

Our ref: BP/Policy/DCLG Consultations/BRA Interim

Your ref:

HM Treasury
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28 February 2015

Dear Sirs,

Administration of business rates in England: Interim Findings - Response

Thank you for offering the opportunity to respond to the interim findings of this review. This letter is my response to the points raised in the consultation paper.

Blake Penfold is an independent consultancy specialising in business rates advice. I have more than 35 years' experience as a rating consultant in private practice and has been involved with rating appeals in respect of all types of property throughout the United Kingdom and in the Irish Republic, the Channel Islands, and the Isle of Man. As well as appeals before Valuation Tribunals and the Upper Tribunal (Lands Chamber), I have been involved with appeals to the Court of Appeal and House of Lords on matters of rating law. I have also appeared before Local Valuation Appeal Committees in Scotland and as an expert witness in the High Court, at County Court, and in Magistrates' Court proceedings in respect of business rates.

I began my career with H Brian Eve and Company (later Wilks Head & Eve) before joining Hillier Parker (now CBRE) and, most recently, headed the Business Rates team at GL Hearn for ten years. I am a former Chairman of the RICS Rating and Local Taxation Panel and represent RICS on the Valuation Tribunal for England Tribunal User Group and elsewhere, including giving evidence to the Parliamentary Scrutiny Committee on the Business Rates Supplements Bill. I am a past President of the Rating Surveyors' Association and a former member of the Valuation Standards Board of the Royal Institution of Chartered Surveyors.

I have expertise in all aspects of business rates from legislation to liability and all types of property. I also have experience from throughout the United Kingdom and in respect of property tax systems elsewhere.

1) What are your views on the findings and analysis at Annex A on the impact of more frequent revaluations?

I accept that more frequent revaluations would not necessarily reduce the volatility in liability between lists. But it seems to me that the knowledge that assessments more accurately reflect the current market value of a property would outweigh any disadvantage due to volatility. With any revaluation period, its volatility will depend upon how the selected valuation dates coincide with the property cycle and there is therefore no

guarantee that longer or shorter cycles will reduce volatility. As this is the case, the additional transparency that would be afforded by more up to date valuations would be in my view a key benefit.

I am in favour of removing the annual uplift of the multiplier by RPI. The tax level is already notably higher than the equivalent levels in other countries and allowing annual increases unrelated to economic performance is damaging international competitiveness. Allowing the tax yield simply to respond to the aggregate rateable value would provide an additional level of responsiveness to economic circumstances.

2) How do you think more frequent revaluations would affect your business/local authority?

The principal disadvantage of revaluations is that they reduce the predictability of the tax burden to businesses and predictability of the tax yield to billing authorities. However it is clear from the analysis published with the interim findings that volatility is neither specifically increased nor reduced by the revaluation period. As that is the case the advantage to taxpayers of the increased transparency afforded by more regular revaluations is, in my view, is sufficient to outweigh any disadvantages.

3) Running a revaluation presents costs for ratepayers, as well as central and local government. What are your views on how these costs can be managed?

The major burden of cost is in dealing with the revaluation once it has been carried out, rather than in actually carrying out the revaluation. This is true for both ratepayers and government. The focus should therefore be to reduce the cost of dealing with revaluation. Better provision of information to ratepayers as to how their assessment has been derived, and the evidence on which it is based, should (assuming the assessments are defensible) reduce the number of appeals and thereby reduce the cost of the revaluation to both ratepayers and central and local government.

4) What are your views on how the gap between the valuation date and the date on which the rating list starts could be reduced, while still ensuring the accuracy of the rating list?

Reducing the period between the antecedent valuation date (AVD) and the List compilation date would be beneficial as it would ensure that the revaluation was more closely aligned to current market values. Whilst some rental information is only available at a later date, letting transactions are primary evidence and these are available immediately. Most property valuations are carried out without any AVD. I consider that a 12 month AVD should be sufficient where information is collected efficiently by electronic means, rather than by a paper based system as at present.

5) If the government made it easier for ratepayers to check or seek changes to a property's rateable value through informal routes, would this be likely to reduce the number of formal challenges?

Yes, I believe this would be the case. Business rates is an assessed tax (as opposed to a self-assessed one) and it is incumbent on the assessing authority to provide proper explanation, including supporting data, to the taxpayer as to how their assessment has been arrived at. If this were done and could be investigated informally there would be less need for taxpayers to make formal challenges.

