

## **ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE**

### **HEAD 76 – INLAND REVENUE DEPARTMENT Subhead 000 Operational expenses**

Members are invited to recommend to the Finance Committee the creation of the following supernumerary post in the Inland Revenue Department for a period of three years from 1 April 2011 to 31 March 2014 –

1 Chief Assessor<sup>1</sup>  
(D1) (\$99,400 - \$108,650)

### **PROBLEM**

The Inland Revenue Department (IRD) needs dedicated directorate support to undertake the implementation of a number of initiatives in relation to the expansion of the Comprehensive Avoidance of Double Taxation Agreement (CDTA) network of Hong Kong.

### **PROPOSAL**

2. We propose to create one supernumerary post of Chief Assessor (CA) (D1) in the Tax Treaty Section (TT Section) of IRD for a period of three years with effect from 1 April 2011.

**/JUSTIFICATION.....**

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<sup>1</sup> To be offset by the deletion of a non-directorate post.

## JUSTIFICATION

### Expansion of CDTA Network

3. It is our policy to expand Hong Kong's CDTA network with our major trading and investment partners as this will help improve the business environment and facilitate flows of trade, investment and talent between Hong Kong and the rest of the world. The expansion of CDTA network is of strategic importance to Hong Kong. It further enhances Hong Kong's position as an international business and financial centre, and reinforces Hong Kong's unique status as a springboard for investment into and out of the Mainland.

4. Despite our efforts to seek to sign CDTAs with our trading partners since 1998-99, the progress in the following decade was far from satisfactory with only five CDTAs signed<sup>2</sup>. A major obstacle in our CDTA negotiations was the then limitation in the Inland Revenue Ordinance which did not allow exchange of information (EoI) with treaty partners in the absence of a domestic tax interest in the information to be exchanged. Such legal hurdle rendered Hong Kong unable to adopt the latest international EoI standard of the Organisation for Economic Cooperation and Development (OECD). As a result, many jurisdictions, in particular OECD member countries which had already adopted the latest EoI standard, were not interested in undertaking CDTA negotiations with Hong Kong.

5. To break the deadlock with a view to entering into CDTAs with more jurisdictions, in 2005 and 2008, we consulted the business and professional sectors on the liberalisation of EoI under CDTAs. With the general support by the industry in the 2008 consultation, the Financial Secretary announced in the 2009-10 Budget our plan to put forward legislative proposals to align Hong Kong's EoI arrangements with the prevailing international standard. In March 2010, the Inland Revenue (Amendment) Ordinance 2010 came into operation, enabling Hong Kong to adopt the prevailing international standard on EoI.

6. Thereafter, we have received positive responses from our trading partners in commencing/resuming CDTA negotiations with Hong Kong. In nine months' time, we have made remarkable progress in expanding our CDTA network<sup>3</sup>.

/CDTA .....

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<sup>2</sup> We signed CDTAs with Belgium in 2003, with Thailand in 2005, with the Mainland China in 2006, with Luxembourg in 2007 and with Vietnam in 2008.

<sup>3</sup> From March to December 2010, we signed 13 new CDTAs with Brunei, the Netherlands, Indonesia, Hungary, Kuwait, Austria, United Kingdom, Ireland, Liechtenstein, France, Japan, New Zealand and Switzerland. Three other CDTAs were concluded. During the same period, we also upgraded the EoI arrangements in our existing CDTAs with the Mainland China and Luxembourg to the latest standard.

## CDTA Benefits

### *Enhancing the attractiveness of Hong Kong as a place for business and investment*

7. Although Hong Kong adopts the territorial concept of taxation and a local resident's income derived from sources outside Hong Kong would not be taxed in Hong Kong and hence would not be subject to double taxation, double taxation may occur where a foreign jurisdiction taxes its own residents' income derived from Hong Kong. Despite that many jurisdictions do provide their residents with unilateral tax relief for the Hong Kong tax they paid on income derived in Hong Kong, the existence of a CDTA will provide enhanced certainty and predictability over tax liabilities. The tax relief provided under a CDTA may also exceed the level provided unilaterally by a tax jurisdiction, thus reducing tax burdens on individuals and enterprises. All these benefits will help improve the business environment, facilitate cross-border flows of trade, investment and talent, and enhance the attractiveness of Hong Kong as an international city for business and investment. It is well recognized internationally that CDTAs will induce foreign direct investment (FDI). However, it is difficult to quantify the magnitude of FDI brought about by a CDTA as FDI may also be affected by a host of other factors, such as cyclical changes in the domestic and global economies, business opportunities, cost of business, political stability, etc.

### *Reducing tax burdens on individuals and enterprises*

8. In practice, CDTA provides tax savings to foreign companies doing business or foreign individuals working in Hong Kong. Under a CDTA, foreign companies or individuals in Hong Kong can claim tax credits in their home countries for profits or income earned and taxed in Hong Kong. Such benefit, coupled with our simple and low tax regime, provides added incentives for overseas companies to set up or expand their businesses and for overseas talent to work in Hong Kong, and reduces the tax burdens on enterprises and individuals.

9. On the other hand, under a CDTA, any overseas tax paid by a Hong Kong company or a Hong Kong resident shall be allowed as a deduction from the tax payable in respect of the same income in Hong Kong. The tax credit allowed by IRD increased from \$55.77 million in 2006-07 to \$104.47 million in 2009-10. Besides, income received by a Hong Kong resident from local employment exercised abroad will be exempted from overseas income tax if his aggregate stay in that overseas jurisdiction in any relevant 12-month period does not exceed 183 days. For the transport sector, Hong Kong airlines operating flights to our treaty partners will be taxed at Hong Kong's corporation tax rate, which is normally lower than that of our treaty partners. Profits from international shipping transport arising in our treaty partner jurisdictions and earned by Hong Kong residents could also be taxed at a lower rate or even be exempted from tax.

*/Lower .....*

*Lower withholding tax rates on passive income*

10. Where withholding tax is imposed on passive income like dividends, interest and royalties received by Hong Kong residents, under a CDTA, Hong Kong residents usually enjoy lower withholding tax rates on such income received from abroad.

