

# GERALD EVE'S RATING NEWS UPDATE

MAY 2013

## GROWTH AND INFRASTRUCTURE ACT RECEIVES ROYAL ASSENT – 2015 RATING REVALUATION POSTPONED

This Act, containing a variety of measures loosely associated with 'growth and infrastructure', has now received Royal Assent and the next non-domestic rating revaluation has therefore formally been deferred to 1 April 2017.

For details of the Government's stated rationale for the postponement and our commentary on the associated issues, please see our [November 2012 Rating News Update](#).

The Act requires the next revaluation to be on 1 April 2017 with further revaluations at 5 yearly intervals thereafter and it would take further primary legislation to vary these provisions.

The current 2010 rating revaluation assessments will be used to calculate rates bills until 31 March 2017 and successful appeals therefore provide rates savings for an additional two years.

The Uniform Business Rate (UBR) will continue to be updated for 2015/16 and 2016/17 in line with the Retail Prices Index, as a consequence of which it is likely to exceed 50p per £ RV by 2015/16 – possibly a year later if inflation falls.

The 2014/15 rates bills of tens of thousands of properties will still be affected by the transitional arrangements which accompanied the 2010 revaluation but we do not anticipate that these will be continued for 2015/16. The liability for all properties will therefore be calculated as Rateable Value multiplied by the Uniform Business Rate – albeit UBR supplements are applied to large properties, to those in London above RV £55,000 and to all properties in the City of London. There is the possibility of a rates deferment scheme being introduced for 2015/16 under which properties facing a large liability jump as a consequence of the cessation of transitional relief in 2014/15, may be able to defer part of that increase.

The revaluations in Scotland and Wales also planned for 2015 have similarly been postponed until 1 April 2017.



## WALES – GOVERNMENT CONSULTS ON RATE RELIEF FOR CHARITIES, SOCIAL ENTERPRISES AND CREDIT UNIONS

The Welsh Government has recognised that the revaluation postponement has adverse consequences for ratepayers expecting to have received reduced bills as a consequence of a 2015 revaluation and the Minister has announced that consideration is being given as to how to assist those businesses.

It has also launched a consultation drawing on recommendations of the Business Rates Task and Finish Group which was established in 2011 to review aspects of the business rates system in Wales. Their latest report is a follow up on previous recommendations specifically around charitable relief and empty property rates. The Government is now consulting on their recommendations which can be viewed [here](#).

Key recommendations include:

“ Any business which takes up new occupation of a property, which has been vacant for 12 months or more, would enjoy rate relief of 50% for the first year of occupation.

A business occupying a retail property in a town centre that has been vacant for 12 months or more would enjoy 50% rate relief for two years. In addition, social enterprises might have this 50% rate relief extended beyond two years at the discretion of the local authority.

The amount of rate relief available for larger charity shops occupying premises of higher Rateable Value be restricted to an upper RV limit of £36K and that other thresholds should be introduced as follows:

- The full, mandatory rate relief of 80% will be available on properties with a rateable value (RV) up to £12K (the current upper limit for Small Business Rate Relief). All charity shops will receive 80% rate relief on the first £12,000 of the RV.
- Charity rate relief will then be reduced from 80% to 50% on the next £24K of rateable value, i.e. up to a maximum RV of £36K. All charity shops will receive 50% rate relief on the next £24,000 of the RV.
- For RVs in excess of £36K we recommend that the business rate relief falls to zero. ”

Responses to the consultation are required by 19 June 2013.

## SCOTLAND – GOVERNMENT CONSIDERS CONSULTATION RESPONSES WHILST EMPTY RATES CHANGES COME INTO FORCE

A rather more wide ranging review of the business rating system is under way in Scotland as we reported in our [December 2012 Scottish Rating News Update](#). We assisted clients with their consultation responses and submitted our own which you can download [here](#). There has been no formal feedback from the Scottish Government to date and we will advise further in due course.

