IPTI Xtracts

Property Tax and Assessment News from Around the World

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Business rate appeals system threatens retailers, say surveyors

Industry under pressure from rising costs, Brexit and shift to e-commerce

The UK system for appealing against business rate valuations is grinding to a halt, putting retailers at increased risk of financial distress, say surveyors.

The retail panel of the Rating Surveyors' Association said it has been told that the Valuation Office Agency, which assesses commercial properties for business rates, will commence only 10 more "group pre-challenge reviews" of rating valuations before April.

"We do not believe it is appropriate for retailers, particularly in the current economic climate, to have to sit back in the hope that sometime next year the VOA will potentially be able to find some caseworkers to handle GPCR," the panel's chairman, Robert Sherwill, wrote in an email to panel members earlier this month and seen by the Financial Times.

Britain's retailers are under pressure from rising costs, Brexit uncertainty and the shift to e-commerce. They say the business rates system is unfair and needs radical reform to prevent more store closures.

GPCRs allow groups of retailers operating in the same area to jointly challenge the valuations that form the basis for business rates. The process is meant to be quicker than mounting individual challenges.

Since they were introduced at the end of 2018, 30 such GPCRs have been initiated. Hilary Witts, head of rating operations at Colliers, the real estate advisory, said it would normally expect about 100 retail centres to put in a GPCR request by April.

Mr Sherwill did not respond to a request for comment.

A spokesperson for the VOA confirmed the number of GPCRs was accurate but said that agency will continue to deliver GPCRs "to March 2020 and beyond", and noted that businesses can also resolve concerns through the "check, challenge, appeal" process for individual appellants that was launched in 2017.

"Valuations can be amended at check or challenge stage without needing a formal appeal which is better for our customers," the spokesperson said.

But individual challenges are also running at lower than expected levels. "The VOA appear to believe CCA is working well . . . we all know that could not be further from the truth," the RSA message stated.

Chris Harris, group property director at John Lewis, told the Treasury select committee earlier this year that the department store group had not lodged any appeals against the 2017 revaluation because the process "is so cumbersome that it has taken us a year to get registered on the system."

He added that the company considered some of its valuations to be 40 per cent too high, and that it was obliged to pay rates based on these assessments until any appeals were resolved.

Business rates are calculated using a rateable value based on annual rent and a multiplier. They raise about £30bn a year, a quarter of which is paid by retailers. Rateable values were last assessed in 2017 and another revaluation is due in 2021. Rents have fallen in many areas in the intervening years.

However, concern is growing that the revaluation may not proceed. The enabling legislation was abandoned when parliament was prorogued and did not feature in the government's new legislative agenda.

Jerry Schurder, head of business rates at Gerald Eve, said he feared that if there is an early general election "there will simply be insufficient time to pass legislation and there will be no revaluation in 2021".

A spokesman for the Department of Housing, Communities and Local Government said that holding a revaluation in 2021 remained government policy and that legislation will be introduced "in due course".

'Rates must recognise diversity'

As part of the ongoing review into business rates in Northern Ireland, FSB recently engaged with officials in the Department of Finance, bringing a delegation of small business owners representing retail; professional services; construction; hospitality and care, and coming from right across NI. The clear message from businesses is that this review must ensure that the rates system is reformed in a way that really puts business and the economy as the highest priority for the Assembly, Executive and Civil Service, writes Tina McKenzie.

To perpetuate an antiquated system that ignores the fact that Northern Ireland has the lowest business start-up rate in the UK is to miss an opportunity. To continue to levy rates on so many of our small businesses, at such a level that it is one of their single highest overheads risks a ruinous approach that will drive many to downsize, relocate or close.

We will be making a substantive response to the consultation where we will make our views known, however, at an absolute minimum, the outcome of this review should seek to embed the current Small Business Rate Relief Scheme permanently.

FSB led the campaign to have the scheme introduced in 2010, and lobbied successfully for its continuation each year ever since. It has saved small businesses approximately £20m each year, which has allowed them to invest more in their business and continue to create and sustain employment.

Any failure to continue the scheme would lead to a doubling of the rates bill for some of the smallest businesses and therefore the current levels should be recognised as the baseline protection for firms.

Beyond this, we should also look to trends in GB where the level of relief exceeds that which is available in Northern Ireland, particularly so following the spending announced by the previous Chancellor of the Exchequer, Philip Hammond to rejuvenate high streets at last year's budget.

