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Property Tax and Assessment News from Around the World

UNITED KINGDOM - April 2018

How has council tax survived for 25 years?

Over 25 years after John Major introduced council tax as a quick fix to replace the poll tax, Margaret Thatcher's greatest political miscalculation, it has become a permanent fixture in England. Despite its clear problems, Labour's 2017 manifesto did not pledge to replace council tax with an alternative but only committed to reviewing it.

The drawbacks of council tax are numerous. First, it is regressive. Based on the value of people's homes rather than their incomes, it often his poorer people harder. It also unfairly penalises renters as it is a tax on the tenant rather than the property owner: whilst landowners are eventually going to benefit from the higher price of a property when they sell it, renters will have to pay a higher tax on it whilst they live there with no long-term gain.

Second, the banding system in England is based on valuations from 1991. That's before some MPs started school – before a couple were even born. This leads to absurd situations whereby people in lower value banded properties in rural areas are charged more than residents of much higher value banded properties in parts of London, which are likely to have grown faster in value in recent years. Those in lower value rural accommodation are essentially paying more for less.

Yet local Labour Parties are unwilling to call for increases in council tax – even as a means to offset austerity. The fact that some local Labour Parties have either recently raised council tax to boost spending, like Birmingham, or have included council tax rises in their 2018 local election manifestos, such as Preston, should not disguise the fact that many others have argued for keeping lower rates. (Wandsworth, Trafford and Lambeth to name a few.) The problems with council tax are preventing Labour councils from using it to fight austerity effectively – therefore it needs to be replaced urgently.

It is not only the political fury faced by the Tories when they tampered with local taxes that has stopped Labour from tackling council tax. Labour is also hesitant to support any of the alternatives. The two main options are a local income tax, which would see local councils receiving revenue from income tax on top of what is already paid nationally, or a land value tax, which taxes landowners for the increase in value of the land they own.

The problem for Labour is that both of these alternatives to council tax would generate the greatest income per person in the wealthiest areas. Any means of redistributing from areas of greatest wealth to those of the greatest need would require involvement from national government to decide how much money an area should receive. That could turn councils into nothing more than pocket money institutions.

Denying the local electorate the ability to democratically decide local tax levels would leave councils less accountable. Local authorities must be responsible for how money is raised as well as spent – a blame game for poor service provision would otherwise follow.

Labour must now devise a new tax that can be applied fairly across the country and preserve local government accountability. Unfortunately such a levy would presumably be complex, which means selling it to the public could prove difficult.

With a lack of acceptable alternatives and the spectre of Thatcher's disastrous poll tax still looming, council tax has been allowed to survive for a quarter of a century. But Labour needs to rise to the challenge and offer councils a new tax to help them recover from austerity.

Empty Rates Relief: Get your toilet rolls in order

The Local Government Finance Act 1988 (LGFA 1988) requires local authorities to collect National Non-Domestic Rates for hereditaments which are in rateable occupation and appear in the Local Non-Domestic Rating List (section 41 LGFA 1988). Various reliefs apply and the applicability of such reliefs remains a key area for potential disputes. There are, however, practical steps that ratepayers can take in order to maximise their ability to rely on applicable reliefs and reduce their liability for business rates. One such step is commonly referred to as a "Makro Scheme".

Rateable occupation

In short, rateable occupation is made up of the following ingredients:

- there must be actual occupation;
- the occupation must be exclusive to the occupier;
- the occupation must be of some benefit to the occupier; and
- the occupation must not be for too transient a period.

Makro Schemes

In R (Makro Properties Ltd) v. Nuneaton & Bedworth Borough Council [2012] EWHC 2250 the court held that the storage of pallets of paperwork at warehouse premises for a period of six weeks was sufficient to amount to beneficial exclusive actual non-transient occupation and thereby rateable occupation. This was significant as, once the paperwork was removed, the premises benefited from a further six-month rate-free period as a qualifying industrial hereditament under the LGFA 1988. The storage pallets took up only 0.2 per cent of the 13,000 square-foot warehouse and could have been located at numerous alternative locations. Consequently the local authority brought proceedings on the basis that rateable occupation was not made out.

The court held that the small area taken up by the pallets did not prevent there being actual occupation of the warehouse. Moreover, the court specifically commented that "The fact that this storage could have been continued at other venues does not render storage at the warehouse of no practical benefit". This conclusion was reached notwithstanding the fact that it would actually have been cheaper to leave the pallets in their original location.