**Need for a Supernumerary CA Post**

11. At present, the TT Section comprises three Senior Assessors and one Assessor with no dedicated supervisory support at the directorate level. All day-to-day supervisory support is now rendered by the Deputy Commissioner of Inland Revenue (Technical) (DCIR(T)), who is already fully stretched by the heavy workload of his other duties. The existing organisation of the TT Section is at

Encl. 1 Enclosure 1.

12. The TT Section is responsible for CDTA negotiations and implementation, including formulating and reviewing negotiation position; researching into the tax system of negotiation partners and their CDTA portfolios; conducting negotiations; arranging formal signing and ratification of CDTAs; resolving problems in connection with the implementation of CDTAs and liaising with treaty partners as appropriate; processing requests for EoI and applications for certificates of residency<sup>4</sup>; conducting mutual agreement procedure and arbitration; and maintaining and enhancing the database for double taxation relief claims.

13. As mentioned in paragraphs 5 and 6 above, the liberalisation of our EoI arrangements has been welcome by various trading partners of Hong Kong. To ride on this momentum, IRD has re-deployed internal resources to cope with the drastic increase in requests for starting/resuming CDTA negotiations. Since directorate resources are fully stretched, as an expedient, the two Deputy Commissioners of Inland Revenue (DCIRs) (D3) and the five Assistant Commissioners of Inland Revenue (ACIRs) (D2) have to, in addition to their existing schedules, take turns in leading the Hong Kong delegation in various negotiations with the support of the TT Section. Such makeshift arrangement, however, does not serve the best interest of Hong Kong in the long run. With the expected challenges ahead as well as substantial increase in workload as set out in the ensuing paragraphs, we consider it justifiable to create a supernumerary CA post to oversee the TT Section in a dedicated manner for a period of three years such that the organisational set-up could keep pace with the latest developments.

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<sup>4</sup> A CDTA signed between two Contracting Parties would normally cover residents of the two Parties only. For the purpose of enjoying any treaty benefits under a CDTA, a Contracting Party would require the issue of a certificate of residency by the other Contracting Party confirming that a person (whether a company or an individual) is a resident of that other Party in accordance with the provisions of that CDTA.

*To intensify our efforts in expanding Hong Kong's CDTA network*

14. Given the benefits of CDTA, it is imperative to intensify our efforts in expanding the CDTA network of Hong Kong so as to maintain the city's competitiveness. While the CDTA network may not be the sole determining factor in luring overseas investment and talent, it is certainly a positive add-on in enhancing the attractiveness of Hong Kong as a place for business and for work. In this regard, we note that the Mainland China and Singapore which are also keen to sharpen their competitive edges have entered into 91 and 63 CDTAs respectively.

15. Currently, among the top 20 trading partners of Hong Kong, we have concluded CDTAs with ten of them and started CDTA negotiations with four of the remaining ten. In the coming three years, we plan to hold on average one to two round(s) of negotiations per month with a view to concluding at least ten more CDTAs. With dedicated directorate leadership, we will be better placed to identify potential treaty partners and set negotiation priorities strategically.

16. By nature, international tax is a very specialised area. Heads of delegations of our negotiation partners are often dedicated officials from the relevant tax authorities or ministries of finance. This compares more favourably with our makeshift arrangement as mentioned in paragraph 13 above. With an increasing number of CDTA negotiations, it is ineffective for the delegation heads of Hong Kong to take turns to keep each other informed of the latest strategies and positions of our negotiation partners. Hence, there is an imminent need to have a dedicated directorate officer to take the lead in various CDTA negotiations, thereby ensuring a built-up expertise and focused skills on CDTA for coherently formulating and executing the treaty negotiation strategies and for resolving the complex issues involved in the negotiations.

17. In practice, CDTA negotiations require strategic planning and immense preparatory work which is both technical and resource-demanding. Prior to a negotiation, the TT Section has to conduct detailed research on the tax system and tax treaty policy of the negotiation partner. There is a need for directorate leadership in setting the broad directions for research, reviewing the adequacy of research conducted and formulating our negotiation strategies on the basis of the research findings. Taking into account the time required for preparatory work, the duration of negotiations, the need for internal consultation as well as the time

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required for reviewing the negotiation outcome for fine-tuning of our negotiation position if necessary, it usually takes at least three to four weeks' time before one round of negotiations could be concluded, not to mention the efforts required in corresponding with the negotiation partner in writing to exchange views and to seek necessary clarifications. The conclusion of a CDTA may take several rounds of negotiations. After conclusion of a CDTA, the TT Section needs to work in close collaboration with the treaty partner to translate the CDTA and to prepare for formal signing and ratification. As considerable time is required for preparation for and conducting negotiations, there is a need for a dedicated CA to oversee the work of the TT Section, thereby allowing the relevant DCIRs and ACIRs to focus on their existing schedules (see paragraph 29 below).

*To cope with the increasing efforts/complexity in the implementation of CDTAs*

18. As more CDTAs will take effect from 2011 onwards, we expect the workload at the implementation stage will increase, particularly the workload generated by the increase in EoI requests anticipated, thus calling for additional directorate input in supervising and ensuring the quality of the work of the TT Section. According to our informal enquiries with a number of our treaty partners, each of them receives an average of over 100 EoI requests each year. To safeguard the privacy of taxpayers and the confidentiality of information exchanged, the Inland Revenue (Disclosure of Information) Rules require that the decision on whether to accede to an EoI request has to be made by an authorised directorate officer personally. For EoI requests made under the latest standard, IRD may not possess the required information in the existing tax files and hence would need to make extra efforts to collect and scrutinise the information. Given the international practice that EoI is completed within 90 days upon request, there is a need for prompt and close supervision by a dedicated directorate officer on the proper statutory procedures before the requisite information is sent out. Additional directorate input is also essential to keep under constant review the effectiveness of our EoI regime.

19. The global trend that CDTAs are becoming increasingly sophisticated also necessitates stronger steer from the directorate level in the course of implementation. As more CDTAs will take effect from 2011 onwards, we expect the numbers of double taxation claims as well as disputed cases from taxpayers will increase. Besides, tax practitioners and taxpayers from time to time raise questions on the application of different CDTA provisions in individual cases. Hence, there is a need for enhanced directorate leadership for the TT Section so as to ensure that relevant issues are settled expeditiously. For any unresolved issues, the concerned taxpayer can request the two concerned tax administrations to raise the disputed case for discussions by virtue of the Mutual Agreement Procedure (MAP) article under CDTA. MAP is a time-consuming process and will often require face-to-face

/negotiations .....

negotiations. In addition to the standard MAP provisions, some of the CDTAs that we concluded recently even contain provisions on arbitration mechanism. Under such mechanism, when a disputed case arises and cannot be resolved by MAP, an independent arbitration board comprising members from revenue authorities of both sides will be set up to handle the case. Arbitration can be a time-consuming and complicated process. IRD will need to be represented by a directorate officer on such arbitration boards given the expertise and seniority required.