There may also be scope for sectoral specific rates relief which would have economic benefit, such as for childcare businesses.

Reducing the cost and increasing the accessibility of childcare would not only provide more parental choice and help boost female entrepreneurship, but would serve to address Northern Ireland's high economic inactivity rate, which research has shown is impacted by the lack of affordable childcare here.

However, the rates system must recognise the diversity of businesses which make up our high streets and nothing should be done which damages the delicate eco-system of businesses which help sustain each other.

It is welcome that the Department of Finance Permanent Secretary, Sue Gray, has decided to undertake this review. Since her appointment she has brought a fresh approach which has been welcomed by business as well as community and voluntary organisations.

Her understanding of the weakness of much of our local economy should help ensure no negative impact on our smaller businesses arises as a result of this review.

Civil servants should use the opportunity of the absence of ministers to explore more creative options, such as 'start-up' reliefs followed by an easing in the rates bill over a three year period, allowing new businesses to get on their feet in those first formative years.

Research shows that the chances of a business still trading in five years' time are heavily influenced by the economic conditions experienced in the year it begins trading.

In this spirit, we should identify how use of available data can ensure that the rates bill is appropriate for the financial circumstances of a business, without necessarily acting as a disincentive for growth.

We should also consider how to use rates to reward positive action by small businesses, particularly in recognition of increased awareness around issues such as climate change.

Using the rates system to encourage positive action could also reduce administration, serving as an alternative to government grants which can be cumbersome and difficult for the smallest businesses to navigate and access.

We should all have an ambition for the business birth rate in Northern Ireland to become the highest in the UK.

If we encourage more 'start-ups' by easing the rates burden, we can 'grow the cake' which would help achieve those first-class public services, something to which we all aspire.

While the priority of government is often to raise revenue from households and businesses, the primary focus should be to increase business activity, encouraging entrepreneurship, creating jobs and increasing prosperity in local communities. A more prosperous economy can also help alleviate some of our social issues, particularly in places which have a long tail of economic inactivity and incidences of poor mental health, typically in areas most impacted by the Troubles.

Aberdeen charity victorious over city council in business rates legal battle

A charity has won a legal battle over Aberdeen City Council after the authority overlooked its status and hammered it with an unfair tax.

Centric Community Projects Limited, which offers its premises at Craigievar House in Dyce to local community groups, took the authority to the Court of Session in Edinburgh amid a wrangle over business rates relief.

The council refused to allow the charity to pay a discounted levy last November, arguing that it didn't qualify for relief as the building at Kirkhill Industrial Estate was not fully occupied by community groups.

However, the group took the case for a judicial review and a written judgement issued yesterday ruled in favour of Centric.

Other charities last night welcomed the ruling, hailing it as a victory for common sense, while opposition councillors called for a probe into "any similar decisions" the council has made.

In his judgement, Lord Bannatyne wrote that the council's decision appeared to have been based "solely on the extent to which the property was in active use".

He added that the authority failed to take into account "relevant factors", such as the organisation's "charitable purposes and activities".

The statement said: "The respondent has … failed to take account of the obvious explanation for the property not being in its entire active use, namely the petitioner's particular charitable activities and purposes."

A spokeswoman for Centric declined to comment following the ruling.

But David Forbes, of the Future Choices disability charity in Aberdeen, said the decision was "common sense".

He said: "I think this judgement is totally right.

"It seems like simple common sense that a charity, which contributes to communities and supports vulnerable people, receives relief.

"It is a ripple effect – if charities have to pay more on business rates then they can invest less in services. I think it is only fair what the court has decided."

Chairman of Inchgarth Community Centre, Paul O'Connor, who volunteers with various causes across the city, said: "Not having that pressure to pay these fees would be tremendous for charities.

"It means they can focus on their core reason for existence, actually helping people

"The vast majority of charities exist to make a difference to people's lives, be it the poor, vulnerable, children, elderly, or the disabled.

"It makes you wonder why it was the case in the first place – it's simply wrong in my eyes that they were getting charged."

Liberal Democrat group leader, Ian Yuill, said: "It is vitally important that charities receive any relief that they are entitled to and I hope that the council will be reviewing any similar decisions that have been made.

