GERALD EVE'S RATING NEWS UPDATE

SUMMER 2011

LOCAL GOVERNMENT RESOURCE REVIEW – THE 'REPATRIATION OF BUSINESS RATES'

Just before Parliament's summer recess, Eric Pickles, Secretary of State for Communities and Local Government announced the outcome of the Local Government Resource Review (LGRR) and launched a consultation on the detail. The key aim of the LGRR was to deliver a scheme for business rates retention with the aim of incentivising local authorities in England to promote growth and to reward them for achieving it.

The terms of reference for the LGRR were drawn widely which led to concern amongst business ratepayers that the benefits of the current rating system might be sacrificed on the altar of localism. We are pleased to report therefore that whilst there is still enormous uncertainty over the proposals for business rates retention, **the Government has confirmed that local authorities will not be given any powers to set business rates. The existing rating system is here to stay, with a Uniform Business Rate set nationally and regular revaluations**, expected to continue at five yearly intervals. All existing mandatory and discretionary rate reliefs and exemptions will remain.

We welcome the policy intention behind these proposals which will offer opportunities for pro-active local councils to prioritise investment into areas which benefit the local business community and encourage enterprise and growth. Local authorities who understand the needs of their area will have the flexibility to choose to invest in infrastructure and services to create an environment which assists new businesses and development.

The Localism Bill already proceeding through Parliament will allow authorities to grant discounts from rates bills so long as they are funded by the council. These are far more likely to be offered once councils are assured that they will be permitted to retain the additional rates revenues from new development. This combination could provide a powerful regeneration tool outside of the proposed new Enterprise Zones with councils able to attract new business by the promise of discounted rates bills.

Here's a broad outline as to how the new retention scheme is intended to operate. Presently, business rates are collected by local authorities and paid into a central pool, then redistributed back to councils as part of formula grant. This funds a wide range of local services and is distributed to authorities using complex formulae based on calculations of authorities' needs. From April 2013, subject to a new Local Government Finance Act being passed, a new baseline funding position will be set for each council based upon its 2012/13 formula grant settlement, i.e. the amount of funding it received from the centre.

Each council will therefore be either in surplus or deficit in 2013/14 depending on whether it collects more or less in rates locally than it spends. A 'tariff' will be imposed on councils which collect more than their baseline and a 'top-up' will be paid to authorities in deficit. The amounts of these 'tariffs' and 'top-ups' will then be fixed and remain at the same level in future years (possibly with inflation linking).

Any growth in business rates an authority achieves above its baseline position will be retained locally, thus creating the incentive to promote growth. The flip side is that if an authority's business rates receipts fall, then this would have to be funded locally.

So these are the core principles and if ever it was true to say 'the devil is in the detail' then this is such an instance, but we are not yet in a position to comment on the detail as there is precious little of it in the consultation paper. Instead, the Government promises to issue no fewer than eight technical papers in the coming weeks which will flesh out the detail.

We have prepared a separate commentary on these technical papers, in so far as we are presently able to offer informed views, which can be accessed by clicking **here**.

TAX INCREMENT FINANCING

The LGRR has also considered how to deliver on the Government's commitment to implement Tax Increment Financing (TIFs) in the context of its core business rates retention proposals. TIF is a mechanism for using anticipated future increases in business rates to finance capital projects that are expected to generate those increased revenues.

The consultation suggests two alternative visions for TIFs in the world of business rates retention. The first is that there would be no separate mechanism with a local authority left to borrow for capital projects secured against predicted increases in business rates. We consider that the possibility of a reset of the retention scheme and hence the loss of business rates growth, coupled with the risk that some growth would be syphoned off if considered to be 'disproportionate' (see our commentary on the technical papers) could significantly limit the use and effectiveness of TIFs.

The second option would take TIFs outside of the retention scheme and would offer greater guarantees that additional growth will be sufficiently secure to lend against. The Government would wish to control the number of such TIF schemes to ensure they did not mushroom to an extent that there were inadequate sums retained in the system to fund poorer performing councils and to cater for those who suffer a decline in revenue through no fault of their own. This approach is more likely to enhance the effectiveness of TIFs, albeit once again at a cost of increased complexity.

The consultation paper can be downloaded at **http://www.communities.gov.uk/publications/localgovernment/resourcereviewbusinessrates** and comments should be sent by 24 October to **resourcereview@communities.gsi.gov.uk** or to

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If you would like to discuss these issues and for assistance with your response to the Consultation Paper, please speak to your usual Gerald Eve contact or

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SUCCESSFUL RESOLUTION TO DISPUTE ABOUT VALUE OF AIR CONDITIONING

We are pleased to advise that a long standing dispute with the Valuation Office Agency (VOA) about the value of air conditioning in shops and retail warehouses in England and Wales has been resolved. As a consequence we will soon be able to commence settlement of the thousands of 2005 revaluation appeals we made in respect of our clients' retail properties. Air conditioning is rateable plant and machinery and its value is therefore included in the rates assessment, but because systems are normally tenants' installations and not reflected in the rent for the property, a separate addition is made to reflect air conditioning. For the 2005 revaluation, the VOA added £7.00 per square metre for high street shops, restaurants and banks and used a variety of approaches for retail warehouses and retail parks, often adding 5% to the value of air conditioned space.

Settlements reached following appeals against the 2005 values were made without prejudice to the air conditioning issue whilst certain test cases proceeded to valuation tribunal hearing and were appealed further. A basis for agreement of these appeals has now been reached. This will lead to rates savings, especially for retail warehouse and retail park units, where appropriately specified systems will be valued at £4.00 per sq m with allowances available for inadequate systems. The basis for high street properties will remain at £7.00 per sq m but we will still be able to obtain reductions where it can be demonstrated that a system is under specified and inadequate.

The same approach and values will be applied to the 2010 revaluation assessments.

LARGE RETAIL SUPPLEMENT – OFF IN SCOTLAND BUT ON IN IRELAND

We reported in our **Spring 2011 Rating News Update** that the Scottish Government's proposal to implement a special business rates levy on large shops with an RV of over £750,000 had been voted down in Parliament. In the light of the outcome of the May elections for the Scottish Government we wondered whether the levy might be brought back, but we are able to report that the Executive has confirmed that it has no present intention to do so.

The Department of Finance and Personnel in Northern Ireland has, however, included a large retail levy in its proposed reforms to business rates on which it is consulting presently. Responses to the consultation paper at http://www.dfpni.gov.uk/rating-of-commercial-properties-public-consultation.pdf need to be made by 18 October.

The intention is to expand the existing small business rate relief scheme for three years from 1 April 2012, funding this relief by imposing an average 20% levy on retail premises with a rateable value of £500,000 or more. Based on April 2011 data, the levy would be applied to 77 properties which are occupied by 26 retailers.

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 £1.3bn in rates liabilities since the 2005 revaluation.

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