*To prepare for peer review by OECD Global Forum on Transparency and Exchange of Information for Tax Purposes*

20. The newly established Global Forum on Transparency and Exchange of Information for Tax Purposes under the auspices of the OECD, of which Hong Kong is a member, will conduct a two-phase peer review on Hong Kong by mid-2011 and by end-2012 respectively to assess whether Hong Kong meets the international standard on EoI. The peer review report will attract high-level political attention at the international level. It is of paramount importance that Hong Kong passes the peer review to avoid being labelled as a “tax haven” or else Hong Kong will be under severe criticism. Any negative perceptions on the transparency of our tax regime would tarnish Hong Kong’s reputation as an international financial centre and could lead to sanctions by other economies. As the issues under review straddle across different bureaux/departments, it is imperative that IRD devotes dedicated manpower support at the directorate level to coordinate input from relevant bureaux/departments, formulate Hong Kong’s responses and act as a focal point for effective communications with the Global Forum during the entire peer review process.

*To deliver new area of work related to Advance Pricing Arrangement (APA)*

21. There is an international trend for CDTA partners to enter into APAs. For example, as at October 2009, the Mainland China concluded nine APAs with other jurisdictions and has 50 APA negotiations in the pipeline. APAs are unilateral or multilateral arrangements made between taxpayers and the tax authorities in advance on the set of criteria for determination of transfer pricing with respect to cross-border transactions between related companies. APAs can avoid double taxation in advance, resolve transfer pricing issues and provide predictability for taxpayers. With pre-set guidelines on the apportionment of profits arising from cross-border transactions laid down in advance, APAs are conducive to the protection of public revenue. A network of APAs would also be beneficial to Hong Kong’s position as a regional headquarters for multinational companies and a platform for overseas investment into the Mainland.

22. Very often, APAs involve intensive and highly-technical negotiations with the taxpayer lodging APA request, one or more associated enterprises, and one or more tax authorities. In the coming years, IRD proposes to embark on the initiative of processing APA requests. In so doing, substantial information has to be collected and analysed, including comparable pricing information and methodology. Given the complexity of the issues involved, a dedicated officer at directorate level is necessary for providing high-level guidance in this area.

*To continue active participation in international exchanges on taxation matters*

23. Over the years, there has been a significant increase in IRD's involvement in international taxation matters. Active participation in international forum is instrumental to demonstrating our commitment to tax transparency and enhancing our international status. Liaison with the tax authorities of our treaty partners is also becoming more frequent than ever. Given the high-level liaison work required, there is a need for dedicated directorate support to ensure effective international exchanges and to respond timely to any new developments on taxation matters at the global level.

### **Duration of the Supernumerary CA Post**

24. The proposed creation of a supernumerary CA post is necessary for IRD to undertake the expanding scope of work mentioned in paragraphs 14 to 23 above. As we are at the inception stage in expanding our CDTA network, we propose to create the supernumerary post for three years and would review critically towards the end of the three-year period the need of this supernumerary post in the light of the latest circumstances. If an extension of the supernumerary post is considered necessary by then, the relevant Panel and the Establishment Subcommittee (ESC) will be consulted again.

### **Proposed Organisation Structure**

25. The proposed CA post will be designated as CA(TT) and the incumbent will report to DCIR(T). The proposed organisational structure of the TT Section is shown at Enclosure 2. The proposed job description of CA(TT) is at Enclosure 3.

Encl. 2  
Encl. 3

**/ALTERNATIVES .....**



**ALTERNATIVES CONSIDERED****Existing Organisation Structure**

26. IRD is currently divided into six units with the following major responsibilities –

<b>Unit</b>	<b>Main Responsibilities</b>
Unit 1	Assessment of profits tax for corporations and partnerships
Unit 2	Assessment of tax for individuals, including salaries tax, profits tax for sole-proprietors and property tax for sole owners
Unit 3	Collection and recovery of tax and miscellaneous levies, including stamp duty, betting duty, estate duty and business registration fee
Unit 4	Conducting in-depth investigation of suspected tax evasion cases and field audit
Headquarters Unit	<ul style="list-style-type: none"> <li>(a) Assessment of property tax on multiple owners and corporations, and tax processing of test and review files of individuals</li> <li>(b) Information systems management, including operation and maintenance of existing computer systems and development of new information systems</li> <li>(c) Bulk processing of returns and mails, despatching and archival of documents</li> <li>(d) Counter and telephone enquiry services</li> <li>(e) Training programmes</li> </ul>
Commissioner's Unit	<ul style="list-style-type: none"> <li>(a) Handling objections and appeals against tax assessments made to the Commissioner of Inland Revenue (D6), the Board of Review (Inland Revenue) and the Courts, as the case may be</li> <li>(b) Technical services, including legislative amendments, research, approval of tax exemption for charitable institutions, complaints handling, advance rulings and CDTA negotiations</li> <li>(c) Internal audit</li> </ul>

27. Each of Units 1 to 4 and the Headquarters Unit is headed by an ACIR. The Commissioner's Unit is under the direct supervision of the Commissioner and DCIR(T) with no underpinning ACIR. The existing organisation chart of IRD is at Enclosure 4.

Encl. 4

28. We have explored the possibility of maintaining the status quo. As mentioned in paragraph 11 above, all day-to-day supervisory support for the TT Section is now rendered by DCIR(T), who is already fully stretched by the heavy workload of his duties. The job description of DCIR(T) is at Enclosure 5. In the light of the expanding scope of work of the TT Section, we do not consider it cost-effective to continue having non-directorate officers reporting directly to DCIR(T) at D3 level as the latter would have to spend considerable time to manage the day-to-day operation of the TT Section, which could otherwise be gainfully spent on other planning and strategic tasks. Besides, maintaining the status quo would not be conducive to advancement on CDTA-related initiatives.

