GERALD EVE'S RATING NEWS UPDATE

AUTUMN 2011

CHANCELLOR'S AUTUMN STATEMENT

The Chancellor's Autumn Statement on 29 November included a number of business rates related measures. We had lobbied strongly, alongside businesses and trade organisations, for the 2012/13 increase in the Uniform Business Rate (UBR) to be held below the full 5.6% September Retail Prices Index (RPI) to which UBR is normally linked. The legislation permits the adoption of a lesser increase and the Government was called upon to either freeze businesses rates, as had already been confirmed for Council Tax, or to link the increase to the Consumer Price Index which is normally lower than RPI.

UNIFORM BUSINESS RATES 2012/13

Unfortunately, the Chancellor's Statement was silent on the UBR for 2012/13 but examination of the figures supporting the Statement makes clear that the intention is to impose the full 5.6% increase. This would be the highest UBR increase for 20 years but the figure has to be ratified formally in Parliament later this year before it can be confirmed. Similarly it is for the devolved administrations in Scotland and Wales to determine whether to adopt the full 5.6% RPI increase, but if they do then the following will be the UBRs for 2012/13.

Country	'Small' UBR 2011/12	'Small' UBR 2012/13
England	42.6p	45.0p
Scotland	42.6p	45.0p
Wales	42.8p	45.2p

These figures exclude a supplement payable by 'large' businesses in England and Scotland which funds the Small Business Rate Relief (SBRR) schemes. The supplement is presently 0.7p and is not linked to RPI but it can be varied to ensure that it meets the cost of SBRR. For the time being, we assume that there will be no change to this.

Following the recent passing of the Localism Act 2011, the criteria in England for qualification for the 'small' UBR will be amended from next year so that all properties below the relevant RV threshold will have the 'small' UBR applied to their bills, even if they are occupied by businesses with multiple properties. Currently, the 'small' UBR applies only to businesses occupying a single property in England.

The Crossrail UBR Supplement (2p in Greater London) will continue to be paid at this level by properties assessed at over Rateable Value £55,000. Furthermore, all properties in the City of London pay an additional UBR supplement, presently 0.4p and we are not expecting this to change for 2012/13.

ANOTHER RATES DEFERMENT SCHEME

Instead of responding to lobbying for a lower UBR next year, the Chancellor announced that businesses will be able to defer 60% of the increase in their 2012/13 liability and repay that deferred amount in 2013/14 and 2014/15. There are few further details of this scheme at the moment but it will be modelled on the 2009/10 deferment scheme also introduced at a time when the previous September's RPI was regarded to have been at a peak – it was 5.0% in September 2008.

If the 2012/13 scheme operates in the same way as the 2009/10 arrangements then the deferrable amount will be calculated as 3% of the full 2012/13 liability. This amounts to slightly less than 60% of the increase. The 3% so deferred will be repaid in the subsequent years, 1.5% in each of 2013/14 and 2014/15.

Properties still subject to transitional relief in 2012/13 may also be allowed to defer 60% of the transition related increase but we await clarification on this point.

Whilst liability for the full rates increase clearly remains, deferment does bring modest cash flow benefits. However, the 2009/10 deferment scheme is not remembered with any great affection for a number of reasons. Firstly because businesses had to make individual written applications to each authority if they wished to defer liability in this way and some authorities' procedures and processes were unnecessarily cumbersome.

The principal problem, however, is that many local authorities were not and some still are not capable of calculating liability and deferred amounts accurately, nor allocating payments appropriately. The current year, 2011/12, is the final year of the 2009/10 deferment scheme and it is astonishing that many councils have not yet reprogrammed their software. We provide a fully outsourced Rates Payment Management Service for over 18,000 of our clients' properties and are still regularly receiving hundreds of incorrect bills, final reminders and even summonses for non-payment. Our team and software are fully up to speed and we have to spend ages on the telephone each month explaining to billing authorities why their demands, reminders and summonses are incorrect. We doubt whether ratepayers themselves have the resources to challenge councils in this way and are therefore losing some of the benefit that deferment is intended to bring. Having complained frequently to DCLG about these issues, we have asked for confirmation that they will not allow a repetition of these problems for the 2012/13 deferment scheme.

Unfortunately, the only confirmation we have received so far indicates that once again the deferment scheme will be cumbersome, administered poorly and without taking business needs into account. We are staggered that the Government has no intention to legislate for the new scheme until 2012/13 – they have not confirmed when in that year. This means that rate demands will be issued in March/April showing the full 5.6% increase and businesses will have to commence paying monthly instalments at the full amount.

Only once the legislation is in place will businesses be able to commence the process of applying for deferment, following which councils will have to recalculate liability and issue revised bills. In 2009 it took most councils until October or November to complete this but that was primarily due to the then Chancellor only announcing the deferment scheme on 31 March. This time we are 4 months ahead, the principles of the scheme can be copied from 2009 and it is therefore unacceptable that ratepayers who wish to opt for deferment cannot benefit immediately on 1 April 2012.

