GERALD EVE'S RATING NEWS UPDATE

DECEMBER 2010

THE LOCALISM BILL

This Bill was finally published on 13 December having been promised initially in November. It contains various business rates measures, most of which had been election manifesto commitments of one or both coalition parties. These include the 'automation' of Small Business Rates Relief (SBRR), a mandatory vote for all future business rate supplements, enhanced council powers to grant rates relief and the cancellation of certain backdated rates bills.

We summarise these measures on page 2 of this update.

UNIFORM BUSINESS RATES 2011/12

The Welsh Assembly Government was the first to reveal its hand when it announced that it would increase its UBR for 2011/12 by the full amount of September's Retail Price Index of 4.6%. Initially they advised that it would increase from 40.9p this year to 42.7p next year, but they issued a correction subsequently. Subject to formal confirmation by the Assembly, the Welsh UBR will be 42.8p as we had suggested in our **October Rating News Update**.

The Scottish Executive then announced that it would continue to harmonise its UBR with that in England, but couldn't announce the details as Westminster had not yet determined the English UBR. And in almost the same breath, the Executive issued regulations making clear that it will in fact break this harmonisation for 'large retail properties' (see page 4).

Whilst there was much lobbying for a UBR uplift in England below RPI, the Government revealed on 13 December that it will increase by the full 4.6% RPI linkage, from 41.4p this year to 43.3p next year. These figures include the 0.7p UBR supple ment presently paid by businesses that do not qualify for SBRR but this amount may change in future given proposals for the automation of SBRR in the Localism Bill.

EMPTY PROPERTY RATES – 'A BAD TAX' MADE WORSE

The Government has buried the bad news regarding empty property rates in the fanfare of its announcements about devolving power to local communities. It will not be extending the £18,000 Rateable Value threshold below which no empty rates are payable. From 1 April 2011 empty properties with assessments of RV £2,600 and above will pay full rates.

This is extremely disappointing news, especially in the light of the Prime Minister's recognition that empty property rates are 'a bad tax' (see our **October Rating News Update**).

THE LOCALISM BILL

These are the main business rates related measures in the Bill which the Government hopes to have passed in time to be effective from April 2012. The full Bill can be downloaded at **http://services.parliament.uk/bills/2010-11/localism.html**.

AUTOMATION OF SMALL BUSINESS RATES RELIEF

Both of the coalition parties promised in their manifestos to automate SBRR but failed to recognise that this is impossible. One of the criteria for SBRR is, in effect, that the business occupies only one property in England. Councils do not know whether a ratepayer occupies property in other authority areas and are unable to determine whether a business qualifies without an application and declaration having been made.

The requirement for small businesses to complete an application form is to be removed, permitting councils to use their existing knowledge to determine eligibility. Of course, if that knowledge is insufficient, they can still seek a declaration from the applicant.

The Bill enables another change which would allow ministers to claim that SBRR is being automated. It permits regulations to be made so that the lower Uniform Business Rate (UBR) paid by businesses eligible for SBRR will be applied to all properties below the relevant Rateable Value (RV) thresholds, even if those properties are occupied by large businesses. This will benefit properties assessed at below RV £18,000 and below RV £25,500 in London. Presently the small UBR for 2010/11 is 0.7p below the main UBR of 41.4p. The costs of this additional relief will be met through the supplement paid by properties above the thresholds, but this is unlikely to exceed a further 0.1p.

MANDATORY VOTE FOR BUSINESS RATE SUPPLEMENTS

The Bill introduces an amendment to the existing provisions for Business Rates Supplements that are available to authorities in order to fund ‘economic development’. Currently, a ballot of affected ratepayers is required only if the supplement is to fund more than one third of the total cost of the planned scheme. Once the Bill receives Royal Assent, a ballot will need to be held for all new supplements.

LOCAL AUTHORITY DISCOUNTS

The Bill widens the category of ratepayers to whom local authorities can grant discretionary rates relief. Councils will have discretion to grant relief to any ratepayer that meets its own eligibility criteria.

We have long regarded the tight prescription of the criteria for discretionary relief as too restrictive and a loosening is welcome in principle. However, any new relief not presently available under the legislation will have to be fully funded by the authority granting it, whereas existing reliefs are either wholly or partly funded centrally. The funding requirement for any new reliefs together with a condition that they are in the interests of Council Tax payers could well stifle their use.

CANCELLATION OF BACKDATED RATES DEMANDS

Lastly, the Government has finally identified the implementation route for another of its coalition promises, to cancel some backdated demands for business rates. This follows the upheaval caused to many port occupiers when the Valuation Office Agency undertook a review of assessments in 2007/8, creating some massive new liabilities backdated to April 2005. Some businesses went to the wall or became technically insolvent and the previous administration brought in a scheme to allow backdated bills to be discharged over up to eight years. Once again, the Government has found it tricky to find an appropriate legislative route to fulfill its commitments. Instead, it announced a freeze for this year for those paying their backdated liabilities over an eight year payment plan which it will have to renew for 2011/12 as the Bill will not yet have been passed. The mechanisms for achieving the cancellation of backdated demands are not explicit in the Bill and will require the making of regulations, but we understand that for the limited category of ratepayers affected, their backdated liabilities prior to April 2008 will be cancelled and any rates paid for that period will be refunded.

