

CHAPTER 1

**Rating and Valuation Department
Buildings Department
Home Affairs Department
Lands Department**

**Efforts of the Rating and Valuation
Department in safeguarding revenue
on rates and government rent**

**Audit Commission
Hong Kong
5 April 2016**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 66 of the Director of Audit contains 8 Chapters which are available on our website at <http://www.aud.gov.hk>

Audit Commission
26th floor, Immigration Tower
7 Gloucester Road
Wan Chai
Hong Kong

Tel : (852) 2829 4210
Fax : (852) 2824 2087
E-mail : enquiry@aud.gov.hk

EFFORTS OF THE RATING AND VALUATION DEPARTMENT IN SAFEGUARDING REVENUE ON RATES AND GOVERNMENT RENT

Contents

	Paragraph
EXECUTIVE SUMMARY	
PART 1: INTRODUCTION	1.1 – 1.11
Audit review	1.12 – 1.13
General response from the Government	1.14 – 1.15
Acknowledgement	1.16
PART 2: GENERAL REVALUATIONS	2.1
General Revaluation purpose and process	2.2 – 2.4
Collection of rental information	2.5 – 2.15
Audit recommendations	2.16
Response from the Government	2.17

	Paragraph
PART 3: INTERIM VALUATIONS	3.1
Interim valuation procedures	3.2 – 3.5
Interim valuations of altered properties	3.6 – 3.25
Interim valuations of advertising signs	3.26 – 3.32
Timeliness of interim valuations	3.33 – 3.39
Audit recommendations	3.40 – 3.41
Response from the Government	3.42 – 3.43
PART 4: RATES EXEMPTION FOR RURAL PROPERTIES	4.1
Exemption from assessment to rates for village houses within designated village areas	4.2 – 4.9
Exemption from payment of rates for village houses outside designated village areas	4.10 – 4.19
Exemption from assessment to rates for agricultural land and buildings	4.20 – 4.21
Audit recommendations	4.22 – 4.24
Response from the Government	4.25 – 4.28
PART 5: COLLECTION OF RATES AND GOVERNMENT RENT	5.1
Collection and recovery of rates and government rent	5.2 – 5.7
Audit recommendations	5.8
Response from the Government	5.9 – 5.10

Appendices	Page
A : Properties exempted from assessment to rates	80
B : Properties exempted from payment of rates	81
C : Rating and Valuation Department: Organisation chart (31 December 2015)	82
D : Analysis of 105 designated village areas by districts (31 December 2015)	83
E : Major steps in processing applications for exemption from payment of rates	84
F : Key dates of 14 bona vacantia cases (30 September 2015)	85
G : Acronyms and abbreviations	86

EFFORTS OF THE RATING AND VALUATION DEPARTMENT IN SAFEGUARDING REVENUE ON RATES AND GOVERNMENT RENT

Executive Summary

1. The Rating and Valuation Department (RVD) is responsible for the assessment and collection of rates under the Rating Ordinance (Cap. 116) and government rent under the Government Rent (Assessment and Collection) Ordinance (Cap. 515). Currently, rates and government rent are respectively charged at 5% and 3% of the rateable value which is the estimated annual rental value of a property. For the assessment and collection of rates and government rent under the Ordinances, the RVD maintains records of all properties that have been assessed to rates and those liable for assessment to government rent in a Valuation List and a Government Rent Roll respectively, which are updated through General Revaluations (GRs), interim valuations and deletions. The RVD conducts GRs annually to bring the rateable values of all properties up to date to reflect changes in market rental values. It may also at any time make interim valuations of newly-built properties and properties which have undergone structural alterations, and make deletions to remove properties which have ceased to be liable for assessment to rates/government rent. As at 1 April 2015, the Valuation List contained 2.43 million assessments with a total rateable value of \$608.6 billion and the Government Rent Roll contained 1.89 million assessments with a total rateable value of \$354.1 billion. For 2014-15, the RVD collected rates of \$22.3 billion and government rent of \$9.3 billion. The Audit Commission (Audit) has recently conducted a review to examine the RVD's efforts in safeguarding revenue on rates and government rent.

General Revaluations

2. The RVD collects rental information for GR purposes mainly by issuing some 307,700 requisition forms (Form R1As) each year to selected properties requiring owners/occupiers concerned to provide rental information. The RVD also obtains rental information from about 51,100 Form CR109s lodged by landlords of

Executive Summary

domestic properties under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) and some 47,700 copies of stamped tenancy agreements from the Inland Revenue Department each year. After analysis and adjustment in accordance with the law, the reported rental information is used to assess the rateable values of properties in the Valuation List based on computer-assisted mass appraisal techniques (paras. 2.3, 2.5 and 2.6).

3. ***Need to monitor the accuracy of rental information furnished in Form RIAs.*** After completion of each GR, the RVD conducts a rental verification exercise by selecting some 240 cases to ascertain the accuracy of information furnished in Form RIAs. For the GRs from 2010-11 to 2015-16, the average in-order rate was only 71%. Discrepancies were found in 28% of the sampled cases. For example, three property owners had provided inaccurate rental information for three to four years. The inaccurate rental information furnished in Form RIAs could undermine the accuracy of rateable values generated in the GRs and warrants management attention. Audit also notes that the RVD only selected ratepayers of multiple properties for rental verification purposes. To improve the monitoring of reported rental information, the RVD needs to consider using stratified sampling to divide ratepayers into multiple-property and single-property sub-groups for conducting the rental verification exercises (paras. 2.7, 2.8 and 2.10).

4. ***Need to step up follow-up actions on non-compliance with Form RIA submission requirements.*** Of some 307,700 Form RIAs issued for each annual GR from 2010-11 to 2015-16, about 56,400 (18%) ratepayers failed to complete and return the Form RIAs. While the RVD had taken prosecution actions on or issued warning letters for some of the non-returned cases, the number of ratepayers who had failed to file Form RIAs for three years consecutively increased by 22% from 6,100 in the 2010-11 GR to 7,417 in the 2015-16 GR (para. 2.9).

5. ***Need to improve the cost-effectiveness of obtaining rental information on subdivided properties for GR purposes.*** In 2012, the RVD introduced a new Form RIA requiring ratepayers to report (in addition to rental information) whether their properties had been subdivided or combined (i.e. structural alterations that might affect their rateable values). For the GR of 2013-14, the RVD issued

Executive Summary

3,189 Form R1As to all ratepayers in 116 buildings which were found by the Buildings Department (BD) to have 800 subdivided properties. However, of 2,244 Form R1As returned, only 44 reported rental and subdivided unit information, suggesting that ratepayers may not be forthcoming in disclosing information on their subdivided properties. The RVD had not conducted similar exercises in subsequent GRs as it was considered not cost-effective to issue Form R1As to all ratepayers in buildings with subdivided properties. In Audit's view, the RVD can improve the cost-effectiveness of obtaining rental information on subdivided properties for GR purposes by targeting those identified by the BD (paras. 2.12 to 2.15).

Interim valuations

6. The RVD makes use of information from other departments to identify properties that may require interim valuations, including occupation permits issued by the BD for new buildings, and alteration and addition works of buildings notified by the BD. The RVD also gathers information on altered properties by site inspections and Form R1As. According to the RVD, the fact that a property or structure is unauthorised does not affect its liability for assessment to rates. Likewise, the assessment to and/or the payment of rates for these unauthorised building works (UBWs) does not imply that they have legal status. In making interim valuations in accordance with the Rating Ordinance, the RVD cannot recover retrospectively the rates for more than 24 months (paras. 3.3, 3.5, 3.7 and 3.8).

Need to strengthen interim valuations of assessable UBWs

7. *Notification arrangements of assessable UBWs.* In November 2000, the then Secretary for the Treasury endorsed the proposal of a Task Force set up under the then Planning and Lands Bureau not to collect rates from new or re-erected illegal rooftop structures on the basis that prompt action would be taken by the BD to clear such structures. In 2001-02, the BD agreed to notify the RVD of its planned enforcement actions against illegal rooftop structures on single-staircase buildings by copying to the RVD removal orders and compliance letters issued to owners/occupiers concerned. In 2004, the BD agreed to the RVD's request for copies of removal orders and compliance letters pertaining to other types of UBWs (such as subdivided units) which were assessable to rates (paras. 3.10 to 3.12).

Executive Summary

8. *Need to improve the instructions for RVD staff on following up removal notifications of un-assessed UBWs.* Subsequent to the agreed notification arrangements with the BD, the RVD issued departmental instructions in 2002 and 2005 (currently still in force) stipulating, among other things, that RVD staff should not take further actions on un-assessed illegal rooftop structures and UBWs respectively which were subjected to the BD's removal notifications. According to the RVD, under the established rating principles, a property which was transient in nature would not be assessed to rates and the issue of a removal order signified the determination of clearance of the targeted illegal structure soonest possible. The departmental instructions were premised on the requirement of the removal orders that illegal rooftop structures/UBWs should be removed within one to three months and thus their existence would be too transient to satisfy the rateability requirement. However, Audit found that there were deficiencies in the RVD's instructions on follow-up actions on removal notifications of assessable UBWs, as follows:

- (a) there was no documentary evidence to indicate that before issuing the 2005 departmental instruction, the RVD had ascertained from the BD whether UBWs issued with removal orders could be removed shortly; and
- (b) Audit analysis of 54,637 cases with removal orders for assessable types of UBWs issued by the BD from 2001 to 2015 revealed that 16,304 (30%) had not been complied with as at 31 December 2015. In particular, 10,192 cases had remained outstanding for two years or more after the issue of removal orders, indicating that the RVD's presumption that UBWs would be demolished soon after the issue of removal orders was not always valid (paras. 3.13 to 3.15).

9. *Need to extend the coverage of the notification arrangements of assessable UBWs.* Under the agreed notification arrangements, the BD had not provided the RVD with information on assessable types of actionable UBWs without removal orders issued. According to the BD's database, from 2001 to 2015, removal orders had not been issued for 59,032 cases found with assessable types of actionable UBWs. As shown in paragraph 8(b) above, actions to demolish UBWs with removal orders issued could take a long time, not to mention those without statutory removal orders issued. Given the 24-month time-bar in recovering rates, there is a risk of loss of rates revenue if the rateable values of properties with assessable UBWs are not reassessed in a timely manner. Based on the RVD's records, the rateable values of properties with assessable subdivided units could

Executive Summary

increase by 5% to 217% (averaging 58%) upon reassessments (paras. 3.17, 3.18 and 3.20).

10. *Need to improve the instructions for BD staff in copying removal notifications of assessable UBWs to the RVD.* For the 2004 agreed notification arrangements of UBWs, two instructions were issued, one for advertising signs and the other for UBWs in general. For advertising signs, BD staff concerned were required to copy removal orders and any consequential compliance letters to the RVD. For UBWs in general, BD staff concerned were required to copy compliance letters and letters of withdrawal of removal orders to the RVD. However, there was no laid-down requirement to copy removal orders to the RVD. Based on Audit's test check of 85 removal orders selected from the BD's database, only 7 (8%) were copied to the RVD and it appeared that the RVD was not informed of the existence of most of the removal orders (paras. 3.21 and 3.22).

Need to step up efforts in identifying un-assessed advertising signs for interim valuations

11. The Rating Ordinance provides that all advertising signs can be considered for assessment to rates either as separate properties or additional values to be included in the properties on which they are erected. As at April 2015, there were 9,368 separately assessed advertising signs with a total rateable value of \$1.8 billion. In December 2015, Audit conducted a survey of large-sized advertising signs affixed externally to buildings in selected streets of six districts and found that 41 (41%) of the 100 selected advertising signs had not been assessed to rates (paras. 3.26, 3.30 and 3.31).

Need to enhance the monitoring of timeliness of interim valuations

12. From April 2014 to September 2015, the RVD completed 30,693 new interim valuations. However, Audit found that 46 interim valuations involving rates of mainly village houses were not completed within the 24-month time-bar, resulting in a loss of revenue. For 32 of the 46 interim valuations, the relevant documents required for initiating interim valuations were received by the RVD, on average, 104 months after their effective dates of interim valuations. There is a need to take

Executive Summary

measures to prevent recurrence of similar problems. The RVD also needs to enhance the monitoring of timeliness of interim valuations and regularly provide the Financial Services and the Treasury Bureau with information on all revenue loss cases (paras. 3.35, 3.36 and 3.39).

Rates exemption for rural properties

13. The Rating Ordinance provides two forms of rates exemptions for specific types of rural properties. One is exemption from assessment to rates for New Territories village houses within designated village areas (DVAs), and for agricultural land and buildings. The other is exemption from payment of rates for certain village houses outside DVAs and occupied by indigenous villagers. The exemptions are granted on the condition that the owners/occupiers comply with prescribed criteria (paras. 1.8, 4.2, 4.10 and 4.20).

14. *Need to put in place compliance checking of rates-exempted village houses within DVAs.* As at 31 December 2015, there were 105 DVAs covering some 16,460 houses in 140 villages. The Rating Ordinance provides that any rates-exempted village houses within DVAs shall comply with the prescribed size, height and type criteria (such as not more than three storeys). Audit notes that the RVD has not put in place compliance checking of village houses in DVAs to ensure that they meet the prescribed criteria. Audit's site inspections of two DVAs revealed that 58 village houses therein had four or five storeys. Audit examination of the RVD's government rent records of 228 houses in 12 selected villages within nine DVAs also revealed that 18 houses had been assessed as 4-storey or 5-storey buildings for government rent purposes. While these village houses did not comply with the prescribed 3-storey criterion, the RVD had not taken actions to cancel their exemptions from assessment to rates (paras. 4.3 to 4.6 and 4.9).

15. *Need to enhance the compliance checking of rates-exempted village houses outside DVAs.* The Director of Home Affairs is delegated with the authority to grant exemption from payment of rates to certain village houses outside DVAs, which are occupied by indigenous villagers. As at December 2015, some 19,000 eligible villagers involving 25,000 units in village houses situated in nine districts had been granted such rates exemption. The existing policy is that the exempted village houses shall comply with the same prescribed criteria as those for village houses within DVAs, and should not contain any UBWs. To monitor their

Executive Summary

compliance with the rates exemption eligibility criteria, the Home Affairs Department (HAD) has sought the assistance of eight relevant District Lands Offices (DLOs) of the Lands Department (LandsD) to identify village houses containing UBWs by conducting document checks against their UBWs records and field inspections. Audit has found that:

- (a) some of the document checks and field inspections were not conducted in a timely manner. For example, of the 270 field inspections requested by the HAD from June 2014 to June 2015, 22 (8%) were still outstanding as at December 2015; and
- (b) there is a need to consider stepping up the field inspections as the inspection results suggest a high incidence of ineligible cases. For example, a sample check of the inspection results revealed that in 120 inspections, 48 (40%) rates-exempted houses were found having UBWs (paras. 4.10 to 4.12, 4.14, 4.18 and 4.19).

16. *Need to obtain information from the LandsD on unauthorised change of use of agricultural land and buildings for identifying ineligible rates-exempted cases.* In 2015, the RVD and the LandsD agreed that the DLOs would notify the RVD of the re-entry/vesting cases, cancellation of re-entry/vesting cases and cases of unauthorised structures on agricultural land demolished. However, the notification arrangement does not cover unauthorised structure cases for which the LandsD has issued warning letters. Audit review of three such cases of unauthorised structures on agricultural land revealed that the structures were mainly used for storage purposes, indicating that the use of the agricultural land concerned had changed. However, two of the three cases were still exempted from assessment to rates (para. 4.21).

Collection of rates and government rent

17. As at 30 September 2015, the total amount of outstanding rates and government rent was \$172 million, representing 0.5% of the annual amount demanded of about \$33 billion. An ageing analysis of the outstanding rates and government rent shows that \$54 million (31%) had been outstanding for two years or more (para. 5.5).

Executive Summary

18. *Need to consider taking re-entry or vesting action for long outstanding arrears cases with charging orders registered.* In a sample check of nine arrears cases, Audit found that in one case, the defaulter had owed rates and government rent since 2007 for 16 properties against which the RVD obtained charging orders to protect the Government's legal interest in May 2010. In December 2015, after more than five years of unsuccessful attempts to demand payment, the RVD referred the 16 properties to the LandsD to consider taking re-entry or vesting action, at which time the amount in default had increased to \$1 million (para. 5.6).

19. *Need to expedite actions to deal with bona vacantia cases.* The Companies Ordinance (Cap. 622) provides that, where a company is dissolved, the property vested in the company immediately before its dissolution is vested in the Government as bona vacantia. As at 30 September 2015, there were 14 bona vacantia cases of outstanding rates and/or government rent amounting to \$1.3 million. The relevant properties were vested in the Government from 1997 to 2010. For 10 cases, the RVD took 7.5 years or more to refer them to the LandsD for taking possession of the defaulting companies' properties (para. 5.7).

Audit recommendations

20. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Commissioner of Rating and Valuation should:**

GRs

- (a) **take measures to improve the accuracy of rental information furnished in Form R1As for GRs and closely monitor the situation (para. 2.16(a));**
- (b) **step up follow-up actions on repeated cases of non-compliance with Form R1A submission requirements, such as taking prosecution actions in warranted cases and issuing advisory letters in non-prosecuted cases (para. 2.16(c));**
- (c) **seek the assistance of the BD to improve the cost-effectiveness of obtaining rental information on subdivided properties for GR purposes (para. 2.16(e));**

Executive Summary

Interim valuations

- (d) review the 2005 departmental instruction with a view to strengthening the procedures for using UBWs information obtained from the BD for rating assessment purposes (para. 3.40(a));
- (e) seek the assistance of the BD in extending the scope of the notification arrangements of assessable UBWs to cover those without removal orders issued (para. 3.40(b));
- (f) step up efforts in identifying un-assessed advertising signs for interim valuations (para. 3.40(d));
- (g) for the 32 cases of late interim valuations, take measures to prevent recurrence of similar problems (para. 3.40(f));

Rates exemption for rural properties

- (h) put in place compliance checking of rates exemption eligibility of the village houses in DVAs (para. 4.22(a));
- (i) review the government rent records of the village houses within DVAs to see if there are ineligible cases of rates exemption and take prompt actions to revoke their rates exemption (para. 4.22(c));
- (j) seek the assistance of the LandsD in providing information on unauthorised change of use of agricultural land and buildings identified in the course of its enforcement work for taking timely actions on ineligible rates-exempted cases (para. 4.22(e)); and

Collection of rates and government rent

- (k) remind staff concerned to refer long outstanding arrears cases with charging orders registered to the LandsD for consideration of taking re-entry or vesting actions in a timely manner and take prompt actions on bona vacantia cases (para. 5.8).

