

DEBRIEF

Business Rates

July 2009

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COMPLEXITY – RED TAPE MADNESS – INCREASED COST!



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In this issue of debrief we report on a flurry of business rates activity, before Parliament's summer recess, likely to cause considerable concern to many businesses. The Valuation Office Agency (VOA) has completed its valuations for the 2010 rating revaluation and the Government has now issued a consultation paper regarding its proposals to phase in the revaluation effects on rates bills.

Those whose liabilities are to increase may find them unaffordable in a recession, whilst the revaluation winners will feel hard done by if their rates reductions are delayed as is proposed.

Businesses are being offered some relief through this year's rates deferment scheme, but I believe most businesses will regard the assistance as too little and all will agree it is too late (it could not have been announced later, nor implemented more slowly).

The procedural requirements and administrative hurdles to obtain deferment could hardly have been more cumbersome – the regulations run to 23 pages.

And the Business Rate Supplements Act 2009, providing the opportunity for a new local property tax to be imposed on top of the national Uniform Business Rate, could not have been introduced at a more inappropriate time in the economic cycle.

So rather than spend your time making sense of all of this, Gerald Eve rating specialists will clarify the uncertainties and simplify the complexities for you. At the same time we can manage the red tape and do our utmost to reduce the additional cost to your business.

We would be delighted to assist you with your responses to the consultation paper or any of these other matters.

Please contact me on 020 7333 6324, jschurder@geraldev.com, or speak to your usual Gerald Eve contact for further details.

THE 2010 RATING REVALUATION

As a regular recipient of our rating briefings, you will be aware that the next general rating revaluation comes into effect on 1 April 2010. All properties will be assigned new Rateable Values based upon rental values and economic circumstances as they were two years earlier, on 1 April 2008, known as the Antecedent Valuation Date.

The Valuation Office Agency (VOA) has completed its valuations but they will not become known until the end of September when they will be published on the internet at www.voa.gov.uk. The VOA will also be posting its 'summary valuations' to most ratepayers. These are line-by-line explanations showing how the RV has been calculated and will also, mostly, be available on the internet for all to see and compare (the exceptions being properties valued based upon trading receipts or construction costs).

Rateable Values to increase and UBR to fall

The 2010 valuations have already been provided to the Government which has released very generalised information on regional and main sector impacts of the revaluation. The total of all Rateable Values is expected to increase by about 19%. In order to comply with legislative requirements that revaluations are broadly revenue neutral, the Government therefore expects the Uniform Business Rate to reduce by about 16%, from 48.1p this year to about 40p next year. The final UBR will only be confirmed in the autumn as it is linked to the Retail Price Index for September. Other adjustments are also made which is why the UBR estimate is indicative only at this stage.

On the basis that the UBR is to fall by around 16%, one can predict that all businesses whose 2010 RVs will be either below the current 2005 assessment, or no more than 16% above it, will be revaluation winners and can expect to receive reduced rates bills next year.

Conversely, those whose assessments increase by greater than 16% are the losers and will be facing higher bills.

The table below shows the forecast revaluation impact as provided by the Department for Communities and Local Government. The figures show notional liability ignoring all reliefs and inflation adjustments.

Sector effect of the 2010 revaluation

	Total	Offices	Retail	Industry	Others
East Midlands	-10%	-18%	-8%	-16%	-2%
West Midlands	-7%	-8%	-4%	-13%	-1%
South East	-5%	-13%	0%	-12%	0%
East of England	-3%	-7%	1%	-9%	2%
North West	-2%	-3%	-1%	-9%	2%
North East	-1%	-6%	-1%	-7%	6%
Yorkshire & Humber	-1%	-1%	1%	-9%	3%
South West	3%	-3%	5%	-3%	7%
London	10%	19%	4%	0%	4%
Total	0%	5%	1%	-9%	2%

Government consults

The reason why this information is being released now is because the Government wishes to hear the views of ratepayers as to the type of transitional arrangements scheme that should be introduced to accompany the revaluation. The purpose of transitional arrangements is to phase in the larger increases that result from revaluation, which the Government explains is in recognition of the fact that businesses find it difficult to accommodate significant year on year increases and especially those which could not have predicted until the new assessments are known.