"Charities are counting every penny at the moment, and every penny that they have to spend on overheads is a penny less they can invest in vital services."

Aberdeen City Council co-leader, Douglas Lumsden, said the authority was especially dependent upon business rates compared to others in the country.

He said: "We are going to take this judgement on board.

"I'm satisfied that this is a one-off. Our officers are very hard-working and well trained."

John Lewis Partnership under pressure with £170m+ business rates bill

- Estimated £173m business rates bill adding to pressure on John Lewis Partnership, according to Colliers
- Total estimate is made up of around £56.4m for John Lewis & £116.7m for Waitrose
- This is about 20% higher than a comparable before the 2017 valuation, when the bill was around £144m

New estimates show that John Lewis Partnership's business rates bill is over £170 million, adding pressure on the performance of the company.

According to property consultancy firm Colliers, John Lewis Partnership's retail portfolio is thought to be facing a business rates bill of around £173 million in the current year.

This is made up of around £56.4 million for the partnership's John Lewis stores and £116.7 million for Waitrose.

Colliers added that this is about 20 per cent higher than a comparable before the 2017 valuation, when the partnership's combined retail portfolio faced a rates bill of around £144 million.

The estimates emerge amid news that John Lewis Partnership has threatened to withhold some of this quarter's service charge payments to landlords, on top of announcing its first ever half-year loss last month.

The company also unveiled plans to restructure its head office operations, whereby around one third of senior management staff will lose their jobs as Waitrose and John Lewis operations become more streamlined rather than remain as two separate entities.

Colliers said some of the partnership's stores face "enormous" business rates bills, such as the John Lewis flagship on London's Oxford Street which is facing a bill of around £10.4 million this year.

It's also estimated that around 22 John Lewis stores and two Waitrose stores are paying rates bills of more than £1 million each in the 2019/20 tax year.

Colliers said that "such costs are looking increasingly unsustainable in the current climate".

Colliers head of business rates John Webber said John Lewis Partnership's recent half-year report – whereby it revealed a pre-tax loss of £26 million – showed that the increasing shift to online shopping, rising costs and dampened consumer confidence were all taking their toll.

"It is no wonder the company is needing to take defensive measures," Webber said.

He added: "Whilst John Lewis is currently negotiating with landlords over the rents and even the service charges that it pays, one area of costs, business rates, is set in stone – and there is no room for manoeuvre.

"And bills are likely to continue to rise over next year too."

Colliers estimates that John Lewis Partnership is due to pay a business rates bill of £179 million next year on current store numbers.

However, with the 2021 revaluation around the corner, it could have some reprieve in the 2021/22 year as rate bills should reflect the reduction in retail rental levels, as seen at April 2019.

Despite this, Webber said this would only kick in if the government allows values to move to their correct levels immediately and does not implement a period of transition, as it did so after the 2017 revaluation.

"It would be massively disappointing if the government shows it has learnt nothing from the current retail predicament and goes down the downward transition route as it did at the last revaluation," Webber said.

"We need to allow retailers such as John Lewis a chance to ease their rates burdens immediately."

"Sadly, no one in power or even the opposition seems prepared to tackle the business rates crisis despite the rhetoric.

"And they still seem to fail to appreciate that it is the bigger retailers, the chains that are the big employers in the sector.

"Maintaining a punitive tax system against the bigger retail players whilst providing relief for the smaller retailers, does little to prevent store closures and job losses as we have seen elsewhere in the market."

A John Lewis Partnership spokesperson said: "We are proud to pay our taxes in the UK to fund public services.

"However, business taxes disproportionately fall on property and people-intensive businesses.

"We believe we need the Government to conduct fundamental review of business taxation.