Encl. 5

29. We have also examined whether the two DCIRs and the five ACIRs could share out the CDTA-related duties. Similarly, it is found that all of them are already heavily laden with their own responsibilities. The main job duties of the two DCIRs and the five ACIRs are at Enclosures 5 to 11. The staff establishment and revenue collected by Units 1 to 4 are set out at Enclosure 12. On top of the normal range of duties, all five ACIRs will have important projects to deliver or major challenges to meet in the coming years –

Encls. 5-11  
Encl. 12

- (a) AC1 has to oversee the operation of Unit 1 in handling the rapid increase in profits tax files. Active business registrations stood at approximately 880 000 and 940 000 in March 2009 and March 2010 respectively. The number exceeded one million in September 2010 with a continued rising trend. Besides, AC1 has to be responsible for providing high-level guidance in resolving practical issues arising from a growing number of advance ruling applications, objections and contentious claims on technical issues;
- (b) AC2 has to monitor closely the upgrading of Unit 2's computer operating systems as well as the relevant functions involved in the migration from mainframe to midrange system under the System Infrastructure Enhancement (SIE) Project. The projects will span from early 2011 to 2016 and have significant impact on the operation of Unit 2;
- (c) AC3 has to face increasing workload in the implementation of the Special Stamp Duty, the simultaneous application for business registration and simultaneous notification of changes in company particulars, and the need to oversee the impact on revenue accounts upon implementation of Accrual Accounting in 2011-12;

/(d) .....

- (d) AC4 has to set strategic plans to enhance staff capability in tackling international tax evasion and avoidance and tackling issues arising from transfer pricing; and
- (e) AC(HQ) has to spearhead and manage the implementation of the SIE Project, which involves the upgrade of the network and all workstations in the department, the upgrade and enhancement of the Document Management Systems, and the transformation of a major part of the tax administration information systems of IRD from the mainframe platform to a new and modernized midrange platform. A non-recurrent funding of \$305 million for the project was approved by the Legislative Council (LegCo) in November 2010 and the project will last for six years until 2016.

Given the above, the ACIRs have no spare capacity to take up additional duties on CDTA, which are of specialised nature and involve complex issues.

30. Moreover, we have critically examined the possibility of re-deploying a CA internally to take up the various CDTA responsibilities. However, since all existing CAs are already fully engaged in their respective schedules, it is considered operationally infeasible to re-deploy any of them to undertake CDTA-related tasks without adversely affecting the discharge of their original duties. The major duties of existing CAs are provided at Enclosure 13.

Encl. 13

## **FINANCIAL IMPLICATIONS**

31. The proposed creation of the supernumerary CA post will bring about an additional notional annual salary at mid-point of \$1,265,400. The full annual average staff cost, including salaries and on-cost, is \$1,621,000. There is no other additional cost arising from the creation of this supernumerary post. We will include the necessary provision in the Estimates of subsequent years to meet the cost of this proposal.

## **PUBLIC CONSULTATION**

32. We consulted the LegCo Panel on Financial Affairs (the FA Panel) on 1 November 2010. While the FA Panel had no objection to the submission of this proposal to the ESC by the Administration, some Members requested for supplementary information on the past and anticipated workload relevant to this subject, expected benefits arising from the conclusion of CDTAs, etc. We provided the requisite information to the FA Panel on 31 December 2010.

**/ESTABLISHMENT .....**

**ESTABLISHMENT CHANGES**

33. The establishment changes in IRD for the last three years are as follows –

Establishment (Note)	Number of posts			
	Existing (As at 1 December 2010)	As at 1 April 2010	As at 1 April 2009	As at 1 April 2008
A	25#	25	25	25
B	339	339	337	336
C	2 454	2 454	2 456	2 457
<b>Total</b>	<b>2 818</b>	<b>2 818</b>	<b>2 818</b>	<b>2 818</b>

Note:

A - ranks in the directorate pay scale or equivalent

B - non-directorate ranks the maximum pay point of which is above MPS Point 33 or equivalent

C - non-directorate ranks the maximum pay point of which is at or below MPS Point 33 or equivalent

