IPTI Xtracts

Property Tax and Assessment News from Around the World

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Scottish private schools, councils and universities face £50m business rates bill

"We believe there should be a level playing field" - Barclay Report

Scotland's private schools, universities and local facilities including sports centres and libraries could soon be made to pay millions of pounds in business rates, after a major review called for loopholes in the current system to be closed. The report by former RBS Scotland chairman Ken Barclay said it was "unfair" that often wealthy institutions were able to use their charitable status to reduce their rates – in some cases to zero – while small businesses were left with hefty bills.

It estimated that the Scottish Government could recoup more than £50m a year by closing the loophole, which it said had been exploited for years by local councils, private schools and universities who wanted to avoid paying full rates. The umbrella body for Scotland's councils reacted angrily to the report, warning that many were already under "significant financial pressure" and that removing rates relief would have a "big impact" on local services. The Scottish Council of Independent Schools also warned of "very serious consequences" for teachers, support staff and around 30,000 pupils across the country if the changes were approved by ministers.

Mr Barclay's review was commissioned by the Scottish Government in March last year. The five-member panel was charged with examining how the business rates system could be made fairer, without affecting the overall amount of cash raised for public services. The final report published on Tuesday made 30 recommendations, including targeted reductions in bills to help retain shops in town centres, a halving of the large business supplement and for nurseries to be exempted from business rates entirely.

Controversial

It also said that the estimated 230,000 shops, restaurants, hotels, offices and other premises around Scotland that are currently liable for business rates should be revalued more frequently, suggesting this should take place every three years from 2022. However, its most controversial recommendation was the closing of the charitable status loophole, which would see private schools forced to pay an extra £5m a year by stopping them from claiming rates relief. "Private schools that are charities benefit from reduced or zero rates bills, whereas state schools do not qualify and generally will pay rates. This is unfair and that inequality should end," it said.

The report also highlighted councils' use of Arms Length External Organisations (ALEOs), which are often created to run leisure or arts facilities and have charitable status. It said that this gave councils an "unfair advantage" compared to private sector firms offering the same services. It estimated that they were saving around £45m a year by exploiting the loophole, which it

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described as “tax avoidance”. “On the grounds of fairness, we believe there should be a ‘level playing field’ and council ALEOs should no longer be able to abuse the system,” it added. Universities are also able to exploit the loophole by claiming rates relief for their commercial elements, such as halls of residence that are rented outside of term time, a practice that the report also said should be ended.

Finance Secretary Derek Mackay, who came under pressure earlier this year after the first rates revaluation since 2010 resulted in many firms facing crippling increases, said the Scottish Government would respond “swiftly” to the proposals.

Private schools hit back over business rates proposal

Barclay review reopens debate over charitable status of independent schools

Private schools have hit back at proposals to remove their large discount on business rates.

Currently the sector benefits from the exemption because of their status as charities, while state schools are subject to the tax.

An overhaul of the system was recommended by the Barclay Report into non-domestic rates, including the removal of the exemption for some charities including private schools and some university buildings.

“Ratepayers providing the same goods or services should not be treated any differently because of their location, or by virtue of them operating in the public or private sector," said chair of the review Ken Barclay.

The report was welcomed by the business community but John Edward, Director of the Scottish Council of Independent Schools, said private schools worked hard for their charitable status, which included bursaries for pupils from poorer backgrounds and the sharing of facilities such as sports grounds.

“The findings of the Barclay Review run completely contrary to the charity test the Scottish Parliament required all schools to undertake," he said.

"[It] would put Scottish education at a competitive disadvantage in the UK and globally; would substantially impact the work schools can do on offering bursaries and other community provision; and would set independent schools aside from all other charities - for no sound legal, political, educational or economic reason.

"Most of all, for a rates review, they would most likely cost the Scottish taxpayer and Government more than they seek to raise.”

There have been calls from some Labour MSPs, the Scottish Greens and the unions to strip private schools of their charitable status.

But the sudden rise in costs would impact on the employment of teachers and support staff, Edward suggested.

"A review of business rates should not be used to single out 0.3 per cent of Scotland’s charities for differential treatment, when the exception to the rule is not the independent school sector – rather the council-run one.”

Scottish Conservative education spokesperson Liz Smith said the schools would put fees up, making them unaffordable to more parents.

"In Scotland, it would mean a very large proportion of those who attend independent schools would have to move to the state sector at the taxpayers’ expense," she said.

"At a time when local authorities are screaming from the rooftops about not having the finances to look after their existing pupils, that would not be a popular move."

The Office of the Scottish Charity Regulator has carried out a review of the status of each of Scotland’s schools within the last 10 years.

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We could end the buy-to-leave scandal – if the political will was there

Empty property bought by investors to sit unused is a scandal the Guardian has exposed this week, finding 1,652 in the Grenfell borough of Kensington and Chelsea alone.