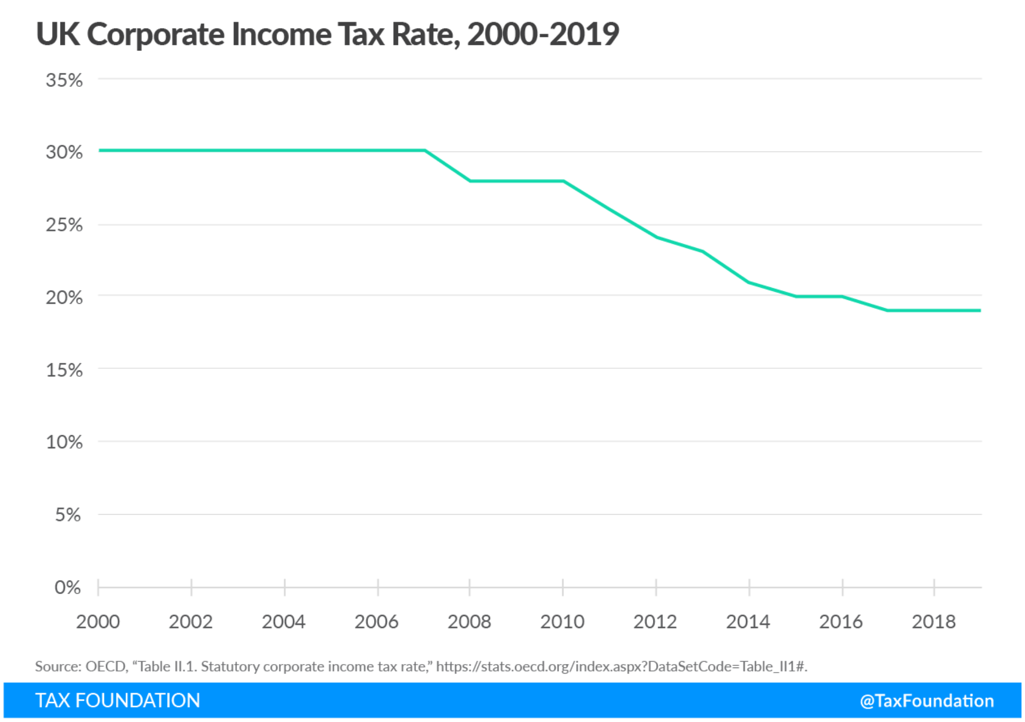
"As a first step it should unblock the appeals system, that is silted up with hundreds of outstanding appeals.

"We have made a series of constructive suggestions to Parliament and the Treasury."

UK Taxes: Potential for Growth

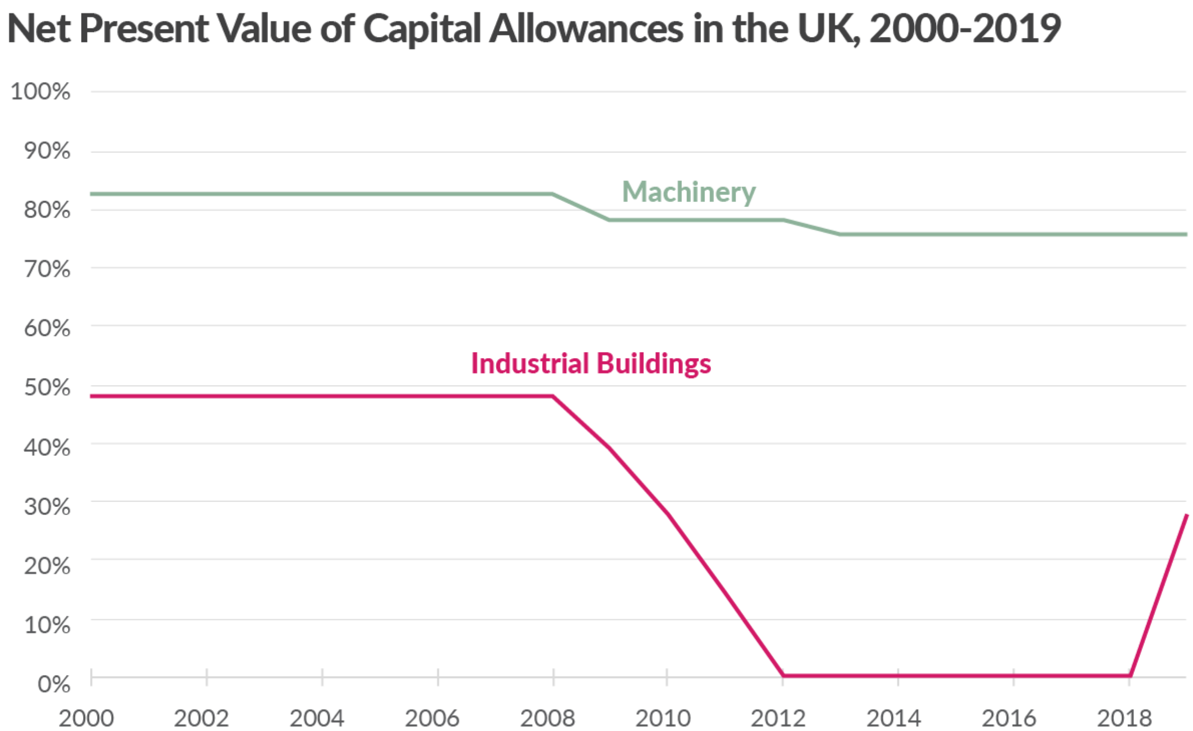
The United Kingdom ranks 25th in our recently released 2019 International Tax Competitiveness Index, a study that measures and compares how well OECD countries promote sustainable economic growth and investment through competitive and neutral tax systems. While the UK has improved its rank by one spot compared to last year, there are multiple measures that could make its tax system more competitive and neutral, including better treatment of capital investment, a broader VAT base, and a simplified property tax system.

