

## **Press Release**

### **LCQ7: Air Passenger Departure Tax**

Wednesday, November 11, 2015

Following is a question by the Hon Chiang Lai-wan and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (November 11):

Question:

Under the Air Passenger Departure Tax Ordinance (Cap. 140), 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 air passenger departure tax (APDT) of \$120, and the operator shall pay the tax collected to the Director of Accounting Services. The Ordinance provides that APDT paid by a passenger who has not departed from Hong Kong by aircraft shall be refunded by the operator (tax refund). Survey findings recently released by the Consumer Council reveal that quite a number of airliners have 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 sought. In this connection, will the Government inform this Council:

(1) of the purpose of the authorities' levy of APDT and the uses of the tax revenue collected; of the total amount of APDT received by the Treasury in the past three years;

(2) whether it has compiled statistics on the number of passengers who paid APDT but did not depart from the territory in the past three years, and the total amount of such tax involved; among them, of (i) the number of passengers who did not apply for tax refunds and the total amount of such tax involved, and (ii) the number of passengers who applied for tax refunds and were charged handling fees by the airliners, and the total amount of handling fees involved; if it has, of the details; if not, the reasons for that; and

(3) whether it will review the aforesaid Ordinance and the relevant

requirements to provide for the tax refund arrangements, including (i) the requirement that airliners have to take the initiative to make tax refunds to passengers who have not departed from Hong Kong by aircraft, (ii) the requirement that airliners must not charge those passengers any fees when refunding tax to them, and (iii) the penalties on airliners for non-compliance with the requirements; if it will, of the details; if not, the reasons for that?

Reply:

President,

(1) Air Passenger Departure Tax (APDT) is one of the revenue sources of the Government. Similar to other tax items, the revenue from APDT would be credited to the General Revenue for the Government to meet its expenditure in various areas.

The amount of APDT collected by the Civil Aviation Department (CAD) in the past three years is set out at Annex.

(2) As provided under section 4 of the Air Passenger Departure Tax Ordinance (the Ordinance) (Cap. 140), a passenger liable to pay the tax shall make payment to the operator of the aircraft on which the passenger intends to depart from Hong Kong and the operator shall collect that tax and pay it to the Director of Accounting Services under section 7 of the Ordinance. As required under section 6 of the Ordinance, 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. The operator shall also maintain, in accordance with section 5 of the Ordinance, proper records of passengers embarking on aircraft under the control of the operator and of the tax paid to the operator. Generally speaking, the term "operator" in the Ordinance refers to airlines.

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.

Moreover, 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. CAD has all along been reminding the 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. At present, CAD does not keep record on the number of passengers who have paid APDT but do not depart from the territory.

(3) The law has set out clearly the requirement for operators to collect APDT and make refund. It is an offence for any person who authorises or permits a passenger liable to pay the tax to embark on an aircraft, unless the passenger has previously paid the tax. It is also an offence for an operator who fails to maintain proper records or furnish returns giving details of passengers and aircraft departures.

In the light of the recent report and recommendations made by the Consumer Council 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). CAD will keep contact with the trade as always, and follow up the Consumer Council's recommendations.

Ends