The decision in Makro was upheld in Sunderland City Council v. Stirling Investments [2013] EWHC 1413 in the context of an even smaller occupation of a Bluetooth transmitter, which was also held to be more than de minimis and therefore amounted to rateable occupation. However, in that case the court issued a note of caution in suggesting that there may be scope for the Valuation Officer to rely on this temporary user to split the relevant area from the host warehouse in order to enter a separate hereditament in the list. This risk has not yet materialised but ratepayers should be aware of the potential for challenge on this basis in the future.

Evidencing beneficial occupation

Against this backdrop it is widely acknowledged that there is a relatively low threshold for a ratepayer to establish beneficial ownership in this type of storage scenario. Notwithstanding this we are seeing an increasingly forensic approach to try and challenge Makro Schemes wherever possible. Following Makro it cannot be argued that beneficial occupation is not possible where items are stored outside of their ultimate destination; however, the local authority may well put the ratepayer to proof in respect of the purpose of the occupation and practical benefit derived by the business.

Dentons successfully resisted a recent claim by a local authority for non-domestic business where toilet rolls were stored at warehouse premises for six weeks before being distributed to office premises in other parts of the country. In this case the council did not dispute the exclusive, actual, non-transient nature of the occupation for the purpose of storing the toilet rolls, but sought to argue that there was no direct correlation between this and any benefit to the business and therefore the test for rateable occupation was not made out.

This challenge was successfully defended by reference to the available evidence. In this context, evidence of the following will be useful to resist any summons received:

- Purchase receipts/other proof of ownership of the goods.
- Evidence of where the goods were stored prior to arrival at the relevant site.
- Inventories to demonstrate how/when the goods were used by the business and transferred to the serviced sites.
- Photographs of the goods in varying locations (including bar codes/other means of identifying the specific items).
- Evidence of how the stock was monitored to ensure the ability to service all sites.
- Transit information from one location to another.
- Witness evidence from those who have used the items for the benefit of the business (for example cleaning contractors responsible for re-stocking toilet rolls).

In conclusion, ratepayers should be advised that Makro remains good law but that it is vital to ensure that, before any Makro Scheme is implemented, proper records and evidence are kept to demonstrate the beneficial nature of the occupation and practical benefit to the business. Our recent experience demonstrates that swift production of such evidence will reduce the local authority's appetite to pursue a claim for non-payment of business rates and minimise the associated legal costs involved in relying on this type of structure.

Councils to be handed powers to double council tax on empty homes

The UK government is introducing legislation designed to bring empty homes back into use by empowering councils to raise the amount of tax they can charge

The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Bill was introduced to parliament at the end of March and is now being debated in the House of Commons.

Under the new legislation councils will be able to levy additional charges on houses which have been empty for two or more years.

The legislation builds on existing laws brought into place in 2013, which allow councils to charge a 50% council tax premium on these empty properties. This followed the introduction of the New Homes Bonus in 2011, giving councils the same financial incentive for bringing an empty home back into use as for building a new one.

Councils are not allowed to use the premium to penalise owners of homes that are genuinely on the market for rent or sale and there are also exemptions for homes that are empty due to the occupant living in armed forces accommodation for job-related purposes, or to annexes being used as part of a main property.

Properties which are left empty when an occupant goes into care are exempt from the levy, as are homes that are empty due to probate. Councils can apply discounts where there are special circumstances such as hardship, fire or flooding.

The government said the number of empty properties had dropped from 300,000 in 2010 to around 200,000 today, which it attributed to the 50% premium and the New Homes Bonus.

Public sector property expert Anne Bowden said while the legislation was to be welcomed it may not have the impact the government was hoping.

"A number of inner-city London boroughs in high value areas have in the past expressed a wish to raise more council tax from foreign investors who own properties lying empty, and for these types of local authorities this will be really welcome. However London is seen as a safe haven for real estate investment and additional council tax is unlikely to deter these wealthy investors from buying residential property," Bowden said.

"The extra cash will be welcome for local authorities, but it's not going to be a game-changer for them. Up and down the country local authorities have huge revenue budget difficulties, mainly because central government funding is getting slashed year-on-year," Bowden said.

"I don't think there will be much impact on the property market. 200,000 empty homes is a drop in the ocean compared to what's needed in Britain over the next few years," Bowden said.

Previous data has shown that in London alone there are over 20,000 homes vacant for at least six months with thousands empty for two years or more.

In March this year the chancellor of the exchequer, Philip Hammond, announced the government was allocating £1.67 billion in additional funding for affordable housing in London as well as £100 million for a bespoke West Midlands housing package. The announcements were part of the chancellor's spring fiscal update.