Executive Summary

21. **Audit has *recommended* that the Director of Buildings should share with the RVD all UBWs information required for rating assessment purposes (para. 3.41).**

22. **Audit has *recommended* that the Director of Home Affairs should consider stepping up the field inspections of rates-exempted village houses (para. 4.23(b)).**

23. **Audit has *recommended* that the Director of Lands should remind the eight DLOs to complete the document checks and field inspections of rates-exempted village houses requested by the HAD in a timely manner (para. 4.24(a)(i)).**

Response from the Government

24. **The Government generally agrees with the audit recommendations.**

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The Rating and Valuation Department (RVD) is responsible for the assessment and collection of rates under the Rating Ordinance (Cap. 116) and government rent under the Government Rent (Assessment and Collection) Ordinance (Cap. 515 — hereinafter referred to as the Rent Ordinance).

1.3 **Rates.** Rates are a tax on the occupation of landed property. The revenue collected forms part of the Government's general revenue. The main features of the rating system are as follows:

- (a) **Basis of charge.** Rates are charged at a percentage (currently at 5% — Note 1) of the rateable value which is the estimated annual rental value of a property at a designated valuation reference date (Note 2), assuming that the property was then vacant and to let;
- (b) **Liability for assessment.** Generally, properties in all parts of Hong Kong are liable to be assessed to rates under the Rating Ordinance;
- (c) **Basis of assessment.** Rateable value is an estimated annual rental value of a property on the basis that the tenant undertakes to pay all usual tenant's rates and taxes, whilst the landlord undertakes to pay the government rent, the costs of repairs and insurance, and any other expenses necessary to maintain the property to a state to command that

Note 1: *The percentage charge which is determined by the Legislative Council has remained unchanged since April 1999.*

Note 2: *Since 1999, the designated valuation reference date has been 1 October preceding the start of the financial year concerned. For example, the designated valuation reference date for 2014-15 is 1 October 2013.*

Introduction

rent. In assessing the rateable value, reference is made to other open market rents agreed at or around the date of valuation, for similar properties in the locality, with due adjustments to reflect any differences in size, location, facilities, standards of finish and management (see para. 1.6); and

- (d) ***Parties responsible for payment.*** Both the owner and the occupier are liable for payment of rates. In the absence of any agreement to the contrary, liability of rates rests with the occupier.

1.4 ***Government rent under the Rent Ordinance.*** Land in Hong Kong is normally held by way of a government lease under which government rent is payable. The revenue collected from government rent is also part of the Government's general revenue. The administration of government rent under the Rent Ordinance is as follows:

- (a) ***Basis of charge.*** Government rent is charged at 3% of the rateable value of the property situated on the leased land and is adjusted in step with any subsequent changes in the rateable value;
- (b) ***Liability for assessment.*** Generally, the following types of properties are liable for government rent:
- (i) properties with land leases in the New Territories and New Kowloon (north of Boundary Street) granted before the coming into force of the Sino-British Joint Declaration on 27 May 1985. Such leases expired on 27 June 1997 and have been extended by section 6 of the New Territories Leases (Extension) Ordinance (Cap. 150);
 - (ii) properties with land leases granted, or surrendered and regranted since 27 May 1985; and
 - (iii) properties with non-renewable land leases which expired on or after 27 May 1985 and which have been extended by way of lease extension;

- (c) ***Basis of assessment.*** The basis of assessment of the rateable value for government rent purposes is the same as that for rates (see para. 1.3(c)); and
- (d) ***Parties responsible for payment.*** The owner of the property is liable for government rent. Where an individual property in the building erected on the land has been assessed to rates, government rent may be demanded from the owner or the ratepayer of the property. If a person who pays the government rent is not the owner, the government rent paid is a debt due to the person by the owner unless there is an express agreement between the owner and the person requiring otherwise.

1.5 ***Government rent under other ordinances.*** Apart from government rent payable under the Rent Ordinance, government rent is also payable for properties under other ordinances. These include properties located in urban area held under leases (irrespective of whether renewable or non-renewable) that were granted before 27 May 1985 and are still running on the original term or have been renewed under the Government Leases Ordinance (Cap. 40). For land leases running on the original term, the government rent payable is the amount stated in the land leases. For land leases renewed under the Government Leases Ordinance, the government rent is charged at 3% of the rateable value of the property as at the date of renewal until the property is redeveloped when the rateable value will be reassessed. The Lands Department (LandsD) is responsible for the collection of such government rent (Note 3).

1.6 ***Assessment of rates and government rent.*** The RVD maintains records of all properties that have been assessed to rates and those liable for assessment to government rent under the Rent Ordinance in a Valuation List and a Government Rent Roll respectively. The RVD updates the Valuation List and the Government Rent Roll through General Revaluations (GRs), interim valuations and deletions, as follows:

Note 3: *In general, the LandsD issues demand notes to government rent payers once every six months for rent exceeding \$100 per annum and once every five years for rent of \$100 or less per annum. The LandsD issues about 210,000 demand notes for the properties/lots liable to government rent under its purview in May and November each year. This audit review focuses on the work of the RVD in safeguarding revenue on rates and government rent (see para. 1.13). Government rent collected by the LandsD is not covered in this review.*

Introduction

- (a) **GRs.** The RVD conducts GRs annually to bring rateable values up to date to reflect changes in market rental values. The purpose of a GR of all properties is to redistribute the total rates liability fairly amongst ratepayers according to the prevailing rental levels of the properties they occupy. A new Valuation List and a new Government Rent Roll containing the descriptions and new rateable values of all assessed properties are prepared. To provide an equitable basis of assessing government rent for properties subject to both rates and government rent, the preparation of a new Government Rent Roll and a new Valuation List is synchronised each year; and
- (b) **Interim valuations and deletions.** The RVD may at any time make an interim valuation of a property which is not included in the Valuation List/Government Rent Roll and is liable for assessment to rates/government rent. This applies mainly to newly-built properties or properties which have undergone structural alterations. The RVD also makes deletions to remove properties which have ceased to be liable for assessment to rates/government rent. Where structural alterations of a property affect its rental value (e.g. splitting or combining of units), the assessment of the property is revised by deleting the existing rateable value and undertaking an interim valuation of the altered property. Any rates demand on interim valuations cannot be recovered retrospectively for more than 24 months (see para. 3.5).

1.7 **Number of assessments.** In 2014-15, there were 28,000 new assessments added to and 12,000 assessments deleted from the Valuation List, and 23,000 new assessments added to and 8,000 assessments deleted from the Government Rent Roll. As at 1 April 2015, the Valuation List contained 2.43 million assessments (for 1.8 million domestic properties and 0.63 million non-domestic properties) with a total rateable value of \$608.6 billion (a year-on-year increase of 7.9%), and the Government Rent Roll contained 1.89 million assessments with a total rateable value of \$354.1 billion (a year-on-year increase of 8.3%). The difference between the number of assessments in the Valuation List and that in the Government Rent Roll is mainly attributed to:

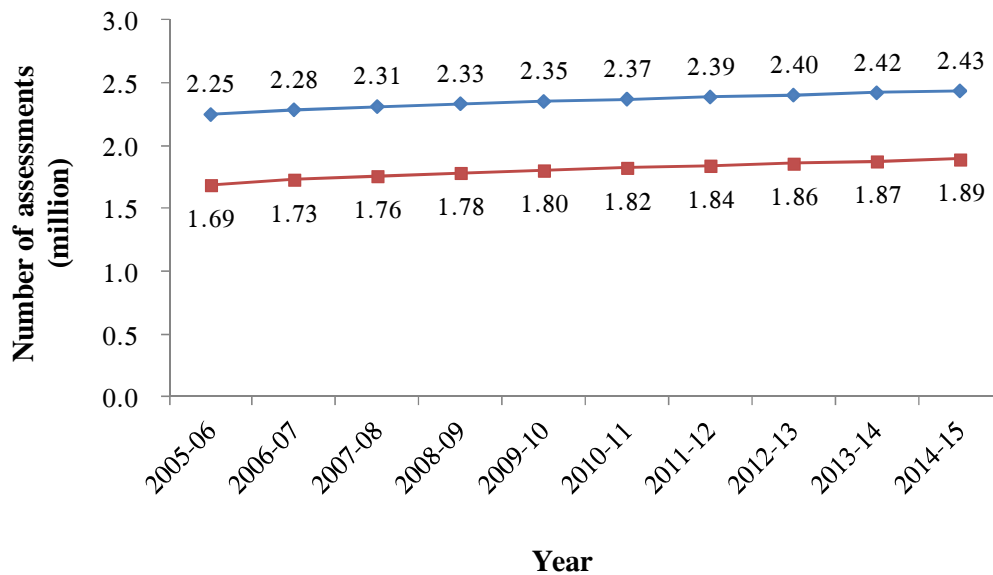
- (a) the difference in the numbers of exemption cases under the Rating Ordinance and the Rent Ordinance (see paras. 1.8 and 1.9); and

- (b) about 210,000 properties/lots liable to government rent administered by the LandsD are not included in the Government Rent Roll (see Note 3 to para. 1.5). Some lots may contain a number of units each subject to a separate rating assessment.

The numbers of assessments in the Valuation List and the Government Rent Roll from 2005-06 to 2014-15 are shown in Figure 1.

Figure 1

Numbers of assessments in the Valuation List and the Government Rent Roll (2005-06 to 2014-15)



Legend: ◆ Assessments in the Valuation List at year end
■ Assessments in the Government Rent Roll at year end

Source: RVD records

Introduction

1.8 ***Rates exemptions.*** The Rating Ordinance provides two forms of rates exemptions for specific types of properties. One is exemption from assessment to rates, whereby no assessment will appear in the Valuation List. The other is exemption from payment of rates, whereby an assessment is included in the Valuation List but the property is exempted from payment of rates. The general rationale of granting rates exemptions can be divided into a number of broad categories, including social (e.g. cemeteries and crematoria), administrative (e.g. properties below a prescribed rateable value), political (e.g. properties occupied by consulates and the military) and historical (e.g. certain village houses in the New Territories) factors. Types of properties exempted from assessment to rates and from payment of rates are shown at Appendices A and B respectively.

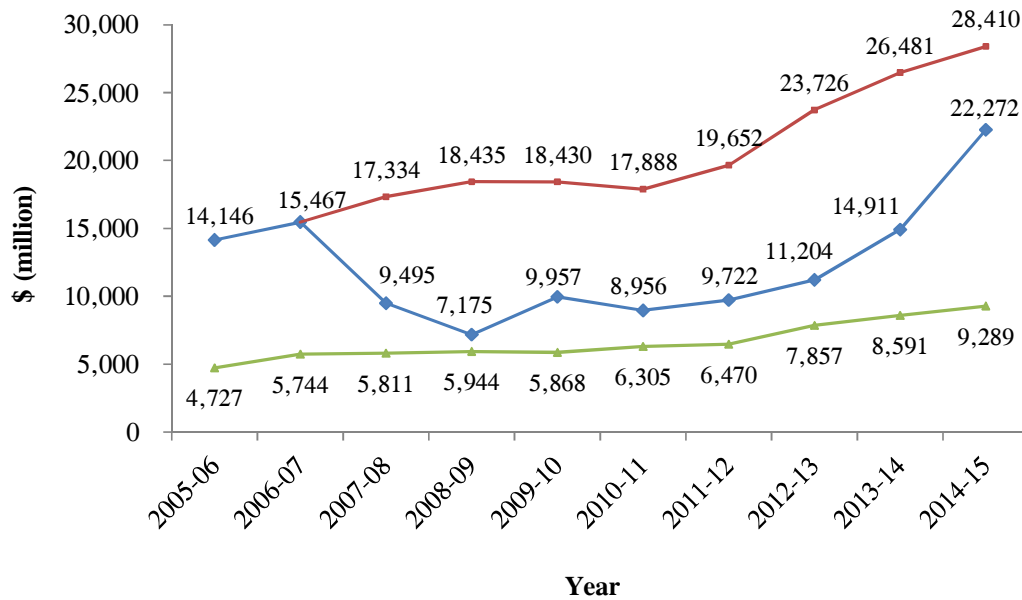
1.9 ***Government rent exemption.*** The Rent Ordinance also provides for exemption of properties from liability to pay government rent. An indigenous villager or his lawful successor in the male line (or tso, or tong) who (or which) has continuously owned an old schedule lot, village lot, small house or other rural holding since 30 June 1984, or small house or resite house granted after that date is entitled to exemption from liability to pay government rent.

1.10 ***Collection of rates and government rent.*** The RVD is also responsible for issuing demand notes and maintaining accounts for rates and government rent for all properties included in the Valuation List and the Government Rent Roll. Rates and government rent are payable quarterly in advance. Where a property is liable to both rates and government rent, a combined demand note is issued. For 2014-15, the revenue collected from rates under the Rating Ordinance and government rent under the Rent Ordinance was \$22.3 billion and \$9.3 billion respectively (Note 4). The revenue collected from rates and government rent during 2005-06 to 2014-15 is shown in Figure 2.

Note 4: *For 2014-15, the revenue from government rent collected by the LandsD was \$0.8 billion (see para. 1.5).*

Figure 2

**Revenue collected from rates and government rent
(2005-06 to 2014-15)**



Legend:

- ◆ Actual revenue from rates
- Revenue that would have been collectible from rates if no rates concessions had been given (see remarks)
- ▲ Revenue from government rent

Source: RVD records

Remarks: Rates concessions were given to ratepayers during 2007-08 to 2014-15. The revenue forgone ranged from \$6 billion to \$13 billion each year.

1.11 As at 31 March 2015, the RVD had an establishment of 861 staff, including 652 staff responsible for the “Statutory Valuation and Assessments” and “Collection and Billing of Rates and Government Rent” programmes. For 2015-16, the total estimated expenditure for the two programmes is \$389.4 million. An organisation chart of the RVD is at Appendix C.

Audit review

1.12 In 2003, the Audit Commission (Audit) completed a review of “Rating and Valuation Department’s assessment of rates and government rent”, the results were included in Chapter 2 of the Director of Audit’s Report No. 40 of March 2003. In 2009, Audit completed another review of “Assessment and collection of rates and government rent” and the results were included in Chapter 2 of the Director of Audit’s Report No. 53 of October 2009. Audit identified in the two reviews some improvement areas in the RVD’s assessment and collection of rates and government rent. The RVD has taken appropriate follow-up actions to address the issues.

1.13 In October 2015, Audit commenced a review to examine the RVD’s efforts in safeguarding revenue on rates and government rent. The review has focused on the following areas:

- (a) GRs (PART 2);
- (b) interim valuations (PART 3);
- (c) rates exemption for rural properties (PART 4); and
- (d) collection of rates and government rent (PART 5).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

General response from the Government

1.14 The Secretary for Financial Services and the Treasury appreciates Audit’s efforts in conducting a thorough audit on the RVD’s work and putting forward constructive recommendations to improve revenue assessment and collection, including those concerning the timeliness of interim valuations of altered properties such as unauthorised building works (UBWs) and the verification of eligibility of village houses within designated village areas (DVAs) for rates exemption. He has said that:

- (a) in recent years, the RVD has to cope with significant growth in number of assessments on new properties (an average of about 20,500 new additions a year) due to the buoyant property market and to conduct the annual GRs covering some 4.3 million property assessments (2.4 million for rates and 1.9 million for government rent) within five months. The scale and complexity of the RVD's assessment work should not be understated;
- (b) other than rating and rent assessment, the RVD has been making strenuous efforts to enhance transparency and translate its database into user-friendly data, by providing valuation and property information services such as maintaining a property information online system. The RVD has developed and nursed the Sales of First-hand Residential Properties Electronic Platform before handing it over to the Sales of First-hand Residential Properties Authority; and
- (c) a number of audit recommendations would have to compete for departmental resources against other more pressing priorities crucial to the delivery of the core business of the RVD. The implementation of such recommendations should be subject to review of work priorities.

1.15 The Commissioner of Rating and Valuation generally agrees with the audit recommendations.

Acknowledgement

1.16 Audit would like to acknowledge with gratitude the assistance and full cooperation of the staff of the RVD, the Buildings Department (BD), the Home Affairs Department (HAD) and the LandsD during the course of the audit review.

PART 2: GENERAL REVALUATIONS

2.1 This PART examines the GRs conducted by the RVD.

General Revaluation purpose and process

2.2 According to the Rating Ordinance, the rateable value of a property is the estimated annual rental value in the open market. Rental values change over time. The purpose of a GR of all properties is to redistribute the total rates liability fairly amongst ratepayers according to the prevailing rental levels of the properties they occupy. Since 1999, GRs have been conducted annually to review and update the rateable values in the Valuation List based on an analysis of the actual rental information as at 1 October of each year (the designated valuation reference date) and to prepare a new Valuation List which will take effect on 1 April of the following year (Note 5). The basis of ascertaining the rateable values in the Rent Ordinance is the same as that in the Rating Ordinance. To provide an equitable basis of assessing government rent payable for properties subject to both rates and government rent, the preparation of a new Government Rent Roll and a new Valuation List is synchronised and the designated valuation reference dates for both are the same.