# - As at 1 December 2010, there was no unfilled directorate post in IRD.

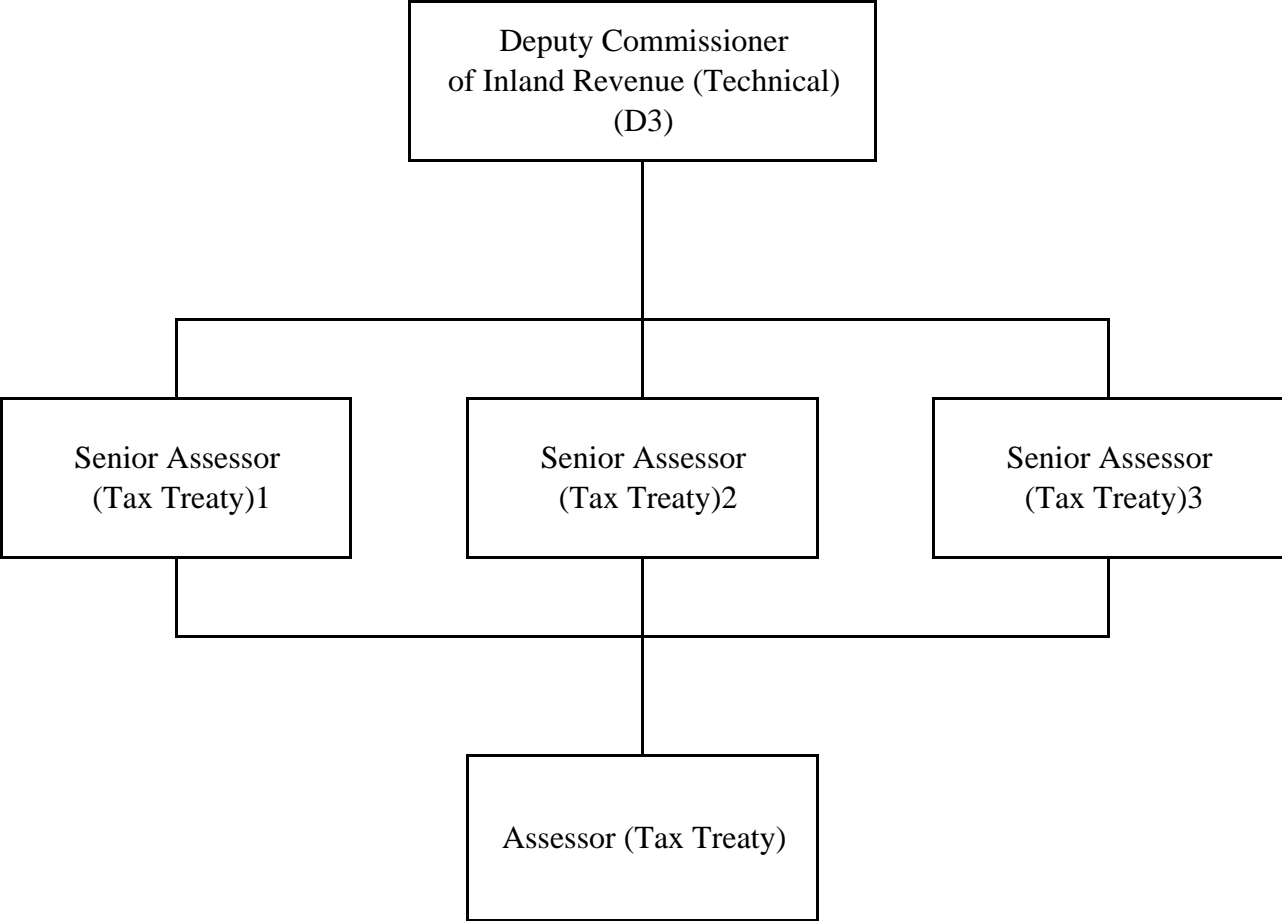
**CIVIL SERVICE BUREAU COMMENTS**

34. The Civil Service Bureau supports the proposed creation of the supernumerary CA post for three years. The grading and ranking of the proposed post are considered appropriate having regard to the level and scope of responsibilities required.

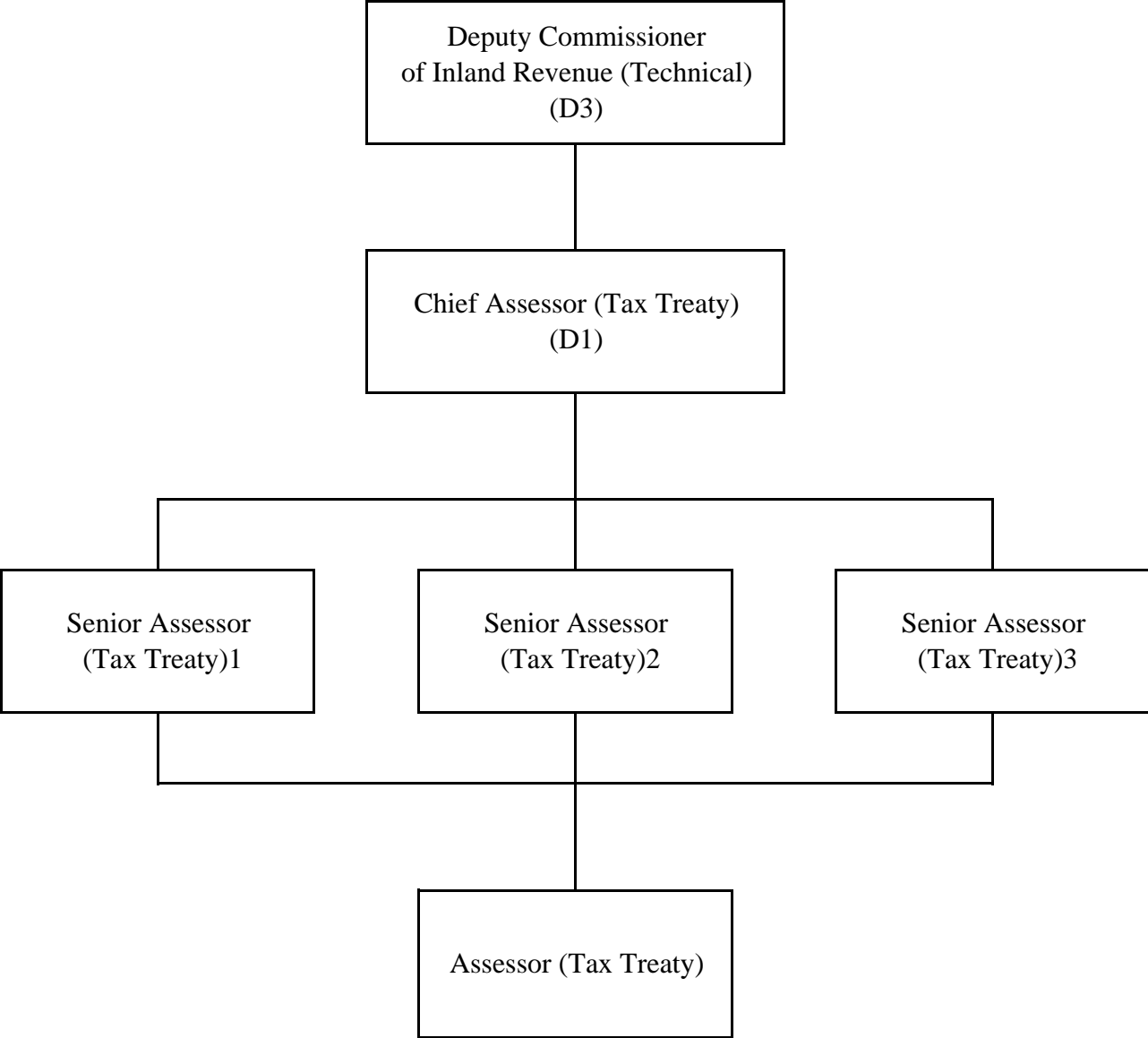
**ADVICE OF THE STANDING COMMITTEE ON DIRECTORATE SALARIES AND CONDITIONS OF SERVICE**

35. As the post is proposed on a supernumerary basis, its creation, if approved, will be reported to the Standing Committee on Directorate Salaries and Conditions of Service in accordance with the agreed procedures.