IFS warns local government finance pilots will cost Whitehall £873m

Think-tank says business rates retention schemes will reduce central government's financial flexibility and may not provide valuable insight

The Institute for Fiscal Studies has questioned the value of government efforts to shake up local authority finances and boost economic development with pilots that allow councils to retain up to 100% of the business rates from new firms that start up in – or move to – their areas.

It said that the Business Rate Retention Scheme was projected to take £873m out of central government coffers during the current financial year, but that there would be little measurable lessons from the pilots, other than that most councils volunteering to take part would be better off than would otherwise have been the case.

The study came just one day after the Ministry of Housing, Communities and Local Government named former HM Treasury director general for public services Andrew Hudson as the lead for an independent review into the processes and procedures underpinning the business rates system.

Under the BRRS, councils have retained 50% of business rates growth in their areas from 2013-14. Under government plans to increase this to 100% from 2020, ten pilot areas were announced to test the new system, with a "no detriment" clause in the programme to protect councils from losing out where they have moved from 50% retention to 100%.

The IFS said that the current pilot areas covered 53% of the English population, including Greater Manchester, the West Midlands and Greater London. It said the areas covered raised 63% of the England's total business rate income, which would normally be collected by councils but passed on to central government for redistribution.

In return for taking part in the scheme, councils agree to forego Revenue Support Grant funding from MHCLG. Some areas have also agreed to accept cuts in central government funding in areas including transport and health-and-care integration.

The IFS said council revenue forecasts for 2018-19 led it to estimate that pilot areas would see a financial benefit of £873m in total – almost half of it (£431m) in London.

"This is equivalent to 3.6% of pilot councils' core spending power, or almost 2% of the spending power of all councils," it said. "This financial benefit represents a cost to central government, to which this revenue would otherwise have flowed.

"This revenue could have been used to reduce the budget deficit, or fund tax cuts or higher central government spending. There is therefore an 'opportunity cost' to the 100% business rates retention pilots."

It added that if the £873m were allocated according to official assessments of council areas' spending needs, 1-in-10 areas would have seen an increase in spending power of 2.1% higher than is currently planned for 2018–19. Conversely, most pilots would have received less funding if the retained business rates were redistributed via needs-based grants.

The IFS report authors said the fact that BRRS pilot council areas had chosen to take part in the scheme, and had been protected with "no detriment" safeguards meant the pilots would have "limited" learning value, and that "quick wins" may have been employed to boost income rather than longer-term growth-boosting strategies.

"There is an inherent limitation to how much one can learn in a year or two, given that the impact of 100% rates retention on funding levels and risk would tend to grow over time," the report said. "A mechanism able to cope for a couple of years may not be suitable in the longer term."

However, the report authors conceded the pilots could help maintain momentum behind local government financial reform after ministers chose not to proceed with plans to move towards a scheme of 100% business rate retention for all English councils by 2019-20 in the wake of the 2017 snap election.

The government is now planning to move to a 75% retention model by 2020-21.

Housing and Communities secretary Sajid Javid said Andrew Hudson's review would "ensure robust processes across the board" as English councils moved towards the new retention regime.

In relation to the IFS report, an MHCLG spokesman said the business rates pilots were helping to test aspects of future finance reform.

"We are giving councils more control over the money they raise locally," he said. "Nationally, through the pilots, authorities will retain £1.8 billion – money which will stay in communities to be spent on local priorities.

"With councils working together and sharing their business rates income, we are empowering them to make more effective decisions that can have a positive impact on the wider area, as well as investing to encourage further growth."

Ratepayers urged to submit evidence now for business rates revaluation, Reval2020

Land & Property Services (LPS), part of the Department of Finance, is contacting business ratepayers to collect rental data for the non-domestic rates revaluation – Reval2020.

Business ratepayers and their advisors in Northern Ireland are obliged to provide rental evidence to LPS with a view to preparing a new Valuation List for use from April 2020.

Letters explaining how ratepayers can submit information are being sent to occupiers of commercial premises. Most ratepayers will be able to submit their details online. LPS will use this information to analyse and interpret the current market and assess the rental value of each and every rateable property, which then will be used to calculate individual business rate bills from 1 April 2020.

Alan Brontë, Commissioner of Valuation for Northern Ireland said: "This is a key stage in the process of revaluing around 75,000 properties occupied by businesses and other bodies. I would urge all business ratepayers to submit the necessary information to enable us to make the system fairer for all; this is not an exercise in raising more money for public services.

"Regular revaluations maintain fairness in the rating system by ensuring that the system of business rates adjusts to reflect the changes in the property market over the past 5 years."