Scotland

The revaluation timetable in Scotland is well behind that in England and Wales. Scottish Assessors are working towards completing their 2010 revaluation assessments by the beginning of September, following which the Executive will consult regarding transitional relief. The 2005 transition scheme in Scotland was markedly different to that in England, both regarding the methodology for phasing in revaluation increases and decreases and regarding the scheme's length of three years in Scotland.

The legislation in Scotland does not require that there are transitional arrangements and these are therefore not a certainty. Decisions are likely to be delayed until January 2010, which severely limits one's ability to budget for next April's rates bills.

The Executive has a commitment to harmonise the Uniform Business Rate in Scotland with that applicable in England which, if continued, would lead to a 2010 UBR of about 40p. However, this would reduce rates revenue in Scotland, because the all property RV increase at revaluation is expected to be below the equivalent figure for England. There may therefore be pressure to break this commitment and adopt a higher UBR.

Ratepayers in Scotland continue to receive greater empty property rates relief than has been applied in England and Wales since April 2008 and will also benefit from lower occupational liabilities, if the Executive continues its policy of UBR harmonisation with England.

Wales

There was no transitional arrangements scheme in Wales following the 2005 revaluation and there is no apparent intention to introduce one or even consult about its desirability for 2010. The Welsh Assembly has received the 2010 Rateable Values from the Valuation Office Agency, but has not released any information of the broad revaluation impact or likely UBR in Wales. Businesses in Wales would be greatly assisted if such data was supplied together with an estimate of the 2010 UBR. The Welsh Assembly Government should be able to reduce its UBR well below the current rate of 48.9p as we expect the all property RV increase in Wales to be in the region of 15% to 20%.

Options for transitional relief

Following the last two revaluations in 2000 and 2005, rate bill increases in the first year were capped at 12.5% in real terms.

Small properties were treated more favourably with lower percentage increases.

The Government is suggesting that it should once again limit first year increases for large properties to 12.5% in real terms, although a key difference next year would be that the effect of inflation is likely to lessen the cash increases. September's RPI is predicted by the Treasury to be around -3%, which would translate a 12.5% real increase into a 9.1% increase on the face of rates bills.

Increases in the subsequent years would also be capped with bills increasing by fixed percentages (see table below) until true liability was reached. ie $RV \times UBR$.

The Government intends to retain the more beneficial scheme for small properties and it will uprate the qualifying thresholds in line with average RV increases from $RV \text{ £15,000}$ to $RV \text{ £18,000}$ and in London from $RV \text{ £21,500}$ to $RV \text{ £25,500}$.

It is also consulting whether the transition scheme should last for four years, as following the 2005 revaluation, or should revert to a five-year scheme as applied at previous revaluations since 1990.

The benefit of the former and the reason for the change in 2005, is that there is logic in all properties paying their true liability for at least one year during the five-year cycle. A four-year scheme also marginally simplifies the post revaluation liability calculations, as the starting point for all properties is their true, and not transitionally adjusted, liability.

The key disadvantage of a four-year scheme is that some properties experience a significant jump in rates bills in the fifth year. Whilst they will, arguably, have had four years to prepare for the increase, there is no appropriate warning on prior years' rates demands. Over 50,000 properties came out of transitional protection on 1 April 2009, some seeing bills more than doubling, which was one of the reasons why the Government decided, at the last minute, to create its rates deferment scheme for 2009/10 (see page 5 for details).

The 2009/10 experience has clearly weighed heavily in the minds of the policy makers and the Government's preference is therefore to revert to a five-year scheme for the 2010 revaluation. The preferred option for transitional relief would therefore cap increases in rates bills (before adjusting for inflation) as follows:

Year	2010/11	2011/12	2012/13	2013/14	2014/15
Large Property maximum increase RV above £18,000 (£25,500 in London)	12.5%	17.5%	20.0%	25.0%	25.0%
Small Property maximum increase RV below £18,001 (£25,501 in London)	5.0%	7.5%	10.0%	15.0%	15.0%

Note: all percentages are in real terms, ie before inflation adjustment

Transition penalty

By granting transitional relief to those businesses facing large increases, the Government collects reduced rates revenues. These have to be recouped from other ratepayers, because the legislation requires transitional arrangements to be fiscally neutral. Historically, this has been approached by way of downwards phasing, ie denying immediate full reductions to the revaluation winners whose bills ought to fall following revaluation. The Government's preference is to continue this principle.