Not long ago I interviewed a long-time upmarket estate agent in Knightsbridge, opposite Harrods, who told me she begged foreign buyers to agree to rent out their vacant properties, to no avail. They always refuse. She describes the change she has seen in those streets over recent years, as they turn dark at night, no lights on, with so many mothballed houses sitting there as gold bullion in the bank, not homes for anyone. The area is dying, she says, warning that all the reasons that made it desirable will be lost. John Healey, Labour shadow housing minister, says there are some 200,000 long-term vacant properties, including "those bought and left empty by speculative investors," in the wealthiest areas.

What happens at the top end of the market knocks on all down the chain – and what's happening at the bottom is a disaster. Report after report chronicles the downward plunge. Last week the Joseph Rowntree Foundation reported on an alarming acceleration in evictions, mostly from the burgeoning private rented sector, two-thirds in London. The average age of private renters' "head of household" is now 40, and 36% of private renters have children who live insecure lives, frequently moved out and away from their schools. Over a quarter are in officially substandard conditions, yet spend an ever higher proportion of their low incomes on rent – in London 45%.

The local government association reports 120,000 families in temporary accommodation, a three-fold increase since 2014, rising at the rate of one secondary school per month. Councils with a statutory duty to house the homeless face heavy losses: Inside Housing found that Brent loses £178 a week for each family in a B&B. That's no surprise, as the Osborne/Duncan Smith housing benefit cuts, cap and freeze mean state support no longer covers the rent. Far worse is about to strike as the yet harsher universal credit is rolled out, with more waves of evictions anticipated.

All this we know. The housing crisis reaches up into middle-income families and well above, as children can no longer afford to buy what their parents took for granted in their youth. Since 2010 there are nearly a million fewer home-owning households. At last it may be becoming a hot political issue: Labour's manifesto plans were popular, promising 100,000 new social homes a year, minimum three-year private tenancies and rents capped to rise by no more than inflation. Labour would rightly suspend the right-to-buy disaster that has turned a third of flats in council estates into expensive private rentals.

By the next election, Labour needs to raise housing to the top of the agenda, with a real sense of national emergency. But with 64% of households secure home-owners, and 80% of the high-voting, Tory-leaning retired owning their own homes, that's a hard task. There is no mystery about housing, no insoluble problem. All that's required, as with most of Britain's great social dysfunctions, is the political will to do something about it. Consider Harold Macmillan building 350,000 council homes a year – yes, council housing – and Labour's 100,000 seems modest.

Above all, every effort should be made to freeze the housing market, and the intention announced to stop prices rising by more than inflation. Government has plenty of levers: lift the cap on council tax bands, so property pays today's rate, not one last set in 1991. Declare that any future rise in property values above inflation will accrue capital gains tax: there is no good reason for people's homes to swell in untaxed value. If the market were chilled, over time housing would stop being used as a nest egg, or gold bullion, and become just another commodity, like food, where buying or renting would become neutral choices.

Every effort should be made to freeze the housing market and stop prices rising by more than inflation

The Guardian today analyses how other countries are choking off the buy-to-leave luxury vacant property disease: Vancouver charges 1% of the value every year for any property left empty for six months, sending owners "scrambling to rent". Councils could be set free to impose whatever extra tax they choose on empty property, so long as it is loudly earmarked for building more housing for others. There would be a Daily Mail stink raised about any new taxes on an "Englishman's castle", especially on people's own homes, but also on second homes. All second home-owners, my family included, should be prepared to pay high enough local taxes to contribute to housing others.

The great question is whether this profoundly unequal, often ungenerous-minded country can change itself into something better. Do we have the politicians with the moral heft and the persuasive skills to convince enough voters that those, especially

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of my generation, who have accumulated unimaginable unearned wealth just by buying a house cheaply when we were young, should be willing to help redistribute it not just within our own families, but among those whose families never shared in this undeserved property bonanza? If not, the wealth and property gap will go on widening and Britain will be an ever worse place to live.

The new mayoral community infrastructure levy: what do developers need to know?

ANALYSIS: The mayoral community infrastructure levy (mayoral CIL) is changing. Property developers and anyone with a property interest in greater London should be aware of the mayor's plans to replace the existing MCIL1 with MCIL2.

MCIL2 will be used to contribute to Crossrail 2, the mayor's stated next priority infrastructure project. The mayor is expected to provide 50% of the funding for Crossrail 2. The mayor is targeting receipts of £4.5 billion from MCIL2, which represents approximately 15% of the mayor's 50% share of Crossrail 2 and therefore a significant proportion of the overall funding.

MCIL1 will come to an end on 31 March 2019, together with the mayor's section 106 Crossrail charges (Crossrail S106). The mayor's £600 million target contribution towards Crossrail from MCIL1 and Crossrail S106 is expected to be realised this year, ahead of schedule.