**Existing Organisation Chart of Tax Treaty Section  
(as at October 2010)**



**Proposed Organisation Chart of Tax Treaty Section  
(as at April 2011)**



**Proposed Job Description  
Chief Assessor (Tax Treaty)**

**Rank** : Chief Assessor (D1)

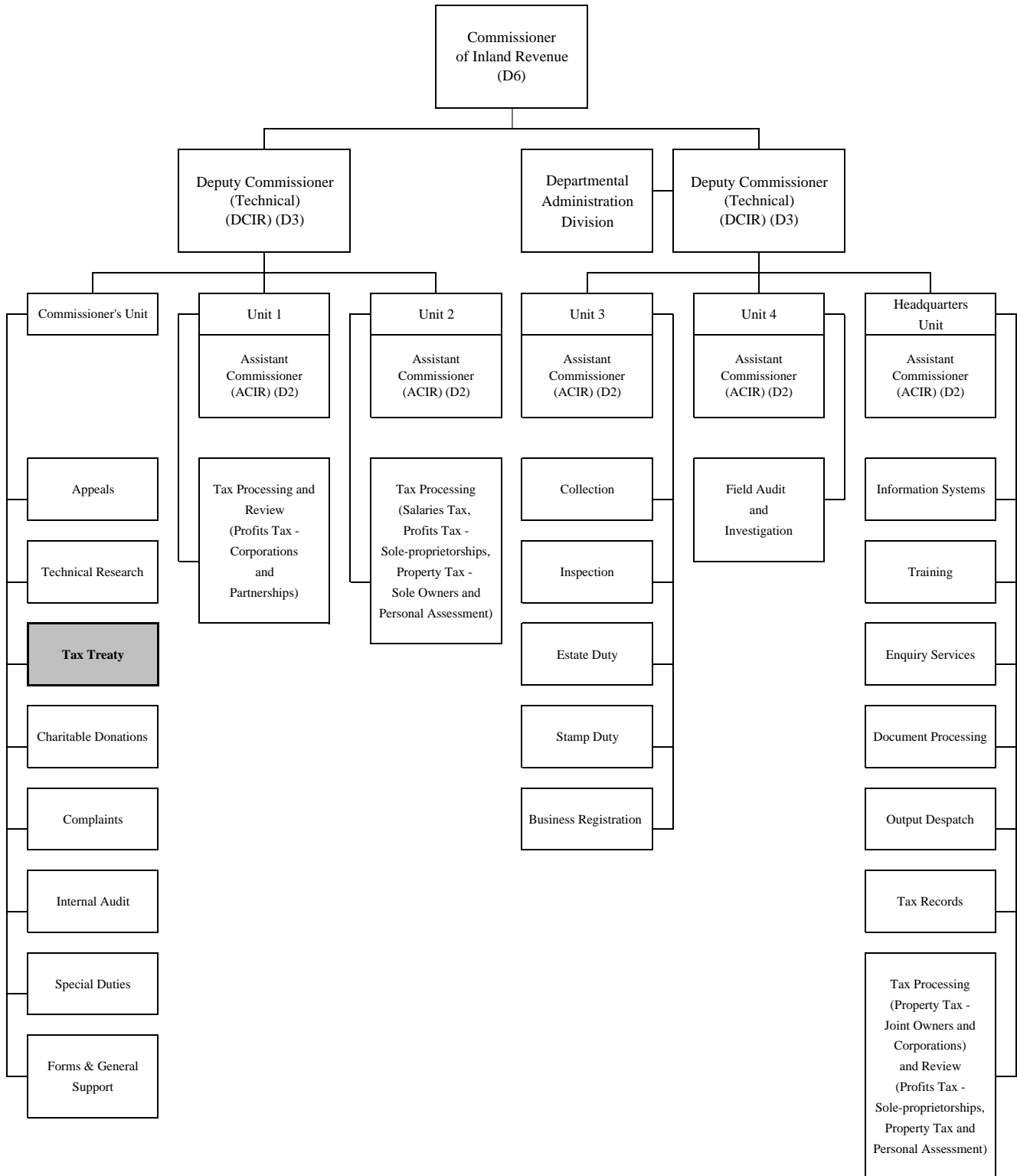
**Responsible to** : Deputy Commissioner of Inland Revenue (Technical) (D3)

**Main Duties and Responsibilities –**

- (1) To formulate negotiation strategies for Comprehensive Avoidance of Double Taxation Agreements (CDTAs) in consultation with the Financial Services and the Treasury Bureau, supervise preparatory work for CDTA negotiations and lead CDTA negotiations.
- (2) To follow up on the legislative amendments/orders required for implementing CDTAs signed.
- (3) To oversee the adoption of and compliance with the latest Exchange of Information (EoI) standard in CDTAs that Hong Kong entered into. To safeguard the privacy of taxpayers and confidentiality of information exchanged under the Inland Revenue (Disclosure of Information) Rules, personally consider and approve/disapprove requests for EoI having regard to the proper statutory procedures.
- (4) To coordinate input from relevant bureaux/departments in respect of the peer review by the Organisation for Economic Cooperation and Development Global Forum on Transparency and Exchange of Information for Tax Purposes, assist in the formulation of Hong Kong's responses and act as a focal point for effective communications with the Global Forum during the entire peer review process.
- (5) To resolve disputes with treaty partners through the Mutual Agreement Procedure (including arbitration) and liaise and negotiate with treaty partners on Advance Pricing Arrangements with multinational companies on the acceptable transfer prices.
- (6) To represent IRD in international meetings concerning double taxation matters and oversee the overall operation and administration of the Tax Treaty Section.