2.3 A GR is comprised of the following four main stages:

- (a) ***Collection of rental information.*** The Commissioner of Rating and Valuation is empowered by the Rating Ordinance to require owners and occupiers to provide rental particulars and such other information as he may specify. In August each year, the RVD issues requisition forms (Form R1As) in bulk to selected properties. Ratepayers are required to complete and return these forms within 21 days (Note 6). Reminders are

Note 5: *The GR year used in this Audit Report refers to the year of the new Valuation List taking effect.*

Note 6: *Any person who knowingly makes a false statement or refuses to furnish the particulars requested is guilty of an offence and shall be liable on conviction to a maximum fine of \$25,000 or \$10,000 respectively. In addition, the offender is liable to a fine of three times the amount of undercharged rates/government rent.*

issued for all outstanding Form R1As. Audit has found room for improvement in the collection of rental information (see details in paras. 2.5 to 2.16);

- (b) ***Analysis of rental information.*** The reported rent must be adjusted to accord with the basis of ascertaining the rateable values specified by law. For example, rates, management fee and air-conditioning charge should not be included. Rent is also adjusted to account for the difference in time between the rent commencement date and the valuation reference date, and to reflect any rent-free periods. Rents arising from related parties' lettings or which are substantially below or above market levels are excluded from the analysis as outliers;

- (c) ***Review of rateable values.*** To enable valuation staff to systematically assess a large number of properties within a short time frame, the RVD has used computer-assisted mass appraisal techniques for assessing properties that are similar in valuation characteristics such as residential flats, offices and industrial properties. The salient features of this approach are set out below:
 - (i) a typical property unit within a building is selected as the reference assessment. A mathematical equation between the reference assessment and each of the other units in the building is then established with regard to the attributes affecting the unit's rental value. The mathematical equation reflects differences in qualitative and quantitative factors (e.g. view, floor level and floor area) between the reference assessment and the assessment concerned. The rateable value of the reference assessment is determined through valuation models specified in multiple regression analysis (Note 7). The values of other units in the building are generated automatically by the computer based on the established mathematical equations; and

Note 7: *Regression analysis is a statistical technique to predict rateable values by analysing the effects of property attributes and characteristics (e.g. floor area, location, building age and lift access) on property values.*

General Revaluations

- (ii) the computer-generated rateable values are reviewed by the RVD's professional valuation staff to ensure that they can be supported by the rental evidence and are reasonable and correct estimates of the open market rental values as at 1 October. To enhance the accuracy and consistency of valuations, the RVD has an on-going Rolling Programme to constantly review and update the valuation characteristics and the relativity of assessments within the same building as well as between buildings.

Properties which are special in nature (such as hotels, cinemas and public utilities) are reviewed and assessed manually by other methods of valuation; and

- (d) ***Preparation and declaration of the Valuation List and the Government Rent Roll.*** Upon completion of the revaluation exercise, a new Valuation List and a new Government Rent Roll are prepared for the Commissioner of Rating and Valuation to make a declaration that they contain a true account of the addresses, descriptions and rateable values of all the properties included therein. The declaration is usually done in March for the new Valuation List and the new Government Rent Roll to take effect on 1 April. Any person who is aggrieved by an entry in the Valuation List/Government Rent Roll may serve a proposal on the Commissioner before 1 June for alteration of the Valuation List/Government Rent Roll.

Post-GR statistical audit

2.4 After completion of each GR, a statistical audit is conducted by the RVD's Internal Audit Unit at a macro level to confirm that the new rateable values are reasonable, correct and consistent as at the valuation reference date, and that the required standard of relative equity both between and within groups of assessments has been achieved. The Internal Audit Unit uses the following ratio analyses for assessing the valuation accuracy:

- (a) **Mean ratio of Rateable Value to Rent (RV/Rent ratio).** Based on the “Standard on Ratio Studies” issued by the International Association of Assessing Officers (Note 8), the RVD has adopted the mean RV/Rent ratio for assessing its valuation performance. This is an overall ratio obtained from the average of the RV/Rent ratios for the individual properties selected for the post-GR statistical audit (Note 9). According to the International Association of Assessing Officers, a mean ratio between 0.9 and 1.1 is considered acceptable given that there may be uncontrollable sampling errors and the limiting conditions that may constrain the degree of accuracy. Any ratio below or above this range implies that the rateable values are under-valued or over-valued. For the GRs of 2010-11 to 2015-16, the mean RV/Rent ratios were within the acceptable limits, i.e. ranging from 0.91 to 0.92 (Note 10); and
- (b) **Rental evidence ratio.** This ratio is used to assess the adequacy of rental information obtained during the GR. It is derived by dividing the number of properties without rental information with the number of properties with rental information. A higher ratio indicates a lower level of adequacy of rental information obtained. Over the past six years, the rental evidence ratios showed improvement, i.e. decreasing from 25 for the GR of 2010-11 to 23 for the GR of 2015-16 (Note 11).

Note 8: *The Association is a professional membership organisation of government assessment officials and others interested in the administration of the property tax. Its assessment standards represent a consensus in the assessing profession.*

Note 9: *For example, for the 2015-16 GR, rental information of 94,420 properties was selected for the post-GR statistical audit. The overall mean RV/Rent ratio was the sum of RV/Rent ratios of the 94,420 properties divided by 94,420.*

Note 10: *As reported in the 2009 audit review (see para. 1.12), the mean RV/Rent ratios for the GRs of 2005-06 to 2009-10 ranged from 0.83 to 0.94.*

Note 11: *As reported in the 2009 audit review (see para. 1.12), the rental evidence ratios for the GRs of 2005-06 to 2009-10 ranged from 25 to 32.*

Collection of rental information

2.5 The RVD collects rental information for GR purposes from a number of sources but mainly by issuing Form R1As to selected properties (Note 12). The selection is based on an analysis of the results of previous years' returned Form R1As. For example, all reported cases of leased properties with tenancies expired are included in the selection and all reported cases of owner-occupied properties over the past five years are excluded from the selection. In general, properties from various property groups (Note 13) are randomly selected for the issue of Form R1As (Note 14). An analysis of Form R1As issued and returned, and rental information obtained for the GRs from 2010-11 to 2015-16 is shown in Table 1.

Note 12: *In addition to the bulk issue of Form R1As during the GR period, the RVD also issues Form R1As as and when considered necessary (e.g. upon the expiry of leases as recorded in the RVD's computer system, based on letting records in the Land Registry or submitted for e-stamping via the Inland Revenue Department's computer system). From the 2010-11 GR to the 2015-16 GR, some 142,000 to 155,000 Form R1As were issued each year on such basis.*

Note 13: *The RVD has categorised the properties into 18 groups (e.g. small flat, large flat and ground floor shop).*

Note 14: *For example, for the 2015-16 GR, 7 of every 20 village houses were randomly selected for the issue of Form R1As.*

Table 1

**Analysis of Form R1As issued/returned and rental information obtained
(2010-11 GR to 2015-16 GR)**

GR year	Number of Form R1As		Return rate (Note 2) $(c) = \frac{(b)}{(a)} \times 100\%$	Property with rental information obtained (Note 3)	
	Issued (a)	Returned (Note 1) (b)		Number (d)	As percentage of Form R1As issued $(e) = \frac{(d)}{(a)} \times 100\%$
2010-11	300,532	244,689	81.4%	118,739	39.5%
2011-12	326,405	266,214	81.6%	127,167	39.0%
2012-13	310,321	257,271	82.9%	122,352	39.4%
2013-14	296,373	241,738	81.6%	124,030	41.8%
2014-15	316,752	258,581	81.6%	139,907	44.2%
2015-16	296,098	239,564	80.9%	136,671	46.2%
Average	307,747 (Note 4)	251,343	81.7%	128,144	41.6%

Source: RVD records

Note 1: According to the RVD, on average about 5.3% of Form R1As received were submitted from ratepayers by electronic means.

Note 2: As reported in the 2009 audit review (see para. 1.12), the return rates of Form R1As for the GRs of 2005-06 to 2009-10 ranged from 79% to 83%.

Note 3: The number of properties with rental information obtained is less than the number of Form R1As received because no rental information is reported in returns for owner-occupied or vacant properties.

Note 4: On average 197,748 (64%) of the 307,747 Form R1As issued were related to domestic properties and 109,999 (36%) were related to non-domestic properties.

General Revaluations

2.6 Besides Form R1As, the RVD also obtains rental information from the following sources:

- (a) ***Form CR109s collected by the RVD.*** Under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), the landlord of a domestic property shall lodge with the RVD a Form CR109 in respect of any new letting or renewal agreement for endorsement. The rental information required to be provided in Form CR109 is largely the same as that in Form R1A. As such, properties with Form CR109s received will be excluded from the selection for issue of Form R1As to avoid duplication; and

- (b) ***Stamped tenancy agreements.*** The Stamp Duty Ordinance (Cap. 117) requires executed tenancy agreements to be stamped by the Stamp Office of the Inland Revenue Department (IRD). With the assistance of the IRD, the RVD obtains rental information as follows:
 - (i) an RVD staff takes photocopies of some tenancy agreements at the Stamp Office before the IRD returns them to the stamp duty applicants. According to the RVD, tenancy agreements of major non-domestic properties (such as shops, offices and factories) are copied, as domestic rental information can be obtained through Form CR109s. The IRD also makes copies of some tenancy agreements for its use. Such copies are passed to the RVD. The RVD then extracts useful rental data from the tenancy agreement copies; and

 - (ii) for an applicant using the IRD's e-stamping service via the Internet, after completing the stamping process, he is provided with a link to the RVD's website for submitting Form CR109 (for domestic properties) or Form R1A (for non-domestic properties) electronically (Note 15). The RVD will issue Form R1As in respect of those e-stamping cases (Note 16) that have no records of submission of Form CR109s or Form R1As.

Note 15: *The stamping applications submitted for the IRD's e-stamping do not contain sufficient rental information for the RVD's GR purposes.*

Note 16: *From the 2010-11 GR to the 2015-16 GR, the IRD notified the RVD of 77,310 to 131,784 e-stamping cases each year.*

Rental information obtained from the above two sources for the GRs of 2010-11 to 2015-16 is shown in Table 2.

Table 2
Numbers of Form CR109s
and stamped tenancy agreements collected
(2010-11 GR to 2015-16 GR)

GR year	Number of Form CR109s (Note 1)	Number of stamped tenancy agreements		
		Provided by the IRD (Note 2) (a)	Copied by the RVD (Note 3) (b)	Total (c) = (a) + (b)
2010-11	49,992	21,015	18,099	39,114
2011-12	50,596	23,696	24,640	48,336
2012-13	52,070	23,352	22,781	46,133
2013-14	50,838	24,775	23,583	48,358
2014-15	51,672	27,843	23,806	51,649
2015-16	51,300	26,450	26,187	52,637
Average	51,078	24,522	23,183	47,705

Source: RVD records

Note 1: All were related to domestic properties (see para. 2.6(a)).

Note 2: According to the RVD, most of the stamped tenancy agreements provided by the IRD were related to domestic properties.

Note 3: Most of them were related to non-domestic properties (see para. 2.6(b)(i)).

General Revaluations

Need to monitor the accuracy of rental information furnished in Form R1As

2.7 After completion of each GR, the GR Division conducts a rental verification exercise to ascertain the accuracy of information furnished in Form R1As on a sample basis. For the GRs from 2010-11 to 2015-16, some 240 properties for which Form R1As had been received were selected each year for issuing letters requiring the ratepayers concerned to supply supporting documents for their furnished rental information (such as copies of tenancy agreements and rent receipts). The results of the six rental verification exercises are shown in Table 3.

Table 3
Results of rental verification exercises
(2010-11 GR to 2015-16 GR)

Item	GR year						Average
	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	
(a) Number of cases selected (Note 1)	240	240	240	240	243	240	241
(b) Number of cases found in order	174	195	173	146	161	181	172
(c) In-order rate $\frac{(b)}{(a)} \times 100\%$	73%	81%	72%	61%	66%	75%	71%
(d) Number of cases with discrepancies	56	44	67	94	82	59	67
(e) Total number of discrepancies (Note 2)	68	54	106	127	99	76	88

Source: RVD records

Note 1: All selected ratepayers provided the requested information for verification except for the 2010-11 GR having 10 non-returned cases and the 2011-12 GR having one non-returned case (i.e. the 11 non-returned cases accounted for about 1% of the 1,443 sampled cases over the six years).

Note 2: Some cases have more than one discrepancy. Examples of discrepancies are incorrect rental information and lease period, and unreported rental based on tenants' turnover and rent-free period.

2.8 Audit notes that as the RVD only selected ratepayers of multiple properties for rental verification purposes (Note 17), the in-order rates might not provide a complete picture of the accuracy of rental information obtained in Form R1As. Moreover, the average in-order rate of only 71% shown in Item (c) of Table 3 in paragraph 2.7 warrants management attention as the discrepancies found in 28% of the sampled cases (the remaining 1% being non-returned cases) suggest that the accuracy of rateable values generated in the GRs could be undermined by inaccurate rental information furnished in Form R1As. In Audit's view, the RVD needs to closely monitor the situation and take measures to improve the accuracy of rental information furnished in Form R1As. To improve the monitoring of reported rental information, the RVD also needs to consider using stratified sampling to divide ratepayers into multiple-property and single-property sub-groups for conducting the rental verification exercises. This would enable single-property ratepayers to be included. Different sample sizes can be applied to the different sub-groups according to their characteristics and risks.

Need to step up follow-up actions on non-compliance with Form R1A submission requirements

2.9 Form R1As are statutory returns essential for obtaining rental information for GR purposes. Of some 307,700 Form R1As issued for each annual GR from 2010-11 to 2015-16 (see Table 1 in para. 2.5), about 56,400 (18%) ratepayers failed to complete and return the Form R1As (see Table 4). The RVD had taken prosecution actions on or issued warning letters for some of the non-returned cases. However, as shown in Table 4, the number of ratepayers who had failed to file Form R1As for three years consecutively (Note 18) was on the increase (i.e. by 22% from 6,100 in the 2010-11 GR to 7,417 in the 2015-16 GR), calling for more stringent enforcement actions.

Note 17: *The rental verification exercise was introduced by the RVD in 2004 in response to the recommendation of the 2003 audit review (see para. 1.12) to assess the risk of under-reporting of rental information. According to the RVD, due to resource constraints, the exercise was not conducted from 2005 to 2007. In 2008, the RVD resumed the rental verification exercise in response to the recommendation of the Independent Commission Against Corruption to address the higher risk of under-reporting of rental information by ratepayers of multiple properties from the corruption prevention perspective.*

Note 18: *As mentioned in paragraph 2.5, when selecting properties for issuing Form R1As during GRs, the RVD would make reference to the results of previous years' returned Form R1As. In this connection, the RVD has compiled statistics on ratepayers who have failed to file Form R1As for three years consecutively.*

General Revaluations

Table 4

**Number of non-returned Form R1As,
repeated non-return cases and prosecutions
(2010-11 GR to 2015-16 GR)**

GR year	Number of non-returned Form R1As (a)	Ratepayers who failed to file Form R1As for three years		Number of prosecutions
		Number (b)	Percentage $(c) = \frac{(b)}{(a)} \times 100\%$	
2010-11	55,843	6,100	10.9%	18
2011-12	60,191	4,674	7.8%	37
2012-13	53,050	5,597	10.6%	44
2013-14	54,635	6,160	11.3%	52
2014-15	58,171	7,120	12.2%	52
2015-16	56,534	7,417	13.1%	52
Average	56,404	6,178	11.0%	43

Source: RVD records

2.10 As shown in Item (d) of Table 3 in paragraph 2.7, on average 67 (28%) of some 240 cases each year were found to have provided incorrect rental information in Form R1As during the rental verification exercises from the 2010-11 GR to the 2015-16 GR. The follow-up actions taken by the RVD on these non-compliance cases included issuing advisory letters on a selected basis (focusing on cases with multiple discrepancies and those with frequent discrepancies) and reminding the major property owners of their statutory duty in providing accurate rental information at Customer Liaison Meetings. However, no prosecution action has been taken since the resumption of the rental verification exercise in 2008. In February 2016, in response to Audit's enquiry, the RVD said that there was no evidence to show that the ratepayers concerned were knowingly making false statements on the Form R1As. However, Audit noted that during the five years from the 2010-11 GR to the 2014-15 GR, three property owners had provided

inaccurate rental information for three to four years. In Audit's view, the RVD needs to consider taking more stringent enforcement actions in warranted cases.

Need to explore the feasibility of developing paperless solutions for capturing rental information for stamped tenancy agreements for GRs

2.11 For the 2010-11 GR to the 2015-16 GR, the number of stamped tenancy agreements copied by the RVD increased from 18,099, by 45%, to 26,187 (see Table 2 in para. 2.6). Given the large number of tenancy agreements required to be copied each year, there is merit to consider using scanners instead of photocopiers to reduce the use of paper for green management purposes and to save storage space (Note 19). In Audit's view, the RVD needs to explore, in consultation with the Office of the Government Chief Information Officer, the feasibility of developing paperless solutions for capturing rental information for stamped tenancy agreements for GR purposes.

Required property alteration information not reported in Form R1As

2.12 In 2012, the RVD introduced a new Form R1A (Note 20) requiring ratepayers to report (in addition to rental information) whether their properties had been subdivided or combined (i.e. structural alterations that might affect their rateable values — see para. 3.6). In this connection, in March 2012, the RVD requested the BD to provide information on subdivided properties identified during its large-scale operations to facilitate the issue of Form R1As more specifically. The BD provided the RVD with a list of 116 buildings which were found in 2011 to have 800 subdivided properties. The BD also informed the RVD that another 339 buildings would be inspected in its large-scale operations in 2012. In September 2012, the RVD tried to obtain a comprehensive list of subdivided properties identified in all large-scale operations but was informed by the BD that such a list was not available.

Note 19: *This is in line with the Government's "Digital 21 Strategy" of proactively adopting paperless solutions for handling government records to cut costs, save storage space, enable tracking, facilitate information sharing and protect the environment.*

Note 20: *The new Form R1As are currently still in force.*

General Revaluations

2.13 For the GR of 2013-14, the RVD issued 3,189 new Form R1As to all ratepayers (except those with Form R1As issued in the preceding 12 months) in the 116 buildings. In only 44 of the 2,244 (70% of the total issued) Form R1As received, the ratepayers concerned reported rental and subdivided unit information to enable the RVD to revise their rateable values (which were increased by 15% to 180%, averaging 69%). Apparently, ratepayers of 756 of the 800 subdivided properties found by the BD had failed to return Form R1As or report in their Form R1As the subdivided property status. However, the RVD had not sought the BD's assistance to identify them for taking follow-up actions with the ratepayers concerned. Moreover, for the GRs of 2014-15 and onwards, the RVD had not obtained subdivided property information from the BD for conducting similar bulk issue of Form R1As.

