IPTI Xtracts

Property Tax and Assessment News from Around the World

UNITED KINGDOM - December 2018

Contents

MPs to launch fresh inquiry into business rates as high streets wilt

The much-maligned business rates system will face fresh scrutiny in a new inquiry by the Treasury select committee in the new year, The Telegraph understands.

Nicky Morgan MP, chair of the committee, will hold a joint evidence session with the Housing, Communities and Local Government Committee on Wednesday to agree the terms of reference ahead of its inquiry, a spokesman confirmed.

It is understood that a particular focus of the inquiry will be on how to tax the booming digital economy to benefit the UK's struggling high streets and how the Budget's measures fail to support larger retailers.

Earlier this year the Government resisted pressure from retailers to launch a full-blown reform of business rates, which generate £30bn annually for the Government, by arguing that international corporation tax was a higher priority and there had been no consensus on an alternative system. The last inquiry into business rates was in 2016.

In October the Chancellor unveiled £900m of business rates relief for shops with rateable values of less than £51,000, discounting bills by a third. But according to real estate adviser Altus nearly 50,000 retail premises with a rateable value above £51,000 will be forced to pay an extra £128m.

Sports Direct boss Mike Ashley has previously accused Philip Hammond's business rates reform as "the work of a child".

There has been a string of retail collapses this year and many chains have been forced to close stores. Retailers argue that rising costs - and business rates in particular - are becoming an insurmountable burden.

Retailers alone will pay around £8bn in business rates this year and have come under huge pressure from a rise in import costs and dwindling footfall.

There has been mounting pressure for a revenue-based tax on online retailers to address the yawning gap between traditional retail and the fast-growing digital rivals that are stealing market share without the hefty costs of leasing and maintaining property.

Mr Ashley has called for a 20pc tax on retailers that make more than a fifth of sales online. Meanwhile the New West End Company, which represents business owners in London's West End, has suggested that a 1pc sales tax on online businesses could raise more than £5bn, which could fund a 17.5pc reduction in the overall business rates bill.

However, the British Retail Consortium has cautioned that an online sales tax could hurt retailers that are trying to expand their internet businesses.

Earlier this week Ms Morgan ordered Amazon to reveal its business rates bill after it refused to disclose how much it pays. The internet giant, which has been blamed for the death of the high street, is thought to pay substantially less business rates because it relies on a few warehouses rather than hundreds of shops.

ENGLAND

UKCrossrail delay: £1.4bn bailout as autumn 2019 launch delayed

Crossrail - to be known as the Elizabeth Line - had an original budget set at £15.9bn in 2007, which was then cut to £14.8bn in 2010

A £1.4bn bailout has been announced for Crossrail, as Europe's biggest infrastructure project is pushed back beyond its launch date of autumn 2019.

London’s £15bn route, to be known as the Elizabeth Line, had originally been due to open this month.

The rescue plan - the third this year - will be used to plug a predicted £2bn hole in the project's finances.

The scheme will connect major landmarks such as Heathrow Airport and the Canary Wharf business district.

Mayor of London Sadiq Khan said the deal means "Crossrail's new leadership can get the job done".

Between £1.6bn and £2bn is needed to complete the project, a review by accountancy firm KPMG found.

The scheme is currently running almost £600m over budget, and the previous bailouts have not come without criticism.

The project received a £590m cash injection in July, followed by an "interim" £350m loan announced in October.

It was announced in August that the route was to open nine months after the original scheduled launch of December 2018 to allow more time for testing.

Crossrail said on Monday that the launch had once again been pushed back, and a new "robust and deliverable schedule" would be announced later.

Elizabeth Line trains are already operating between Shenfield and Liverpool Street, and between Paddington and Hayes & Harlington.

When open, the project will help ease London's chronic congestion.

Trains will run from Reading and Heathrow in the west through 13 miles of new tunnels to Shenfield and Abbey Wood in the east, when fully operational.

