

立法會
Legislative Council

LC Paper No. CB(4)850/15-16(04)

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Panel on Economic Development
Meeting on 19 April 2016

Background brief on the air passenger departure tax

Purpose

This paper provides background information on the air passenger departure tax ("APDT") and summarizes Members' concerns on related issues.

Background

2. Under the Air Passenger Departure Tax Ordinance (Cap. 140) ("the Ordinance"), every passenger aged 12 years or above who departs from Hong Kong by aircraft shall pay to the operator of the aircraft (i.e. the airliner) an APDT of \$120, and the operator shall pay the tax collected to the Director of Accounting Services. As provided under section 14(1) of the Ordinance, the tax paid to an operator by a passenger who does 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.

3. Survey findings released by the Consumer Council ("CC") on 15 October 2015 revealed that quite a number of airliners had engaged in a number of trade malpractices: failure to take the initiative to make such tax refunds to passengers who did not depart from the territory by aircraft, failure to show on the relevant receipts a breakdown of the APDT charged, setting time limits for APDT refund applications, and charging passengers handling fees for the tax refunds sought¹.

4. CC opined that² as the Government has paid an administration fee to all the airlines for APDT collection and refund, airlines should not impose further administration fee to passengers when a refund of APDT is arranged. CC suggested the following actions on APDT refund:

¹ Source: written Council question raised by Dr Hon CHIANG Lai-wan on refund of APDT at the Council meeting of 11 November 2015

² Source: press release issued by CC on 15 October 2015

- (a) the industry (including airlines and travel agents or travel website platforms) should set up a comprehensive APDT refund mechanism with details on collection and refund explicitly stated; and
- (b) airlines should report regularly to the Civil Aviation Department ("CAD") details of the unclaimed APDT. CAD, on the other hand, should urge airlines to perform its statutory duties and develop appropriate guidelines on tax refund, including the application channels and processing time for improvement of consumer protection.

Previous discussions

Council Meeting

5. At the Council meeting on 11 November 2015, Dr Hon CHIANG Lai-wan raised a written question on refund of APDT. The Administration has advised that currently, APDT is collected by airlines upon selling of air tickets. There is a mechanism in place under the agreements between CAD and the operators to check details of passengers and aircraft departures, so as to protect the Government's revenue from APDT. Under the mechanism, airlines carrying departing passengers would submit monthly APDT returns to CAD and deposit the APDT revenue in a designated bank account. CAD will check all APDT returns submitted by the airlines, so as to verify whether the returns tally with CAD's flight records, whether the calculations in the APDT returns are in order and whether the amounts of APDT revenue deposited in the designated bank account by the airlines tally with the amounts indicated on the APDT returns. Furthermore, CAD will conduct random checks on the airlines' passenger lists to ensure that they are consistent with the information reported in the APDT returns. CAD has all along been reminding the airlines that they are required to make full refund of APDT to the passengers under the circumstances of section 14(1) of the Ordinance, and that they are not allowed to impose any charge for the refund of APDT.

6. The Administration has further advised that in the light of the report and recommendations made by CC on airlines' refund arrangements, CAD undertakes to put in place a mechanism to require airlines to furnish the relevant information to the Department, so that it can strengthen the monitoring of whether airlines have made refund of APDT to the passengers concerned. CAD would also step up the monitoring of any charging of fee (which is not allowed) for the refund of APDT. CAD has already issued letters to the Board of Airline Representatives in Hong Kong and individual

airlines which are not members of the Board, reminding them of the statutory requirements about APDT refund (including the requirement for making full refund of APDT to passengers, without any charge).

Special Finance Committee meeting

7. At the special Finance Committee meeting on 5 April 2016, Hon CHAN Kam-lam, Dr Hon LAU Wong-fat and Hon SIN Chung-kai enquired, among other things, about the number of applications for refund/exemption of APDT and the amount involved in the past three years, details of the Administration's efforts in monitoring the refund of APDT, and the amount of administration fees paid by the Government for APDT refund arrangement in the past five years. Copies of the relevant Controlling Officer's replies are provided in **Appendix I**.

Latest position

8. In his letter dated 23 October 2015 to the Chairman of the Panel on Financial Affairs, Hon SIN Chung-kai referred to CC's survey on the refund of APDT as mentioned in its press release of 15 October 2015 and proposed to discuss matters relating to the refund of APDT by airlines. The Financial Services and the Treasury Bureau will brief the Panel on the refunding of APDT at the meeting on 19 April 2016.