2.14 Upon enquiry, the RVD informed Audit in December 2015 that the bulk issue of Form R1As for the 116 buildings with subdivided units was a pilot study. As the vast majority of the leased subdivided properties reported had rental history, which were already covered by the normal bulk issue/periodic issue of Form R1As (see Note 12 to para. 2.5), the RVD considered it not cost-effective to issue additional Form R1As for all properties of the 339 buildings inspected by the BD in 2012 (see para. 2.12) for the GR of 2014-15. In Audit's view, the RVD can improve the cost-effectiveness of obtaining rental information on subdivided properties for GR purposes by targeting those identified by the BD.

2.15 As a test check on the accuracy of subdivided property information reported in Form R1As, Audit reviewed 10 Form R1As returned from subdivided properties with removal orders issued by the BD (see para. 3.17). Audit found that in eight cases, the ratepayers reported in Form R1As that their properties were not subdivided. For the remaining two cases, the ratepayers did not indicate whether their properties were subdivided or not. The test results suggest that the ratepayers may not be forthcoming in disclosing information on their subdivided properties. The subdivided property information of the BD can help the RVD detect the omission or under-reporting of subdivided property information in Form R1As.

Audit recommendations

2.16 **Audit has *recommended* that the Commissioner of Rating and Valuation should:**

- (a) **take measures to improve the accuracy of rental information furnished in Form R1As for GRs and closely monitor the situation;**
- (b) **consider using stratified sampling for different ratepayer groups for conducting the rental verification exercises to improve the monitoring of reported rental information;**
- (c) **step up follow-up actions on repeated cases of non-compliance with Form R1A submission requirements, such as taking prosecution actions in warranted cases and issuing advisory letters in non-prosecuted cases;**
- (d) **explore, in consultation with the Government Chief Information Officer, the feasibility of developing paperless solutions for capturing rental information for stamped tenancy agreements for GR purposes;**
- (e) **seek the assistance of the BD to improve the cost-effectiveness of obtaining rental information on subdivided properties for GR purposes by targeting those identified by the BD; and**
- (f) **make use of the information obtained from the BD mentioned in (e) above to identify ratepayers of subdivided properties who have under-reported subdivided property information in their Form R1As (such as those mentioned in para. 2.15) for taking necessary follow-up actions.**

Response from the Government

2.17 The Commissioner of Rating and Valuation generally agrees with the audit recommendations. He has said that:

- (a) collecting rental information is one of the core businesses of the RVD in conducting the annual GRs. The RVD has always accorded high priority to this aspect, and has already engaged over 40 contract staff during peak season each year in processing the rental information collected; and
- (b) implementing the audit recommendation of stepping up follow-up actions on repeated cases of non-compliance with Form R1A submission requirements (see para. 2.16(c)) will have considerable resource implications. The RVD will consider taking more stringent enforcement actions subject to availability of resources.

PART 3: INTERIM VALUATIONS

3.1 This PART examines the issues relating to interim valuations, focusing on the following areas:

- (a) interim valuations of altered properties (paras. 3.6 to 3.25);
- (b) interim valuations of advertising signs (paras. 3.26 to 3.32); and
- (c) timeliness of interim valuations (paras. 3.33 to 3.39).

Interim valuation procedures

3.2 According to the Rating Ordinance and the Rent Ordinance, the Commissioner of Rating and Valuation may at any time make an interim valuation of a property which is not included in the Valuation List/Government Rent Roll and is liable for assessment to rates/government rent. There are a number of reasons why a property may not be included in the Valuation List/Government Rent Roll and the more common ones are described below:

- (a) *New property.* The property forms part of a new building not yet assessed to rates/government rent;
- (b) *Altered property.* There have been structural alterations to the property thus giving rise to grounds for the deletion of the previous valuation from the Valuation List/Government Rent Roll and interim valuation of the property taking into account the structural alterations. Similar deletion and interim valuation are required when a property has been divided into two or more separate properties which should be separately assessed or conversely two or more properties have been combined and should now be assessed as one. This is applicable to all (domestic and non-domestic) properties. The deletion and interim valuation usually take effect from the same date; and

Interim valuations

- (c) *Formerly exempted property.* The property was formerly exempted from assessment to rates/government rent but due to a change in its eligibility for exemption, it has become liable to assessment.

3.3 The RVD makes use of information from other departments to identify properties that may require interim valuations, including:

- (a) occupation permits issued by the BD for new buildings;
- (b) notifications of lettings in Housing Authority estates;
- (c) completion certificates issued by the Director of Housing in respect of Home Ownership Scheme flats;
- (d) compliance certificates for New Territories “Exempted houses” (Note 21) issued by the LandsD; and
- (e) alteration and addition works of buildings notified by the BD.

3.4 The RVD is required to serve a notice on the owner or occupier of the property subject to an interim valuation specifying the effective date of the interim valuation. The owner or occupier concerned may within 28 days raise objections to the interim valuation by submitting a specified form to the RVD.

Note 21: *Exempted houses are those granted exemption by the Director of Lands from the requirement of submitting building plans to the Building Authority for approval in accordance with the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121).*

3.5 Section 29(1) of the Rating Ordinance provides that any rates due on an interim valuation shall be payable from the date when the interim valuation became effective (Note 22), or 24 months before the date of the issue of the first demand note, whichever is the later. This means that the RVD cannot recover retrospectively the rates for more than 24 months. For government rent, the Rent Ordinance does not specify any time-bar for recovering government rent. Government rent due on an interim valuation is payable from the effective date of the interim valuation.

Interim valuations of altered properties

3.6 For properties which have undergone structural alterations, their rating/rent assessments in the Valuation List and/or Government Rent Roll may have to be revised based on their latest physical situation. According to the RVD, structural alterations that can be occupied for beneficial use such as storage and habitation are generally assessable. Common types of assessable structures include the following:

- (a) structures on rooftop or flat roof (see an example in Photograph 1), in lane/yard or on canopy;
- (b) projections of shop fronts or signs (see para. 3.26); and
- (c) alterations inside buildings such as alterations/additions to wall/floor (e.g. splitting and combining of units), basement excavation and change of use.

Note 22: *Generally, for properties in a newly constructed building, the effective date of an interim valuation is:*

- (a) *for domestic properties, 90 days from the issue of the relevant document (whichever is applicable): occupation permit, certificate of compliance, consent to assign or consent to lease; or*
- (b) *for non-domestic properties, 180 days from the issue of the relevant document (see (a) above), or the date of first occupation, whichever is the earlier.*

For other properties, the effective date of an interim valuation is the date of first occupation.

Photograph 1

An example of assessable structures on podium flat roof



Source: *BD records*

3.7 Rates are a tax on occupation. According to the RVD, the fact that a property or structure is unauthorised does not affect its liability for assessment to rates. Likewise, the assessment to and/or the payment of rates for these UBWs does not imply that they have legal status, nor does it confer any legal sanction or authorisation on them.

3.8 The RVD gathers information on alterations of properties from the following main sources:

- (a) **Site inspections.** RVD staff conduct site inspections in connection with interim valuations of new properties or handling of objections to rating assessments. During such inspections, RVD staff may notice physical alterations to properties in the vicinity;
- (b) **Form RIAs.** Ratepayers are required to indicate in Form RIAs whether their properties have been subdivided into separate units or combined with other properties (see para. 2.12); and

- (c) ***Information provided by the BD.*** Under the Buildings Ordinance (Cap. 123), all building works (except certain exempted works) require the Building Authority's prior approval of plans and consent for commencement. Otherwise, they are unauthorised and subject to enforcement actions by the BD. Through enforcement of the Buildings Ordinance, the BD has captured information of both the approved building works and UBWs.

Notification arrangements of approved building works

3.9 The RVD and the BD have established notification arrangements of approved building works for rates and government rent assessment purposes as follows:

- (a) by way of Practice Notes issued by the BD, Authorised Persons and Registered Structural Engineers are required to submit an additional set of record plan for completed new building works, and alteration and addition works for the BD's onward transmission to the RVD; and
- (b) internal instructions of the BD require its staff (responsible for processing building professional's certificate of completion of new building works, and alteration and addition works) to copy the occupation permit for new building works, and the BD's acknowledgement letter of receipt of the completion certificate for alteration and addition works to the RVD.

Need to strengthen interim valuations of assessable UBWs

3.10 ***Policy decision of not collecting rates from new or re-erected illegal rooftop structures.*** Starting from 2001-02, the RVD and the BD have established notification arrangements for UBWs. In January 2001, the then Planning and Lands Bureau (Note 23) consulted the Legislative Council Panel on Planning, Lands and Works on measures to tackle UBWs including illegal rooftop structures. The Panel was informed that a Task Force (set up in February 2000 under the Bureau to

Note 23: *The planning and lands policy portfolio is now under the purview of the Development Bureau.*

Interim valuations

review policies and enforcement actions on building safety and preventive maintenance) had proposed among other things that:

- (a) illegal rooftop structures on single-staircase buildings should be cleared as a priority to remove their risk as potential “fire-traps”;
- (b) efforts must be made to clear new illegal rooftop structures upon construction and before, or soonest possible after, occupation, and to abort attempts at re-erection; and
- (c) as part of the package of measures to tackle UBWs, rates should not be collected from new or re-erected illegal rooftop structures so as to avoid leading to some misunderstanding over the status of illegal rooftop structures.

Having considered that the new or re-erected illegal rooftop structures would be cleared or prevented under the prompt actions to be taken by the BD at that time, the then Secretary for the Treasury (Note 24) endorsed the proposal to cease collecting rates from new or re-erected illegal rooftop structures in November 2000.

3.11 *Notification of removal of illegal rooftop structures on single-staircase buildings.* In August 2001, pursuant to the Task Force’s proposal, the BD sought the RVD’s assistance in identifying new or re-erected illegal rooftop structures on single-staircase buildings for taking prompt enforcement actions. Under the agreed arrangements of 2001-02, the RVD would report to the BD any suspected structures identified in the course of rating valuations or site inspections while the BD would notify the RVD of its planned enforcement actions at various stages by copying to the RVD the following documents:

- (a) demolition/removal orders issued to owners/occupiers under section 24 of the Buildings Ordinance; and
- (b) compliance letters issued to owners/occupiers confirming that the illegal rooftop structures had been satisfactorily removed.

Note 24: *Since 2002, the Secretary for Financial Services and the Treasury has taken over the policy portfolio of the Secretary for the Treasury.*

These documents would facilitate the RVD's review of the rateable values of properties with illegal rooftop structures removed to avoid overcharging of rates.

3.12 *Notification of removal of other types of assessable UBWs.* In 2004 after discussions through emails, the BD agreed to the RVD's request for copies of removal orders and compliance letters pertaining to other types of assessable UBWs (see para. 3.6) in a manner similar to the arrangements for illegal rooftop structures on single-staircase buildings. The purpose was to facilitate the RVD's review of the rateable values of properties with UBWs removed.

3.13 *The RVD's instructions for staff on following up removal notifications of assessable UBWs.* Subsequent to the agreed notification arrangements of assessable UBWs with the BD, the RVD issued the following instructions to its staff setting out the procedures when dealing with rating assessments of assessable UBWs upon receipt of the BD's removal notifications:

- (a) the 2002 departmental instruction stipulated that:
 - (i) a check should be made to ascertain whether the subject illegal rooftop structure had been assessed to rates;
 - (ii) if the illegal rooftop structure had been assessed, the subject officers should closely monitor the progress of the case and take deletion or deletion and interim valuation action (see para. 3.2(b)) upon receiving information from the BD or the ratepayer that the illegal rooftop structure had been removed; and
 - (iii) if the illegal rooftop structure had not been assessed, the case should be treated as no further action required; and
- (b) similar to the 2002 version, the 2005 departmental instruction (which is currently still in force) covering both illegal rooftop structures and other types of assessable UBWs also stipulated that RVD staff should not take any further action on un-assessed illegal rooftop structures/UBWs subjected to the BD's removal orders.

Interim valuations

3.14 *Audit enquiry.* In its memorandum to the RVD in December 2000, the then Planning and Lands Bureau had pointed out that it had never been its intention to cease collecting rates from existing illegal rooftop structures or to grant any exemption status to them. Its aim was to stop new erections or re-erections as soon as identified. However, the 2002 departmental instruction had not reminded RVD staff to check if the un-assessed illegal rooftop structure in paragraph 3.13(a)(iii) was a new or re-erected case before treating the case as no further action required. Moreover, there was no documentary evidence to indicate that before issuing the 2005 departmental instruction, the RVD had ascertained from the BD whether UBWs issued with removal orders could be removed shortly (see para. 3.15(b)). In February and March 2016, in response to Audit's enquiries, the RVD said that:

- (a) the 2002 departmental instruction stated that “the existing departmental practice/guidelines concerning treatment of other types of UBWs remain unchanged and should continue to be followed”. Under the established rating principles, a property which was transient in nature would not be assessed to rates;
- (b) the issue of a removal order signified the determination of clearance of the targeted illegal structure soonest possible, just like other new or re-erected cases. It was not justified to spend resources to assess the illegal structures which would be removed shortly;
- (c) following the rationale of the Task Force's decision, making assessments of illegal structures subject to removal orders would give the false impression to the occupiers that the Government was not keen on enforcing the orders and thus encouraging the occupiers not to remove the illegal structures;
- (d) the RVD was well aware that it had never been the then Planning and Lands Bureau's policy intention to cease collecting rates from existing illegal rooftop structures or to grant any exemption status to them. In subsequent communications with the then Planning and Lands Bureau in 2003, the RVD clearly spelt out that there was no plan to cease collecting rates from other UBWs. Indeed, the RVD had not ceased collecting rates from existing illegal rooftop structures/UBWs already assessed to rates (including the new and re-erected illegal rooftop structures identified with removal orders issued by the BD) until their removal. For illegal rooftop structures/UBWs not yet assessed to rates, the RVD had reminded its staff in both the 2002 (on illegal rooftop structure alone) and the 2005

(covering other UBWs) departmental instructions that in considering whether to rate un-assessed illegal rooftop structures/UBWs, the existing departmental practice should continue to be adopted. As a matter of fact, the RVD had reflected the value of UBWs (including illegal rooftop structures) in some 14,000 interim valuations since 2000; and

- (e) apart from proper implementation of policy objectives, the RVD abided by the Rating Ordinance as well as the established rating principles under common law in raising assessments to rates. Premised on the requirement of removal orders for the illegal rooftop structures/UBWs to be removed within one to three months, their existence would be too transient to satisfy the rateability requirement under the established rating principles. This was the underlying reason why the RVD had no objection to the Task Force's proposal to cease collecting rates from new or re-erected illegal rooftop structures. Hence, along the same spirit of not assessing transient structures, the above departmental instructions also stipulated that RVD staff should not take any further action on un-assessed illegal rooftop structures/UBWs subjected to the BD's removal notifications.

3.15 *Need to improve the instructions for RVD staff on following up removal notifications of un-assessed UBWs.* The above review shows that the notification arrangements of UBWs were developed with the primary objective to prevent the overcharging of rates for properties with UBWs removed. As far as assessment of rates is concerned, Audit has found that the RVD's instructions to staff upon receipt of copies of removal orders under the notification arrangements have the following deficiencies:

- (a) there was no documentary evidence to indicate that before issuing the 2005 departmental instruction, the RVD had ascertained from the BD whether UBWs issued with removal orders could be removed shortly; and
- (b) the RVD's presumption that after the issue of removal orders, the illegal rooftop structures/UBWs would be demolished soon (see para. 3.14(b) and (e)) also turned out to be not always valid as evidenced below:

Interim valuations

- (i) of 54,637 cases with removal orders issued from 2001 to 2015 (see para. 3.17), 16,304 (30%) had not been complied with as at 31 December 2015. In particular, 10,192 (62% of the 16,304 cases) had remained outstanding for two years or more after the issue of removal orders; and
- (ii) Audit review of three illegal rooftop structure cases (see Table 5) revealed that only one of the illegal rooftop structures was demolished within four months after the issue of the removal order. The other two cases had remained outstanding for over two years.

Table 5

**Audit review of three illegal rooftop structure cases
(December 2015)**

Case	Date of removal orders	Particulars
A	9 July 2010	The illegal rooftop structure was demolished on 14 October 2010 (within four months after the issue of the removal order).
B	9 July 2010	Up to December 2015 (after 5.5 years), the illegal rooftop structure had not yet been demolished. As the rateable value of the property concerned was not reassessed upon receipt of the removal order (per the 2005 departmental instruction — see para. 3.13(b)), recovery of additional rates for 3.5 years (from July 2010 to December 2013) from the ratepayer had become time-barred.
C	26 April 2013	Up to December 2015 (after more than 2.5 years), the illegal rooftop structure had not yet been demolished. As the rateable value of the property concerned was not reassessed upon receipt of the removal order (for the same reason as Case B above), recovery of additional rates for nine months (from April to December 2013) from the ratepayer had become time-barred.

Source: BD and RVD records

3.16 In Audit's view, the RVD needs to review the 2005 departmental instruction on rating assessment of UBWs with a view to strengthening the procedures for using UBWs information obtained from the BD for rating assessment purposes to prevent loss of rates revenue.

3.17 *Audit analysis of the BD's database on UBWs of assessable types as defined by the RVD.* To assess the adequacy of the present notification arrangements of assessable UBWs for rating and government rent assessment purposes, Audit obtained from the BD an extract of its UBWs database as at 31 December 2015 for review (Note 25). According to the BD's database, from 2001 (the commencement of the notification arrangements) to 2015, there were 54,637 UBWs cases of the assessable types as defined by the RVD (see para. 3.6) to which removal orders had been issued. In addition, there were 59,032 cases of assessable types of UBWs without removal orders issued (see Table 6 — Note 26). Of the 54,637 cases with removal orders issued, 16,304 (30%) had not been complied with as at 31 December 2015. Ageing analysis of the 16,304 cases shows that 10,192 (62%) had remained outstanding for two years or more after the issue of removal orders (see Table 7).