Over the past two decades, the UK has lowered its corporate income tax rate from 30 percent in 2000 to 19 percent in 2017, with a further cut to 17 percent planned for 2020.



However, these reforms have often been paired with base-broadening measures that penalize new business investment. Between 2008 and 2013, the United Kingdom reduced the value of depreciation deductions for machines and industrial buildings. The present value deduction (the percent of the cost of an investment a company can deduct over its life) for machines fell from 83 percent to 76 percent between 2008 and 2013. Over the same period, the value deduction for industrial buildings fell from 48 percent to zero.

Only this year, the UK reinstated a 2 percent annual allowance for industrial buildings, allowing businesses a present value deduction of 28 percent. Despite this policy change, the UK still has on average the fourth lowest capital allowances in the OECD, after Japan, New Zealand, and Chile.



Source: Oxford University Centre for Business Taxation, "CBT Tax Database 2017," http://eureka.sbs.ox.ac.uk/id/eprint/4635. Calculations based on Elke Asen and Daniel Bunn, "Capital Cost Recovery across the OECD, 2019," Tax Foundation, Apr. 2, 2019, https://taxfoundation.org/publications/capital-cost-recovery-across-the-oecd/.

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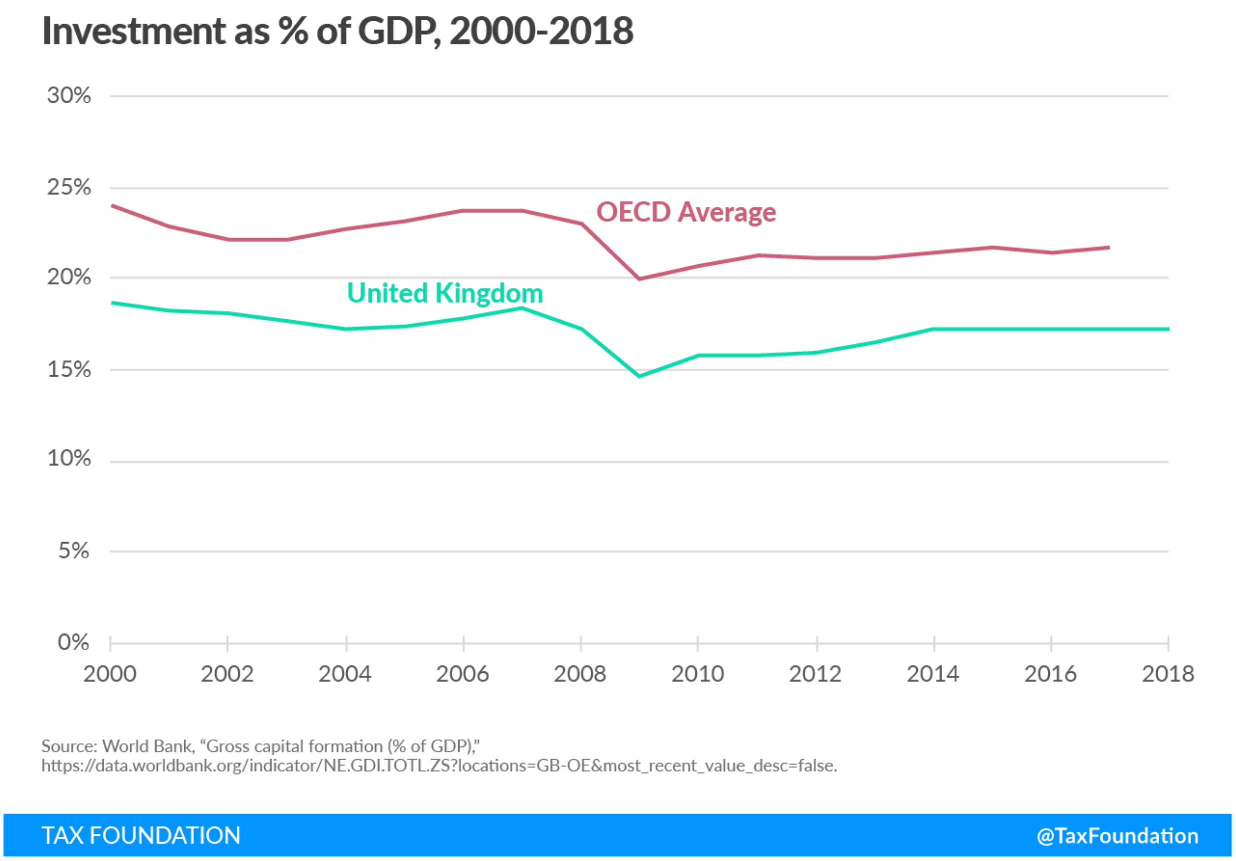
Low capital allowances increase the marginal effective tax rate on investment, making new investment more costly. In 2018, investment accounted for only 17 percent of GDP in the UK, the second lowest share in the OECD (only Greece has a lower share). Shortening asset lives or implementing full expensing of capital investment could help spur UK's investment and economic growth, potentially even more than a further rate cut.



