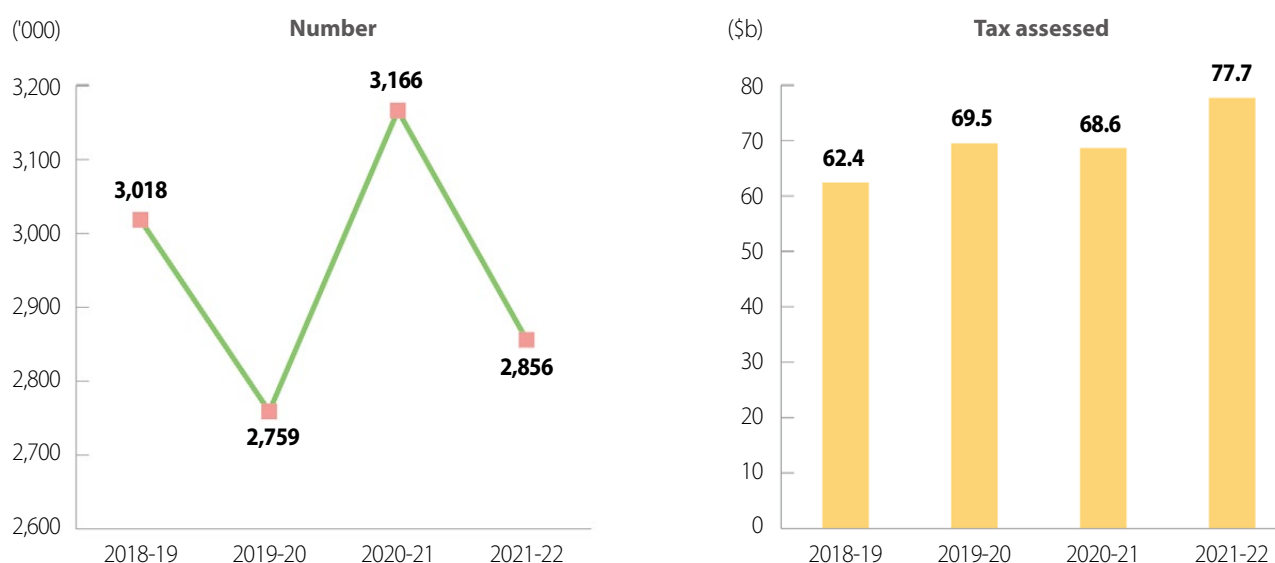


## Salaries Tax

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 2021-22 decreased by 9.8%. Although the increase in unemployment rate had led to a reduction of income chargeable to tax for the year of assessment 2020-21, the lowering of the ceiling of tax reduction for each salaries tax case by 50% to \$10,000 finally resulted in a 13.3% growth 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 2020-21 are provided in **Schedules 5 and 6**.

For the year of assessment 2020-21, the number of standard rate taxpayers increased by 197 to 25,296. These taxpayers together contributed 34.9% of the final salaries tax assessed, a drop of 0.8% compared with last year (**Figure 8**).

**Figure 8 Salaries Tax - standard rate taxpayers**

### Percentage of total number of taxpayers

Year of Assessment	2019-20	2020-21
Total number of taxpayers	1,909,611	<b>1,821,130</b>
Standard rate taxpayers	25,099	<b>25,296</b>
Percentage	1.3%	<b>1.4%</b>

**Figure 8 Salaries Tax - standard rate taxpayers (continued)**

**Percentage of total final tax assessed**

Year of Assessment	2019-20	2020-21
Total final tax assessed (\$M)	65,683	<b>75,708</b>
Final tax contributed by standard rate taxpayers (\$M)	23,442	<b>26,395</b>
Percentage	35.7%	<b>34.9%</b>

