International Property Tax Institute

PRESIDENT'S MESSAGE

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An interesting "link" has cropped up between New York (USA) and London (UK) in connection with high value residential properties and the property tax revenue they generate.

It is reported that the sale of a $238 million penthouse apartment at 220 Central Park South in Manhattan has spurred discussion of a possible pied-à-terre tax. For the last five years, a bill that would create a so-called pied-à-terre tax in New York has languished in the State Legislature, where proposals for new taxes often go to die. But after a hedge fund billionaire with an estimated net worth of $10 billion added to his personal real estate portfolio last month by purchasing the apartment in New York, things may soon be different.

The record purchase - surpassing the cost of the next most expensive home in the United States by more than $100 million - was a stark reminder that when wealthy buyers purchase expensive apartments as second homes or investments, New York City and the state don't get a substantial financial benefit. If the buyers live out of state, they are not subject to state or city income taxes, and do not pay New York sales tax while outside the state.

A pied-à-terre tax would institute a yearly tax on homes worth $5 million or more, and would apply to homes that do not serve as the buyer's primary residence. Large cities around the world have been grappling with how to make wealthy absentee property owners pay for the privilege of owning secondary residences, a recent report from the Real Estate Institute of British Columbia shows. Sydney, Paris and London have all recently added or increased taxes on the purchase of secondary homes.

In Hong Kong, non-permanent residents pay a 15 percent fee on the value of the home, and foreigners pay an additional 15 percent fee. Singapore has restrictions on the purchase of residential property by foreigners and a 15 percent tax. In Denmark, foreigners are required to obtain permission from the government to purchase secondary homes. In Vancouver, where the greatest concentration of vacant properties is downtown, owners of empty residential properties are charged a 1 percent tax based on the assessed value. In 2018, the number of vacant homes in the city declined by 15 percent and about $33 million in taxes is expected to be collected - a revenue stream earmarked for affordable housing. "The best level to do this at is the city level, because the taxes can go right back into fixing the problem," said the mayor of Vancouver who favors increasing the tax to 3 percent.

The proposed legislation in New York would create a sliding tax surcharge. For properties valued between $5 million and $6 million, a 0.5 percent surcharge would be added on the value over $5 million. Fees and a higher surcharge would apply to homes that sold for more than $6 million, topping out at a $370,000 fee and a 4 percent surcharge for homes valued at more than $25 million.

The office of the city comptroller estimated that a pied-à-terre tax would bring in a minimum of $650 million annually if enacted today. “For us, $650 million a year is a lot of money to deal with things such as our subway crisis,” a spokesman said, “but it’s a rounding error for the people who own these expensive part-time apartments.”

There were 75,000 pieds-à-terre in New York City in 2017, up from 55,000 such units in 2014, according to the New York City Housing and Vacancy Survey. In spite of the increase, the share of pieds-à-terre that comprise vacant units unavailable for sale or rent remained at about 30 percent in both years.

The link of this story to London is that the same US billionaire who purchased the Manhattan property spent almost £200m on buying two houses in London recently, but will pay less than £3,000 in council tax (the residential property tax in the UK). One of the issues here is that taxes paid in respect of the purchase of the two houses in central London will be banked by central rather than local government. One of them, a penthouse currently under construction, will overlook Buckingham Palace at Hyde Park Corner as part of the Peninsula London development and will cost £100m. The other is a townhouse across the park at Carlton Gardens, costing £95m.

In the US, New York City levies the taxes due on property purchases and will receive some $217,000 a year from the New York property. However, in the UK, as indicated, most of the taxes due on the two latest purchases will end up going to central government, aside from the £2,842 per year in council taxes due to Westminster council and the Greater London Authority for both properties. The purchaser appears to be facing a UK bill in the region of £30m in stamp duty for the privilege of being a “double neighbour” to the Queen, but this one-off sum is paid to central government via HM Revenue & Customs.

Depending on how the purchaser structures the purchases of his two new UK homes, he may also face other charges. If the properties are acquired via a company, there will be an annual tax on enveloped dwelling (ATED) of £232,000 a year per property, which is also paid to central government. In the UK, the financial position of local councils has long been a topic of concern, particularly since austerity budgets were imposed after the global financial crisis in 2008.