Crossrail says the new line will connect Paddington to Canary Wharf in 17 minutes and described the 10-year project as "hugely complex".

An estimated 200m passengers will use the new underground line annually, increasing central London rail capacity by 10% - the largest increase since World War Two.

Analysis

Tom Edwards, BBC London Transport Correspondent

Crossrail was the industry's mega star.

The largest infrastructure project in Europe once had its own documentary and was even the backdrop for adverts for nice 4x4s.

But the project's catchphrase "on time and on budget" has been totally obliterated. And it is Londoners who will have to pay through increased borrowing.

All kinds of questions need answering: if the project was in such bad shape why didn't anyone spot it? Who knew what when?

This is also a terrible scenario for Transport for London. Its finances were already in a bad way with a £1bn deficit. This will have consequences for Tfl. It'll probably mean cuts.

Crossrail could one day be a great service and large complicated projects often suffer delays, but this latest announcement goes beyond embarrassment into the realms of calamity.

Under the new deal the Greater London Authority (GLA) will borrow up to £1.3bn from the Department for Transport, and provide an extra £100m itself.

The GLA will repay this loan through business rates.

Mike Brown, TfL's commissioner, said the extra costs would mean bosses will "have to look at" other transport projects in the capital "but that will all come out in the next few days."

The announcement comes amid a row over when Mr Khan knew about the delays.

Sir Terry Morgan, the former chairman of Crossrail Ltd, said the firm had "raised concerns" about progress with the mayor in July but had still been working towards a December launch.

Mr Khan claimed he only found out about the delay two days before it was made public in late August, despite having regular briefings with the Crossrail board.

The mayor said: "This agreement means that, working with TfL and the Government, Crossrail's new leadership can get the job done."

A DfT spokesman said: "The government remains committed to the rapid completion of the project, in a way that is fair to UK taxpayers."

I (Kingsway) Limited (Respondent) v Westminster City Council (Appellant)

[2018] UKSC 67

Liability for non-domestic rates depends on a property being entered as a hereditament in the rating list. Section 46A of and Schedule 4A to the Local Government Finance Act 1988 ("the 1988 Act") create a completion notice procedure, by which a new building that has not yet been occupied may be brought into the rating list. Where a completion notice has been validly served the building to which it relates is deemed to have been completed on the date specified in the notice. It is then shown in the rating list as a separate hereditament, valued as if it were complete, and its owner or occupier becomes liable to an assessment for non-domestic rates.

In January 2009, the respondent ("UKI") began the redevelopment of a building at 1 Kingsway. In February 2012, the appellant council informed UKI's agents that it intended to serve a completion notice specifying a completion date of 1 June 2012. The building was being managed by Eco FM ("Eco"), under a contract with UKI, but Eco had no authority to accept service on UKI's behalf. On 5 March 2012, the council delivered a completion notice by hand to the building, specifying 1 June 2012 as the completion date. It was addressed to "Owner, 1 Kingsway, London WC2B 6AN". It was given to a receptionist employed by Eco, who scanned and emailed a copy of the notice to UKI, which received it by no later than 12 March 2012.

On 29 March 2012, an appeal was lodged by UKI's agents against the completion notice, "on behalf of Eco", on the grounds that the service of the notice was invalid because it was not served on UKI but on the receptionist for Eco. On 7 May 2013, the premises were brought into the rating list with effect from 1 June 2012. UKI proposed that the entry be deleted due to invalid service, but this was not accepted by the valuation officer.

The Valuation Tribunal allowed the appeal against the completion notice and the inclusion of the premises in the rating list. The Upper Tribunal reversed that decision, but it was re-instated by the Court of Appeal.

The issue for the Supreme Court is whether the completion notice was validly served on the date it was received by UKI, in circumstances where: (i) it was not delivered directly but passed through the hands of Eco's receptionist, who was not authorised for that purpose by either party; and (ii) it was received in electronic, rather than paper form.

JUDGMENT

The Supreme Court unanimously allows the appeal and restores the order of the Upper Tribunal. Lord Carnwath gives the lead judgment.

