rating in brief

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Property Solutions

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Welcome to *Rating in Brief*. The new legislation on Empty Property Rate (EPR), which becomes effective on 1st April, is the dominant feature of this edition. Business leaders have rightly joined forces to express their dismay to the Government, but the enforcement of the legislation now appears inevitable.

In this edition, I look at the real-world effects of EPR, offer my thoughts on the reforming of the Local Authority Business Growth Initiative and consider how the success of Prior Agreement will require a radical change in mindset by ratepayers and agents as well as by the authorities. As ever, I look forward to receiving your comments.

Richard Wackett.

Pressure on Chancellor to face reality

It should come as no surprise, even to those with just a passing interest in business taxation, that UK plc has just about had enough. For major industry associations such as the Confederation of British Industry, the Institute of Directors and the Federation of Small Businesses to speak with a single voice on their frustration at the Government's ill-conceived approach to the reforming of Capital Gains Tax legislation, is almost without precedent.

Yet it would appear that the Chancellor, whilst tinkering around the edges of this highly emotive change in legislation, is simply paying lip service to the onslaught from business leaders.

I expect a similar reaction from the Government to the grossly unfair change in Empty Property Rate (EPR) legislation which becomes effective on 1st April this year. As discussed in previous issues of *Rating in Brief*, the premise upon which the Government has based its policy is simply wrong. Property owners do not deliberately leave property empty with the ambition of achieving higher rents. Owners of property seek a return on their investment and this can best be achieved through promptly letting the premises. The introduction of penal taxation does not help this process.

The howl of protest from property owners, business leaders and industry associations is loud and clear. Yet, once again, the Chancellor chooses to mostly ignore the reasoned argument from the marketplace, is giving way on a relatively minor aspect of the legislation in regard to its effect on protected buildings, and will drive through a highly unpopular policy.

Overleaf, I comment on the real-world effects of this policy on one business – a property developer in the serviced office marketplace who has decided to put on hold the development of two serviced office units because empty property is an inherent feature of the fast turnaround serviced office marketplace. The additional cost of EPR has forced this developer to rethink his investment strategy.

This one example exemplifies how an unpopular and unreasonable policy will have a lasting detrimental effect on the property sector, British business and the UK's attractiveness as a business destination.

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Empty Property Rate (EPR) Relief forces postponement of development project

The true effect of the change in EPR relief is now beginning to be felt. One of the largest providers of serviced office and flexible accommodation to the small and medium-sized business sector has postponed the development of two new sites in Staffordshire and on Merseyside.

The company, Evans Easyspace, cites the Government's decision to change the rules relating to empty property rates as the primary reason behind its decision to postpone the £6m development. They estimate that the business would be required to pay an additional £500,000 in business rates. An estimated 400 local jobs will now not be created.

For those with a detailed understanding of the business rates agenda, the above case provides the perfect example of an unintended consequence, as a result of a poorly thought out and hastily implemented policy decision. For good reason, the market, and particularly the SME sector, is demanding ever more flexible accommodation arrangements in order that accommodation costs can be managed in times of growth and decline. The commercial property sector, and particularly the serviced office sector, has bent over backwards to provide the flexibility required by these embryonic businesses. Attracting clients to a new serviced office suite is an expensive business, and it can take up to two years to fully let a property. Therefore, part-occupation is an inherent characteristic of the flexible accommodation marketplace, with an estimated 10 percent of floorspace always expected to be empty.

In these circumstances, the new EPR legislation simply penalises commercial property developers and entrepreneurs for entering the flexible accommodation marketplace. As more examples of the real-world effect of the revised EPR legislation come to the fore, providers of service office accommodation will mitigate their EPR risks by limiting the flexible nature of their leases. At the end of the day, this cannot be good news for the small business owner.

Scottish Tories move to cut business taxes

Has the subject of business rates taken on a renewed political potency? The hue and cry over Empty Property Rates, in conjunction with the outcry over changes to the Capital Gains Tax legislation, has clearly rattled the Chancellor. 2008, expected to be a year of belt-tightening in the face of a possible recession, was never going to be a good year for a Chancellor with no option but to raise taxes. But raise them, he must.