In 2005 the maximum first year decrease permitted for large properties was 12.5% before inflation, with a more generous decrease for small properties of 30%.

However, the cost of granting transitional relief in 2010/11 is going to be far greater than in 2005/06, primarily because of the London factor. London's Rateable Values presently make up 25% of the total of the whole of England, with inner London contributing over 16% a substantial part of which is comprised in high value offices.

These will see amongst the biggest RV increases in 2010 – assessments for many modern offices in the West End could double – and the cost of transitional relief will be high. This means that the Government can only afford to allow smaller decreases in bills to the revaluation winners than in 2005/06, and it proposes the following maximum annual reductions, assuming its preferred five-year transitional relief scheme.

A better way to pay for transitional relief?

Perhaps in recognition of this point, the Government is consulting about an alternative method of paying for transitional relief. Under this arrangement, full and immediate decreases would be granted to revaluation winners, with the cost of transitional relief met by applying a UBR supplement to all rates bills, other than those whose liabilities are being cushioned by transitional relief. This spreads the cost more widely than a downwards phasing scheme. The UBR supplement would be 2.7p in 2010/11, but would reduce in subsequent years as the cost of transitional relief falls. The supplement in the following years would be 1.1p, 0.4p, 0.1p and 0.05p.

An unhelpful timetable

Responses to the consultation are required by 23 September but it would have been more helpful to ratepayers to have lengthened the consultation period slightly, thus enabling more meaningful responses to have been prepared. On 23 September, businesses will still not know which of the alternatives for transitional relief to favour, as the key component in their decision making process – the 2010 Rateable Value for their property – will be missing. That vital piece of missing information will be available just one week later – all assessments will be in the public domain on 30 September.

Given that the Government will only announce its decisions regarding the 2010 transition scheme in the second half of November, surely consultation responses could have been deferred until the middle of October to assist those wanting to ascertain their new RVs before commenting.

Year	2010/11	2011/12	2012/13	2013/14	2014/15
Large Property maximum decrease RV above £18,000 (£25,500 in London)	4.6%	6.7%	7.0%	13.0%	13.0%
Small Property maximum decrease RV below £18,001 (£25,501 in London)	20.0%	30.0%	35.0%	55.0%	55.0%

Note: all percentages are in real terms, ie before inflation adjustment

Limiting decreases to such a significant extent such that, for many, bills will fall by only 4.6% next year, all but negates the purpose of revaluations. These are intended to redistribute liability in line with relative shifts in value between revaluations.

Those whose values have fallen are likely to be businesses suffering more and therefore in greatest need of the benefits revaluations are intended to bring.

'Those whose liabilities are to increase may find them unaffordable in a recession, whilst the revaluation winners will feel hard done by if their rates reductions are delayed as is proposed.'

THE BUSINESS RATES DEFERMENT SCHEME

The Government has laid Regulations to bring into effect the planned rates deferment scheme. The Regulations, which come into force on 31 July, relate only to England, but similar arrangements are to apply to properties in Scotland and Wales.

The deferment scheme in Scotland is already permissible under existing legislation and is therefore able to proceed without additional regulations.

The background is that at the 11th hour, on 31 March 2009, the Chancellor announced that businesses would not have to face the full 5% Retail Price Index linked increase to the Uniform Business Rate for 2009/10, but would be able to defer 60% of the increase to 2010/11 and 2011/12. Some businesses in England faced even greater increases due to the ending of the transitional relief scheme following the 2005 revaluation and they are also to be permitted to defer 60% of those increases.

'The Government has tasked local authorities with turning around applications within 14 days of receipt. We rather doubt that this is likely to occur.'