LOCAL GROWTH: REALISING EVERY PLACE'S POTENTIAL

This White Paper issued in October included various options for business rates linked into the localism agenda. These included sketchy details (and lots of acronyms!) for a Business Increase Bonus scheme (BIBs), local retention of business rates and Tax Increment Financing (TIFs), all of which are to be considered as part of a promised Local Government Resource Review (LGRR) to commence in January. This internal review will be led by the Department for Communities and Local Government apparently without any formal public consultation process.

The overarching ambition is to incentivise local authorities to achieve growth and to reward them for attaining it and there is a clear intention to change aspects of the business rating system, possibly radically. Whilst some businesses considering substantial investment in a specific area will see advantages in such incentivisation, it will also set alarm bells ringing. Ratepayers will be hoping that the Government remains true to its claim to be 'clear that businesses should not be subject to locally imposed increases in the burden of taxation that they do not support'.

We will have to wait for the LGRR to see full details of the options, but we summarise our understanding of the principles below:

BUSINESS INCREASE BONUS

This scheme would reward those authorities which achieve growth in their business rates yield above a threshold, by allowing them to keep some or all of the increase for six years. This would be funded by the lesser performing authorities who would receive reduced central grant distribution as a consequence.

LOCAL RETENTION

This would represent a radical departure from the way in which the existing local government finance system operates. Presently business rates are a national tax collected locally. The revenues are passed to central Government which redistributes funds to councils through a system of grants. Local retention would not change the amounts that businesses pay, but through adjustments of the grant mechanism, would allow authorities to retain part of their locally collected rates revenue, thus incentivising them to increase their rates base and collection performance. There would need to be an equalisation scheme operating behind the scenes, in recognition of the significant disparity across the country between councils' business rates yield and revenue needs.

LOCAL RATE SETTING

These words do not appear in the White Paper but we understand that the LGRR will be looking at options to allow at least some local setting of the business rate. Even if capping mechanisms can be included so that business is not at the mercy of cash strapped councils, most businesses are likely to resist local rate setting not least because accurate budgeting for future liabilities would become impossible if local discretion is allowed.

If either local retention or local rate setting were implemented, there would be no need for a separate BIB scheme.

TAX INCREMENT FINANCING

There would also be no need for TIFs (referred to in our **October Rating News Update** if rates were fully localised but we consider this to be an unlikely outcome from the LGRR. We note that Government's language speaks of the introduction of TIFs as something that will occur, whereas other matters are options for consideration. There will, however, be no early TIF legislation as the Government wishes to ensure that the way in which TIFs are taken forward is consistent with the outcome of the LGRR.

RATES BILLS TO ROCKET FOR SOME RETAILERS IN SCOTLAND

The Scottish Finance Secretary, John Swinney, dropped a bombshell on Scottish retailers on 17 November when he announced in his 2011/12 Budget Statement that he would 'increase business rates paid by the largest retail properties including supermarkets and out of town retail parks'.

Regulations were laid on 9 December specifying that the additional levy will apply from 1 April 2011 to properties used for 'a trade or business consisting wholly or mainly of the retail sale of goods' and will be imposed only on assessments above RV £750,000.

The supplement will vary from 2.5p to 15p by RV band as shown in this table. This supplement replaces the 0.7p UBR supplement paid by properties assessed at above RV £35,000 and therefore the net UBR increase ranges from 1.8p to 14.3p (from 4.4% up to a staggering 35.1%). Initially, the supplement is planned for 2011/12 only, but it sets a worrying precedent and could easily be rolled forward and expanded.

Rateable Value	UBR Supplement
£750,000 - £1,000,000	2.5p
£1,000,001 - £1,099,999	5.0p
£1,100,000 - £1,265,000	10.0p
£1,265,001 - £2,140,000	12.0p
More than £2,140,000	15.0p

The Scottish Government's claim that the supplement will fall on large supermarkets and out of town retail parks in order to support town centres is not fully borne out by our analysis. We estimate that over a third of the supplements to be paid in Glasgow and Edinburgh will be derived from high street premises.

The Government also states that the impact of this increase falls on profitable business which can afford additional cost, but this misses the point in many ways. There are no rates discounts provided to less profitable or loss making businesses because the system uses rateable values which are based on rental values as a proxy for ability to pay.

And of vital importance is that – once again – the Scottish government is announcing critical rating decisions at a late stage once business budgets have been fixed. This is precisely the same error it made in February of this year when it announced that there would be no transitional relief provisions in Scotland to cushion rates increases resulting from the 2010 revaluation.

ENHANCED RATES RELIEF IN SCOTLAND FOR COMBINED HEAT AND POWER PLANTS

We do though greatly welcome another announcement from the Scottish government making changes to the Renewable Energy Generation Relief. Amendment regulations have been introduced resulting in the removal of the 50 kilowatt cap which prevented renewable combined heat and power plants from claiming rates relief. Gerald Eve are rating advisors to the Scottish Renewables Forum and we have been making representations to Government on behalf of the renewables industry in Scotland to resolve this anomaly.

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GERALD EVE'S UK OFFICE NETWORK

Gerald Eve is the pre-eminent business rates adviser. We currently advise a quarter of the FTSE100 companies on rating matters. So far we have saved our clients occupying over 50,000 properties throughout the UK more than £1.1bn in rates liabilities since the 2005 revaluation.

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@geraldeve.com** or your usual Gerald Eve contact to find out more.

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