Business associations such as the CBI, the IoD and the FSB have taken the almost unprecedented step of joining forces to place business taxation on the political agenda. So far, however, only minor concessions are being discussed.

To rub salt into the wounds of English and Welsh business ratepayers, the Conservative Party in Scotland has done a deal with the Scottish Nationalists, enabling the SNP to force through its 2008 Budget despite the protests from Labour MSPs. Surprisingly, at the heart of the Budget debate is business rates.

In order to gain the support of the Scottish Conservatives' meagre 16 votes, and swing the ballot in favour of the SNP, the Nationalists have agreed to implement a policy in 2009 which removes the business rates liability for 120,000 small businesses and reduces the liability of another 30,000 business by up to 50 percent. The cost is estimated to be in the region of £160m per annum.

Already the knives are out, with some commentators accusing the Conservatives of using business rates as a political football, and others predicting a renaissance on the high streets of Scotland as small retailers breathe a sigh of relief and start-ups once again consider Scotland as a credible business destination.

If the Scottish Conservatives' action on business rates is a foretaste of Conservative policy on a national scale, their leader in Westminster would do well to make his policy intentions known. The beleaguered business community in England and Wales would welcome some relief.

Growth incentive is back-door relocalisation

It is exactly two years since I commented in *Rating in Brief* on the potential of the Local Authority Business Growth Incentive scheme (LABGI). At the time, I described the scheme as having the potential to become a genuinely virtuous circle.

Although not without its complexities, the essence of LABGI is that those local authorities which generate additional business rates revenue through innovation and local business growth, may reinvest locally a portion of that additional income rather than have it subsumed into the Treasury's central pool of funds.

To date, LABGI has generated a local investment fund in excess of £120m, paid out to 270 councils. Apart from the occasional administrative error, the most recent being the payment of £2m to Newcastle-under-Lyme rather than to their namesakes on Tyneside, there is merit in the scheme though the numbers to date are relatively small.

As with all successful funding initiatives, the scheme now faces a round of Government reform, with John Healey MP, the Local Government Minister at the helm. Reaction to the proposed reforms has been swift and, whilst I am a supporter of the ethos and intent of LABGI to reward local growth and development, I believe the arguments against wholesale reform are compelling:

- **Should local authorities really need an incentive in order to do their level best to promote local growth and development?**
- **Does a change in the value of business rates revenue collected truly reflect local innovation, growth and development. Or are there too many other influencing factors?**
- **In light of the changing EPR, could local authorities perversely be rewarded for an increase in the revenue collected from empty property rates?**
- **Is rateable value and therefore business rates yield truly an appropriate basis for the measurement of growth?**

At the heart of the serious concerns surrounding the proposed reforms is that LABGI may, by stealth, become the precursor to relocalisation of business rates. Since the publication of Sir Michael Lyons' review of local government, the squaring of the relocalisation question with the challenge of equitable distribution (or equalisation) has neither been achieved nor even addressed by Government. Yet the issue remains. Before LABGI can move forward and achieve its potential, the question of equalisation must be answered.

Prior Agreement is the way forward

To prior agree or not to prior agree? That is the question. With profound apologies to William Shakespeare for the misuse of his most famous phrase, the question of prior agreement now sits at the very heart of the future of the UK non-domestic rating system.

Let's take a step back. For the uninitiated, Prior Agreement is the agreeing between the Government's Valuation Office Agency (VOA) and the ratepayer (or ratepayer's agent) of valuation templates, known as Schemes of Value, which standardise the way in which similar properties or hereditaments are valued, and support the determination of rate liability for such property. A Scheme of Value is designed to take into account those characteristics of a property which influence rental value and, from the VOA's point of view, achieve a degree of accuracy such that the cost of correcting any error in the valuation would be greater than the potential for reduced liability. In short, Prior Agreement provides a route towards the Holy Grail of accurate rating valuation for each and every one of the 1.8 million non-domestic, rateable properties in the UK.