We will update you when we learn further details, but we think it is informative to note that the Exchequer is only expecting the scheme to cost £85m in 2012/13 – in other words they expect only about 10% of businesses to take up the deferment scheme. Frankly, given the debacle over the administration of the previous scheme and the timing obstacles intended for this one, we're not surprised.

Whilst the Chancellor's announcement relates only to England and the devolved administrations will determine policy in Wales and Scotland, it may be relevant that they too introduced rates deferment schemes in 2009 and funding support will again be made available from Westminster should they too decide to offer deferment next year.

FURTHER EXTENSION OF THE ENHANCED SMALL BUSINESS RATES RELIEF SCHEME

The Small Business Rates Relief scheme in England, first introduced in 2005, allows businesses to apply for relief so long as they occupy only one property in England and its Rateable Value is below £12,000. Following the 2010 rating revaluation the amount of relief was set at 50% if the RV was less than £6,000 reducing on a sliding scale to nil between RV £6,000 and £12,000.

If a small business occupies more than one property it qualifies for relief only if the principal property for which relief is being claimed is assessed at below RV £12,000, with the RVs of any other properties each being below £2,600 and the aggregate RV of all its properties falling below £18,000 (£25,500 in London).

In the June 2010 emergency budget, the Government legislated for an enhanced level of relief to apply from 1 October 2010 to 30 September 2011, so that no rates were payable by qualifying small businesses where the RV is below £6,000 and the previous level of relief was doubled between RV £6,000 and £12,000.

This additional relief was extended in the March 2011 Budget for a further 12 months until 30 September 2012 and the Chancellor announced a further extension to 31 March 2013 in the Autumn Statement. As a consequence, eligible small businesses with assessments below RV £6,000 will have no rates liability until 1 April 2013. Above £6,000, the relief will reduce on a sliding scale from 100% at RV £6,000 to 0% at RV £12,000.

This is clearly welcome news for qualifying businesses and is eminently sensible. It was illogical for the enhanced relief scheme to have continued only until September, as changing the level of relief half way through a rating year required councils to issue two sets of bills each year and caused enormous confusion for small businesses.

Separate and different small business relief schemes operate in Scotland and Wales. The Scottish Executive has already confirmed a continuation of its scheme, but the Welsh Government has recently announced a review of business rates including 'the implications of specific policies in relation to small business rate relief and empty property rate relief'.

Other rates related measures

We reported in our **Summer 2011 Rating News Update** on the Local Government Resource Review and the consultation which concluded in October. The Chancellor announced that this review will report in December and it will include further details on the how the business rates system will be used to support Tax Increment Financing in England.

Unfortunately the Statement was silent about empty property rates in England and the lobbying for a review of these has fallen on deaf ears. As a consequence, empty rates will continue to be charged in 2012/13 for premises with assessments above RV £2,600.

‘ROUND ONE’ TO SCOTTISH RATEPAYERS

In our **September Scottish Rating News Update** we reported on a test case due for hearing at the Fife Valuation Appeal Panel in October where we took a lead role on behalf of clients with shops in the Mercat Shopping Centre in Kirkcaldy. The Panel’s decision has just been received and we are delighted to advise that it is wholly in favour of the ratepayers.

This is only ‘Round One’ in favour of businesses as the Fife Assessor has a right to appeal against this decision which we expect him to exercise. The Assessor has until Friday 10 December to lodge grounds of appeal which will result in the preparation of a stated case to be heard at Lands Valuation Appeal Court in 2012.

The outcome of the case will have a significant impact on the rest of Scotland with regards to the validity and merits of ‘Material Change of Circumstance’ appeals at April 2010 that have been lodged throughout the country. The legislation in Scotland differs from England in that a decline in value caused by economic circumstances can be treated as a ‘Material Change of Circumstance’. We contended that the impact of the recession and falling rents have had a material impact on the value of properties following the antecedent valuation date of 1 April 2008 which had not been correctly reflected in assessments as at 1 April 2010.

The Mercat Shopping Centre had already benefited from this effect as the Lands Valuation Appeal Court determined last year that rents in that centre declined with effect from September 2009 and awarded a 40% reduction in the 2005 revaluation assessments. The Scottish Assessors have, on the whole, refused to carry forward such 2005 reductions to the 2010 revaluation RVs, claiming that that their statutory duty is to value as at 1 April 2008 and they have thus to ignore falling rents between that date and April 2010. The Fife Panel has how confirmed that this decline should also be reflected in the 2010 values.

We are now examining how we can extend this decision to other locations throughout Scotland by identifying rental evidence that can be used to challenge the Assessors’ values.

Clearly, should the Lands Valuation Appeal Court reject any appeal made against the Fife Panel’s decision this would be a very welcome boost to Scottish business ratepayers. In the meantime, there is the downside that many other appeals may need to be held in abeyance pending final confirmation of the law but we will be doing our utmost to ensure that the matter is fast-tracked.

We will continue to update you as matters progress, however please contact our Glasgow office rating team or your usual Gerald Eve contact for further information.

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. We have saved our clients occupying over 50,000 properties throughout the UK more than £1.5bn in rates liabilities over the last five years.

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

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