REASONS FOR THE JUDGMENT

(i) Indirect service

The means of service prescribed by the statute are not exclusive. Under ordinary principles the real issue is whether the council caused the notice to be received by UKI [36]. Regarding the interposition of a third party, in the form of the Eco receptionist, it is unnecessary and unrealistic to introduce concepts of agency or statutory delegation. As the Upper tribunal observed, the Eco receptionist did no more than would reasonably be expected of a responsible employee in that position. It was the natural consequence of the council's actions.

Causation does not depend on control. For example, if a notice is correctly addressed, but mistakenly delivered to a neighbour who passes it on to the intended recipient, there is no reason why that should not be treated as effective service under ordinary principles of causation, even though that neighbour was not under the control of either party.

Arguments about possible uncertainty are not persuasive, since some uncertainty in this respect is inherent in the legislation, in which neither the methods of service nor the dates of service in different circumstances are exhaustively defined. Where the date of service is critical, a billing authority may choose a statutory method of service that eliminates or minimises the risk of invalidity by failure to specify the correct date of service. If it chooses a non-statutory method, it must bear that risk. The risk of prejudice to the building owner is limited, as outside the statutory methods service depends on actual receipt by the intended recipient.

(ii) Electronic communication

Before the enactment of the Electronic Communications Act 2000 ("the 2000 Act"), the state of the law was such that service by fax was valid. There is no good reason for distinguishing transmission by fax from transmission by email as in this case. Parliament must be taken to have legislated against that background. The respondent has not been able to indicate any provision of the 2000 Act that expressly or impliedly restricts the previous law, nor an overall inconsistency sufficient to overcome the general presumption that Parliament does not intend to change the common law.

The purpose of the 2000 Act and Orders made under it is to provide a clear and certain basis for the routine use of electronic methods by authorities. That purpose is not undermined by a conclusion that under general principles, and on the particular facts of this case, the notice was successfully served by email. Therefore, the property was correctly brought into the rating list with effect from 1 June 2012.

SCOTLAND

Strong case for Scottish land and property tax reform

The Scottish Land Commission believes LVT could help deliver land reform objectives.

There is a strong case for land and property taxation reform in Scotland concludes a new report carried out for the Scottish Land Commission (SLC).

Written by a research team at Reading University, the report addresses the question of whether or not more needs to be done to ensure that gains, made from rising land values, could be better used to benefit society as a whole.

The team's short answer is that the introduction of land value taxation (LVT) could help deliver Scotland's land reform objectives and raise revenue in a more progressive way than currently exists. However, in looking at how similar taxation methods have worked elsewhere in the world, they also conclude that a number of practical issues would need to be resolved before any LVT could be implemented.

"The report provides a good evidence base for us to engage widely on the potential role LVT could play in making more of Scotland's land," said SLC chief executive Hamish Trench.

"The research suggests LVT could contribute to addressing key land reform objectives, including bringing vacant and derelict sites into use, reinvesting rising land values to public benefit and moving to a more diverse and productive pattern of land ownership."

SLC added it will be engaging widely with stakeholders to undertake further analysis of the role LVT could play in Scotland.

However Scottish Land & Estates warned of the potential impact the tax could have across Scotland.

The organisation's executive director, Sarah-Jane Laing, claimed rural businesses were already subject to a well-established and complex tax regime and LVT was, in effect, already in existence in the form of capital gains tax, inheritance tax and developer contributions when planning permission is granted.

Report examines merits of land value tax in Scotland

Land value taxation could help deliver Scotland's land reform objectives and raise revenue in a more progressive way, according to a new report.

With a total estimated value of around £5 trillion, or just over half of the total net worth of the UK, land is the most valuable asset in the UK.

This has led many to question whether more needs to be done to ensure that the gains from rising land value, benefit society as a whole.

Written for the Scottish Land Commission by a research team at the University of Reading, the report, published today, argues that there is scope for reform of existing land and property taxation.