In addition to its corporate tax base, there is also room to improve the value-added tax (VAT) base. The UK's VAT applies to less than half of final consumption. This is largely due to an unusually broad number of goods that are either VAT-exempt or subject to reduced VAT rates. Such exemptions and reduced rates create distortions, reduce tax revenue substantially, and require a higher standard VAT rate. Applying the standard VAT rate to a greater share of final consumption could significantly improve the efficiency of the UK's VAT system.

Among OECD countries, the United Kingdom raises the highest property taxes as a share of its private capital stock. While most OECD countries' property tax revenue amounts to less than 1 percent of the private capital stock, this measure is at 2.6 percent in the UK. In addition, the UK has distortionary levies on estates, transfer of real property, assets, and financial transactions. Simplifying the property tax system could lower the tax burden on investment and decrease compliance costs.

A tax code that is competitive and neutral promotes sustainable economic growth and investment while raising sufficient revenue for government priorities. Narrow policy changes such as cutting the corporate rate by a few percentage points tend to have limited effects on economic growth, especially if paired with measures that penalize new investments. Instead, more fundamental reforms of the corporate tax system, the VAT, and the property tax system could support economic growth in the UK.

Prepare for worst winter in a decade, High Street retailers are warned

- Retailers are expected to struggle with high taxes and economic fears
- Business rates have remained high despite falling rents
- One chairman said this would be the worst winter since Woolworths collapsed

- Proposed reforms to commercial property taxes didn't make it through Parliament before it went into recess

High street retailers are braced for their worst Christmas in more than a decade as they struggle with high taxes, economic fears and frenzied discounting only weeks into the season.

The bosses of major chains have shared their concerns with The Mail on Sunday as Government efforts to ease the burden of tax on retailers appear to have foundered.

Vital legislation designed to cut property tax for retailers in struggling high streets failed to make it though Parliament before it was closed down last week.

Research by The Mail on Sunday has revealed that business rates have remained rigidly high despite rents falling as landlords cut lease demands for struggling shops.

More than 12,000 high street stores are now paying more in business rates than in rent compared with around 500 in 2017, according to business rates consultants Altus.

The chairman at one retailer with more than 200 stores said the high street economy was ‘absolutely atrocious’ and that the failure of the Government to push through the legislation before Parliament closed was ‘like a kick in the b******s’ for those struggling to make ends meet.

‘This is going to be the worst Christmas since Woolworths collapsed [in 2008],’ he said.

‘Everybody is struggling – particularly the fashion retailers – and even online fashion retailers are finding it hard because of the number of returns they are getting at the moment.

‘The sales numbers are terrible and this whole political uncertainty has become a joke.’