Tracy Flannigan, RICS Northern Ireland Commercial Property spokesperson, said: "Regular Revaluations are necessary to ensure that changes in rental values are accounted for in the spread of rates and it is important that businesses provide the information required. Doing so helps ensure that there is greater certainty, consistency and stability reflecting local economic conditions and ultimately making the rating system fairer."

Further information about the process and the revaluation in general can be found at https://www.finance-ni.gov.uk/reval-2020-ni. https://www.finance-ni.gov.uk/reval-2020-ni.

Notes to editors:

1. Business rates are a long established local property tax levied on all non-domestic ratepayers, proportionate to the rental value of each property.

2. It is necessary to periodically revalue all non-domestic properties. The last revaluation took place in 2015 using 2013 rental values.

3. There are around 75,000 non-domestic properties in Northern Ireland. Non-domestic rates currently contribute around £610 million a year towards regional services (roads, hospitals, schools etc) and local services (leisure services, waste collection etc) provided by councils.

4. Regular business revaluations will ensure that the rating system remains closely aligned to market values for business ratepayers and that the new revaluation is completed within a five year period.

5. Reval2020 is an exercise in redistribution. Revaluation in itself does not raise more money for public finances.

Business rates changes 'are threat' to High Streets

There's a warning the health of Britain's high streets is being threatened by various business costs which will rise in April.

The Federation of Small Businesses is warning its members could struggle because of a planned rise in business rates and the National Living Wage.

In April, the amount companies in England pay in business rates will change for the second year in a row.

It follows a major revaluation by the government, which was introduced in 2017. It saw some bills going up, and others going down.

"Increases in rates bills are set to significantly outpace inflation this year," said Mike Cherry, national chairman of the Federation of Small Businesses.

But many of the businesses whose rates are falling say they're being penalised in order to soften the blow for the losers.

"It's really hard to pay £3,500 every month," says Raj Jain, who owns a mobile phone repair shop in the centre of Canterbury, Kent.

His walls are stuffed with phone cases and chargers. He's recently diversified into vaping paraphernalia to try to increase custom.

The rateable value of the shop has fallen by 53%, according to the Valuation Office Agency.

But its business rates bill is down by just 21%, two years into the changes.

The shop won't see the full benefit of the last revaluation by the time the next one's due in 2021.

"It doesn't help. If it's in one go, at least you know where you stand and you can survive," says Mr Jain.

His fear? "We will close," he says.

Bills are falling slowly for some to help cushion the blow for those whose bills are rising.

Many retailers have been complaining loudly about their costs. Some have closed down stores.

The list of high street firms publicly acknowledging problems recently is long -- New Look, Maplin, Byron, and on and on.

Experts say the system's a mess.

"To deny the reductions to those who have been trading in difficult circumstances makes absolutely no sense at all and is unfair," says Jerry Schurder, the head of business rates at Gerald Eve LLP.

"The legislation should be changed," insists Mr Schurder.

The government said the revaluation must be "revenue neutral", so couldn't raise more or less money from the changes.

That meant there were always going to be winners and losers.

The government has estimated that 510,000 businesses are set to see an increase in their business rates, 420,000 will stay the same and 920,000 will see a decrease.

"Rising business rates are threatening high streets all over the country. This is a regressive tax that hits firms before they've made their first penny in turnover, let alone profit," said Mike Cherry. The national chairman of the Federation of Small Businesses.

"Too many small firms have been left waiting months for support from the 'emergency' business rates hardship fund launched this time last year," he went on.

While it might take a few years for some of the winners to feel the full benefits of the recent changes, some firms already have.

In a small, trendy café on the edge of Canterbury city centre, the lunchtime rush means there's not a single empty table.

That's not the only thing the Refectory Kitchen feels good about.

Its owner, Dan Grimwood, explains the recent adjustment in business rates means his bill has fallen from £4,300 a year to zero.

"The money I've saved has helped me reinvest in equipment and also upkeep of my property to help push the business forward," he says.

That's because the government increased the threshold for what's known as Small Business Rate Relief from £6,000 to £12,000. The valuation of Dan's café is below that new, higher level.

A government spokesman said, "We have introduced over £9 billion worth of business rate support so that many small businesses now pay no rates and from this weekend we are reducing annual rises which will save companies a further £4bn."

In the Spring Statement, the Chancellor Philip Hammond announced the government will bring forward the next revaluation of business rates from 2022 to 2021.

Many companies have welcomed more regular revaluations.

"Done right, this will make the rates regime fairer, meaning bills better reflect up-to-date property values and the strength of the local economy," said the FSB's Mike Cherry.

The National Living Wage is increasing for over 25s from £7.50 an hour to £7.83.

"Small firms are helping to keep employment levels close to record highs," said Mr Cherry.