**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, 405,951 employers filed employer's returns with the Department.

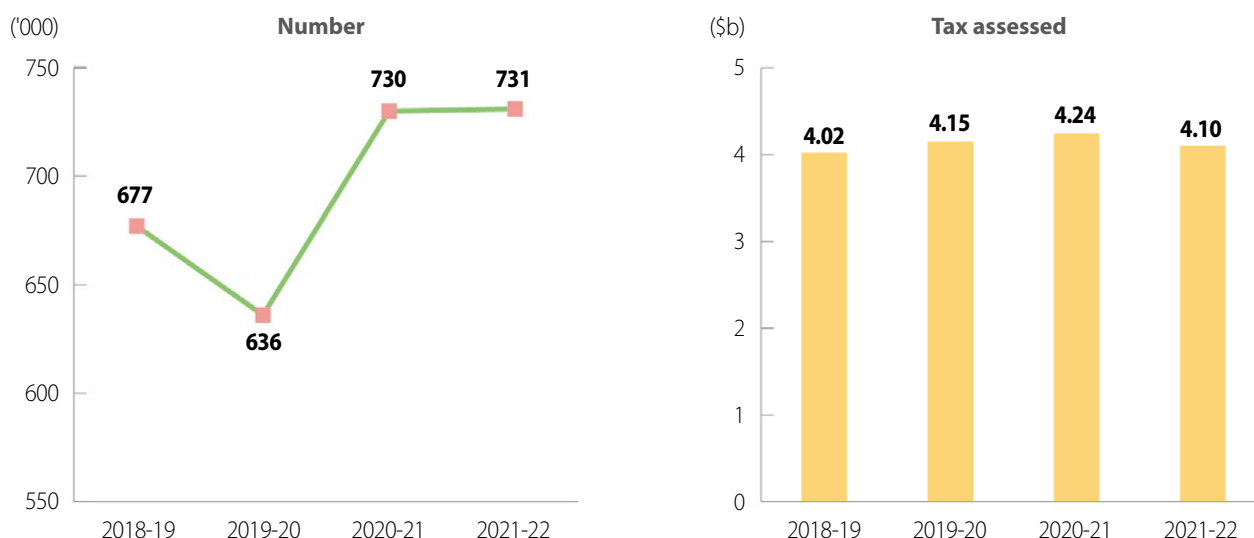
The Department provides e-Seminars and disseminates tax information to employers on the IRD website to help them understand the relevant statutory requirements. The contents cover completion of employer's returns, employer's obligations and answers to frequently asked questions. Employers can also obtain 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 2021-22 was slightly more than that in the previous year by 0.1%. The amount of property tax assessed decreased by 3.3% (**Figure 9**).

**Figure 9 Property tax assessments**

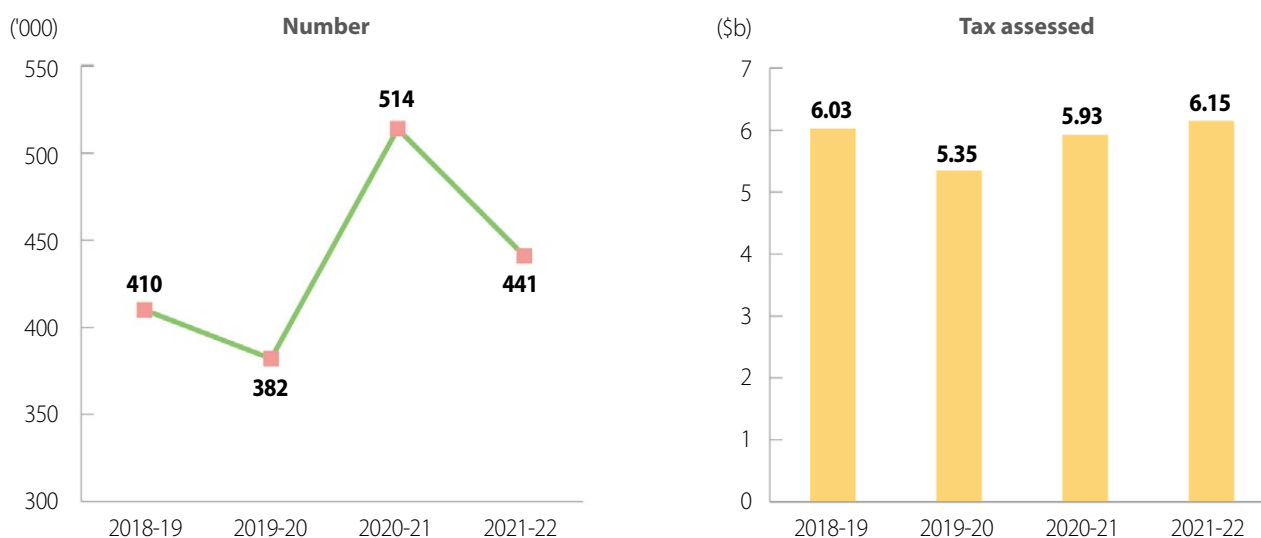


## Personal Assessment

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 2021-22 decreased by 14.2% and the amount of tax assessed was 3.7% higher (**Figure 10**).

**Figure 10 Assessments made under personal assessment**



## 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 2021-22, the Department completed the processing of 23 advance ruling applications (**Figure 11**). Most of the applications were for rulings on profits tax matters.

**Figure 11 Advance rulings**

	2020-21 Number	2021-22 Number
Awaiting decision at the beginning of the year	27	<b>18</b>
Add: Applications received during the year	16	<b>13</b>
	<u>43</u>	<u><b>31</b></u>
Less: Disposed of -		
Rulings made	16	<b>11</b>
Applications withdrawn	7	<b>12</b>
Rulings declined	<u>2</u>	<u><b>0</b></u>
	25	<b>23</b>
Awaiting decision at the end of the year	<u>18</u>	<u><b>8</b></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 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 2021-22, the Department completed the processing of 97,429 objections (**Figure 12**).

