GERALD EVE'S RATING NEWS UPDATE

SEPTEMBER 2011

RATES BLOW FOR SCOTTISH BUSINESSES

John Swinney MSP, Finance Secretary to the Scottish Government included various business rates measures in his recent Scottish Budget statement which have potentially serious implications for Scottish property owners and occupiers.

These include

- Reform of Empty Rates Relief
- A Business Rates Supplement on large retailers of tobacco and alcohol
- Continuation of the Small Business Bonus Scheme
- A review of the operation of Business Rates in Scotland

His statement included few details but it is clear that the measures will add tens of millions of pounds to business costs. They represent a further bombshell for Scottish ratepayers at a time when confidence within the economy is fragile.

REFORM OF EMPTY RATES RELIEF

Presently vacant commercial properties in Scotland benefit from 100% rates relief for the first three months they are vacant, following which 50% relief is allowed. Vacant warehouse and industrial premises and listed buildings pay no empty rates.

Mr Swinney announced that **empty rates relief will be reformed in Scotland from April 2013** claiming that this is 'to provide strong incentives to bring vacant premises back into use, reducing the prevalence of empty shops in town centres and supporting urban regeneration'. Similar claims were made prior to major reform of empty rates relief in England and Wales in April 2008 and there is no evidence that the removal of rates relief after a short rates free period (6 months for warehouse/industrial property and 3 months for other commercial property) has reduced the number of vacant units.

Landlords do not normally deliberately keep properties empty and imposing rates charges whilst they are vacant will have an adverse impact on future property development and potentially further slow growth within the economy.

It is not clear whether the Scottish Government intends to replicate the empty rates rules in England and Wales. The early indications are that the existing 50% relief after a three month void will be cut to 10% (compared with nil relief in England and Wales). The inside information we have been able to glean thus far suggests that the Government expects this measure to generate an additional £18m in 2013/14 and 2014/15.

If this is accurate then it could be an indication that no, or only limited, changes are planned to the relief available for vacant storage and manufacturing premises. Our thinking here flows from the fact that empty rates relief currently costs £152m per annum and if relief was also to be slashed for industrial premises the revenue raised would be significantly greater than £18m.

We will advise as soon as there is greater clarity.

RETURN OF THE 'TESCO TAX' – THIS TIME AS A WOLF IN SHEEP'S CLOTHING

Last year we reported on the proposal, which became known as the 'Tesco tax', to impose an additional business rates levy on Scottish retailers with assessments greater than Rateable Value £750,000. This was subsequently rejected by Scottish MSPs in the last Parliament, partly due to the lack of consultation or impact assessment but also because it would affect some town centre retailers whereas it was claimed to be a tax on out of town retailers, especially supermarkets.

In our **Summer 2011 Rating News Update** we brought you the somewhat surprising good news that, despite the Scottish Parliament election which gave the SNP a majority, the Executive had confirmed that it would not be bringing back plans for a rates levy on large shops. This week's announcement of a very similar sounding tax has instead been rebranded as a supplement on larger retailers, affecting only those selling alcohol and tobacco to assist addressing 'the health and social problems associated with alcohol and tobacco use.'

This new 'health' levy will come into effect on 1 April 2012 and is expected to raise £30m in its first year and £40m per annum subsequently. It is clearly now focussed on the supermarket sector but a far greater number of properties will be affected as **the threshold at which the levy will be payable is to be set at RV £300,000**. As a result of this lower RV threshold it is possible that properties other than supermarkets which also sell tobacco and alcohol could be affected. At this stage we also do not know whether the levy will be a flat one or whether it will be on a banded basis along the lines of the previous proposals, under which the Uniform Business Rate supplement was to have varied from 2.5p to 15p per £ RV depending on a property's RV.

These proposals will be fiercely opposed by the supermarket operators and there will be widespread criticism of the intended measures to reduce empty property rates relief. Now that the SNP has a majority in Parliament, there is a far greater likelihood of the measures being voted through than when it attempted to pass its initial 'Tesco tax' and had to rely upon other parties in its failed endeavour to get legislative change through Parliament.

SMALL BUSINESS BONUS SCHEME

The only announcement that may bring some cheer to Scottish businesses is the intention to continue the support of small businesses through the Small Business Bonus Scheme, whereby 74,000 businesses occupying small properties benefit from nil or reduced rates liabilities.

It must be recognised however that the cost of this relief is met by the supplement paid by larger businesses with assessments greater than RV £35,000 and continuation of the Bonus Scheme has no adverse impact therefore on the Executive's revenues.

REVIEW OF BUSINESS RATES

Mr Swinney's statement included the comment that **'the Government will embark on a review of the operation of Business Rates in advance of the next revaluation in 2015'** but there is even less flesh on the bones of this announcement than on empty rates and the 'Tesco tax.'

There was much criticism of aspects of the 2010 revaluation that we speculate the Government may wish to consider; e.g. the late decision not to implement a transitional relief scheme; the large increases in liability for certain sectors; the adverse revaluation impact on the public sector.

The Government will also be taking a close interest in a case cited for hearing at the Fife Valuation Appeal Panel on the 6th October where **we are taking a lead role on behalf of clients with shops in the Mercat Shopping Centre in Kirkcaldy**. 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 from April 2010 that have been lodged throughout the country.

We are contending 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 has not been correctly reflected in assessments as at 1 April 2010. 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'. The Mercat Shopping Centre has already benefited from this effect as the Lands Valuation Appeal Court has determined that rents in that centre declined with effect from September 2009 and awarded a 40% reduction in the 2005 revaluation assessments.

We are arguing that this decline should also be reflected in the 2010 values whereas the present assessments are based upon values as they were at the April 2008 antecedent valuation date without any allowance for subsequent rental value decline.

It is anticipated that whatever the outcome of the appeal the losing party will appeal the decision to Lands Valuation Appeal Court due to the far reaching consequences for property across Scotland. We will update you as matters progress.

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.

London (West End)
72 Welbeck Street
London W1G 0AY
Tel. 020 7493 3338

London (City)
46 Bow Lane
London EC4M 9DL
Tel. 020 7489 8900

Birmingham
Bank House
8 Cherry Street
Birmingham B2 5AL
Tel. 0121 616 4800

Cardiff
32 Windsor Place
Cardiff CF10 3BZ
Tel. 029 2038 8044

Glasgow
140 West George Street
Glasgow G2 2HG
Tel. 0141 221 6397

Leeds
1 York Place
Leeds LS1 2DR
Tel. 0113 244 0708

Manchester
No 1 Marsden Street
Manchester M2 1HW
Tel. 0161 830 7070

Milton Keynes
Avebury House
201-249 Avebury Boulevard
Milton Keynes MK9 1AU
Tel. 01908 685950

West Malling
Suite 24
30 Churchill Square
West Malling ME19 4YU
Tel. 01732 229420

THE SUNDAY TIMES 100 BEST COMPANIES TO WORK FOR 2011

www.geraldeve.com

GERALD**EVE**