The recent purchases are only the latest in this individual’s global shopping spree for glamorous homes. During recent years, he has reportedly spent more than $750m on homes in Chicago, New York, Florida and now London. He has now set six housing price records including the highest price ever for a home in Chicago, buying the top four floors of a Gold Coast condo tower for $58.5m.

It is perhaps inevitable that the payment of such large purchase prices for residential properties has attracted the attention of the media and, in turn, some policy-makers who are reviewing whether such high-value residences, particularly those that may remain empty for most of the time, should be made the subject of additional property taxes.

Moving on, I am pleased to report that IPTI is in the final stages of completing several projects, including the International Property Tax Scorecard which we hope to be publishing soon. The Scorecard is being produced with our partners the Council on State Taxation (COST) and looks at a number of important aspects of property tax systems in the US and selected jurisdictions around the world. COST has obtained data in respect of all the US states and IPTI has collected the same data for jurisdictions outside the US including Australia, Canada, Hong Kong, Ireland, New Zealand, the Netherlands, Singapore, South Africa, Spain and the UK so we have a sound foundation for the analysis we have undertaken.

We have also prepared draft reports for the audit work we have undertaken in relation to recent revaluations in large cities in South Africa. Work is continuing on our project supporting the Irish Valuation Office in modernising its computer support systems and in relation to other projects in Canada where IPTI is providing expert advice to assist both provincial governments and the federal government.

During February, in partnership with the Royal Institution of Chartered Surveyors (RICS), we held a round-table event in London on the issue of land value capture (LVC). This discussion session sought to identify the issues that currently prevent an effective system of LVC being introduced in the UK, drawing upon experience from around the world. The meeting brought together a group of experts from both the public and private sectors, along with practitioners and academics, to highlight both policy and practical considerations. It involved a series of presenters and panellists looking at the main issues, which included political, legal, economic and valuation challenges, and discussing with the invited audience of experts how these might be addressed. It proved to be a very successful event which covered a wide range of topics, including some case studies (e.g. CrossRail in London), drawing out the matters which need to be considered both in relation to policy and implementation.

Looking ahead, in March we will be holding an event in Chicago for corporate representatives on the topic of “Appeals & Litigation Management - Corporate Perspective and Challenges”. There are various issues and challenges when dealing with appeals, including selecting professional and legal advisors, deciding which properties to appeal, handling delays and efficiently managing the process. This workshop will feature experienced corporate property tax managers and representatives from the IPTI Corporate Advisory Committee who will share their experiences and strategies and cover how corporate managers can meet the challenges they are faced with in the appeal process.

In April we are holding another in our series of webinars for property tax professionals delivered in partnership with the Institute of Municipal Assessors (IMA). This IMA-IPTI webinar will be on the topic of “Determination of Assessed Values of Income Producing Properties - Determination of Fair Market Rents, Vacancy and Operating Expenses”. Also in April we are holding an IMA-IPTI Workshop on the subject of the “Preparation and Writing of Expert Reports - Board and Advocates’ Expectations”. Another IMA-IPTI webinar will be taking place in May on the topic of “Determination of Equitable Assessments - Value and Equity Considerations”. A further IMA-IPTI webinar is also being held in May, this time on the topic of the “Importance of Function and Utility in the Application of the Cost Approach”.

Other forthcoming events in 2019 include a CBI-IPTI business rates conference in London (May); our annual MAVS in Slovenia (June); a training course in Brazil (August); the annual Property Tax Workshop run by COST in cooperation with IPTI which, this year, is being held in Las Vegas (September); our annual RICS-IPTI Caribbean conference in the Bahamas (October) and a Local Government Conference in Melbourne, Australia (November). As usual, more information about all IPTI's forthcoming events, along with registration and other details, can be found on our website: www.ipti.org.

Now, it's time for a quick look at what is making headlines concerning property taxes in selected countries around the world.

