

For discussion
on 19 April 2016

Legislative Council Panel on Economic Development

Air Passenger Departure Tax

Purpose

This paper briefs Members on the mechanism for the collection of Air Passenger Departure Tax (“APDT”), and the refund arrangement for passengers who have paid APDT but eventually did not depart by air from Hong Kong.

APDT Ordinance (“the Ordinance”) (Cap. 140)

2. According to the Ordinance, a passenger at the age of 12 or above intending to depart from Hong Kong by air at the airport shall, before embarking on the aircraft for that purpose, pay an APDT of \$120, unless otherwise exempted. The operator (which generally refers to an airline) shall collect and pay the APDT to the Director of Accounting Services. It is an offence for any person who authorizes or permits a passenger liable to pay the tax to embark on an aircraft, unless the passenger has previously paid the tax.

3. It is also provided under section 6 of the Ordinance that the operator shall furnish returns to the Director-General of Civil Aviation (“the Director”), in such form and at such intervals as the Director may specify, giving details of passengers and aircraft departures and such other information relating to the tax or the collection of the tax as the Director may require. In accordance with section 5 of the Ordinance, the operator shall also maintain proper records of passengers embarking on aircraft under the control of the operator and of the tax paid to the operator. It is an offence under section 15(5) of the Ordinance for an operator who fails to maintain proper records or furnish returns giving details of passengers and aircraft departures.

Practical arrangements

4. In practical terms, the APDT is collected by airlines together with the airfare, upon selling of air tickets, and the airlines are required to deposit the amount in a bank account designated by the Civil Aviation Department (“CAD”). To protect government revenue and ensure that APDT is collected from each departing passenger, CAD has put in place an established mechanism, as agreed with the airlines, for the latter to provide details of passengers and aircraft departures for auditing purpose. As required under section 6 of the Ordinance, airlines carrying departing passengers are required to submit to CAD monthly APDT returns, reporting on the number of departing passengers carried on their flights and the amount of APDT collected by the airlines and should be made payable to the Government. CAD will check all APDT returns submitted by the airlines and verify in particular whether -

- (a) the information on flight records tally with those as kept in CAD's records;
- (b) the amounts of APDT collected tally with the number of departing passengers; and
- (c) the amounts of APDT revenue deposited by the airlines in the designated bank account tally with the amounts as reported in the APDT returns.

5. To ensure reliability of the APDT returns filed by airlines, CAD would conduct random checks on the number of departing passengers on flights to see whether they are consistent with the information reported in the APDT returns. In 2015-16, about 1 280 random checks have been conducted¹, and no non-compliance has been detected.

Refund arrangement for passengers who have paid APDT but do not depart Hong Kong by air

6. For passengers who have paid APDT when paying for the air tickets, some may cancel their flights for various reasons and do not depart Hong Kong by air eventually. As provided under section 14(1) of the Ordinance, the APDT paid to an operator by a passenger who does

¹ CAD will select one flight for random check from every 500 departure flights of an airline in each month.

not depart by air from Hong Kong on the occasion in respect of which he has paid the tax, shall be refunded by the operator. CAD has all along been reminding airlines that they are required to make full refund of APDT to the passengers under the above circumstances, and that they are not allowed to impose any charge for the refund of APDT.

7. If CAD receives any complaint against airlines for failing to make APDT refund or collecting handling charge when making such refunds, it will follow up with the airlines concerned. During the period from 2006 to 2015, CAD received a total of ten complaint cases about airlines not making APDT refund or collecting handling charge when making such refund. In all these ten cases, CAD followed up with the airlines involved, and the passengers concerned eventually received full APDT refund from the airlines.

Latest Update

8. In October 2015, the Consumer Council published a survey on airlines' refund arrangements. Some airlines were found to have charged handling fee for processing refund of APDT, whilst some failed to make such refunds to passengers or set a rather short time limit for refund application (e.g. within 30 days after the end of the air ticket validity period), etc. The Consumer Council has also made a number of recommendations to enhance the refund arrangement of APDT.

9. Prior to the Consumer Council's release of its survey findings, CAD issued letters in September 2015 to the Board of Airline Representatives in Hong Kong and individual airlines which are not members of the Board, reminding them once again of the statutory requirements about APDT refund (including the requirement for making full refund of APDT to passengers without any charge). In respect of the 24 airlines mentioned in Consumer Council's survey, CAD has asked the airlines to furnish information on their APDT refund arrangement. The APDT collected from these 24 airlines represents about 78% of the APDT collected in 2014-15. With the exception of one airline with flight from Hong Kong suspended, all the other 23 have already replied to CAD. Among them, 21 have confirmed that they have been making APDT refunds and have not imposed any handling charge for such refunds. As regards the other two airlines, they have indicated to CAD that they have stopped imposing handling charge. CAD will keep close contact with these two airlines to ensure that they have made the best endeavours to refund the handling fee.

10. CAD is working to enhance the mechanism by requiring airlines to regularly furnish additional information on their APDT refund arrangement (including information on passengers who have not departed from Hong Kong after buying air tickets and paying APDT), so that it can strengthen the monitoring of whether airlines have made refund to the passengers concerned. At the same time, CAD has met with the Board of Airline Representatives in Hong Kong, and both have agreed to set up a working group for further follow-up actions.

On-going Actions and Way Forward

11. We reckon the importance of ensuring that the airlines follow the statutory requirements when making APDT refund. In this regard, CAD will continue to monitor the collection of the APDT through checking monthly returns on details of departing passengers and aircraft departures submitted by airlines. CAD will also regularly require operators to furnish information on persons buying air tickets but not departing Hong Kong eventually.

12. On the front of airlines, CAD will liaise with the aviation industry (including the working group set up with the Board of Airline Representatives in Hong Kong) to draw up clear guidelines for airlines to follow in approaching the passengers concerned in making APDT refund (e.g. passengers who have already left Hong Kong and would not return in the near future) and the relevant procedures in handling unclaimed refund.

13. On the front of passengers, CAD will enhance the publicity on the entitlement to APDT refund for passengers who do not depart Hong Kong by air, and the relevant application and complaint channels. At present, CAD has published the information (as tips for air passengers) in its website. Going forward, CAD will liaise with the tourism industry to see if any further publicity can be made to consumers when making buying air tickets. CAD will continue to closely monitor the complaint statistics to keep in view the need to further tighten up the regime.