Red tape madness

Businesses have had to continue paying their usual monthly instalments at the full amount whilst awaiting the Regulations. We lobbied hard for the deferment to be applied by councils automatically so that ratepayers could benefit as soon as the law permitted, by way of reduced monthly instalments for the remainder of this year.

But the Government has resisted and the deferment will be granted only following application. After 31 July, local authorities will send each ratepayer (there are 1.7 million in England alone!) an application form to complete should they wish to opt for deferment. Multiple applications will be permitted should a business have more than one property in a local authority area.

The Government has tasked local authorities with turning around applications within 14 days of receipt which, if achieved, would allow rates bills to be adjusted from 1 September. We rather doubt that this is likely to occur, unless there are relatively few early applications made. Local authorities in Scotland are already issuing application forms but will not adjust instalments until those to be paid in September.

The administrative nightmare – a hurdle too high to jump?

From discussions with our clients, we know that there are mixed views as to the ultimate benefits of the deferment scheme, especially given the significant administrative nightmare of managing the application process and revised payment plans – unless you are a client of our Rates Payment Management Service, which removes all the hassle of rates management.

For many, there are insufficient benefits to be gained by moving the deferred liability onto the balance sheet and they will continue to make full payments this year. For others, the cash flow improvement cannot be ignored in these troubled times and they will simply have to accept and somehow overcome the administrative hurdles.

Whilst all the paperwork, data entry and revised payments are nuisances businesses could do without, we suspect that the greatest confusion will arise in the future when there are changes to occupation, to a property or its assessment, which cause rates liability to be recalculated. For example:

- if a ratepayer first becomes liable for a property in 2009/10, an application can still be made to defer 60% of the increase that would have arisen had there been a liability at the beginning of the year;
- if a property is sold or let, then the former ratepayer becomes immediately liable for the full amount of any liability that had been deferred;
- if the Rateable Value of a property to which deferment applies is reduced or increased, one will need to recalculate the amounts capable of deferment, compare these with the amounts that have been deferred and make adjustments accordingly; or
- the calculations become even more complex when one considers properties that are vacated entitling them to a period of empty rates relief, or for which empty relief comes to an end, or those whose assessments are split or merged with others

Unintelligible rate demands

The deferment regulations run to 23 pages and add enormously to the already significant complexity of rate liability calculations. The permutations are endless and the risk of billing error is high.

Rates bills are going to have to be checked even more carefully than usual, especially next year.

An average rates bill in 2010/11 will include the following entries:

- 2010 Rateable Value x Uniform Business Rate
- adjustment - or + for transitional relief/penalty
- supplement to fund small business rate relief scheme
- addition for liability deferred from 2009/10

Many bills will also include:

- Business Improvement District levies
- Business Rate Supplement (London properties – see Crossrail BRS – page 6)
- Special Authority Supplement (in City of London)

Some bills will show:

- Empty rates relief
- Small business rates relief
- Rural rate relief
- Charitable rate relief
- Community Amateur Sports Club relief

BUSINESS RATE SUPPLEMENTS – JUST A COST OR A BENEFIT TOO?

The Business Rate Supplements (BRS) Act 2009 received Royal Assent on 2 July 2009. It provides powers for local authorities in England and Wales to levy additional business rates charges to specifically fund local economic development, such as infrastructure projects. There are no known plans for similar legislation in Scotland.

The key features of the Act are as follows:

- County Councils, District Councils (for an area without a County Council) and the Greater London Authority have the power to levy a local supplement on the business rate from 1 April 2010.
- Revenues from BRS will be raised and retained locally.
- Revenue from BRS will only be available for spending which would not otherwise have taken place, on economic development initiatives or projects.
- Any authority wishing to levy a BRS has a duty to produce a prospectus setting out the details of the proposed supplement and the project it will fund.
- No levying authority can impose a levy (whether for one or more BRS schemes in its area) amounting to a total of more than 2p per pound of RV. This is equivalent to about a 5% supplement on rates bills.
- Decisions on the duration of a BRS, and the specific project it will fund, will be made locally.

- Authorities are required to hold a statutory consultation on the proposals and to hold a ballot if the BRS will fund more than a third of the cost of the proposed economic development.