Note 25: *The BD's database only records confirmed cases of UBWs which have been classified as actionable by the BD, such as those with imminent dangers or new UBWs. The BD's enforcement procedures include issuing removal orders for actionable UBWs cases, and issuing advisory letters for non-actionable UBWs cases (i.e. those not recorded in the database).*

Note 26: *In Chapter 1 of the Director of Audit's Report No. 64 of April 2015, Audit expressed concern over the long time taken by the BD to issue removal orders for actionable UBWs.*

Interim valuations

Table 6

**Analysis of assessable types of UBWs cases from 2001 to 2015
(31 December 2015)**

UBWs	Number of cases with removal orders issued (Note 1)	Number of cases without removal orders issued (Note 2)
Rooftop structure	20,782	29,912
Flat roof structure	16,789	18,136
Structure in lane/yard	6,942	9,125
Subdivided unit	1,563	747
Advertising sign	2,879	267
Structure on canopy	3,719	45
Basement excavation	153	496
Shop front structure	1,724	0
Building alterations (change of use)	86	304
Total	54,637	59,032

Source: Audit analysis of BD records

Note 1: For cases with removal orders covering more than one item or one type of UBWs each, they have been categorised according to the major UBWs indicated in the BD's database to avoid double counting of the number of cases.

Note 2: For cases involving more than one item or one type of UBWs each, they have been categorised according to the major UBWs indicated in the BD's database to avoid double counting of the number of cases. According to the BD, a case may duplicate with another case due to the constraints of the database.

Remarks: For properties with UBWs of assessable types as defined by the RVD, their rateable values might be revised after the assessments made by the RVD.

Table 7

**Ageing analysis of outstanding cases with removal orders
issued from 2001 to 2015
(31 December 2015)**

UBWs	Number of cases outstanding				
	Less than 2 years	2 years to less than 5 years	5 years to less than 10 years	10 years or more	Total
Rooftop structure	1,909	2,123	715	97	4,844
Flat roof structure	2,495	3,061	1,012	117	6,685
Structure in lane/yard	932	792	627	42	2,393
Subdivided unit	190	681	14	4	889
Advertising sign	456	134	92	2	684
Structure on canopy	110	64	258	47	479
Basement excavation	12	5	16	2	35
Shop front structure	3	13	242	2	260
Building alterations (change of use)	5	7	23	0	35
Overall	6,112 (38%)	6,880 (42%)	2,999 (18%)	313 (2%)	16,304 (Note) (100%)

10,192 (62%)

Source: Audit analysis of BD records

Note: Of the 16,304 cases, 3,337 had removal orders covering more than one type of UBWs. There was no indication in the BD's database whether these 3,337 orders had been partially complied with. An ageing analysis of the remaining 12,967 orders (covering only one item or one type of UBWs) showed that 7,877 (61%) were outstanding for two years or more.

Interim valuations

3.18 *Need to extend the coverage of the notification arrangements of assessable UBWs.* Under the agreed notification arrangements, the BD had not provided the RVD with information on the 59,032 cases of assessable UBWs without removal orders issued (see Table 6 in para. 3.17). There is a risk that the RVD may not have reviewed the rateable values of these 59,032 cases unless information on these cases has been received from other sources (see para. 3.8(a) and (b)). As a test check, Audit selected from the BD's 2010 to 2015 records 1,000 cases with UBWs which fell within four assessable types (Note 27) for checking against the RVD's computerised assessment records. As shown in Table 8, Audit found that for 451 (45%) of the 1,000 selected cases with assessable types of UBWs, the RVD computer records had assessment information about the UBWs concerned. For the remaining 549 (55%) cases, there was no similar assessment information about the UBWs in the RVD's computer records, suggesting that these cases might not have been reviewed by the RVD.

Note 27: *The test check did not cover the other five types of assessable UBWs (advertising sign, structure on canopy, basement excavation, shop front structure and building alterations (change of use)) because according to the RVD, relevant information was not specifically captured in any structured fields in its computer system for such UBWs. RVD staff might record such information in the general remark field in the computer system for quick reference when necessary.*

Table 8

**Assessable types of UBWs in the BD's database
for which the RVD's assessment information was not found
(31 December 2015)**

UBWs	Number of cases		
	UBWs with the RVD's assessment information found	UBWs for which the RVD's assessment information not found	Total
Rooftop structure	108 (35%)	202 (65%)	310
Flat roof structure	181 (62%)	109 (38%)	290
Structure in lane/yard	144 (60%)	96 (40%)	240
Subdivided unit	18 (11%)	142 (89%)	160
Overall	451 (45%)	549 (55%) (Note 1)	1,000 (Note 2)

Source: Audit analysis of BD and RVD records

Note 1: Of the 549 cases, 275 (50%) were issued with removal orders and 274 (50%) were not issued with removal orders.

Note 2: Of the 1,000 selected cases, 550 (55%) were issued with removal orders and 450 (45%) were not issued with removal orders.

3.19 In February 2016, Audit provided the property addresses, rating assessment numbers, removal order/case reference numbers and types of assessable UBWs involved in the 1,000 cases mentioned in paragraph 3.18 to the RVD for confirming whether rating assessments had been made for the UBWs concerned. In February and March 2016, the RVD informed Audit that:

- (a) more details of the UBWs involved in the 1,000 cases would be required before it could confirm whether rating assessments had been made for the UBWs concerned;

Interim valuations

- (b) a sample check of some of the 1,000 cases revealed that the BD had classified certain items (such as prefabricated mobile storage cabinets, trellises and retractable canvas awnings on rooftop, flat roof and lane/yard) as actionable UBWs, which were not regarded as rateable improvement under the established rating principles. Therefore, not all UBWs in the BD's records were rateable items in the RVD's context and no such information would be in the RVD's computer records; and
- (c) for UBWs on the rooftop, flat roof and lane/yard, an analysis of reassessed cases completed in recent years showed that the average increase in rateable values was less than 5% (Note 28).

3.20 Audit notes the RVD's comments that not all UBWs in the BD's records are rateable items. However, in Audit's view, there is still a need to seek the BD's assistance in extending the scope of the present notification arrangements to cover assessable UBWs without removal orders issued (i.e. including those non-actionable cases with advisory letters issued — see Note 25 to para. 3.17) so that rating reassessments in warranted cases, such as those involving a higher rateable value, can be conducted in a timely manner. This is because as shown in paragraph 3.17, of the 54,637 cases with removal orders issued from 2001 to 2015, 16,304 (30%) had not been complied with as at 31 December 2015. In particular, 10,192 (62%) of the 16,304 cases had remained outstanding for two years or more. This suggests that actions to demolish UBWs with statutory removal orders issued could take a long time, not to mention those without statutory removal orders issued. Given the 24-month time-bar in recovering rates (see para. 3.5), there is a risk of loss of rates revenue if the rateable values of properties with assessable UBWs are not reassessed in a timely manner. Based on the rating assessment records of 312 subdivided properties provided by the RVD in December 2015, Audit noted that the rateable values of properties with assessable subdivided units could increase by 5% to 217% (averaging 58%) upon reassessments.

Note 28: *The RVD's analysis was based on a comparison of (a) the additional rateable values of rooftops without UBWs to a sample of host properties with (b) the additional rateable values of rooftops with UBWs to another sample of host properties, to arrive at an average percentage increase in rateable value due to UBWs on rooftops. Similar comparisons were made for other sample groups of properties with flat roofs and lanes/yards and with and without UBWs therein. Taken together, an overall average increase in rateable value of less than 5% due to UBWs on rooftops, flat roofs and lanes/yards was obtained.*

3.21 *Need to improve the instructions for BD staff in copying removal notifications of assessable UBWs to the RVD.* Over the years, there have been changes in the operation sections of the BD responsible for handling different types of UBWs. Subsequent to the agreed notification arrangements of illegal rooftop structures on single-staircase buildings in August 2001 (see para. 3.11), the relevant operation section of the BD incorporated in its guidelines for staff a requirement that all removal orders of illegal rooftop structures on single-staircase buildings as well as any consequential compliance letters should be copied to the RVD. As for the 2004 agreed notification arrangements of other UBWs (see para. 3.12), two instructions were issued, one for advertising signs and the other for UBWs in general. For advertising signs, BD staff concerned were required to copy both removal orders and any consequential compliance letters to the RVD. For UBWs in general, BD staff concerned were required to copy compliance letters and letters of withdrawal of removal orders to the RVD. However, there was no laid-down requirement to copy removal orders to the RVD. According to BD records, the instruction concerning UBWs in general was abolished in February 2014. Due to the inconsistencies in the BD's instructions, there is a risk that removal orders for some assessable UBWs may not always be copied to the RVD (see para. 3.22).

3.22 *Removal orders not always copied to the RVD.* Based on a test check of 85 removal orders selected from the BD's database in January and February 2016, Audit found that only 7 (8%) of them were copied to the RVD (see Table 9). The failure to provide the RVD with the agreed UBWs information has rendered the notification arrangements ineffective. In late February 2016, the BD drew Audit's attention to its memorandum of January 2016 to the RVD, advising that:

- (a) the notification arrangements of UBWs established since 2002 had not been fully put into practice over the years; and
- (b) in view of the fact that the RVD's website had advised property owners that they should inform the RVD of changes in layout of their properties and the RVD could revise the rateable values of their properties accordingly, the BD had decided to cease the UBWs notification arrangements.

However, Audit notes that the RVD's message on its website is advisory in nature as it is not a requisition for particulars in a specified form (see para. 2.3(a)). As highlighted in paragraphs 3.11 to 3.20 (particularly Table 8 in para. 3.18), UBWs information kept by the BD is essential for the RVD to take timely action to reassess the rateable values of altered properties to prevent loss of revenue. In Audit's view, the BD needs to revisit the January 2016 decision and share with the RVD all UBWs information required for rating assessment purposes.

Table 9

Number of removal orders copied to the RVD

UBWs	Number of removal orders	
	Selected from the BD's database for checking	Copied to the RVD
Rooftop structure	20	3
Flat roof structure	20	3
Structure in lane/yard	20	1
Subdivided unit	25	0
Total	85	7

Source: Audit analysis of BD records

Implementation of the 2000-01 policy decision of not collecting rates from new or re-erected illegal rooftop structures

3.23 The policy decision to cease collecting rates from new or re-erected illegal rooftop structures was made in 2000-01 in light of the Task Force's proposal to clear new illegal rooftop structures upon construction and before, or soonest possible after, occupation, and to abort attempts at re-erection (para. 3.10). The RVD and the BD have not compiled statistics on the time taken to demolish new or re-erected illegal rooftop structures. As shown in Tables 6 and 7 in paragraph 3.17, of the 20,782 cases with removal orders issued for illegal rooftop structures from 2001 to 2015, 4,844 (23%) had not been complied with as at 31 December 2015. A total of 2,935 (2,123 plus 715 plus 97, i.e. 61%) had remained outstanding for two years or more. Audit's case review in paragraph 3.15(b)(ii) also indicates that actions to demolish illegal rooftop structures with removal orders issued could take a long time. In light of the audit findings, Audit enquired the RVD and the BD on the need to review the implementation of the 2000-01 policy decision in consultation with the Development Bureau and the Financial Services and the Treasury Bureau (FSTB).

3.24 In March 2016, the RVD informed Audit that:

- (a) the RVD did not see the need to review the implementation of the 2000-01 policy decision on not collecting rates from new or re-erected illegal rooftop structures in view of the explanations given in paragraph 3.14(d) and (e); and
- (b) with hindsight, however, and as revealed in paragraph 3.15(b), not all removal orders were complied with timely as intended. The RVD agreed to review the departmental instruction on the treatment of the UBWs (other than newly or re-erected illegal rooftop structures) subject to removal orders, which might have attained certain degree of permanence. That said, given limited resources, the RVD would bear in mind the need to exercise prudence in discharging its duties in a cost-effective way.

3.25 In March 2016, the FSTB also informed Audit that:

- (a) regarding illegal rooftop structures, under the established rating principles, a property which was transient in nature would not be assessed to rates. Indeed, according to the RVD's 2005 departmental instruction, there was a clear reference which reminded staff that it was necessary to ascertain whether an illegal rooftop structure so identified was a new erection or a re-erection before embarking on raising an interim assessment on the un-assessed illegal rooftop structure;
- (b) regarding UBWs, what the 2005 departmental instruction had brought into effect was that the established rating principles for transient properties be applied to other UBWs similarly subject to the BD's enforcement. In a way, the 2005 departmental instruction thus sought to ensure consistent application of the same rating principles;
- (c) the FSTB noted from Audit's finding that the RVD's presumption that UBWs with removal orders issued would be demolished soon had turned out not to be always valid (see para. 3.15(b)), and hence would suggest the RVD putting in place some form of bring up system to keep track of those existing UBWs with removal orders issued but not yet demolished such that timely interim valuations would be made before the 24-month time-bar; and

Interim valuations

- (d) in relation to the above, the FSTB did not see the need for the RVD to review the implementation of the 2000-01 policy decision on not collecting rates from new or re-erected illegal rooftop structures. Rather, the question was how the RVD could, in collaboration with the BD, keep track of the issuance of removal orders and demolition of the UBWs concerned for timely interim valuations.

Interim valuations of advertising signs

3.26 Section 9 of the Rating Ordinance provides that all advertising signs can be considered for assessment to rates as follows:

- (a) where the right to use land for exhibiting advertisements is let, that right is assessable as a separate property and its rateable value shall include the value of the structure or sign; and
- (b) where an advertisement is displayed but is not let (e.g. it is erected by the occupier), the rateable value of the property on which it is erected (i.e. the host property) will include an additional value due to the advertisement.

3.27 Many street signs are of small size advertising the name, or type of business carried on, or product sold in respect of a street shop in a building. The RVD's assessment practice is that their values are deemed to have been included in the rateable values of the host properties. Where the size of a sign is so large and its value is substantial in comparison to that of the host property, an additional value will be included in the host property. The following signs are normally assessed to rates either separately or as addition to the rateable values of the host properties:

- (a) advertisement signs which are erected on top or side roof or attached to, or painted on building walls;
- (b) video walls; and
- (c) signs designed in the form of stand-alone light boxes or light panels. These are usually located in groups in the internal common areas or affixed to the external walls of shopping malls/office blocks.

3.28 As most advertising signs are erected after the buildings concerned are certified for occupation, they are normally not covered by an occupation permit issued under the Buildings Ordinance. The effective date of an interim valuation of an advertising sign shall be the earliest time at which any structure or sign is erected in exercise of the advertising right or any advertisement is exhibited in pursuance of such right.

Identification of un-assessed advertising signs

3.29 The RVD usually identifies un-assessed advertising signs for interim valuations through the following means:

- (a) the monthly return of alteration and addition cases from the BD (see para. 3.3(e));
- (b) notifications of tenancies for advertising signs on government properties;
- (c) site inspections of new buildings for interim valuation purposes during which RVD staff may notice any assessable signs in the vicinity; and
- (d) site inspections of existing buildings on which new signs are reported to have been erected.

In 2006, 2007 and 2011, the RVD employed temporary staff to conduct special exercises for identifying un-assessed advertising signs. According to the RVD, all three special exercises covered urban areas because of higher concentration of such signs in these areas.

3.30 According to RVD records, as at April 2015, there were 9,368 separately assessed advertising signs with a total rateable value of \$1.8 billion, of which 8,390 (90%) assessed signs had a rateable value of less than \$120,000 each. Of these 9,368 assessed signs, 5,283 (56%) were affixed externally to buildings and 4,085 (44%) were installed inside buildings. The rates chargeable totalled \$89.2 million in 2015-16.

Interim valuations

3.31 In December 2015, Audit conducted a survey in selected streets (Note 29) of six districts to assess the adequacy of the RVD's work in identifying un-assessed advertising signs for interim valuations. The survey focused on large-sized advertising signs which were affixed externally to buildings and without visible host properties (i.e. those signs that were likely to be separately assessable to facilitate checking against the RVD's assessment records). A total of 100 such types of signs were identified for checking against the RVD's assessment records to ascertain whether they had been assessed. The results are summarised in Table 10.

Table 10
Survey results of advertising signs in six districts
(December 2015)

District	Number of advertising signs		
	Assessed to rates	Not assessed to rates	Total
Wanchai	14 (56%)	11 (44%)	25
Causeway Bay	18 (95%)	1 (5%)	19
Mong Kok	8 (57%)	6 (43%)	14
Yau Ma Tei	13 (81%)	3 (19%)	16
Tuen Mun	3 (50%)	3 (50%)	6
Yuen Long	3 (15%)	17 (85%)	20
Overall	59 (59%)	41 (41%)	100

Source: Audit survey

3.32 While the un-assessed rates (ranging from 5% to 85%) are not a statistically representative estimate of all the un-assessed advertising signs in the six districts, they show that there is a need for the RVD to step up efforts in identifying un-assessed advertising signs in districts with higher un-assessed rates

Note 29: *The survey covered sections of selected streets (four to five for each district) where many advertising signs had been erected.*

such as Yuen Long, Tuen Mun and Wanchai. In February 2016, in response to Audit's enquiry, the RVD said that the estimated rateable values of the 41 un-assessed cases (see Table 10 in para. 3.31) ranged from \$5,040 to \$318,000 (averaging \$65,950). Given the lapse of time since the last special exercise in 2011, there is merit to conduct another special exercise covering both the urban areas and the New Territories to speed up the identification of un-assessed advertising signs.

Timeliness of interim valuations

3.33 The RVD has set a performance target in its Controlling Officer's Report to measure the timeliness of interim valuations of new properties, i.e. notifying the ratepayer and/or rent payer of the rateable value of a new property within eight months from the date when rates and/or government rent first become payable for 85% of the interim valuations. According to the RVD's Controlling Officer's Reports, the target was met from 2010-11 to 2014-15 with 86% to 92% of interim valuations completed within eight months.

3.34 For those interim valuations that take longer than eight months, there is a need to monitor their progress to ensure that they would be completed before the 24-month time-bar to prevent loss of rates revenue (see para. 3.5). In this connection, the RVD has regularly compiled statistics on interim valuations that remained outstanding for more than 18 months for the attention of its senior management. The RVD has also put in place spot checks on valuation work conducted by its staff. Every six months, the designated supervisors will select at least one interim valuation case from each valuation team for checking to ensure that there are no omissions and unnecessary delays.