Starting in the USA, my recent newsletters have referred to Amazon's announcement about their new headquarters (HQ2) in New York and, later, that the tax breaks offered to Amazon were going to be scrutinized by the New York City Comptroller. Amazon has now announced that it is no longer proceeding with its proposed HQ2 development in New York. Amazon published a statement saying: "After much thought and deliberation, we've decided not to move forward with our plans to build a headquarters for Amazon in Long Island City, Queens. For Amazon, the commitment to build a new headquarters requires positive, collaborative relationships with state and local elected officials who will be supportive over the long-term. While polls show that 70% of New Yorkers support our plans and investment, a number of state and local politicians have made it clear that they oppose our presence and will not work with us to build the type of relationships that are required to go forward with the project we and many others envisioned in Long Island City." The statement also said: "We do not intend to reopen the HQ2 search at this time. We will proceed as planned in Northern Virginia and Nashville, and we will continue to hire and grow across our 17 corporate offices and tech hubs in the US and Canada."

In the UK, business rates (the annual property tax paid in respect of non-domestic properties) continues to attract media attention as the rates burden is the highest in the world. The Parliamentary Treasury Select Committee has launched a new inquiry to look at the impact of business rates on economic activity and to consider alternative forms of taxation. The chair of the Treasury Committee said: "Many high street businesses are struggling to remain competitive. It has been estimated that 10,000 shops will close this year. Unless action is taken, closures could continue and job losses may soar. Business rates can represent a substantial financial burden on the high street. The Treasury Committee is therefore launching an inquiry into the effectiveness and impact of these rates on business." The inquiry will examine how changes in business rates since 2017 have affected businesses, including looking at changes to reliefs and allowances, and examining the ability of businesses to pay the tax. It will look at the fairness of the current system and how far it encourages competition. The remit also covers looking at the arguments for and against a property-based business tax, the impact of proposed and actual changes to business rates on local authorities and the high street, and alternative forms of taxation, such as the proposed digital services tax. The inquiry comes against the backdrop of long-term decline in high streets, but the pain of non-domestic rates was made particularly vivid in 2017 when a delayed revaluation left many businesses facing large increases. Another UK Parliamentary Select Committee, this time the Housing, Communities and Local Government Committee, has issued a report on "High Streets and Town Centres in 2030" and calls for, among other things, "a reduction in business rates for retailers in high streets and town centres and a 12-month holiday for high street retailers from rates increases which result from improvements in property". It will be interesting to see if this pressure for reform is successful.

In Germany it is reported that the federal government and 16 regional states have agreed on how to reform property tax calculations following a court ruling that the current system was outdated and unconstitutional. The agreement - which calls for using surface area, location and actual net rents to calculate the tax - will form the basis for a legislative proposal that must be enacted by the end of the year, and go into effect after 2024, officials said. The two sides had been at odds over whether the property tax should reflect the value of the property, or whether it should be calculated solely on the basis of its surface area. Property tax generates 14 billion euros ($17.30 billion) in revenues for local authorities annually and affects not only property owners but also tenants through additional costs they pay with their rent, or so-called “Nebenkosten”. The Finance Minister said the agreement hammered out by the states and the federal government was a socially just solution and would simplify many valuation issues. But Germany industry groups and a taxpayers group criticised the agreement. The head of the German Chambers of Commerce said focusing on rents and land valuation would lead to additional bureaucratic burdens for companies. The head of Germany's Taxpayers' Association said the compromise would hit students, young families and retirees in urban areas particularly hard. Germany's constitutional court in April 2018 ruled that the property tax must be reformulated by the end of 2019 because it was based on outdated values. The basis for the tax in western Germany is linked to 1964 property values, while property taxes in former East German states are based on 1935 values. This makes property taxes higher in western Berlin than the former east and means taxes may be low on properties near the former Berlin Wall that have since rocketed in value. The German Institute for economic research (DIW), argues for a pure land value tax. This would be not only easier, but also associated with positive incentives for efficient land use, said the head of DIW.