It also suggests that land value tax would be an efficient approach to such taxation, as the supply of land is relatively fixed and cannot fluctuate with changes in rates.

A number of countries around the world already use some form of land value tax.

The research team looked at this international experience and assessed the potential of using land value taxation in Scotland.

The report identifies a number of practical issues that would need to be resolved before any land value tax system is implemented.

These include the role of the planning system and the land register, and coordination with existing land and property taxes so that any new tax would not negatively affect development viability and wider public policy goals.

Alongside the report, the Land Commission has also published a briefing paper detailing the next steps for its work on land value tax and how it could help improve the productivity, diversity and accountability of the way Scotland's land is owned and used. This work will examine the potential role land value tax may play in:

- Reducing the amount of vacant and derelict land: land value tax could help to achieve this on some sites by establishing a financial cost for keeping land idle, creating an incentive for it being brought back into use and discouraging speculation in the land market.
- Capturing more of the publically-created increases in land value as a result of wider societal changes: for example, improvements in the local or national economy can make an area more desirable to live in increasing land value; land value tax has the potential to return some of these gains to society by using the revenue raised to help fund local infrastructure, amenities, and public services.
- Creating more diverse land ownership in Scotland: changes in the land tax base and/or tax structure could support the move to a more productive and diverse pattern of rural land ownership and use.

Commenting on the report, Hamish Trench, chief executive of Scottish Land Commission, said: "This report provides a good evidence base for us to engage widely on the potential role land value taxation could play in making more of Scotland's land. The research suggests land value tax could contribute to addressing key land reform objectives, including bringing vacant and derelict sites into use, reinvesting rising land values to public benefit and moving to a more diverse and productive pattern of land ownership.

"While the theoretical case for land value tax is strong, this research focused on international experience in implementing land value tax and it provides useful lessons on both the policy approach and practical issues that need to be considered.

"The Scottish Land Commission will now be engaging widely with stakeholders to undertake further analysis of role land value tax could play in delivering land reform priorities."

Industry urges caution over land value tax

THE SLC report argues that there is scope for reform of existing land and property taxation

A TAX applied directly to the value of land could help deliver Scotland's land reform objectives and raise revenue in a more 'progressive' way, a new report has claimed – but rural industry bodies have urged caution over that conclusion.

Written for the Scottish Land Commission, the report argues that there is scope for reform of existing land and property taxation. With a total estimated value of around £5 trillion, or just over half of the total net worth of the UK, land is the most valuable asset in the country, leading some economists to question whether more needs to be done to ensure that the gains from rising land value benefit society as a whole.

SLC chief executive, Hamish Trench, said that the report provided a good evidence base for further discussion: "The research suggests land value tax could contribute to addressing key land reform objectives, including bringing vacant and derelict sites into use, reinvesting rising land values to public benefit and moving to a more diverse and productive pattern of land ownership.

"While the theoretical case for land value tax is strong, this research focused on international experience in implementing land value tax and it provides useful lessons on both the policy approach and practical issues that need to be considered. The SLC will now be engaging widely with stakeholders to undertake further analysis of role land value tax could play in delivering land reform priorities."

Some stakeholders did not wait to be asked to say what they thought of the idea. Executive director at Scottish Land and Estates, Sarah-Jane Laing, immediately called for caution: "Land value tax has been debated for many years but has not been taken forward by any administration because of the potential impact it may have on not just rural Scotland, but the whole of the country.

"The introduction of land value tax would have an impact on every corner of Scotland, both rural and urban – so it should be recognised that this would not be solely a tax on land ownership," she said. "Rural businesses, which invest heavily across Scotland, are already subject to a very well established and complex tax regime and it should be pointed out that land value taxation is, in effect, already in existence in the form of capital gains tax, inheritance tax and developer contribution when planning permission is granted.

"We believe the impact of any policy change of this magnitude should not only be measured in terms of delivery of land reform objectives."