Need to improve the monitoring of interim valuations not completed within the 24-month time-bar on retrospective recovery of rates

3.35 According to RVD records, as at September 2015, there were 1,614 new interim valuations which had been outstanding for more than 18 months. However, the RVD had not further analysed these outstanding cases to highlight those which had failed to meet the 24-month time-bar requirement for the recovery of rates. From April 2014 to September 2015, the RVD completed 30,693 new interim valuations. Audit found that 994 (3%) of the 30,693 interim valuations had taken more than 24 months to complete (counting from the effective dates of interim

Interim valuations

valuations) comprising 20 interim valuations for rates, 26 interim valuations for both rates and government rent, and 948 interim valuations for government rent only. For the 46 interim valuations involving rates of mainly village houses, there was a loss of revenue as the RVD could not raise retrospectively rates demand for more than 24 months (Note 30).

3.36 In February 2016, the RVD informed Audit that for 32 of the 46 interim valuations, the relevant documents required for initiating interim valuations were received after their effective dates of interim valuations (i.e. the dates of first occupation of the relevant properties — see Note 22 to para. 3.5). Audit noted that the relevant documents of the 32 interim valuations were received by the RVD, on average, 104 months after their effective dates of interim valuations. In Audit's view, the RVD needs to take measures to prevent recurrence of similar problems. As for the remaining 14 interim valuations which the RVD had taken more than 24 months to complete, an ageing analysis is shown in Table 11. The RVD needs to enhance the monitoring of outstanding interim valuation cases by highlighting all cases which have not met the 24-month time-bar requirement in view of the revenue loss implication (see Note 30 to para. 3.35).

Note 30: *Audit estimated that the revenue loss of the 46 interim valuations could amount to \$1 million, before taking into account the rates concessions given to ratepayers over the years. Nevertheless, Audit also noted that the position had improved in comparison with that reported in the 2003 audit review (see para. 1.12), when 2,252 interim valuations were found to have failed to meet the 24-month time-bar with an estimated revenue loss of \$12.7 million.*

Table 11

**Ageing analysis of the 14 interim valuations completed
between April 2014 and September 2015**

Number of months from effective date of interim valuations to date of issue of the first demand note	Number of assessments		
	Rates only	Rates and government rent	Total
More than 24 to 60	1	7	8
More than 120	1	5	6
Overall	2	12	14

Source: Audit analysis of RVD records

3.37 Audit further examination focused on those cases which had taken more than 24 months to complete from April 2014 to January 2016. Of the 20 selected cases, Audit noted room for improvement in two cases (Cases D and E).

Case D

Delays in making interim valuations on two village houses

1. In October 1996, the RVD received an application for rates exemption of two village houses. As rating assessments for the two village houses had not been made at that time, the application was not processed. The RVD had not taken follow-up actions until September 2012 when RVD staff found the two village houses during their field inspection work.

2. In February and March 2013, the RVD requested the LandsD to provide relevant documents (such as letters of compliance and certificates of exemption). Interim valuations of the two village houses were finally completed in May 2015 and their total rateable values were assessed to be \$610,000.

3. The demand for payment of government rent was effective from 29 January 1999 (as village houses in the New Territories only became liable for government rent in June 1997 when the New Territories Leases (Extension) Ordinance (see para. 1.4(b)(i)) came into effect. Subsequently, government rent exemption was granted (see para. 1.9) to the owners from June 1997 to 28 January 1999). However, due to the 24-month time-bar in recovering rates, the demand for payment of rates raised in May 2015 was only effective from June 2013 and rates prior to June 2013 were irrecoverable.

Source: RVD records

Case E

Delays in making interim valuation on changed use of an industrial building

1. In October 2012, the BD notified the RVD of the completion of the conversion works of an industrial building for commercial uses. On 11 December 2012, the RVD issued a requisition form requiring the owner to provide particulars of the converted building. The completed requisition form was received on 31 December 2012.

2. In May 2014 and September 2015, the RVD conducted site inspections of the building. The interim valuation of the building was completed in January 2016 with the rateable value increased from \$1,614,000, by 10%, to \$1,776,720. In the demand note issued to the owner, the RVD could only demand payment of the revised rates effective from January 2014 instead of October 2012. The loss of revenue due to the 15-month time lag in implementing the revised rates was about \$9,200.

Source: RVD records

3.38 Although the RVD has laid down instructions requiring the input of relevant information/documents of properties into the RVD's computer system for monitoring purposes, these instructions had not been strictly followed in both Cases D and E. As a result, the delayed actions had gone unnoticed. In Audit's view, the RVD needs to take measures to prevent recurrence of similar problems.

3.39 In response to the recommendation of the 2003 audit review (see para. 1.12), the RVD has agreed to inform the FSTB of outstanding interim valuations which are at risk of not meeting the 24-month time-bar, including information about revenue loss. In 2004, the RVD informed Audit that it had devised a mechanism to inform the FSTB of newly-built properties which were at risk of not meeting the 24-month time-bar but no such new cases had been identified. However, up to the date of this Audit Report, the RVD could not produce records that such statistics had been compiled for 2005 to 2015. Audit also noted that the RVD had not informed the FSTB of the revenue loss for the 46 interim valuations which were unable to meet the 24-month time-bar requirement (see para. 3.35). In February 2016, in response to Audit's enquiry, the RVD said that the FSTB was not informed because the 46 interim valuations were not related to newly-built properties (e.g. cancellation of rates exemption and change of use

Interim valuations

cases). As the FSTB oversees the Government's revenue and financial control, Audit considers that the RVD needs to regularly provide the FSTB with information on all revenue loss cases irrespective of whether they are related to newly-built properties.

Audit recommendations

3.40 Audit has *recommended* that the Commissioner of Rating and Valuation should:

Interim valuations of altered properties

- (a) review the 2005 departmental instruction on rating assessment of UBWs with a view to strengthening the procedures for using UBWs information obtained from the BD for rating assessment purposes to prevent loss of rates revenue;
- (b) seek the assistance of the BD in extending the scope of the notification arrangements of assessable UBWs to cover those without removal orders issued;
- (c) conduct a review of un-assessed UBWs cases due to the 2005 departmental instruction (such as the two cases of illegal rooftop structures mentioned in Table 5 in para. 3.15(b)(ii)) and make interim valuations where appropriate;

Interim valuations of advertising signs

- (d) step up efforts in identifying un-assessed advertising signs for interim valuations;
- (e) consider conducting a special exercise covering both the urban areas and the New Territories to speed up the identification of un-assessed advertising signs;

Timeliness of interim valuations

- (f) for the late notifications of the 32 interim valuations as mentioned in paragraph 3.36, take measures to prevent recurrence of similar problems;
- (g) enhance the monitoring of outstanding interim valuation cases by highlighting all cases which have not met the 24-month time-bar requirement;
- (h) put in place control measures to ensure that all relevant information/documents of properties requiring interim valuations are input into the RVD's computer system for monitoring the progress of follow-up actions; and
- (i) regularly provide the FSTB with information on:
 - (i) interim valuation cases at risk of not meeting the 24-month time-bar; and
 - (ii) revenue loss for all interim valuation cases which have not met the 24-month time-bar.

3.41 Audit has *recommended* that the Director of Buildings should share with the RVD all UBWs information required for rating assessment purposes.

Response from the Government

3.42 The Commissioner of Rating and Valuation generally agrees with the audit recommendations in paragraph 3.40. He has said that:

Interim valuations of altered properties

- (a) implementation of the recommendations in paragraph 3.40(a) to (c) should be subject to a review of work priorities;

Interim valuations

- (b) not all the BD's actionable UBWs are assessable UBWs from the RVD's valuation perspective. The RVD is concerned that having a full list of UBWs may compromise the RVD's efficiency because the checking may not be productive and it is an unnecessary digression from the RVD's own assessment;

Interim valuations of advertising signs

- (c) of the 9,368 separately assessed advertising signs (see para. 3.30), 978 (10%) were high-value signs with a total rateable value of \$1.6 billion. The remaining 8,390 (90%) assessed signs, each with a rateable value not exceeding \$120,000, had a total rateable value of \$0.2 billion. In other words, the amount of rates involved was some \$10 million, which was just about 0.04% of the total rates revenue for 2015-16;
- (d) among those 41 un-assessed cases in Table 10 in paragraph 3.31, the estimated rateable value of 35 advertising signs would be less than \$120,000 each. Action is being taken to assess these signs to rates separately or together with the host properties as appropriate;
- (e) the RVD will continue to conduct surveys of identifying un-assessed advertising signs and give priority to cases involving a higher rateable value;

Timeliness of interim valuations

- (f) during the period from April 2014 to September 2015, the RVD had completed 30,693 new interim valuations (see para. 3.35) generating an annual rates and government rent revenue at \$747 million for 2015-16. The 46 cases which had not met the 24-month time-bar requirement (see Note 30 to para. 3.35) only represented 0.15% of all the cases completed during the same period;

- (g) the RVD will no doubt liaise with the authority to enhance the notification arrangement with a view to shortening the lead time in raising assessment on any rateable occupations, in case an interim valuation is triggered from the issue of relevant documents from the relevant authority. However, in rural areas, the occupation of property may go unnoticed and might have been in existence for some time before the owner takes action to apply for a proper permit of occupation. An earlier occupation date will only be revealed by the owner or occupier upon site inspection or through other formal means of data collection during interim valuation process;
- (h) regarding Cases D and E mentioned in paragraph 3.37, the RVD will exercise caution in handling interim valuations for rates to prevent recurrence of similar incidents; and
- (i) the RVD will, in consultation with the FSTB, assess the need to provide the FSTB with the information on relevant interim valuation cases which have not met the 24-month time-bar.

3.43 The Director of Buildings has said that:

- (a) the BD notes the audit recommendations on the sharing of information on UBWs with the RVD as mentioned in paragraphs 2.16(e) and 3.41;
- (b) while the notification arrangements for UBWs between the BD and the RVD were put in place in 2002, the BD ceased such arrangements in January 2016. Apart from the reasons quoted in paragraph 3.22, the BD was concerned about possible privacy implications of such notification arrangements, especially in cases where removal orders have not yet been issued and registered in the Land Registry, as the UBWs information is not yet in the public domain;

Interim valuations

- (c) based on the BD's operational experience, information on removal orders (i.e. the name of the property owner, address, descriptions of the UBWs) would not be sufficient in meeting the RVD's needs and the RVD would require further details of the UBWs, such as copies of plans, photos and inspection reports by the BD. As the BD's manpower is already in full stretch owing to the need to handle the large number of UBWs in Hong Kong and in view of the fact that the BD issues tens of thousands of removal orders every year, the BD would have serious difficulty in coping with the workload if it is to retrieve and pass to the RVD all information needed by the latter for all UBWs identified; and

- (d) in light of the above concerns, the BD would need to further consider the feasibility of taking forward the audit recommendations involving the sharing of information on UBWs with the RVD, especially information on UBWs without removal orders issued.

PART 4: RATES EXEMPTION FOR RURAL PROPERTIES

4.1 This PART examines the administration of rates exemption for rural properties, focusing on the following areas:

- (a) exemption from assessment to rates for village houses within DVAs (paras. 4.2 to 4.9);
- (b) exemption from payment of rates for village houses outside DVAs (paras. 4.10 to 4.19); and
- (c) exemption from assessment to rates for agricultural land and buildings (paras. 4.20 to 4.21).

Exemption from assessment to rates for village houses within designated village areas

4.2 *Village houses within DVAs exempted from assessment to rates.* Section 36(1)(c) of the Rating Ordinance provides that any village houses within the areas of the New Territories as designated by the Chief Executive of the Hong Kong Special Administrative Region are exempted from assessment to rates (see para. (c) in Appendix A). Such areas are called DVAs. For village houses inside DVAs, the exemption applies irrespective of whether or not they are occupied or owned by indigenous villagers. The DVAs designated are typically:

- (a) the old core areas of the traditional villages;
- (b) the traditional settlements of New Territories residents who are primarily engaged in farming activities;
- (c) “wai” or “tsuens” where non-indigenous residents seldom live in; and
- (d) villages with virtually no commercial activities.

Rates exemption for rural properties

4.3 *Eligibility for exemption from assessment to rates.* According to section 36(1)(c) of the Rating Ordinance and Part 1 of the Schedule of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), to be qualified for exemption from assessment to rates, a village house within a DVA has to comply with the prescribed size, height and type criteria, which are summarised as follows:

- (a) it will be a building of not more than three storeys and:
 - (i) has a roofed-over area not exceeding 65.03 square metres and does not exceed 8.23 metres in height; or
 - (ii) has a roofed-over area not exceeding 92.90 square metres, does not exceed 7.62 metres in height and complies with certain standard plans; or
- (b) it is a pre-war dwelling house (i.e. built before 16 August 1945), irrespective of size and height, which is of the type normally built for New Territories residents.

4.4 *Designation of DVAs.* The Chief Executive has delegated his authority to designate DVAs to the Financial Secretary, the Secretary for Financial Services and the Treasury and the Permanent Secretary for Financial Services and the Treasury (Treasury). In practice, DVAs are designated by the Permanent Secretary for Financial Services and the Treasury (Treasury). As at 31 December 2015, there were 105 DVAs covering some 16,460 houses in 140 villages. An analysis of DVAs by districts is shown at Appendix D.

Need to put in place compliance checking of rates-exempted village houses in DVAs

4.5 Audit notes that the RVD has not put in place compliance checking of village houses in DVAs to ensure that they meet the prescribed size, height and type criteria as stipulated in the Rating Ordinance. At an inter-departmental meeting on

rates exemption (Note 31) held in July 2007, the RVD stated that due to resource limitation, there was no programme to examine whether village houses in DVAs met the eligibility criteria as stipulated in the Rating Ordinance. The HAD raised concern that while the eligibility criteria of exemption from payment of rates for village houses outside DVAs were largely based on the same criteria as those for village houses within DVAs, villagers might feel confused when such provisions had never been enforced within DVAs.

4.6 Audit shares the concern raised by the HAD. Audit notes that the HAD has sought the assistance of the LandsD to carry out checks on the compliance with the eligibility criteria by rates-exempted houses outside DVAs (see para. 4.12). As a test check on the compliance with the eligibility criteria by rates-exempted houses in DVAs, in December 2015, Audit conducted site inspections in two DVAs. The inspections focused on the prescribed 3-storey criterion (see para. 4.3(a)) which could be observed externally without taking measurements. A total of 58 village houses were found with four or five storeys (see Table 12). Apparently, they did not comply with the prescribed 3-storey criterion as stipulated in the Rating Ordinance. In Audit's view, the RVD needs to put in place compliance checking of rates exemption eligibility of the village houses in DVAs and take prompt actions to revoke the exemption of those that no longer meet the eligibility criteria. In this connection, the RVD may seek the assistance of the BD and the LandsD in providing information on ineligible cases detected in the course of their enforcement work.

Note 31: *The meeting was chaired by an Assistant Director of Home Affairs with representatives from the Department of Justice, the HAD, the LandsD and the RVD to discuss matters relating to the exemption from payment of rates for village houses outside DVAs (see para. 4.10).*

Rates exemption for rural properties

Table 12

**Results of Audit's site inspections in two DVAs
(December 2015)**

DVA location	Number of 4-storey or 5-storey village houses found
DVA1, Yuen Long (Note 1)	23
DVA2, Yuen Long (Note 2)	35
Total	58

Source: Audit's site inspections in December 2015

Note 1: The DVA covers some 483 houses in two villages.

Note 2: The DVA covers some 1,342 houses in seven villages.

Remarks: Audit's site inspections covered only parts of the villages within the DVAs.

Need to take actions on village houses not meeting eligibility criteria found during rent assessments

4.7 According to the Rent Ordinance, government rent is payable from 28 June 1997 for land leases in the New Territories extended by the New Territories Leases (Extension) Ordinance. With the exception of those eligible for government rent exemption under section 4 of the Rent Ordinance (see para. 1.9), it is necessary for the RVD to assess all rural properties, including village houses in DVAs, to government rent. As at January 2016, the RVD had completed interim valuations of properties in 44,811 (99.6%) of 45,000 un-assessed rural lots in the New Territories for government rent assessment (Note 32).

Note 32: *According to the RVD, of the remaining 189 (0.4%) lots to be assessed, 104 were either bare land or had temporary structures, and 85 were located in remote areas and only had old village houses.*

4.8 For the interim valuations of village houses, the RVD would issue requisition forms to the owners/occupiers to obtain particulars and information of the un-assessed village houses. RVD staff would also conduct site visits and collect data on the physical attributes of the un-assessed houses. In the course of interim valuations of village houses in DVAs, RVD staff could have observed whether they complied with the rates exemption criteria as stipulated in the Rating Ordinance.

4.9 To assess the RVD's follow-up actions on non-compliance with the rates exemption criteria found in the above-mentioned interim valuations, Audit examined the RVD's government rent records of 228 houses in 12 selected villages within nine DVAs. According to RVD records, 18 of the 228 houses were found to be 4-storey or 5-storey buildings (Note 33). For government rent purposes, their rateable values (ranging from \$46,680 to \$236,400 in the 2015-16 GR) had already been assessed during the period from 1997 to 2009 as 4-storey or 5-storey village houses (see Table 13). While these 18 houses did not comply with the prescribed 3-storey criterion, the RVD had not taken actions to cancel their exemptions from assessment to rates. Given the 24-month time-bar for backdating purposes, rates for some 4 to 16 years had become irrecoverable for these 18 houses. In Audit's view, the RVD needs to take prompt actions to review the government rent records of the village houses within DVAs to see if there are similar ineligible cases and take prompt actions to revoke their rates exemption. The RVD also needs to put in place control mechanism to prevent recurrence of similar problems.