Whilst the VOA's long-standing ethos of Right First Time, like the pot of gold at the end of a rainbow, was always going to be more of a worthy vision than an achievable reality, I believe a national non-domestic rating process, built upon a robust process of Prior Agreement, is an achievable prospect. However, a substantial change of mindset is required, with each constituent player in the NNDR process agreeing to play its part. Two specific aspects of the drive towards Prior Agreement require much focus:

- **The VOA must actively promote Prior Agreement, making it clear that the early involvement of agents is essential. By tapping into the market knowledge of agents, the VOA's assessments will undoubtedly be more accurate. More importantly, if the ratepayer knows their assessment was prepared in cooperation with their agent, they are more likely to have confidence in its accuracy.**
- **Ministers, at Communities and Local Government (CLG) and the Welsh Assembly Government (WAG), together with the VOA and professional rating agents must work more harmoniously to persuade clients that it is in their interests for future rating lists to be as accurate as possible, and that the only way to achieve this is to involve agents in the preparation of future lists. This will require a major change in the mindset of clients since they have become used to paying their agents out of savings achieved. Convincing clients that a change in the remuneration model will have long-lasting commercial benefits requires a wholehearted effort by all involved.**

To achieve this change in mindset, all parties must accept the need for change and positively promote it. Ministers, the CLG, WAG and VOA must make it clear that they welcome and encourage the involvement of agents in the valuation process, whilst agents must positively demonstrate the benefits of Prior Agreement to their clients.

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Rating professionals set to link databases

The work being done by the Valuation Office Agency (VOA), in conjunction with the Valuation Tribunal Service and rating agents in private practice, to streamline the appeal process, is to be applauded. The latest report from the Steering Committee on Electronic Communication shows that the Electronic Communications Project (ECP) is on track.

A key goal of the project has been to create systems and standards opening up the VOA's records database to secure, online interrogation by authorised professionals, enabling the three main user groups to communicate and sign documents electronically. Thus, limiting errors caused by manual administration and email-based communications.

Unsurprisingly, the team responsible has travelled a long and often circuitous route towards achieving the goals set out in the original vision and are to be congratulated for their perseverance in facing a range of technical, financial and resourcing challenges along the way. I believe the work being done by the ECP team sets a first class example of what can be achieved when a vision is agreed and a plan of action is put in place to achieve that vision over time.

Is it not therefore high time that local billing authorities set a similar vision in regard to the standardisation of demand notices? During the 2000 revaluation, there was clear interest in standardising the presentation of rates demand notices. As we approach the 2010 revaluation, no substantial progress has been made.

Ratepayers and agents alike are again demanding change, in the knowledge that there are advantages to be achieved for all. It is time for those responsible for the local authority agenda to take note and set the vision. The Steering Committee of the ECP has shown that, with a vision and a resource dedicated to setting and achieving goals, even the most complex of inter-organisational business processes can be successfully streamlined.

"The last word..."

John Healey MP, the Minister for Local Government, has announced that, in light of the responses to his consultation on the likelihood of property owners damaging their property on purpose in order to avoid rates liability, the proposed EPR anti-avoidance measures would be put on hold. He appears to accept, for the time being, the argument that property owners are not motivated to destroy their own assets.

For those who campaigned against this policy which presumes guilt over innocence, this is a minor, but noteworthy, success in changing the view of Government. However, rather than abandoning the policy, the Minister has taken a 'wait and see' approach. There is little doubt that, in the eyes of the authorities, property owners are an untrustworthy bunch.

No sooner had the announcement been made, than it was reported that some billing authorities had been taking photographs of property, presumably with a view to disclosing those images at a later date as evidence of wrong-doing by the building's owner.

This is, indeed, a sad indictment of the state of the relationship between local government and local business. The UK is already a recognised leader in the covert monitoring of its citizens and their activities through the use of CCTV and digital imagery. With this offensive activity as a back-drop to the relationship between local government and local business, Sir Michael Lyons' vision for a 'place-shaping' accord between business and government at the local level appears more distant than ever.

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