"Now they need more support in managing the costs associated with making that possible."

NORTHERN IRELAND - Commercial property occupiers warned to expect business rates hike

The next business rates revaluation for non-domestic properties in Northern Ireland will come into effect on April 1 2020

AHEAD of the business rates revaluation process commercial property occupiers in the north are being warned to expect a hike in 2020.

Businesses will receive electronic questionnaires from LPS this weekend, which will request details on current lease agreements including rent, incentives and capital contributions. This information must be returned within a short time frame and will be relied upon in the valuation process.

The next business rates revaluation for non-domestic properties in Northern Ireland will come into effect on April 1 2020, five years since the last revaluation, and seven since the antecedent valuation date.

Director of professional services at Lambert Smith Hampton, Mark Elliott, said he expects to see an increase in rates across the board.

“A lot has changed in the Northern Ireland property market since the last valuation process. We have seen improvements across all property types and as a result of that we are likely to see an increase in most rates for the period from 2020. "

“LPS relies solely on the details it receives during this questionnaire process to apply property rates and we are aware of several appeals which are still ongoing from the last revaluation. The organisation will be keen to ensure that it is working with clear and reliable facts. Due to a limited amount of available information following the last questionnaire, a number of shopping centre schemes faced rates bills which were significantly higher than they should have been and following an appeal process they were reduced by up to 30 per cent.”

“Providing as much correct information as possible will support the integrity and reliability of the process to ensure that more businesses receive fair valuations which are reflective of the market rent of their properties. We are recommending that our clients take professional advice before submitting information, and we are providing detailed business rates advice in respect of all commercial property sectors," he added.

Council tax sees largest hike in 14 years across England

But cuts in services set to continue, warns head of Local Government Association

Households across England will be hit with the largest council tax hike in 14 years in the new financial year when the average home will pay £81 more.

Council tax bills in shire areas are the highest at £1,749, up by £86, according to the Ministry of Housing, Communities & Local Government (MHCLG).

People living in Band D properties in England will see an average 5.1 per cent increase in their tax bill, rising to £1,671

The same category of property in London will pay £1,405, an increase of £55 on 2017/18, according to MHLG figures.

Cash-strapped local authorities are taking advantage of new freedoms allowing them to increase bills by as much as 5.99 per cent without consulting voters.

Councils leaders said caps on bills since the Conservatives took power had left them with “little choice” but to ask residents to pay more.

Local authorities are expecting to gain nearly £2bn of extra cash from the bigger bills, but Lord Porter, Local Government Association (LGA) chairman, warned town halls will still have to cut services.

The LGA said councils were still heading for a £5bn funding gap by 2020.

“Since 2010, council tax bills have risen by less than inflation and other key household bills,” Lord Peter said.

“But faced with severe funding pressures, many councils feel they are being left with little choice but to ask residents to pay more to help them try and protect their local services.

“The extra income this year will help offset some of the financial pressures they face, but the reality is that many councils are now beyond the point where council tax income can be expected to plug the growing funding gaps they face. This means councils will have to continue to cut back services or stop some altogether to plug funding gaps.

“The need for adequate funding for local government is urgent. We have repeatedly warned of the serious consequences of funding pressures facing services caring for the elderly and disabled, protecting children and tackling homelessness for the people that rely on them and the financial sustainability of other services councils provide.”

The rise is the highest since 2004/5, but Communities Secretary Sajid Javid insisted bills were lower in real terms under the Conservatives.

Andrew Gwynne MP, Labour’s shadow communities and local government secretary, said: “This shows that under the Tories, you pay more for less.

“Over the last eight years, council budgets have been reduced by 50 per cent and services cut, with local people forced to pick up the slack as council tax bills soar.

“After almost eight years of Tory austerity, it’s time for real change. We need to elect as many Labour councillors as possible on 3 May to stand up to the Conservatives’ cuts.”

Mr Javid announced in December a 1 per cent increase to 2.99 per cent in the maximum council tax hike permitted without triggering a local referendum.

England’s 152 social care authorities – the county and unitary councils and metropolitan boroughs which take the lion’s share of the tax – are allowed a 3 per cent precept on top to help fund adult care.

In the new financial year, 148 out of 152 adult social care authorities will add some or all of the 3 per cent precept they can charge to cover adult social care.

The extra charge accounts for £30 of the average band D bill, the department said.

Mr Javid said: “Council tax in England is 7.6 per cent lower in real terms than it was when we came to government, and we have introduced a legal right for local taxpayers to veto excessive increases.

“Under the last Labour government council tax doubled and in Labour-run Wales it has trebled.”