Note 33: *Of the 18 village houses, 5 were among the 58 village houses found with four or five storeys in Audit's inspections mentioned in paragraph 4.6. All the 18 village houses were not pre-war dwelling houses and were subject to the prescribed size, height and type criteria (see para. 4.3(b)).*

Rates exemption for rural properties

Table 13

Rates-exempted village houses in 12 selected villages found not complying with the prescribed 3-storey criterion since the dates of assessment to government rent (December 2015)

Village	Number of houses in government rent records	House not complying with prescribed 3-storey criterion	
		Number	Date of assessment to government rent
A	28	1	1997
B	42	4	1999 to 2009
C	28	2	1997
D	17	1	1997
E	43	7	1997 to 2000
F	16	3	1997 and 1998
Other six villages	54	0	—
Overall	228	18	1997 to 2009

Source: RVD records

Exemption from payment of rates for village houses outside designated village areas

4.10 According to section 36(3) of the Rating Ordinance, the Chief Executive may exempt individual properties from payment of rates (see para. 2 in Appendix B). Following a review of the policy of granting exemption to village houses outside DVAs by the Executive Council in 1992, the prescribed eligibility criteria for exemption from payment of rates are that the village houses:

Rates exemption for rural properties

- (a) are occupied (or vacant and intended to be occupied) by indigenous villagers or their immediate family members (Note 34) for domestic purposes;
- (b) comply with the prescribed criteria on size, height and type as those for village houses within DVAs (see para. 4.3(a)); and
- (c) should not contain any illegal structures/extensions (i.e. UBWs).

The spirit is to provide exemptions to genuine indigenous villagers residing in traditional village houses in the New Territories. The Chief Executive has delegated to the Director of Home Affairs the authority to grant exemption to such village houses.

4.11 Applications for exemption from payment of rates for village houses outside DVAs have to be made to the HAD. The major steps in processing the applications, which also involve the LandsD and the RVD, are shown at Appendix E. From 2010-11 to 2014-15, the HAD approved, on average, 450 applications each year. As at December 2015, some 19,000 eligible villagers involving 25,000 units in village houses situated in nine districts (Note 35) had been granted rates exemption. The rates exempted in 2014-15 amounted to \$89 million.

Monitoring of compliance with eligibility criteria

4.12 To monitor the compliance with the rates exemption eligibility criteria for village houses outside DVAs, the HAD has sought the assistance of the LandsD to carry out the following checks for identifying village houses containing UBWs:

Note 34: *Immediate family members include spouses, children, parents, brothers, sisters, grandparents, parents-in-law and/or grandparents-in-law. Exemption will be granted to an eligible applicant for one village house only.*

Note 35: *The nine districts were the Islands, Kwai Tsing, North, Sai Kung, Shatin, Tai Po, Tsuen Wan, Tuen Mun and Yuen Long.*

Rates exemption for rural properties

- (a) **Document checks (Note 36).** Every four months, the HAD provides an image of its database of approved rates-exempted cases to the LandsD for checking with the UBWs records maintained by eight District Lands Offices (Note 37 — DLOs) to identify any exempted village houses which have been detected by the DLOs to have UBWs during their routine work; and
- (b) **Field inspections (Note 38).** Every six months, the HAD randomly selects 90 approved rates-exempted cases (10 from each of the nine districts — see Note 35 to para. 4.11) and passes them to the eight responsible DLOs for conducting field inspections to ascertain whether they contain UBWs.

If UBWs are detected in the rates-exempted village houses, the HAD will revoke their rates exemption and ask the villagers concerned to remove the UBWs. The HAD will grant rates exemption again for the village houses upon the LandsD's confirmation that the UBWs are cleared.

4.13 During the five-year period from 2010-11 to 2014-15, a total of 638 exemption cases (averaging 127 cases each year) were revoked by the HAD due to detection of UBWs in the village houses concerned. From 1 April 2015 to 30 November 2015, 135 cases were also revoked for the same reason.

Note 36: *The document checks have been put in place since July 2006 in response to the recommendations made by the Office of The Ombudsman in its direct investigation report "Enforcement Action on Unauthorised Building Works in New Territories Exempted Houses" issued in 2004.*

Note 37: *The eight DLOs are responsible for managing land matters of the nine districts where the village houses mentioned in paragraph 4.11 are located.*

Note 38: *The field inspections have been put in place since April 1998 with the purpose to detect any abuse of the self-declaration system which has been adopted since October 1997. Under the self-declaration system, applicants are asked to declare that the village houses under application for rates exemption are free from UBWs.*

Need to improve document checks

4.14 ***Outstanding document checks.*** During April 2014 to August 2015, the HAD requested the eight DLOs to conduct five rounds of document checks on approved rates-exempted cases. Audit examination of the check results received by the HAD revealed that as at December 2015, 11 (28%) of 40 requested document checks were still outstanding (see Table 14). As the document checks are instrumental in identifying ineligible rates-exempted cases to prevent loss of revenue, the LandsD needs to remind the eight DLOs to complete the document checks requested by the HAD in a timely manner.

Table 14

**Outstanding document checks on approved rates-exempted cases
(December 2015)**

Month of commencement of check	Number of outstanding document checks
April 2014	2
August 2014	1
December 2014	1
April 2015	3
August 2015	4
Total	11

Source: HAD records

Remarks: Of the eight DLOs, one had three outstanding document checks, another one had two outstanding document checks and the remaining six had one outstanding document check each.

4.15 ***Crucial information not provided.*** Audit examined 20 rates-exempted cases in which the village houses concerned had been found to have UBWs in the August 2015 round of document check. For five cases, the DLO concerned did not specify in its check results the floors on which the UBWs were detected. In the absence of such crucial information, the HAD was unable to ascertain whether the UBWs were related to the approved exemption cases. Despite repeated reminders

Rates exemption for rural properties

issued by the HAD, as at January 2016, the DLO concerned had not yet provided the HAD with the required information. In Audit's view, the LandsD needs to remind the eight DLOs to provide the HAD with sufficient details of their document check results for taking prompt follow-up actions on the ineligible rates-exempted cases.

4.16 *Late notification of village houses containing UBWs.* Audit sample checked 20 cases of revoked rates exemption due to UBWs found in the village houses concerned. For two cases (Cases F and G), the HAD was notified of the non-compliance several years after the UBWs had been detected (see Table 15). In Audit's view, the LandsD needs to ascertain the reasons for the late notification and take appropriate improvement measures.

Table 15

Late notification of village houses containing UBWs

Case	Date of detecting UBWs by the DLO	Date of notifying the HAD by the DLO	Delay in notifying the HAD (Note)
F	10 December 1998	3 September 2014	8 years
G	16 August 2011	18 February 2015	3.5 years

Source: Audit analysis of HAD records

Note: The delay period was determined by comparing the date of notifying the HAD and the date of detecting UBWs or the launch of document checks in July 2006 (see Note 36 to para. 4.12(a)), whichever is later.

4.17 *Need to review the practice of setting the effective date of revocation of rates exemption status.* Under the present practice, the HAD sets the effective date of revocation of rates exemption based on the date of notification by the DLOs instead of the date of detection of the UBWs by the DLOs. The delay in notifying the HAD has therefore resulted in revenue loss of 3.5 and 8 years of rates for

Cases G and F respectively (Note 39). In Audit's view, the HAD needs to review the justifications of setting the effective date of revocation of rates exemption based on the date of notification by the DLOs, which could result in loss of rates revenue, and seek legal advice where necessary.

Need to enhance field inspections

4.18 ***Outstanding field inspections.*** From June 2014 to June 2015, the HAD requested the eight DLOs to conduct three rounds of half-yearly field inspections on a total of 270 approved rates-exempted cases. Audit examination of the inspection results received by the HAD revealed that as at December 2015, 22 (8%) of the 270 requested field inspections were still outstanding. As the half-yearly field inspections are instrumental in identifying ineligible rates-exempted cases to prevent loss of revenue, the LandsD needs to remind the eight DLOs to complete the field inspections requested by the HAD in a timely manner.

4.19 ***Need to step up field inspections.*** The half-yearly field inspections of 90 exemption cases (see para. 4.12(b)) through the DLOs were introduced in 1998 when the number of exemption cases was around 1,000. Over the years, the number of exemption cases had increased by 18 times to 19,000. As a result, the extent of field inspections of the approved exemption cases had decreased from 18% to 1% a year. On the other hand, the number of exemption revocation cases due to detection of UBWs averaged 127 a year during 2010-11 to 2014-15 (see para. 4.13), suggesting a high incidence of ineligible cases. While the HAD had not maintained separate statistics on the exemption revocation cases as a result of field inspections, Audit scrutiny of the inspection results of 120 rates-exempted village houses revealed that 48 (40%) of them had been found having UBWs. Audit's site inspections conducted in December 2015 in three villages also found 11 rates-exempted houses with suspected UBWs (Note 40). In view of the high

Note 39: *Village houses exempted from payment of rates have been assessed to rates. No interim valuation is required upon revocation of their exemption status. As such, the 24-month time-bar on recovering rates under section 29(1) of the Rating Ordinance (see para. 3.5) does not apply in these cases.*

Note 40: *Audit's site inspections covered only parts of the selected villages focusing on whether the rates-exempted village houses had an enclosed balcony or enclosed rooftop (i.e. two types of UBWs which could be observed externally without taking measurements) and did not take into account other types of UBWs.*

Rates exemption for rural properties

incidence of ineligible cases, the HAD, in consultation with the LandsD, needs to consider stepping up the field inspections of rates-exempted village houses. In addition, the HAD may consider seeking the assistance of the BD in providing information on village houses with UBWs detected in the course of its enforcement work.

Exemption from assessment to rates for agricultural land and buildings

4.20 Section 36(1)(a) of the Rating Ordinance provides that agricultural land and buildings thereon used in connection with such land are exempted from assessment to rates (see para. (a) in Appendix A). Such exempted land and buildings are mostly situated in the New Territories. Changes from agricultural use to other uses need planning permissions. In many cases, modifications to the original land grants are also required. The RVD needs to track such changes and assess those land and buildings no longer used for agricultural purposes to rates. In this connection, the RVD has set up the following mechanisms for collecting relevant information from the Planning Department and the LandsD:

- (a) ***Planning approval.*** The New Territories Division of the RVD obtains decisions on planning applications delivered at the monthly meetings of the Metro Planning Committee and the Rural New Town Planning Committee (Note 41); and
- (b) ***Modification of land grant.*** Monthly returns of modification of Tenancies and Short Term Waivers issued by the LandsD are received from the relevant New Territories DLOs.

RVD staff also identify any converted use of agricultural land and buildings in their routine inspections.

Note 41: *The two committees were set up under the Town Planning Board, which are mainly responsible for the systematic preparation of plans in the districts under their purview. Each committee comprises the Chairperson (the Director of Planning), the Vice-chairman (a non-official member), four other official members and 13 other non-official members. All members are appointed by the Chief Executive from the members of the Town Planning Board.*

4.21 *Need to obtain further information on unauthorised change of use of agricultural land and buildings from the LandsD.* The LandsD is responsible for taking enforcement actions against unauthorised structures on agricultural land. Between 2010 and 2014, the LandsD identified some 600 to 800 unauthorised structures on agricultural land each year. In 2015, the RVD and the LandsD agreed that the DLOs would notify the RVD of the re-entry/vesting cases, cancellation of re-entry/vesting cases and cases of unauthorised structures on agricultural land demolished. However, the notification arrangement does not cover unauthorised structure cases to which the LandsD has issued warning letters. As a test check to assess the adequacy of the RVD’s work in tracking change of use of agricultural land, Audit reviewed three cases of unauthorised structures on agricultural land (Cases H to J), to which the LandsD had issued warning letters (see Table 16). Audit’s site inspections in February 2016 noted that these structures were mainly used for storage purposes indicating that the use of the agricultural land concerned had changed. However, according to RVD records as at February 2016, only in one case (Case H) that the RVD had made the interim valuation. The agricultural land of the other two cases (Cases I and J) was still exempted from assessment to rates. In Audit’s view, the LandsD’s enforcement information would help the RVD identify those agricultural land and buildings which have become ineligible for rates exemption due to change of use. The RVD needs to seek the LandsD’s assistance in this regard for taking timely actions on ineligible rates-exempted cases.

Table 16

**Unauthorised structures on agricultural land
(February 2016)**

Case	Location	Estimated area (Square metre)	Date of issue of warning letters by the LandsD	Exemption from assessment to rates
H	Yuen Long	2,070	4 June 2014	No
I	Yuen Long	5,050	20 August 2014	Yes
J	Yuen Long	1,240	17 September 2015	Yes

Source: LandsD records

Remarks: The areas of Cases H to J were estimated through the LandsD’s GeoInfo Map service and covered a number of land lots each.

Audit recommendations

4.22 **Audit has recommended that the Commissioner of Rating and Valuation should:**

Exemption from assessment to rates for village houses within DVAs

- (a) **put in place compliance checking of rates exemption eligibility of the village houses in DVAs and seek the assistance of the BD and the LandsD to provide information on ineligible cases detected in the course of their enforcement work;**
- (b) **revoke the rates exemption of village houses that no longer meet the prescribed eligibility criteria laid down in the Rating Ordinance (including the 58 village houses mentioned in para. 4.6);**
- (c) **review the government rent records of the village houses within DVAs to see if there are ineligible cases of rates exemption (similar to the 18 village houses mentioned in para. 4.9) and take prompt actions to revoke their rates exemption;**
- (d) **put in place control mechanism to ensure that follow-up actions on ineligible rates-exempted cases found in the course of government rent assessments are promptly taken; and**

Exemption from assessment to rates for agricultural land and buildings

- (e) **seek the assistance of the LandsD in providing information (such as advisory and warning letters issued) on unauthorised change of use of agricultural land and buildings identified in the course of its enforcement work for taking timely actions on ineligible rates-exempted cases.**

- 4.23 **Audit has *recommended* that the Director of Home Affairs should:**
- (a) **conduct a review of the justifications of setting the effective date of revocation of rates exemption based on the date of notification by the DLOs and seek legal advice where necessary;**
 - (b) **in consultation with the Director of Lands, consider stepping up the field inspections of rates-exempted village houses; and**
 - (c) **consider seeking the assistance of the BD in providing information on village houses with UBWs detected in the course of its enforcement work.**
- 4.24 **Audit has *recommended* that the Director of Lands should:**
- (a) **remind the eight DLOs to:**
 - (i) **complete the document checks and field inspections of rates-exempted village houses requested by the HAD in a timely manner; and**
 - (ii) **provide the HAD with sufficient details of their document check results for taking prompt follow-up actions on the ineligible rates-exempted cases; and**
 - (b) **ascertain the reasons for the late notification of the HAD concerning two village houses found with UBWs (mentioned in para. 4.16) and take appropriate improvement measures.**

Response from the Government

4.25 The Commissioner of Rating and Valuation generally agrees with the audit recommendations in paragraph 4.22. He has said that putting in place compliance checking of village houses within DVAs will have significant resource implications because the exercise will involve inspection of some 15,000 village houses in 105 DVAs. It is only pragmatic for the RVD to take the relevant action in a phased manner in view of the actual resource constraints and various competing priorities.

4.26 The Director of Home Affairs agrees with the audit recommendations in paragraph 4.23. She has said that:

- (a) in considering whether the effective date of revocation of rates exemption should be based on the date of the DLOs' detection of UBWs instead of the date of notification by the DLOs, a relevant consideration is whether the DLOs can expedite their issue of notifications to the HAD and in turn the applicants (which will obviate the need for the proposed change) and, in case of a significant time gap between the two dates, whether it is reasonable to shift the burden to the applicant who might not have been informed of the DLOs' detection results. Nevertheless, the HAD will review the existing arrangement in conjunction with the LandsD and seek legal advice as necessary; and
- (b) the LandsD had indicated to the HAD in 2006 and 2007 that the DLOs could only conduct field inspections for 180 cases per year due to stringent staff resources. The HAD needs to consult the LandsD whether it could devote the manpower required for conducting more frequent inspections.

4.27 The Director of Lands has said that:

- (a) the LandsD will take appropriate actions to follow up on the audit recommendations in paragraph 4.24; and

- (b) for the two cases with late notification cited in paragraph 4.16, the delay was due to misunderstanding by the relevant DLO that only those cases reaching a certain stage of lease enforcement action should be included in the notification to the HAD. The LandsD will remind all DLOs of the prevailing guidelines.

4.28 The Director of Buildings has said that:

- (a) there has all along been clear demarcation of duties among relevant departments on matters relating to village houses. The BD is only responsible for enforcing the Buildings Ordinance as far as it applies to village houses, while rates-related matters are handled by the RVD, the LandsD and the HAD. The public and relevant stakeholders in the New Territories are well aware of the duties of the relevant departments; and
- (b) under the circumstances and given the BD's concerns on sharing of information on UBWs as mentioned in paragraph 3.43, the BD would need to further consider the feasibility of taking forward audit recommendations involving the sharing of information on UBWs in village houses with the RVD and the HAD as suggested in paragraphs 4.22(a) and 4.23(c).

PART 5: COLLECTION OF RATES AND GOVERNMENT RENT

5.1 This PART examines the collection of rates and government rent by the RVD.

Collection and recovery of rates and government rent

5.2 *Payment of rates and government rent.* Rates and government rent assessed by an interim valuation shall be payable on or before a date specified in the RVD's demand note. Thereafter, rates and government rent shall be payable quarterly in advance in the first month of each quarter (i.e. January, April, July and October).

5.3 *Surcharge.* Where rates and government rent are in default, the RVD imposes a 5% surcharge immediately after the due date. If any amount remains unpaid on the expiry of six months from the due date, the RVD imposes a further surcharge of 10% on the total unpaid amount.

5.4 *Recovery of arrears.* Any rates and government rent in default, together with any surcharges, shall be recoverable as a debt due to the Government. The RVD institutes recovery proceedings in the Small Claims Tribunal (for arrears not exceeding \$50,000) or the District Court (for arrears exceeding \$50,000) with the assistance of the Department of Justice. If a judgement debt exceeding \$10,000 is not settled, the RVD may refer the case to the Department of Justice to consider registration of a charging order on the defaulter's property which can only be sold after the judgement debt has been satisfied. In warranted circumstances, the RVD will consider applying for an order for sale of the charged property and use the sale

Collection of rates and government rent

proceeds to satisfy the judgement debt. Where government rent is involved, the RVD will consider referring the case to the Director of Lands for considering taking re-entry or vesting action (Note 42).