Relevant papers

9. A list of relevant papers which are available on the LegCo Website (<http://www.legco.gov.hk>) is in **Appendix II**.

Council Business Division 4
Legislative Council Secretariat
15 April 2016

Examination of Estimates of Expenditure 2016-17

Reply Serial No.

CONTROLLING OFFICER'S REPLY

FSTB(Tsy)003

(Question Serial No. 2876)

Head: (28) Civil Aviation Department

Subhead (No. & title): (-) Not Specified

Programme: (6) Air Passenger Departure Tax Administration

Controlling Officer: Director-General of Civil Aviation (Norman LO)

Director of Bureau: Secretary for Financial Services and the Treasury

Question:

1. Please list out the number of applications for refund/exemption of Air Passenger Departure Tax (APDT) in each year by reasons of making applications, as well as the amount involved.
2. In the past three years, with regard to the efforts in monitoring the refund of APDT from airline operators to persons buying air tickets but not departing Hong Kong eventually, has the Civil Aviation Department (CAD) discovered any cases where operators gave false information and did not actually make refund to passengers?
3. As the CAD will strengthen the monitoring work during the year, please provide the estimated funding and manpower resources involved, as well as the increase over the resources required in 2015-16.

Asked by: Hon CHAN Kam-lam (Member Question No. 10)

Reply:

1. The number of applications for refund/exemption of Air Passenger Departure Tax (APDT) and the amount involved in the past three years are tabulated as follows –

Reasons for applying for APDT refund/exemption ⁽¹⁾	Number of applications		
	2013	2014	2015 ⁽²⁾
(1) Transit and transfer passengers	12 951	14 824	16 290
(2) Officials of international organisations, consuls, consular staff and members of their families forming part of their households	3 306	2 998	2 373
(3) Passengers under 12 years of age	1 023	648	470

(4) Passengers departing from Hong Kong by aircraft being used for diplomatic or ceremonial, etc. purposes of the government of any country	480	456	320
(5) Others ⁽³⁾	85	49	50
Total	<u>17 845</u>	<u>18 975</u>	<u>19 503</u>
Amount involved in successful applications for APDT refund/exemption (\$)	2,137,080	2,266,560	2,328,000

Note (1): Since most of the passengers eligible for exemption from APDT are not required to pay APDT in the first place when they purchase the air tickets, there is no need for such passengers to apply for APDT refund/exemption.

Note (2): Provisional figures subject to adjustments.

Note (3): Mainly Mainland passengers who arrive at the SkyPier via the sea route for the purpose of transferring to an aircraft that departs from Hong Kong.

- Section 14(1) of the Air Passenger Departure Tax Ordinance (the Ordinance) (Cap. 140) stipulates that the APDT paid to an operator by a passenger who does not depart by air from Hong Kong on the occasion in respect of which he has paid APDT, 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 concerned under the above circumstances, and that no charge shall be imposed for the APDT refund. Since early 2016, CAD has required airlines to furnish information on the number of passengers who have paid APDT but do not depart from Hong Kong, so as to strengthen the monitoring of airlines in making APDT refund to the passengers concerned free of charge.
- Monitoring the collection of APDT by airlines is part of the regular duties of CAD staff under Programme (6) "Air Passenger Departure Tax Administration". There are six staff involved in the monitoring of the collection of APDT under the programme concerned. CAD will absorb the work of enhanced monitoring from within its existing manpower and resources.

- End -

Examination of Estimates of Expenditure 2016-17

Reply Serial No.

CONTROLLING OFFICER'S REPLY

FSTB(Tsy)004

(Question Serial No. 0134)

Head: (28) Civil Aviation Department

Subhead (No. & title): (-) Not Specified

Programme: (6) Air Passenger Departure Tax Administration

Controlling Officer: Director-General of Civil Aviation (Norman LO)

Director of Bureau: Secretary for Financial Services and the Treasury

Question:

The Civil Aviation Department (CAD) will require operators to furnish information on persons buying air tickets but not departing Hong Kong eventually, so that it can strengthen the monitoring of the arrangement on Air Passenger Departure Tax refund. Has the Government detected any loopholes in this respect that have to be plugged?

Asked by: Dr Hon LAU Wong-fat (Member Question No. 3)

Reply:

Section 14(1) of the Air Passenger Departure Tax Ordinance (the Ordinance) (Cap. 140) stipulates that the Air Passenger Departure Tax (APDT) paid to an operator by a passenger who does not depart by air from Hong Kong on the occasion in respect of which he has paid APDT, shall be refunded by the operator.