6) If the government asked for more information from ratepayers or levied a charge as part of the formal appeal process would this lead to a more efficient system?

In the circumstances of an assessed tax this does not necessarily seem an appropriate starting point. Only if full information were supplied to taxpayers to support the assessment would it be appropriate to seek further information from taxpayers as part of any formal appeal process.

The idea of charge as part of the appeal process would in my view be likely to lead to a less efficient system. Judicial regimes where costs orders are applied almost invariably involve costs disputes in addition to disputes over substantive matters. The business rates system needs a clear explanation of how assessments are derived and the information on which they are based to reduce the number of formal appeals. Adding in disputes on costs offers no advance in dealing with the substantive matter (what should the assessment be?) and merely adds a further layer of potential dispute to an already over-complicated system.

7) What impact do you think the ideas in this paper could have as a whole on the approach to challenging and appealing rateable values?

At present an appeal automatically passes to the Valuation Tribunal after three months, yet virtually no challenges are resolved within that period, and this is a very inefficient way of dealing with challenges. I suggest that challenges should only be referred to the Valuation Tribunal as formal appeals on the written request of one or both of the parties. This would encourage the parties to consider whether a dispute is actually likely to require a hearing, before it could be referred to the Valuation Tribunal as an appeal.

I consider that the current system has been hindered by the lack of disclosure by the Valuation Office Agency (VOA) principally as a result of reliance on an alleged interpretation of the Commissioners for Revenues and Customs Act 2005. Ratepayers have provided legal opinion suggesting that this provision does not apply in the way suggested by the VOA, who has not been willing to provide any equivalent legal opinion in return. This is symptomatic of the current deadlock in the system. The proposals in the paper are, in my view, overcomplicated. It should be sufficient simply to ensure proper disclosure of evidence to taxpayers and to end the automatic transference of all challenges as appeals.

8) What are your views on box 3.B in chapter 3 which sets out what a new system for challenging and appealing rateable values could look like?

The proposals in the paper are, in my view, overcomplicated. It should be sufficient simply to ensure proper disclosure of evidence to taxpayers and to end the automatic transference of all challenges as appeals.

9) Do you have examples of best practice ways to gather and share taxpayers' property data that you would like the government's information sharing forum to consider?

Please see my response to Question 10 below.

10) What is your view on the suggestion that ratepayers should be required by law to provide information about their property?

This seems a lazy and inefficient suggestion. It imposes a serious additional burden on ratepayers who are already under significant obligations to provide information about their properties through the planning, building control, environmental health, licencing and other regimes operated by central and local government. There are other sources of information, such as fire certification, which require information from occupiers. None of this information is used effectively, if at all, in dealing with rating assessments. In my view there should be no additional requirement imposed on ratepayers until it can be shown that existing information supplied by ratepayers is being used effectively, and is in some way deficient.

11) What are the practical steps government could take to make it easier to access information and how would you use that information?

Clarification, and if necessary reform, of the Commissioners of Revenues and Customs Act 2005 would be a useful first step.

12) Do you have further suggestions to add to the ideas listed in this paper which you think the government's new billing and collection forum should consider?

A move to electronic billing seems essential to improve efficiency. This needs to recognise that it must be a single, coherent, nationwide system that is capable of adoption by all billing authorities and by all ratepayers. Such a system must also be capable of simple integration with business rates systems administered by the devolved administrations in Wales, Scotland and Northern Ireland in order to offer best value to taxpayers.

13) What do you see as the main costs and benefits to your business/local authority of a more digital billing and collection system?

Experience of installing digital systems for dealing with business rates suggests that the costs are likely to be by way of substantial initial expenditure of time and money on proper, integrated, software development. Without this no real savings will be made. If a properly developed integrated system can be produced that is capable of adoption by all billing authorities and by all ratepayers then experience suggests that significant savings can be made by all stakeholders.

14) What are your views on the key issues with billing that best practice guidance for standard and clear bills should address?

Best practice guidance should focus on clear, complete, and timely provision of information to ratepayers in a format that will set out properly and fully the calculation of liability. It should also allow for future electronic billing in a standard and agreed format to a single national protocol that can also include the devolved administrations in Wales, Scotland and Northern Ireland.

I confirm that I have no objection to this consultation response being made public. I am happy to amplify or explain anything contained in this response.

Yours faithfully



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