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**Existing Organisation Chart of Inland Revenue Department  
(as at October 2010)**



Legend:  
 DCIR - Deputy Commissioner of Inland Revenue  
 ACIR - Assistant Commissioner of Inland Revenue



**Job Description  
Deputy Commissioner (Technical)**

**Rank** : Deputy Commissioner of Inland Revenue (D3)

**Responsible to** : Commissioner of Inland Revenue (D6)

**Main Duties and Responsibilities –**

- (1) Issuing formal determinations of objections under the Inland Revenue Ordinance and recommending appropriate actions on adverse decisions of the Board of Review and the Courts and on imposition of penalties.
- (2) Issuing advance rulings on the tax treatment of service companies, change of accounting date, share awards and options, and the application of the territorial source principle, and general and specific anti-tax avoidance provisions on seriously contemplated transactions.
- (3) Providing guidance and decisions to senior officers on technical and administrative matters of complexity like the issue of Departmental Interpretation and Practice Notes and Technical Documents.
- (4) Making recommendations on new policies and legislative proposals, attending relevant meetings and overseeing their implementation.
- (5) Assisting the Commissioner in the supervision, management and control of the work of the various Units in the department. Providing technical support in connection with Financial Secretary's Budget. Identifying areas of potential problems and making recommendations on areas for improvement and important issues.
- (6) Overseeing the Internal Audit Section and attending to matters in relation to section 87 Exemption Orders.
- (7) Overseeing tax treaty issues and providing steer on CDTA strategies and negotiations.
- (8) Acting as Secretary to the Board of Inland Revenue on the design of tax returns and statutory forms.
- (9) Providing strategic steer to the Departmental Training Committee, Career Development & Planning Committee, ISSP Progress Review Committee and IT Executive Steering Committee.

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**Job Description**  
**Deputy Commissioner (Operation)**

**Rank** : Deputy Commissioner of Inland Revenue (D3)

**Responsible to** : Commissioner of Inland Revenue (D6)

**Main Duties and Responsibilities –**

- (1) Supervising the operations of the Field Audit and Investigation Unit, including approving settlement bases and penalty assessments of investigation/field audit cases, reviewing outstanding cases and the work of anti-avoidance teams and recommending the initiation of prosecution actions.
- (2) Overseeing the operations of Unit 3, including giving guidance on matters relating to stamp duty, estate duty, business registration and betting duty, reviewing the collection position, approving submissions on penalties in estate duty cases and tax write-offs.
- (3) Monitoring the delivery of taxpayers' services. Working with the Users Committee and the Service Standards Committee in reviewing and monitoring the performance pledges and service delivery.
- (4) Formulating and reviewing the progress of information technology (IT) projects and the security of IRD's IT systems.
- (5) Overseeing the operation of the Departmental Administrative Division and deciding on disciplinary, personnel and human resource management matters. Providing steer and monitoring staff recruitment, development and training programmes. Formulating and reviewing IRD's resources management plans. Monitoring staff integrity. Handling staff relation issues.
- (6) Handling complaints under DCIR(O)'s areas of responsibilities. Handling enquiries and requests from the Privacy Commissioner for Personal Data, Independent Commission Against Corruption and other government agencies. Chairing various departmental committees.
- (7) Vetting technical papers for regional tax conferences/seminars. Making recommendations on new policies and legislative proposals, attending relevant meetings and overseeing their implementation.

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**Job Description  
Assistant Commissioner 1**

**Rank** : Assistant Commissioner of Inland Revenue (D2)

**Responsible to** : Deputy Commissioner of Inland Revenue (D3)

**Main Duties and Responsibilities –**

- (1) Overseeing the work programmes of Unit 1 to ensure that all the performance pledges on the processing of returns and other services are met. Setting work targets and preparing revenue estimates and expenditure budgets.
- (2) Preparing Unit instructions and circulars to give effect to case law, statute, Commissioner's policy directives and management instructions, whether technical or administrative. Providing technical advice to assessing staff and approving Departmental Interpretation and Practice Notes.
- (3) Making recommendations on important technical issues, revenue bills, etc. and dealing with advance ruling cases.
- (4) Supervising and controlling the processing of objection and enquiry cases. Vetting technical and penalty submissions.
- (5) Providing advice/guidance in departmental/unit committees. Managing the Unit's human resources programmes.
- (6) Identifying areas of potential problems and making recommendations on important issues relating to policies and legal interpretation and practices.

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**Job Description**  
**Assistant Commissioner 2**

**Rank** : Assistant Commissioner of Inland Revenue (D2)

**Responsible to** : Deputy Commissioner of Inland Revenue (D3)

**Main Duties and Responsibilities –**

- (1) Managing Unit 2 to achieve its assessing programme and meet its performance pledges on the processing of returns and other services, setting work targets and preparing revenue estimates and expenditure budgets.
- (2) Preparing Unit instructions and circulars to give effect to case law, statute, Commissioner's policy and management instructions, whether technical or administrative. Giving technical advice to assessing staff and approving Departmental Interpretation and Practice Notes.
- (3) Making recommendations on important technical issues, revenue bills, etc. and dealing with advance ruling cases.
- (4) Supervising and controlling the processing of objection cases. Vetting of objection reports as well as technical and penalty submissions.
- (5) Providing advice/guidance in departmental/unit committees and conferences. Managing the Unit's human resources programmes.
- (6) Identifying areas of potential problems and making recommendations on important issues relating to policies, legal interpretation and tax practices.

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**Job Description**  
**Assistant Commissioner 3**

**Rank** : Assistant Commissioner of Inland Revenue (D2)

**Responsible to** : Deputy Commissioner of Inland Revenue (D3)

**Main Duties and Responsibilities –**

- (1) Assuming the overall management and control of Unit 3 to ensure that all work programmes of the six sections in the Unit are carried out efficiently to achieve the overall objectives of the department.
- (2) Attending to various matters like strategic planning, resource management, staff deployment and development. Providing guidance and giving instructions to section leaders on management and technical matters, including the interpretation of the ordinances and the handling of computer projects, complaint cases and audit queries.
- (3) Identifying areas of potential problems. Making recommendations on important issues relating to policies, legal interpretations, tax practices and budget proposals. Proposing legislative changes for budgetary items to ordinances under the purview of Unit 3.
- (4) Administering and exercising specific duties under the seven ordinances under the purview of Unit 3.

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**Job Description  
Assistant Commissioner 4**

**Rank** : Assistant Commissioner of Inland Revenue (D2)

**Responsible to** : Deputy Commissioner of Inland Revenue (D3)

**Main Duties and Responsibilities –**

- (1) Overseeing the management and operation of the Field Audit and Investigation Unit, including setting and achieving operational output and performance targets, providing input to Controlling Officer's Report and programme management reporting, managing financial and human resources matters and overseeing the daily work process and computer projects.
- (2) Approving or recommending field audit and investigation cases on the issue of assessments, settlement and penalty aspects and giving rulings on procedural and technical matters in accordance with the delegated authorities.
- (3) Providing guidance and technical advice and reviewing cases in progress to ensure that the civil investigation and criminal investigation cases are processed properly and expeditiously.
- (4) Screening and conducting preliminary evaluation of information provided by informers against information held by the department, and giving disposal instructions.
- (5) Overseeing handling of complaints, vetting draft statements of facts and determinations for objections against basic tax, vetting statements of facts and submissions to the Board of Review for appeals against penalty assessment, and overseeing the applications for and execution of search warrants.