A consultation on MCIL2 closed on 7 August 2017. Here are ten things developers should know about the proposals.

When will MCIL2 take effect?

The new charging regime, MCIL2, is due to come into effect on 1 April 2019.

What will MCIL2 cost?

MCIL2 is more expensive than MCIL1, even as against the predicted MCIL1 indexed rates for 2019.

Expect a rush to achieve the grant of full planning permissions and the discharge of reserved matters prior to 1 April 2019 in order to fall under the old, cheaper MCIL1 charging regime. However, you can also expect boroughs to be supportive of the rush to get planning permissions through before MCIL2 comes into effect as a more expensive MCIL will mean a reduced S106 'pot' locally, particularly given the mayor's 35% requirement for on-site affordable housing.

Will MCIL2 be charged in the same way as MCIL1?

Like MCIL1, MCIL2 will be charged on all development except for education and health. The rates per band are expected to increase, as set out in the preliminary draft charging schedule (PDCS) (16-page / 2.7MB PDF) published by the Greater London Authority (GLA).

However, there are some exceptions. Special increased MCIL2 rates will apply to commercial (offices), retail and hotel uses in central London (the 'Central Activities Zone' or CAZ) and the Isle of Dogs.

What happens to Crossrail S106?

Crossrail S106 charges will cease for projects gaining planning permission on or after 1 April 2019.

The equivalent charges will be 'rolled up' into the proposed special MCIL2 rates to be charged on commercial (office), retail and hotel uses in the CAZ and the Isle of Dogs. The one kilometre radius charging zones around greater London Crossrail stations will be abolished. This is because it would overcomplicate MCIL2, particularly when station locations are not yet known and also because the mayor is exploring proposals for land value capture, which contain other mechanisms for capturing value outside of the CIL regime.

Other than for offices in the Isle of Dogs, MCIL2 is more expensive than Crossrail S106. This is especially the case for retail and hotels in the CAZ, where the proposed MCIL2 charge equates to an over 50% and over 90% increase respectively.

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Clarification is required on how outline and phased full planning permissions attracting Crossrail S106 charges will be treated where they are granted prior to 1 April 2019, but their reserved matters or phases are not approved until after that date, so that they will be liable for MCIL2. Transitional provisions will be needed to avoid double-counting in this instance.

The PDCS supporting information document (14-page / 775KB PDF) published by the GLA in June 2017 states that: "Whilst only one mayoral CIL will be chargeable at any one time, it is conceivable that there may be two mayoral CIL charges levied in the first years of MCIL2. This is because, under the regulations, any chargeable development permitted before April 2019 - but implemented after this date - would continue to attract MCIL1 charges".

Further clarity is needed on the duration of such a transitional period and how it would operate in practice.

Do the CAZ and Isle of Dogs special charging areas stay the same?

No. Both areas will become slightly bigger. Check the plans in the mayor's PDCS if you are proposing to develop in or around the existing CAZ or Isle of Dogs Crossrail S106 areas, particularly if you are proposing commercial, retail and hotel development within those areas that from 1 April 2019 will attract special, higher MCIL2 rates instead of Crossrail S106.

Waterloo, the Vauxhall Nine Elms and Battersea Opportunity Area (VNEB) and Elephant and Castle are proposed to be brought within the CAZ.

Are there any changes to the CIL banding?

Other than for commercial, retail and hotels within the CAZ and Isle of Dogs, the three charging bands will be similar, save that:

- Waltham Forest and Enfield will move into band two;
- LLDC and OPDC will be in band two (representing an increase in CIL in Newham around Stratford and a decrease in CIL in north Hammersmith within OPDC); and
- Greenwich will move down into band three.

When will the MCIL2 examination in public (EiP) take place?

MCIL2 EiP is expected to be run in conjunction with the new London Plan EiP. The mayor is intending that the MCIL2 charging schedule should align with the new London Plan policy priorities.

When can we expect a further MCIL charging review?

Crossrail 2 is a 40-year project. MCIL3, which would also contribute towards Crossrail 2, is expected to follow approximately five years after the coming into effect of MCIL2.

Will future CIL reform plans affect MCIL2?

At present, there is no clear indication of when the government will announce a timetable for CIL reform so the GLA is proceeding with MCIL2 under the current CIL regime. However, if the recommendations of the CIL review team published in October 2016 are taken forward, MCIL2 would readily translate into a strategic infrastructure tariff (SIT) which is based on and recognises the success of MCIL1 in collecting monies from a wider geographic area at a low rate to contribute to one significant piece of infrastructure.

Is the mayor expecting to be able to borrow against future CIL receipts?

Transport for London (TfL) and the GLA expect to be able to borrow against future CIL receipts at some point, and believe when they negotiate for this ability they will not be met with resistance. Their funding model relies on the ability to borrow post-2031.

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