

# 4,000 tax dodgers caught out

By MICHAEL PASCOE

The Inland Revenue Department last year penalised nearly 4,000 individuals and companies for attempting to evade tax.

The maximum possible penalty is 300 per cent of the tax evaded.

Penalties were imposed in 2,314 business profits tax cases and 1,681 salaries tax cases.

These are in addition to the 82 cases handled by the department's investigations unit.

The Deputy Commissioner, Mr Victor Ladd, said yesterday: "Many people think that providing they stay out of the way of the investigations unit they are safe."

"Full investigations are long, costly procedures. We're in the business of gathering tax. It's clearly not worthwhile having a full investigation if the tax evaded is small."

Last Tuesday, the department's acting Assistant Commissioner said the investigation unit uncovered 82 cases involving more than

\$77 million in unreported profits.

Mr Ladd said the usual method for detecting tax evasion was assets betterment.

This is usually done over five years. The department assesses the subject's assets five years ago and his present assets, adds on what he was likely to have spent in that period, and compares the difference between the two assessments and the subject's declared income.

It is then up to the subject to prove the department's assessment is not correct.

If he disputes the assessment he can appeal to the Commissioner and then the Inland Revenue Board of Review.

On points of law, he can take his case to the Supreme Court or even the Privy Council.

Once the assessment is accepted or held to be correct, the department can either prosecute the individual or impose a penalty.

"Prosecutions are good publicity, but they also are costly and time consuming," Mr Ladd said.

Last year there were three

prosecutions for wilfully attempting to avoid tax.

To save time and money, the penalty system is used. The amount of penalty imposed depends upon the nature of the evasion. If an individual forgot to include some income in his tax return, he could expect the penalty to be less than if he set out to defraud the tax man.

"The problem is how to judge intent," Mr Ladd said. "Unless you catch a business man's books that show the evasion was deliberate, it can be hard to know whether there was an honest mistake or not."

"Obviously in cases where the individual making the claim is not at fault, such as a businessman who was away for most of the year off sick, and had a new manager looking after the books, we are understanding."

Offenders can and often do appeal against the penalties they receive. These appeals tend to be pleas of mitigating circumstances.

"The most common thing we hear is: 'I'm sorry and I won't do it again,'" Mr Ladd said.

"What they generally mean

is: 'I'm sorry I got caught.'"

This type of appeal is treated in much the same way as the most common excuse for having so much money ("I won it gambling") — it is ignored.

An area in which the department does find genuine excuses is estate duty.

"In many death duty cases, we find the standard of legal advice given to the executor leaves something to be desired," Mr Ladd said.

"It seems the legal practitioner does not sit down with his client and explain what has to be done and what has to be declared."

"Any significant gift made within three years of death has to be declared, but we had one case where a solicitor processed a gift and then handled the estate duty, but did not tell the executor the gift had to be declared."

While estate duty is not a large part of Government revenue, individual cases can be considerable. The department had a case where a gift that merited \$1.5 million estate duty was not declared. The department slapped on a 100 per cent penalty so \$3 million had to be paid.

The total yield from estate duty last year was about \$80 million, but attempts were made to evade paying \$2.5 million.

The Inland Revenue Department has had its establishment increased by about 50 per cent in the past year, making it even harder to illegally dodge tax.

And the department is assisted in tracking down tax evaders by other Government departments and thousands of Hongkong people.



Mr Ladd

"We receive information from thousands of members of the public," Mr Ladd said.

"We also are given information by the police, the ICAC and other Government bodies, but this is a purely one-way traffic."

"Under no circumstances do we divulge information or help other departments. We're only too glad to get information, but we never do anyone any favours in return."

Despite these assurances, Hongkong's illegal businesses rarely admit themselves on their tax returns. Instead, the illegally earned gains are declared under a front business.

For example, a brothel keeper puts down his profits as a motel or bar owner. If he does not declare his earnings and the department catches him on assets betterment, the front business has to pay.

"We've never had a leak and we don't intend to have any," Mr Ladd said.