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**Job Description  
Assistant Commissioner (Headquarters)**

**Rank** : Assistant Commissioner of Inland Revenue (D2)

**Responsible to** : Deputy Commissioner of Inland Revenue (D3)

**Main Duties and Responsibilities –**

- (1) Overseeing the overall administration of the Headquarters Unit, and deciding on establishment, human resource management and financial arrangement matters in the Unit, including preparation of revenue estimates, Performance Management System, Controlling Officer's Report and monitoring of the Unit's expenditures.
- (2) Overseeing the operation of the Document Processing Centre, Enquiry Service Centre, Output Despatch Centre and Tax Records Centre, and introducing improvement measures to enhance efficiency and cost-effectiveness.
- (3) Overseeing the operation of the Property Tax, Test and Review Section, including its assessing programme, objection processing, compliance matters, performance pledges, etc. Giving technical advice and guidance to professional staff on Property Tax matters.
- (4) Assisting DCIR(O) in formulating IT plans for the department, overseeing the operation of the Information Systems Division, redeploying IT resources and reviewing as well as strengthening information security measures.
- (5) Overseeing e-services provided by the department and coordinating the delivery of e-services in support of the e-Government strategy. Serving as IRD's representative in e-Government Working Group and the department's e-Service Management Team.
- (6) Assisting DCIR(O) in identifying staff training needs, overseeing and monitoring training programmes for the department, and enhancing the professional knowledge of IRD staff.

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**Enclosure 12 to EC(2010-11)15**

**Staff Establishment and Revenue Collected**

Unit	Staff Establishment	2006-07 (\$m)	2007-08 (\$m)	2008-09 (\$m)	2009-10 (\$m)
1	340	65,499.6	86,775.6	99,294.4	72,224.3
2	789	49,818.0	46,953.8	46,848.6	50,959.9
3	596	39,783.8	66,967.1	45,335.7	55,913.5
4	242	2,444.6	2,548.3	2,181.2	2,590.4

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**Major duties of existing Chief Assessors (CAs) (D1) in IRD**

Each of the three CAs in Unit 1 is responsible for the overall management of a division in the Unit to ensure that all work programmes are carried out, a high standard of staff discipline is maintained, profits tax returns are examined and assessed in a timely manner, and objections and desk audit cases are handled promptly. As at 30 November 2010, the number of files handled by Unit 1 exceeded 600 000. They also have to personally process a total of 30 profits tax files of large corporations which always involve substantial technical issues. From time to time, they have to review and update the IRD Departmental Interpretation and Practice Notes which are provided to taxpayers and practitioners for reference. In the coming years, we envisage that the three CAs in Unit 1 have to focus on various new technical issues in connection with the introduction of new accounting standards, new financial products, transfer pricing issues, share-based payments and defined benefit plans.

2. The three CAs in Unit 2, which handles over 2 200 000 Composite Tax Return files as at 30 November 2010, have to oversee the supervision and control of 12 Assessing Groups, the Special Assignment Group as well as the Planning and Management Support Group. They have to give advice and instructions to their subordinates on management and technical matters, review objection and informer cases, etc. In addition to their normal duties, they would participate in the implementation of the SIE Project and coordinate the consequential organisational and procedural changes to facilitate the smooth implementation of the Project.

3. There is only one CA in Unit 3. At present, this CA has to supervise and administer the Unit's operation and oversee the upgrading of the Government Cash Receipting System as well as various computer system enhancement projects.

4. The three CAs in Unit 4 lead a total of 15 Field Audit Sections. At present, they are fully engaged in overseeing and supervising the normal investigation and audit work, reviewing and clearing outstanding cases. In view of the growing complexity of business operations and the increasing number of litigations evolved from cases handled by the Unit, the workload of the three CAs will unavoidably increase. In addition, it is expected that various cross-border related tax issues, like transfer pricing, will crop up, the processing of which is labour-intensive.

5. One of the two CAs in the HQs Unit is responsible for overseeing the operation and administration of the Property Tax Section which handled 1 300 000 files and 144 000 assessments for jointly-owned properties in 2009-10. The CA also has to oversee the Training Section and four departmental centralised processing centres, namely the Document Processing Centre, the Output Despatch Centre, the Tax Records Centre and the Enquiry Service Centre. In 2009-10, these Centres handled 2 400 000 enquiries; processed 4 300 000 inward mails; and processed 6 800 000 returns. The CA is also dedicated to overseeing the extension of the eTAX services and the integration of the eTAX services with *myGovHK*. In addition to his normal duties, he will also take charge of new projects, including e-filing of Employer's Return, re-engineering of business process in the Property Tax Section and enhancing the telephone enquiry services in the coming years. The other CA in the HQs Unit is responsible for the day-to-day application of IRD's various computer systems, formulating functional requirements for new systems and system enhancement, and monitoring and coordinating their implementation. In addition to his normal duties, the CA has to assist AC(HQ) in the implementation of the SIE Project.

6. Two of the three CAs in the Commissioner's Unit jointly lead the Appeals Section mainly responsible for handling objection cases to be determined by DCIR, CIR, the Board of Review or the Courts. This requires thorough research on statutory provisions, precedent court cases and prevailing practices. The number of objection cases referred to the Appeals Section is on the rise with a growth of 23% from 622 cases in 2008-09 to 766 cases in 2009-10. As businesses are practising more aggressive tax planning schemes and technical issues have been developing rapidly, the nature of objection cases are becoming more complicated than ever. The other CA in the Commissioner's Unit is leading the Donations Section, the Complaints Section and the Internal Audit Section which handle a wide spectrum of work. He has to supervise the teams in handling Ombudsman cases, preparing the Controlling Officer's Report and overseeing the control of advance ruling applications. Besides, he participates in the Charities Sub-committee of the Law Reform Commission to review the legal and regulatory framework relating to charities. With the impending release of the public consultation paper on the subject, public enquiries relating to charities are expected to increase.

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