Speaking from Johnston Carmichael, which operates NFU Scotland's Tax Advice Helpline, Alexandra Docherty, also voiced caution: "Whilst the theoretical benefits to a land value tax are that it encourages land to be used more productively as the tax would be based on the value of the land in its optimum use as opposed to its actual use, the findings of the report is that there is a lack of practical evidence of these benefits amongst the countries considered as part of the study.

"There are a number of practical issues that need to be considered carefully by the Commission. Land is already exposed to numerous taxes, including capital gains tax on sale, inheritance tax on death as well as Scottish taxes on acquisition, such as land and buildings transaction tax," said Ms Docherty. "Complexity in this area is already burdensome on business and with the agricultural sector already facing significant change post Brexit, the timing of possible additional tax burdens should be considered carefully to ensure the sector is attractive to the next generation."

Study pushes for Scottish land and property tax reform

Land value tax could boost efforts to diversify ownership, say researchers

There is a strong case for reform of land and property taxes in Scotland and the introduction of a land value tax might boost efforts to diversify ownership and raise productivity, researchers for the Scottish Land Commission have concluded.

The report for the state body will fuel debate of the potential benefits of land value taxation, which, unlike current property taxes, is levied on the underlying value of the land rather than any buildings on it.

Interest in land value taxation is growing among UK opposition parties. Labour has plans for such a tax on commercial property and the Liberal Democrats in August called for one to replace business rates.

Economists extol land value tax as efficient and difficult to evade, making it particularly attractive in Scotland, a small and open economy where raising income taxes could prompt wealthy residents to move to other parts of the UK.

But the report by researchers from Reading university warns that while land value tax is "extremely attractive in theory", international experience has exposed practical obstacles, including the "difficulty in dismantling centuries of land ownership rights".

Land policy is a hot political topic in Scotland, where many remote or unpopulated areas are held in large privately owned estates. Legislation brought by the Scottish National party government in 2016 made it easier for communities to acquire land and created the land commission to chart the way for further reform.

In a recent interview, Derek Mackay, finance secretary, said there was need for a wider discussion in the UK on where wealth was to be found and how it could be fairly taxed.

Mr Mackay said he was interested in a land value tax, but introducing one would not be easy. "It's not the kind of thing you could turn on at the flick of a switch, it would be quite a radical change," he said.

The SNP government in 2016 abandoned plans to replace the council tax on residential properties, even retaining the quarter century-old valuations on which it is based.

The government has made tax on the purchase of land and buildings more progressive and is reforming business rates, but the researchers said much more could be done.

"There is ample opportunity to reform Scotland's existing system of [land and property taxation] in order to introduce a more progressive and equitable system which has the potential to deliver land reform objectives," they wrote.

Proponents of land value tax say it encourages the most intensive and productive use of land, captures for the public good rises in value that result from publicly funded development, and lowers and stabilises real estate prices.

But the Reading researchers said the experience of countries including New Zealand, Denmark and Estonia did not provide enough evidence "to provide and assurance" that it would deliver Scottish land reform objectives.

Land value taxes were politically challenging, difficult to explain to the public, often unpopular among landowners and had complex interactions with other taxes, the report said.

Hamish Trench, chief executive of the Scottish Land Commission, said it would now begin wide engagement on land value taxation. "One of the lessons we can take from international experience is that this does need cross-party political support and buy-in," said Mr Trench.

Retail NI launches plan to regenerate high streets

Retail NI launched a 47 point plan to revamp Northern Ireland's high streets at a conference at Queen's University Belfast.

The plan, contained in the Regeneration NI report, proposes establishing a Northern Ireland Town and Cities Partnership to manage and coordinate town centre policy and for councils to develop a retail development plan for each town centre.

Other NI proposals include: freezing on and off-street car parking charges for five years, devolving regeneration powers to local councils, establishing retail academies in each council area, parity with England on small business rate relief, and a tech strategy for independent retailers.

Retail NI also suggests the creation of a Rural Town Infrastructure Fund and a Future High Streets Fund.