**Figure 12**    **Objections**

	2020-21 Number			2021-22 Number		
Being processed at the beginning of the year			37,703			<b>41,371</b>
Add: Received during the year			<u>83,219</u>			<b>97,762</b>
			120,922			<b>139,133</b>
Less: Disposed of -						
Settled without determination		78,833			<b>96,985</b>	
Determinations:						
Assessments confirmed	384			<b>214</b>		
Assessments reduced	183			<b>138</b>		
Assessments increased	139			<b>90</b>		
Assessments annulled	<u>12</u>	<u>718</u>	<u>79,551</u>	<u>2</u>	<u>444</u>	<b>97,429</b>
Being processed at the end of the year			<u>41,371</u>			<b>41,704</b>

## 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 2022, the Board consisted of a chairman and 9 deputy chairmen, who have legal training and experience, as well as 67 members. During 2021-22, the Board settled 28 appeal cases (**Figure 13**).

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

	Number		
Awaiting hearing or decision as at 1 April 2021			38
Add: Received during the year			<u>36</u>
			74
Less: Disposed of -			
Withdrawn		10	
Decided:			
Assessments confirmed	9		
Assessments reduced in full	1		
Assessments reduced in part	4		
Assessments increased	<u>4</u>	<u>18</u>	<u>28</u>
Awaiting hearing or decision as at 31 March 2022			<u>46</u>

## 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 could 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 2021-22, the Court of First Instance handed down 4 judgments concerning salaries tax. The Court ruled in favour of 2 taxpayers 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 awards and dividends received during an employment. In another case, certain share awards received by the taxpayer upon termination of employment were held not chargeable to tax. The Court also allowed a taxpayer's appeal in respect of certain income for services rendered during rest days. The Commissioner filed appeals to the Court of Appeal against the Court's judgments on the 4 cases.

During the year, 2 appeals lodged by the Commissioner to the Court of Appeal in respect of orders to hold over payment of tax under objection conditional upon the purchase of tax reserve certificates were dismissed. In 2 other appeals, the Court ruled respectively that certain share awards received upon termination of employment and a sum for services rendered after termination of employment were not chargeable to tax.

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 2021-22, leave was granted to the Commissioner to appeal to the Court of Final Appeal concerning penalties imposed on directors under section 82A of the Inland Revenue Ordinance.

**Figure 14** sets out the statistics concerning appeals to the Courts during 2021-22.

**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 2021	5	4	0	<b>9</b>
Add: Lodged during the year	1	4	1	<b>6</b>
	6	8	1	<b>15</b>
Less: Disposed of	4	4	0	<b>8</b>
Awaiting hearing or decision as at 31 March 2022	2	4	1	<b>7</b>

## 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 2022 stood at 1,547,595. It was 2,553 less than that as at 31 March 2021 (**Figure 15**).

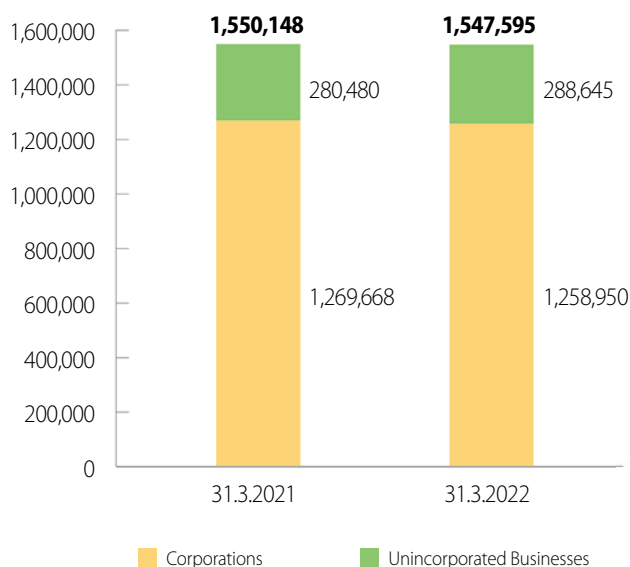
Business registration certificates are generally valid for one year, but businesses may elect for 3-year certificates. As at 31 March 2022, 26,967 businesses held 3-year certificates.

To help business enterprises, the Government waived the business registration fees for 2021-22. 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 levies.

Businesses that were not required to renew their registration certificates in 2021-22 could obtain concessionary refunds if they had paid the registration fees for that year. Up to 31 March 2022, the Department had issued concessionary refunds to 17,706 businesses totaling \$20 million.