CAD has all along been reminding airlines that they are required to make full refunds of APDT to the passengers under the above circumstances, and that they are not allowed to impose any charge for the APDT refund. Since early 2016, CAD has required airlines to furnish information on the number of passengers who have paid APDT but do not depart from Hong Kong, so as to strengthen the monitoring of airlines in making APDT refund to the passengers concerned free of charge. CAD has also issued letters to the Board of Airline Representatives in Hong Kong (the Board) and individual airlines which are not members of the Board, reminding them of the relevant statutory requirements.

- End -

Examination of Estimates of Expenditure 2016-17

Reply Serial No.

CONTROLLING OFFICER'S REPLY

FSTB(Tsy)005

(Question Serial No. 3139)

Head: (28) Civil Aviation Department

Subhead (No. & title): (-) Not Specified

Programme: (6) Air Passenger Departure Tax Administration

Controlling Officer: Director-General of Civil Aviation (Norman LO)

Director of Bureau: Secretary for Financial Services and the Treasury

Question:

The Consumer Council pointed out on 15 October last year that the Civil Aviation Department (CAD) had no mechanism to monitor the refund arrangement for the Air Passenger Departure Tax (APDT), and that some airlines even imposed an administration fee on passengers for APDT refunds. As the CAD will continue to monitor the collection of the APDT, will the Government inform this Committee of:

- (a) the estimated expenditure of the work in 2016-17;
- (b) the number and rank of the officers responsible for the work;
- (c) the specific work plan of these officers, and whether clear guidelines on refund and penalties for contraventions will be set out;
- (d) the progress or timetable of the work in 2016-17;
- (e) the basis for calculating the rate of administration fees currently payable to airlines, helicopter companies and other agents in connection with the collection of the APDT;
- (f) the amount of administration fees payable by the Government in the past five years and the estimated expenditure involved in 2016-17; and
- (g) the way in which the Government will review the rate of administration fees.

Asked by: Hon SIN Chung-kai (Member Question No. 80)

Reply:

- (a) & (b) Monitoring the collection of APDT by airlines is part of the regular duties of CAD staff under Programme (6) “Air Passenger Departure Tax Administration”. There are six staff involved in the monitoring of the collection of APDT under the programme concerned.
- (c) & (d) CAD has all along been reminding airlines that APDT paid to an airline by a passenger who does not depart by air from Hong Kong on the occasion in respect of which he has paid APDT, shall be refunded in full by the airline under section 14(1) of the Air Passenger Departure Tax Ordinance (the Ordinance) (Cap. 140) without imposing any charges on the passengers concerned for the APDT refund. CAD has required airlines to provide the relevant information so as to facilitate the monitoring of airlines in making APDT refund to the passengers concerned free of charge. CAD will maintain communication with the trade to follow up on the Consumer Council’s recommendations.
- (e), (f) & (g) Under the Ordinance, airlines and helicopter companies are required to collect APDT from departing passengers and handle APDT refund on behalf of the Government, while the Government will pay administration fees to the relevant companies in regard to every passenger who has paid APDT. The level of administration fees is determined based on the costing information provided by the companies concerned. Besides, CAD has set up an Air Passenger Departure Tax Counter at the Hong Kong International Airport, where a contractor, to whom service fees are paid by the Government, processes applications for exemption and refund of APDT. The service concerned is acquired through open tender procedures, and the service fees are based on the tender results.

The estimated expenditure for the administration fees paid to the relevant companies in regard to APDT in 2016-17 is \$62.95 million. The expenditure in the past five years (2011-12 to 2015-16) is tabulated below:

Year	Expenditure (\$ million)
2011-12	46.78
2012-13	49.24
2013-14	54.17
2014-15	57.14
2015-16 (revised estimate)	60.42

- End -

List of relevant papers

Issued by	Meeting Date/ Issue Date	Paper
Consumer Council	15 October 2015	<u>Press Release on "Airlines urged for greater transparency in APDT Refund"</u>
Panel on Economic Development	24 November 2015	<u>Letter from Hon SIN Chung-kai to the Chairman of the Panel on Financial Affairs on arrangements for refund of air passenger departure tax (Chinese version only)</u>
Council Meeting	11 November 2015	<u>Written reply by the Secretary for Financial Services and the Treasury to a question on "Air Passenger Departure Tax" raised by Dr Hon CHIANG Lai-wan</u>
Finance Committee	5 April 2016	<u>Agenda Administration's replies to Members' initial written questions</u>