Glyn Roberts, Retail NI chief executive, said: "Our Regeneration NI report is a radical plan to create 21st century town and city centres, updating our policy priorities and setting out new thinking for Northern Ireland's high streets.

“Radical thinking is required to be injected into the policy-making process. Too many of our villages, our towns and our cities are testament to a failure in regeneration policy to date. For the past 15 years, Northern Ireland has not only had the highest shop vacancy rate in the UK, but nearly double the UK national average.”

Roberts added: “Reforming business rates is now a much higher priority than ever before for Retail NI members and needs to be addressed by an incoming Executive. The Rethinking Business Rates proposals presented by the last finance minister, which were based on ideas put forward by Retail NI and Hospitality Ulster, need to be a top priority.

“The recent UK Budget announced that English independent retailers would be receiving a rate reduction of one third, with our members in Northern Ireland receiving absolutely nothing. Retail NI members deserve the same as their English counterparts.”

WALES

Welsh Government announces ‘enhanced’ business rates support for High Street by extending rates relief scheme

An extension to a business rates relief scheme has been announced by Welsh Government, in what has been described as an ‘enhanced’ package of support.

The Welsh Government launched a high street rates relief scheme in April 2017 to ‘provide targeted support for business affected by the independent revaluation and by the growth of internet sales/.

Mark Drakeford AM, Cabinet Secretary for Finance, and soon to be First Minister said today: “I am today extending the scheme for a further year and extending the relief available through the scheme to businesses. The enhanced scheme will go significantly further than in previous years, providing support to all retailers in Wales with a rateable value of up to £50,000.

“We will make an extra £23.6m of support available in 2019-20 through the high street rates relief scheme to support Welsh businesses – this is in addition to the more than £210m we provide through our other sources of support to help businesses pay their rates bills.

“The enhanced high street rates relief scheme will provide support to around 15,000 small and medium-sized businesses in 2019-20. It will be fully funded by the Welsh Government and will provide support of up to £2,500 towards non-domestic rates bills for retail properties with a rateable value of up to £50,000.”

“It will reduce rates bills to zero for retail properties with a rateable value up to £9,100 and reduce bills by £2,500 for properties with a higher rateable value.”

As well as increasing the level of support for retailers on the high street, the enhanced scheme will support retailers in other locations. Ratepayers who will benefit from the relief include those with occupied retail premises, such as shops, restaurants, cafes, pubs and wine bars.

Welsh Government estimate that around 15,000 ratepayers will be helped by the scheme, which will operate in addition to existing relief schemes.

A further £2.4m will be allocated to local authorities to provide additional discretionary rates relief for local businesses and other ratepayers to respond to specific local issues. This funding will be provided to local authorities through the revenue support grant in 2019-20 , so it appears it will be up to local councils if that is passed on.

Mark Drakeford AM added: “This extension to the high street rates relief scheme and the additional funding for discretionary rates relief, together with the permanent small business rates relief scheme, which has been in place since April 2018 and other bespoke reliefs, combine to offer timely and targeted support for ratepayers across Wales.

“This approach makes full use of the consequential we received in the UK Autumn Budget. We have designed a scheme which fits the needs and circumstances of small businesses in Wales.”

A ‘technical note’ accompanied this morning’s written statement, adding:

The eligibility criteria for qualifying businesses for the enhanced high street and retail rates relief scheme are as follows.
i. Hereditaments that are being used wholly or mainly for the sale of goods to visiting members of the public.
ii. Hereditaments that are being used wholly or mainly for the provision of the retail services to visiting members of the public
iii. Hereditaments that are being used wholly or mainly for the sale of food and/or drink to visiting members of the public

The relief will exclude:
i. Hereditaments with a valuation of more than £50,000.
ii. Hereditaments not reasonably accessible to visiting members of the public.
iii. Hereditaments that are not occupied.
iv. Hereditaments that are in receipt of mandatory charitable rates relief.