Due to the waiver of business registration fees for the whole financial year 2021-22, the amount of business registration fees and penalties collected in 2021-22 was reduced to \$57 million. It represents a decrease of 21.9% 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

	2020-21	2021-22	Decrease
Number of certificates paid (Main and Branch)	1,587,411	<b>1,578,054</b>	-0.6%
Fees (inclusive of penalties) collected (\$m)	73	<b>57</b>	-21.9%

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 2021-22 was 9,808, representing a decrease of 0.4% from the previous year. Only one appeal case was received by the Board during 2021-22 (**Figure 17**).

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

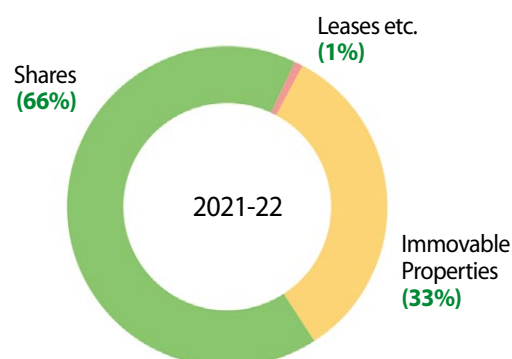
	2020-21 Number	2021-22 Number
Awaiting hearing at the beginning of the year	0	0
Add: Lodged during the year	1	1
	<u>1</u>	<u>1</u>
Less: Disposed of -		
Appeal allowed	0	0
Appeal dismissed	0	0
Appeal withdrawn	1	1
	<u>1</u>	<u>1</u>
Awaiting hearing at the end of the year	<u>0</u>	<u>0</u>

## 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 11.9% (\$10.6 billion) in the total stamp duty collection for the year 2021-22 (**Figure 19** and **Schedule 9**). The increase in the total stamp duty collection is attributable to the increase in stamp duty collected from share transactions and property transactions.

**Figure 18 Composition of stamp duty collections**



**Figure 19 Stamp duty collections**

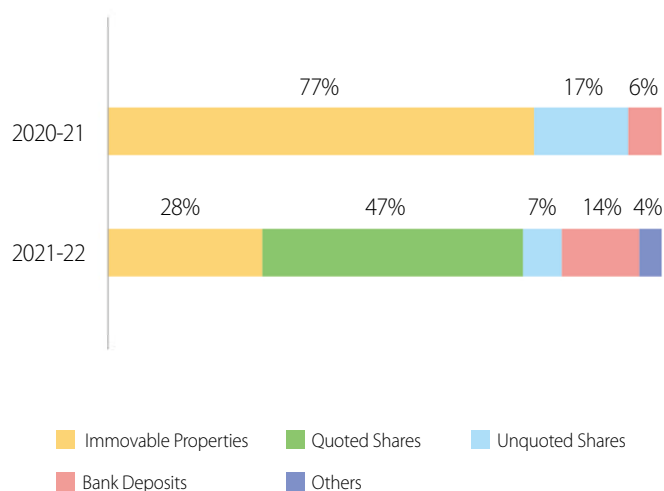
	2020-21 (\$m)	2021-22 (\$m)	Increase/ Decrease
Immovable Properties	29,470	<b>32,843</b>	+11.4%
Shares	58,645	<b>65,921</b>	+12.4%
Leases and other documents	930	<b>913</b>	-1.8%
Total	89,045	<b>99,677</b>	+11.9%

## 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 355 in 2021-22, a decrease of 0.3% 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**

	2020-21 Number	2021-22 Number
New cases	356	355
Cases finalised		
- Dutiable	4	5
- Exempt	385	354
	389	359

Estate duty of \$1.95 million was collected during the year (**Schedule 10**), a decrease of \$5.44 million (73.6%) 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). \$33,000 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 2021-22, the rates of betting duty on these betting activities remained unchanged (**Figure 22**).

**Figure 22 Rates of betting duty in 2021-22**

			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 2021-22 was 21.8% higher than that of the previous year (**Figure 23** and **Schedule 11**).

**Figure 23 Betting duty collections**

	2020-21 (\$m)	2021-22 (\$m)	Increase
Horse racing	12,893.5	<b>14,405.8</b>	+11.7%
Mark Six lotteries	459.0	<b>1,525.4</b>	+232.3%
Football betting	7,524.6	<b>9,501.0</b>	+26.3%
Total	20,877.1	<b>25,432.2</b>	+21.8%

## 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 2021-22, the number and amount of TRCs sold under the “Electronic Tax Reserve Certificates Scheme” decreased by 6.9% and 6% respectively. For the “SAYE Scheme”, there was a decrease of 6% in the number but an increase of 0.7% in the amount of TRCs sold (**Schedule 12**). Overall, the total amount of TRCs sold decreased by 4.9% (**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**

