GERALD EVE'S SCOTTISH RATING NEWS

DECEMBER 2012

POSTPONEMENT OF THE 2015 REVALUATION AND CONSULTATION ON FUTURE OPTIONS

The Scottish Government has confirmed that it is their intention to follow the proposal in England to defer the planned 2015 rating revaluation until 1 April 2017, which we reviewed in our **November Rating News Update**.

Announcing this decision, Mr John Swinney, the Cabinet Secretary for Finance, Employment and Sustainable Growth issued a consultation paper grandly entitled "Supporting Business – Promoting Growth" although it is limited to a review of business rates in Scotland.

Had the 2015 revaluation taken place, the new Rateable Values would have reflected values as at April 2013 and many ratepayers may have expected sizeable reductions in their assessments. This would not automatically have translated into equally reduced bills as the Uniform Business Rate is reset at the time of the revaluation to ensure that in real terms the same amount of revenue is raised by the Government. We would nonetheless have anticipated that many ratepayers may have benefited from the revaluation and the announcement is therefore most unwelcome news.

Whilst it is unfortunate that the Scottish Government has declined to exercise independent thinking in respect of a tax which is already fully devolved, we applaud the fact that it has not sought to justify the postponement as somehow providing benefits to ratepayers as the decision has been spun by the Government in England. The real reason for the delay is alluded to by the Minister in his forward to the consultation paper 'it is essential that we maintain the revenues that are secured through business rates'. Given the Scottish Government's commitment to maintain UBR parity with England, had the 2015 revaluation continued in Scotland with a likely sizeable reduction in total rateable values, there would have been a significant hole in the revenue realised from the rating system.

Unlike in England where the postponement requires primary legislation, the Scottish Government can implement the change by Order approved in Parliament.

The **Consultation Paper** seeks views from ratepayers on how the business rates system can better support sustainable economic growth, whilst still delivering the same level of income needed to provide the local services on which businesses and communities rely.

The key specific issues that it seeks views on include:

- Appropriateness of the current reliefs and exemptions and flexibility for councils to deviate from the existing rules
- Usefulness of reliefs being confirmed for a number of years, as opposed to yearly applications
- The funding of reliefs
- Whether public sector bodies should have a separate relief system
- Views on whether transitional relief should be reinstated for the 2017 revaluation
- Improvements to the transparency of the rating system
- Whether the rating system should be more regulated to penalise rates avoidance schemes

We will be responding to the consultation and would be pleased to assist should you wish to make direct representations before the deadline of 22 February 2013.

EMPTY PROPERTY RATES RELIEF REDUCED

The legislation implementing the Government's intention to reduce empty rates relief applicable to commercial properties will become effective on 1 April 2013.

Presently, vacant storage, manufacturing and listed buildings are 100% exempt, whereas other commercial properties receive 50% relief after an initial three month rates free period.

From next April, empty property rates relief for commercial properties will fall to 10% after the three month exempt period. Empty rates will be charged immediately at 90% of occupied liability for buildings which have already been vacant for at least three months immediately prior to April 2013. Vacant storage, manufacturing and listed buildings will continue to benefit from full exemption.

The law on empty rates in Scotland differs quite significantly from that in England and a bespoke approach will be required to empty rates mitigation schemes. Our team of Scottish rating experts are on hand to assist you in relation to properties for which rates savings schemes will be required.

The Government has recently announced a new 'Fresh Start' incentive which is due to come into effect on 1 April 2013. For some shops and offices which have been vacant for at least 12 months, an incoming occupier will benefit from a discount of 50% on its rates liability for the first year of occupation. Detailed regulations are awaited as to the property categories that will benefit under this scheme.

MATERIAL CHANGE OF CIRCUMSTANCES

We have previously reported the cases decided by the Lands Valuation Appeal Court concerning the relevance of falling rents to 2010 revaluation assessments – please see our **September Rating News Update** for details.

The judgements left open a possible interpretation of the Scottish legislation whereby new or altered entries in the Valuation Roll could be entered at current rental levels. If so, this could give rise to an outcome whereby adjacent identical premises could have substantially different rates liabilities based on different evidence used to calculate the rateable value dependant on the date of occupation or alteration.

A test case on this point has now been heard by the Valuation Appeal Committee for Lothian. It determined that the reference in Section 15 (1) of the Local Government (Scotland) Act 1966 that values shall not exceed tone date valuations, was clearly nothing other than a cap on tone values. This cap was seen by the Committee to be there to protect ratepayers from rising values that could not be reflected by way of higher assessments, and not a direction to depart from tone date valuations to use some later rental levels when values have fallen. The Committee found in the Assessor's favour, but their decision has been appealed to the Lands Valuation Appeal Court due to be heard in Spring 2013. We will continue to 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**, **jschurder@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
35 Kings Hill Avenue
West Malling
Kent ME19 4DN
Tel. 01732 229420

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