5.5 **Outstanding rates and government rent.** As at 30 September 2015, the total amount of outstanding rates and government rent was \$172 million, representing 0.5% of the annual amount demanded of about \$33 billion. An ageing analysis of the outstanding rates and government rent shows that \$54 million (31%) had been outstanding for two years or more (see Table 17). In 2014-15, the amount of irrecoverable rates and government rent written off totalled \$0.63 million.

Table 17

**Ageing analysis of outstanding rates and government rent
(30 September 2015)**

Number of years past due date of demand note	Amount outstanding (\$ million)
Less than 1 year	92 (54%)
1 year to less than 2 years	26 (15%)
2 years or more	54 (31%)
Total	172 (100%) (Note)

Source: RVD records

Note: The outstanding amount of \$172 million included five accounts which had an outstanding amount of more than \$1 million each.

Note 42: Section 14(2) of the Rent Ordinance provides that the Director of Lands may take proceedings to re-enter land if the government rent for the land or any surcharges thereon remain unpaid. Section 36 also provides that the Government has a right of re-entry of a lot in an applicable lease and a right to vest an undivided share in a lot in The Financial Secretary Incorporated if the lessee, owner or other person liable fails to pay the government rent. The Rating Ordinance does not have similar provisions for recovering unpaid rates.

Need to improve follow-up actions on arrears cases

5.6 *Need to consider taking re-entry or vesting action for long outstanding arrears cases with charging orders registered.* Audit selected nine arrears cases which had been outstanding for two years or more for examination. Audit found that in one case, the defaulter had owed rates and government rent since 2007 for 16 properties against which the RVD obtained charging orders to protect the Government's legal interest in May 2010. Notwithstanding the RVD's subsequent actions to demand payment (including submitting fresh legal claims to the Small Claims Tribunal for the new arrears and issuing warning letters), the efforts were to no avail. Meanwhile, due to the defaulter's continued occupation of the 16 properties without making any payments, the amount of outstanding rates and government rent continued to increase, i.e. up to \$1 million as at December 2015. In December 2015 (i.e. more than five years after the charging orders had been obtained), the RVD referred all the 16 properties to the LandsD to consider taking re-entry or vesting action. In Audit's view, the RVD needs to remind staff concerned to refer the long outstanding arrears cases with charging orders registered to the LandsD for consideration of taking re-entry or vesting actions in a timely manner.

5.7 *Need to expedite actions to deal with bona vacantia cases.* Section 752 of the Companies Ordinance (Cap. 622) provides that, where a company is dissolved, the property vested in the company immediately before its dissolution is vested in the Government as bona vacantia. According to RVD records, as at 30 September 2015, there were 14 bona vacantia cases (i.e. the defaulters of rates and government rent were dissolved companies). The total amount of outstanding rates and/or government rent of the 14 cases was \$1.3 million. Audit noted that:

- (a) for 10 cases, the RVD took 7.5 years or more to refer them to the LandsD for taking possession of the defaulting companies' properties; and
- (b) the properties of the 14 cases were vested in the Government from 1997 to 2010 (see Appendix F). Up to 30 September 2015, the LandsD had taken possession of properties in nine cases.

In Audit's view, the RVD and the LandsD need to take prompt actions on bona vacantia cases.

Audit recommendations

5.8 Audit has *recommended* that the Commissioner of Rating and Valuation should:

- (a) remind staff concerned to refer the long outstanding arrears cases with charging orders registered to the LandsD for consideration of taking re-entry or vesting actions in a timely manner; and**
- (b) in conjunction with the Director of Lands, take prompt actions on bona vacantia cases.**

Response from the Government

5.9 The Commissioner of Rating and Valuation generally agrees with the audit recommendations. He has said that:

- (a) of the five accounts which had an outstanding amount of more than \$1 million each as at September 2015 (see Note to Table 17 in para. 5.5), three had been settled in November and December 2015;**
- (b) according to legal advice, in general a charging order can provide adequate protection to the interest of the Government. With the limited resources available, the RVD has been according priority to protecting the Government's interest by speeding up legal actions on arrears cases, including application of charging orders for the judgments obtained;**
- (c) for the case mentioned in paragraph 5.6:
 - (i) the RVD had been taking steady follow-up actions after the charging order action in 2010. In addition to those mentioned in paragraph 5.6, from 2012 to 2014, the RVD had been in dialogue with the defaulter on settlement of the arrears of all the outstanding accounts. The case had been monitored closely by the subject officers;****

Collection of rates and government rent

- (ii) as a further step to press the defaulter for early settlement, the RVD referred the case to the LandsD in December 2015 for issuance of two rounds of warning letters for re-entry/vesting actions against the properties under section 7 of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126). The LandsD issued the first round of warning letter in January 2016; and
- (iii) given limited resources and in view of the above-mentioned legal advice, the RVD considers that adequate and timely arrears recovery actions have been taken on the case. Nonetheless, the RVD will consider referring arrears cases with charging orders to the LandsD earlier where warranted; and
- (d) with a view to further facilitating the LandsD in taking action on bona vacantia cases, the RVD will remind the staff concerned to refer them to the LandsD for follow-up action as soon as practicable.

5.10 The Director of Lands has said that:

- (a) for arrears cases where charging orders are registered:
 - (i) re-entry or vesting action may be taken if there is a breach of covenant in the relevant land lease. Land lease usually contains a covenant for payment of government rent, but there may not be any covenant for payment of rates by the lessee;
 - (ii) it is the LandsD's understanding that the RVD had previously obtained legal advice from the Department of Justice that re-entry action should be taken only as a last resort, after exhausting all other means of recovery. For consistency and clarity of practice, it would be useful if the RVD, in consultation with the Department of Justice, would consider drawing up guidelines or criteria as to when re-entry or vesting action would be appropriate; and
 - (iii) the LandsD believes that the RVD will consider taking actions for orders for sale as an alternative to re-entry or vesting action;

Collection of rates and government rent

- (b) the Government may not be in a position to take possession or dispose of the bona vacantia properties under certain circumstances, such as the following:
 - (i) the properties are subject to mortgage and the mortgagee has taken possession of the properties; or
 - (ii) the properties are subject to mortgage or charging orders and the amount of indebtedness is substantial or cannot be ascertained; and

- (c) in the case where the LandsD may take possession and dispose of the property to a new owner, the new owner of the property would not be liable for the outstanding rates/government rent that were payable by the company before its dissolution, as he/she was not the owner of the property during the relevant period. While the LandsD's work of taking possession of bona vacantia properties may not achieve the purpose of recovering outstanding rates and/or government rent thereof, the LandsD will continue to work with the RVD to take appropriate actions on bona vacantia cases.

Properties exempted from assessment to rates

Section 36(1) of the Rating Ordinance provides that the following properties are exempted from assessment to rates:

- (a) agricultural land and buildings;
- (b) New Territories dwelling houses occupied in connection with agricultural land or agricultural operations;
- (c) New Territories village houses within designated areas, complying with the prescribed size, height and type criteria (see para. 4.3);
- (d) properties built for the purpose of public religious worship and used wholly or mainly for such purpose;
- (e) cemeteries and crematoria;
- (f) properties owned and occupied for public purposes by the Government, the Legislative Council Commission or the Financial Secretary Incorporated;
- (g) properties owned by the Government and occupied as dwellings by public officers by virtue of their employment;
- (h) properties owned by the Housing Authority and occupied for public purposes by the Government;
- (i) military land;
- (j) certain resited village houses in the New Territories;
- (k) properties occupied for domestic purposes in cottage areas or temporary housing areas; and
- (l) properties of which the rateable value would not exceed the prescribed amount (currently at \$3,000).

Source: RVD records

Properties exempted from payment of rates

1. Section 36(2) of the Rating Ordinance provides that the Chief Executive-in-Council may declare any class of properties to be exempted from payment of rates. The Rating (Miscellaneous Exemptions) Order (Cap. 116A) specifies that the following classes of properties are exempted from payment of rates:

- (a) all properties, or parts thereof, used wholly or mainly for public religious worship, other than those exempt from assessment under section 36(1)(d) (see Appendix A);
- (b) all properties, or parts thereof, occupied for public purposes by or on behalf of the Government or the Financial Secretary Incorporated other than those exempt from assessment under section 36(1)(f) or (h); and
- (c) all properties, or parts thereof, held by the Government and occupied or to be occupied as dwellings by public officers by virtue of their employment other than those exempt from assessment under section 36(1)(g).

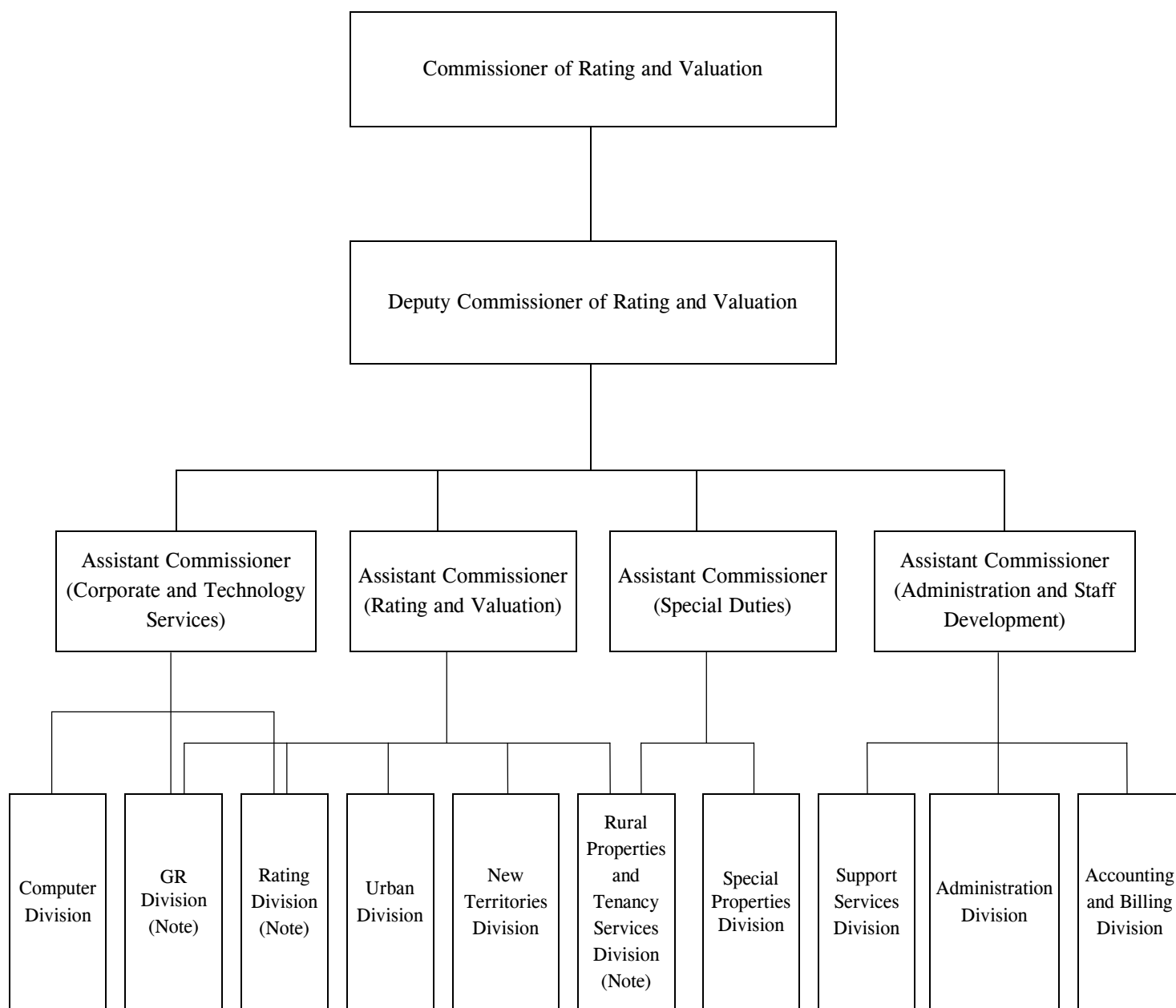
2. Section 36(3) of the Rating Ordinance provides that the Chief Executive of the Hong Kong Special Administrative Region may exempt any property or part of any property from payment of rates, wholly or in part. This exemption provision is limited to particular properties, and not classes of properties. For example, this provision is used for the exemption of:

- (a) consular properties and residences of accredited consular officers; and
- (b) certain village houses situated outside the designated village areas in the New Territories and occupied by an indigenous villager.

The Chief Executive has delegated his authority under this provision to different public officers. For example, the Director of Home Affairs is authorised to approve exemptions from payment of rates to village houses situated outside the designated village areas in the New Territories.

Source: RVD records

**Rating and Valuation Department
Organisation chart
(31 December 2015)**



Source: RVD records

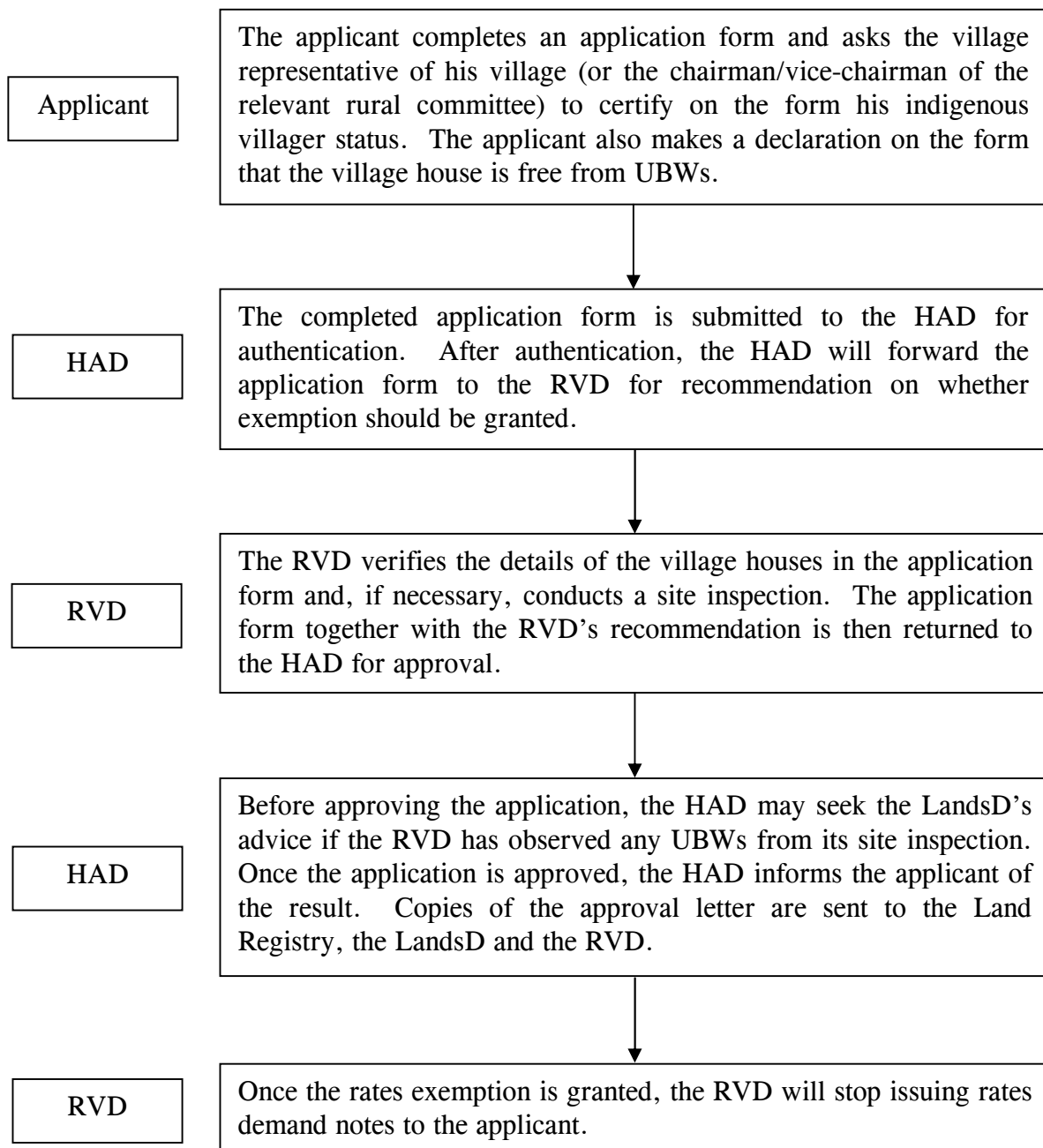
Note: The division is responsible to two Assistant Commissioners.

**Analysis of 105 designated village areas by districts
(31 December 2015)**

District	Number of DVAs	Estimated number of village houses
Yuen Long	49	14,460
North	12	740
Tai Po	12	430
Sai Kung	17	320
Islands	10	310
Shatin	4	110
Tsuen Wan	1	90
Total	105	16,460

Source: RVD records

Major steps in processing applications for exemption from payment of rates



Source: HAD records

**Key dates of 14 bona vacantia cases
(30 September 2015)**

Case	Date of properties vested in the Government	Date of referring to the LandsD	Date of taking possession by the LandsD
1	26 September 1997	25 October 2005	19 November 2012
2	15 August 2003	19 August 2013	—
3	26 September 2003	16 September 2004	7 September 2009
4	18 June 2004	7 January 2015	—
5	28 April 2006	10 December 2013	30 May 2015
6	28 April 2006	10 December 2013	30 May 2015
7	28 April 2006	10 December 2013	30 May 2015
8	28 April 2006	10 December 2013	30 May 2015
9	28 April 2006	10 December 2013	30 May 2015
10	28 April 2006	10 December 2013	30 May 2015
11	28 April 2006	10 December 2013	30 May 2015
12	25 July 2008	19 August 2013	—
13	15 May 2009	13 March 2014	—
14	24 December 2010	13 December 2011	—

Source: RVD records

Acronyms and abbreviations

Audit	Audit Commission
BD	Buildings Department
DLO	District Lands Office
DVA	Designated village area
FSTB	Financial Services and the Treasury Bureau
GR	General Revaluation
HAD	Home Affairs Department
IRD	Inland Revenue Department
LandsD	Lands Department
RVD	Rating and Valuation Department
RV/Rent ratio	Ratio of Rateable Value to Rent
UBWs	Unauthorised building works