Where a ballot is required, there will have to be a majority of those voting both by number and by the Rateable Value of their properties concerned, before a BRS can come into force.

Regulations are being prepared covering procedural and administrative details, which will include an exemption from BRS for all properties with assessments of RV £50,000 or less.

Businesses are hugely concerned that an additional tax is being introduced at this stage of the economic cycle, although we don't perceive much enthusiasm amongst councils at the moment to develop schemes that would require a supplement to be imposed. There is a clear risk, however, given likely cutbacks in Government funding of local authority expenditure, that business will again be seen as an easy target – without the risk of repercussions at the ballot box.

'Accurate budgeting for current and future liabilities will become ever more difficult. Businesses wanting to be in control of their outgoings will need to rely on specialist advisers with bespoke rating software, as well as the skills to manage and reduce their rates bills.'

Crossrail BRS

The only authority that has declared an intention to levy a supplement is the Greater London Authority. From 1 April 2010, all properties in Greater London with assessments above Rateable Value (RV) £50,000 will be charged an additional 2p per pound RV in order to assist with funding the development of Crossrail.

The BRS Act was amended during its passage through Parliament so that there is a specific exemption for the Crossrail supplement from the normal requirement to ballot ratepayers should the supplement fund more than a third of the costs.

The 2p supplement was unlikely to breach the one third threshold, but the clause was added in order to avoid doubt and the delay that would have arisen had a vote been necessary.

The GLA will nonetheless have to undertake a full statutory consultation process prior to next April. Given that the Mayor has made it clear that Crossrail development cannot proceed without business funding through the supplement, it will be interesting to see how it responds should the balance of consultation responses be negative. Crossrail is widely supported by businesses along its planned route but to many Londoners in outer boroughs it is no more than a line on a map. Even its supporters are concerned about having to pay a 5% surcharge in these difficult economic times, especially since they will be paying for at least seven years before any benefit is realised – always assuming the first trains do actually start running according to the planned development timetable.

Our view is that the GLA could reduce the amount of the planned supplement, at least for the early years and we are working with London organisations to try to reduce this additional business cost. The 2p supplement was intended to fund the interest payments and eventually repay borrowing of £350bn, but this ought to be capable of reduction for two reasons.

Firstly, long term borrowing rates are now lower than when the calculations would initially have been made. Secondly, as confirmed by the consultation paper on transitional arrangements, the 2010 revaluation will bring average increases of almost 30% in the RV assessments for London. This not only increases the anticipated BRS receipts from those who had previously been expected to pay, but will add new revenues from those who will find their assessments crossing over the £50,000 RV threshold following revaluation. The combination of these factors should, in our opinion, cause the GLA to review the supplement and to consider whether it can be reduced.

We will be talking to the GLA about Crossrail funding and hope that any reconsideration will feature in its statutory consultation in due course.

Further information:

Consultation paper – transitional arrangements for the rating revaluation 2010 in England

<http://www.communities.gov.uk/documents/localgovernment/pdf/1276708.pdf>

The Non-Domestic Rating (Deferred Payments) (England) Regulations 2009
http://www.opsi.gov.uk/si/si2009/pdf/uksi_20091597_en.pdf

Non-Domestic Rating (Deferred Payments) (England) Regulations 1999 explanatory memorandum

http://www.opsi.gov.uk/si/si2009/em/uksiem_20091597_en.pdf

Scottish Business Rates Deferral Scheme 2009-10

<http://www.scotland.gov.uk/Publications/2009/06/18143509/2>

Business Rate Supplements Act 2009

http://www.opsi.gov.uk/acts/acts2009/pdf/ukpga_20090007_en.pdf

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GERALD EVE'S UK OFFICE NETWORK

Gerald Eve is the pre-eminent business rates adviser. We currently advise 23 of the FTSE100 companies on rating matters. So far we have saved our clients occupying over 50,000 properties throughout the UK, more than £850m in rates liabilities since the last revaluation in 2005.

We are very keen to tell you more about our approach and how we can assist you, so please contact Jerry Schurder on 020 7333 6324, jschurder@geraldeva.com or your usual Gerald Eve contact to find out more.

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