In Canada, two new property taxes in British Columbia are causing confusion to some taxpayers. A recent article helpfully sets out the differences between Vancouver’s empty homes tax and the province’s speculation tax. The Empty Homes Tax only applies to people who own residential properties in the City of Vancouver. Most homeowners won’t have to pay the tax, as long as the property is their primary residence, or they live there for at least six months of the year. However, one owner of every residential property will have to submit a property status declaration to determine if the property is eligible for that tax. This year, people who own empty homes will have to pay 1 per cent of the property’s assessed taxable value from 2018. The Speculation and Vacancy Tax is an annual tax coming from the provincial government paid on residential properties in some regions of B.C., including municipalities in the Metro Vancouver Regional District, as well as Abbotsford, Mission and Chilliwack. Everyone who owns or co-owns a residential property in those areas has to complete a declaration form so the province can determine if they are required to pay, or are exempted from paying, the tax. Forms are due March 31, 2019. People who live in their homes year-round, or who rent out their properties for at least three months of the year won’t have to pay, but they will still have to submit their forms to make sure they aren’t held responsible for paying the tax. The tax, if payable, will be due July 2, 2019. The tax is meant to discourage housing speculation and from leaving homes empty in major urban centres.

In Slovenia, contrary to previous announcements, the Finance Ministry has now said it will be impossible to introduce the new real estate tax in 2020 as planned because data on some types of property remain faulty. “Even though much has been done in recent years, not all the registries have been put in order to such an extent as to remove obstacles to the introduction of the real estate tax," the ministry said. The new tax, which is to replace the current levy for the use of building land, property tax and forest road fee, has been years in the making and put off several times because of its unpopularity. An earlier attempt at introducing such a tax failed in 2014 after the Constitutional Court quashed the property appraisal act, which was to underpin the new system. "The biggest obstacle to the real estate tax at the moment is that data on actual use of land for public roads and public railway infrastructure will probably not be available in time," the ministry said. The legislation for the registering of the actual use of land for public roads and railway infrastructure was adopted in February 2018 and the appertaining rules only just before the end of 2018. As already indicated, IPTI is holding its annual MAVS in Slovenia in June so property tax will no doubt be an even more topical issue at the symposium.

In Pakistan, property tax collection by provinces surged 31.34 percent to Rs7.38 billion during the first half of the current fiscal year of 2018/19, official data shows. Finance ministry's data showed property tax collection amounted to Rs5.624 billion during the corresponding period of the last fiscal year. Sources in the ministry said the revenue grew due to regularisation of immovable property rates and monitoring of transactions for tax collection. In terms of volume, the Punjab took the lead by collecting Rs5.02 billion during first half of the current fiscal year. The collection was Rs4.09 billion in the corresponding period of the last fiscal year, showing a 22.64 percent increase. Sindh posted a sharp 73.83 percent growth in collection of property taxes. The province collected Rs1.83 billion during July-December compared with Rs1.05 billion in the same period of the last fiscal year.

And finally, the Michigan Supreme Court agreed to hear a case later this year over government officials having confiscated a man's property for $8.41 in unpaid interest on taxes and kept the $24,500 it fetched at auction. The man failed to pay the interest owed on property taxes for a rental property several years ago. Oakland County eventually foreclosed on his property for the $8.41 plus $277 in additional interest and fees. The county sold his property at an auction in 2014 for $24,500 and kept the whole amount. He sued Oakland County for the difference, but a trial court ruled he had forfeited his property. An appeals court agreed. The appeals court said the officials acted properly under the state's General Property Tax Act which requires officials to take property for any amount of unpaid taxes and keep all the proceeds if they sell it. The Pacific Legal Foundation asked the Michigan Supreme Court to review the case on the grounds Michigan's General Property Tax Act violates property owners' Fifth Amendment rights. The Takings Clause of the Fifth Amendment to the U.S. Constitution says the government cannot take private property "for public use, without just compensation." Lawyers say they hope the Michigan Supreme Court will rule that when the government seizes property, it does not have a constitutional right to keep more than what the former property owner owes the government. Most states do refund the surplus, but Michigan is one of a few states which either require or allow the government to keep all the profits from the sale of private property. Massachusetts, Minnesota, North Dakota, and Oregon have such laws. I am all in favour of effective enforcement action against property tax defaulters, but this does not seem fair.

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