The proposed business rates legislation would have ensured bills for shops would be reassessed every three years, rather than the current five years, so struggling stores could have benefited from a significant cut in 2021.

But the move is now up in the air with parliamentary time expected to be limited when the House returns.

Retail makes up 5 per cent of the economy yet pays 10 per cent of all business taxes and 25 per cent of business rates, which are based on the value of property and rents.

Another boss who runs hundreds of stores said: ‘Business rates no longer reflect current market conditions. Rents are coming down by a third but business rates are still sky high. If a sensible solution to Brexit can be found, everyone can stop panicking. But at the moment Christmas is impossible to call.

‘The rates system is broken. The high street is in continual decline. But this tax is based on 2015 property values, when the world was very different. When is the Government going to wake up?’

Department store John Lewis offered a massive 20 per cent discount on home products at the end of last month – a two-week event which one retail veteran described as ‘unprecedented’ and ‘basically a fire sale’ – following poor first-half results.

Sales of its home goods have soared but the discounting is thought likely to damage festive profit margins.

Marks & Spencer has been cutting furniture prices by up to 30 per cent. Debenhams and House of Fraser were this weekend both offering up to 50 per cent off.

New business rates law scrapped due to parliament shut down

- Parliament shut down leads to collapse of new law aimed at easing business rates pressure on the high street
- Legislation was for business rates bills to be reassessed every 3 years, rather than the current 5-year period
- The collapse of the legislation potentially wasted £50m of taxpayers funds in the process

Legislation aimed at easing pressure on retailers has been scrapped due to the government closing down Parliament – potentially wasting £50 million of taxpayers' cash in the process.

The legislation was due to ensure business rates bills for all commercial premises would be reassessed every three years, rather than the current five-year period.

It also had the aim of bringing forward the next revaluation to 2021.

Campaigners who had pushed for the change to ensure bills are more accurate criticised the decision and urged the government to reintroduce the bill as soon as Parliament sits again next week.

The Ministry of Housing, Communities and Local Government, which is responsible for business rates, said a new bill would be reintroduced "in due course" but would not confirm exactly when.

However, sources from the ministry speaking to the PA news agency said that while the government was still committed to a revaluation of business rates in 2021, things were now back to square one.

This is attributed to the fact that getting the bill through all the necessary stages in both the Commons and Lords would now be dependent upon parliamentary time.

The Valuation Office Agency (VOA) use rental data two years before imposing the new revaluations, but with Parliament suspended, the Non-Domestic Rating (Lists) Bill 2017-19 collapsed.

Government inspectors from the VOA have already spent around £50 million carrying out the revaluation process of non-domestic properties in England and Wales.

The inspectors had assumed the changes announced in the 2018 Spring Statement would pass into law this week.

However, unless a new law is brought before Parliament quickly, the VOA will have to do the inspections again – costing a further £50 million.

The cost was recently revealed by the VOA at a select committee hearing.

"Once again, government have allowed this small but crucial piece of legislation to fall by the wayside," BRC property policy adviser Dominic Curran said.

"Retailers across the UK will continue to be overcharged on rates bills based on outdated valuations.

"This problem is compounded by Downwards Transition – a system that will see retailers overcharged £1.3 billion over a five-year period.

"As a consequence, retail makes up five per cent of the economy yet pays 10 per cent of all business taxes and 25 per cent of business rates.

The government must give ratepayers certainty by reintroducing and fast-tracking the Non-Domestic Rating (Lists) Bill in the next session and scrapping the broken system of Downwards Transition."

Robert Hayton, head of UK business rates at the real estate adviser Altus Group, said that much of the retail sector would be "winners" under a 2021 revaluation with rents falling on many high streets.

"What businesses need with their tax affairs is certainty, accuracy and fairness," he said.

He added: “Failing to reintroduce the bill, or not ensuring its swift passage through Parliament, adds uncertainty about when bills will change and to what level.

“Retailers, who are expecting their rates bills to fall in April 2021, will feel particularly let-down.”

Rates bills are calculated based on an estimate of the rental value of each property, but these are only calculated every five years and can lead to inflated taxes being paid – especially on the hardest-hit high streets that have seen rents fall but rates remain the same.

Following the 2021 revaluation, the next one was due to take place in 2024 and three years thereafter – as announced by former Chancellor Philip Hammond at the Spring Statement in 2018.