In the meantime, the Government has pressed ahead with its amendments to the scheme of empty property rates relief in Scotland which came into effect on 1 April. Vacant storage, manufacturing and listed buildings remain exempt from empty property rates, as do properties assessed at less than RV £1,700, but the relief for other properties has been reduced from 50% to 10% after a three month rates free period.

Having reduced relief in this way the Government has immediately brought in two new schemes aimed at limiting the adverse consequences in specific circumstances.

Under the ‘Fresh Start Scheme’ 50% relief is available for up to one year for new occupation of a shop or office with a rateable value of under £45,000 which has been empty for at least 12 months.

The ‘New Start Scheme’ is available to newly built properties for a three year period from 1 April 2013. A building created following refurbishment or a split/merger of previously rated premises does not qualify. No empty rates will be payable for truly newly built properties for a maximum of 18 months, including the normal initial three month rates free period. The purpose of this relief is to encourage speculative development by removing the empty rates risk should a development remain unoccupied upon completion. The sting in the tail however is that this relief is subject to a limit imposed by European State Aid of €200,000 over a three year period. This applies per ‘undertaking’ not per development scheme and means effectively that the maximum empty rates relief a company can receive under the New Start Scheme across all its new build developments is about £55,000 per annum.

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## ENGLAND – COURTS CONSIDER EMPTY PROPERTY RATES MITIGATION

A similar scheme to the Scottish ‘New Start Scheme’ was announced in last year’s Autumn Statement, due to start in October 2013 subject to consultation.

The promised consultation is still awaited, the delay being occasioned we believe by the difficulties of defining ‘newly built’ within English rating legislation. We anticipate however that the framework will be similar to that already in place in Scotland and also subject to European State Aid limits, as a consequence of which we anticipate that it will have marginal effect, if any, on the number of speculative schemes likely to be undertaken.

Owners of existing vacant properties continue to seek to avoid or at least mitigate their empty property rates liabilities and the courts have been increasingly active in recent months determining the validity of schemes. We reported in our **July 2012 Rating News Update** on a case involving the letting of a property in Chester to the Public Safety Charitable Trust which installed bluetooth transmitters in vacant premises claiming 80% mandatory charitable rates relief. The Magistrate’s Court found for the charity but the council appealed and the case will be heard in the High Court in May, along with two related cases involving the same scheme operated in two other council areas.

This follows closely behind another High Court decision in Kenya Aid Programme (KAP) v Sheffield City Council concerning two large modern warehouses occupied by KAP for the storage of furniture prior to shipping it to schools in Kenya. The furniture was spaced out generously, presumably to give the impression that most of the buildings were occupied. The magistrate’s court determined that KAP was not entitled to charitable relief as the premises were not ‘wholly or mainly used for charitable purposes’, ruling that this legislative requirement meant that there was a floorspace dimension in determining whether a charity was entitled to mandatory rates relief. KAP had argued that as the only use being made was for charitable purposes, their use of the premises was clearly wholly for charitable purposes.

The High Court overturned the ruling and returned it to the magistrate’s for review because the District Judge had wrongly taken into account two aspects; firstly to consider the inefficiency of furniture storage use and also whether KAP could have satisfied their storage needs in one rather than two buildings.

Lord Justice Treacy stated:

“ In my judgement the decision of the District Judge was flawed. Whilst the judge was entitled to have regard to the English Speaking Union case and look at the whole of the evidence before him and decide on a broad basis whether the premises are being used wholly or mainly for charitable purposes, and whilst the judge was correct to take into account the extent to which the premises were used, he also wrongly took account of other factors ”.

These words suggest that it is appropriate, albeit not necessarily conclusive, to have regard to the amount of floorspace occupied when judging whether premises are ‘wholly or mainly used’ for charitable purposes, but the decision is clear that efficiency of use is not a relevant consideration.

We will comment further once the High Court decision in the PSCT cases is available, in the hope that this will provide greater clarity as to the judgment of entitlement to mandatory charitable rates relief.

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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. We have saved our clients occupying over 50,000 properties throughout the UK more than £500m in rates liabilities over the last 12 months.

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](mailto:jschurder@geraldeve.com) or your usual Gerald Eve contact to find out more.

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