

# The challenge of transparency

Will proposed changes to the process for challenging rateable value achieve their aims?

In December 2013, the Department for Communities and Local Government (DCLG) published the consultation paper: *Checking and challenging your rateable value*, which proposes changes to the way in which ratepayers may challenge assessments of rateable value.

Currently, ratepayers challenge their rateable value by making a proposal to alter the rating list. This does not need to incorporate much detail as to why they consider the existing rating list entry to be incorrect. If the proposal is not resolved within three months it is automatically transferred to the Valuation Tribunal as an appeal by the ratepayer against the valuation officer's refusal to alter the list.

## What is being proposed?

The consultation paper envisages a three-stage process. The first stage would be an enquiry by a ratepayer regarding a rateable value. In response, the Valuation Office Agency (VOA) would issue a "rateable value information sheet" (RVIS). The details of what would be included in an RVIS are set out in an example attached to the consultation paper, but essentially this would comprise a short explanation of the way in which the value has been derived (for example, a zoning method of valuing a shop), and some anonymous and generic rental information supporting the level of value adopted, along with evidence of other similar assessments. If the ratepayer was satisfied with the information in the RVIS, the matter would rest there.

For ratepayers not satisfied by that information, the second stage of the process would be the opportunity to make a formal proposal to alter the rating list. While this part of the process sounds similar to the existing system, considerably more detail would be required from the ratepayer to support their proposal, including any evidence in support of their challenge. A proposal that did not supply sufficient information would be treated as "invalid" by the VOA, which would have a three-month period in which to determine the validity of any proposal.

If the VOA considered the proposal to be invalid, the ratepayer would have the opportunity to make a further proposal. If considered valid, the VOA would investigate and review the assessment, including undertaking discussions with the ratepayer or their adviser. At the end of that process, the VOA would issue a decision notice setting out whether, in the light of the proposal and discussions, the

## ON RATING

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rateable value was considered to be correct or required alteration.

The third stage of the process envisaged by the consultation document is the appeal. To make an appeal, a ratepayer would have to show: firstly, that they had made a valid proposal to the VOA; secondly, that they had received a decision notice in respect of that proposal (or had not received a decision notice 12 months after making the proposal); and thirdly, that they had met the requirements for information set out by the Valuation Tribunal for England to accept an appeal.

These proposals apply only to England at present. The DCLG proposes that any changes resulting from this consultation should take effect from 1 October 2014 and that proposals made before that date will continue to be treated in line with existing regulations. The consultation closed on 3 March and ratepayers and those involved with rating appeals should watch out for the government's response to consultation comments, which may contain further information as to what is proposed.

## Pros and cons

There are some welcome elements in the proposals. The suggestion that the VOA should respond with greater detail to enquiries about how it arrived at an assessment is positive. However, the proposed response does not go far enough. This is an assessed tax, not a tax of self-assessment, and the VOA has a *prima facie* duty to taxpayers to show properly not only how an assessment has been derived (the valuation) but also why that valuation has been adopted by the VOA (the evidence).

The consultation says that ratepayers make "speculative challenges with little or no explanation of why they think their rateable value is wrong". But it is not their rateable value; it is the VOA's rateable value, which has been derived from evidence held by the VOA, not something that the taxpayer has assessed itself.

The example RVIS in the consultation document is unlikely to satisfy ratepayers in respect of anything more than the most basic assessment, such as a lock-up garage. Taxpayers with bigger liabilities and more complex valuations will not find enough information there to enable them to form a proper opinion as to whether or not their assessment is correct. This means that there are likely to be just as many proposals made as there are at present. In this respect, there is an important difference between anonymised information, to protect the commercial sensitivity of rental and other agreements, and incomplete information, which will simply lead to "enquiries" becoming "proposals".

The idea of separating the proposal stage of the process from the formal appeal stage is also welcome. At present, all proposals automatically become appeals if they are resolved within three months. This leads to a large number "appeals" that may never require hearing by the Valuation Tribunal (*EG*, 30 November 2013, p122).

But there are also some key concerns for ratepayers and their advisers. The rating system needs simplifying, but this consultation proposes a three-stage process (enquiry, proposal and appeal) in place of the present two-stage one (proposal and appeal). Under the proposed process the level of information required to turn an "enquiry" into a "proposal", or a "proposal" into an "appeal", is likely to be more than could reasonably be expected of an unrepresented ratepayer. While larger businesses can afford professional advice to help them overcome these hurdles, smaller ratepayers may not have that luxury. I am sure this is something that organisations representing small businesses have looked at very carefully in their responses to the consultation.

It seems likely that there will be major changes to the system this year. What is proposed, while it has some welcome elements, seems unlikely to achieve the government's stated aim of "improving transparency in the business rates valuation and formal challenge system". Ratepayers and their advisers have an opportunity to help correct this as the process of creating new regulations progresses.

The consultation is available at: <https://www.gov.uk/government/consultations/checking-and-challenging-your-rateable-value>

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