

The big rating April fool

New regulations mean ratepayers should get in quick with rating proposals

Regulations, known as the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations SI 2015 No 424, have been laid before parliament. The effect of the regulations, which will come into force on 28 March 2015, will be to apply significant limits to the backdated effect of business rates proposals (often referred to as “appeals”) made on or after 1 April 2015. This change will apply in England only; different rules apply in Wales, Scotland and Northern Ireland. For most proposals made on or after this date the earliest date that the proposal could have effect is 1 April 2015, as opposed to the earliest date for proposals made before 1 April 2015, which is 1 April 2010.

The text is difficult to understand because it makes a series of amendments to the existing appeal regulations and has to be read with them. The regulations do not change the right to make proposals against rating assessments, they simply alter the extent to which a proposal can be backdated in its effect, depending on the date it is made.

How they work

Proposals made before 1 April 2015 are capable of backdating to 1 April 2010, or the date of the event giving rise to the proposal if it is after 1 April 2010. But, subject to two important exceptions, proposals made on or after

ON RATING

Blake Penfold



Where the VO alters the rating list from 1 April 2016 onwards, the earliest backdated effect for such an alteration will be 1 April 2015, even if the event giving rise to the alteration occurred before that date.

Act now

The first and most important action for ratepayers and their advisers is to review all rating assessments in England and, if it is felt that a proposal is necessary, to make it before 1 April 2015. The new regulations make clear that the date on which a proposal is made is the day on which it is served on the VO, so any proposals need to arrive before 1 April 2015. It would not be wise simply to make proposals against all rating assessments because the VO's power to make backdated alterations will, in certain circumstances, continue until 1 April 2016.

Any proposals need to be received by the valuation officer before 1 April 2015

1 April 2015 will only be able to backdate to that date, even if the event which gave rise to the proposal occurred before then. The exceptions will be proposals made against alterations to the rating list made by the valuation officer (VO), provided that those proposals are made within six months of the date of the VO's alteration; and proposals made by reference to a relevant court or tribunal decision, provided those proposals refer to a decision made before 1 April 2015 and are made within six months.

The new regulations will also introduce limits on the backdated effect of rating list alterations made by the VO. Before 1 April 2016 the VO will be able to make rating list alterations that can have retrospective effect from 1 April 2010, or from the date of the event giving rise to the alteration if it is after 1 April 2010.

Where proposals are made, it will be important to check that they are acknowledged as validly made and to respond promptly to any invalidity notices issued by the VO. This is because, where an invalidity notice is served in respect of a proposal, that proposal can be reissued and the reissued proposal will be treated as being served on the date the original proposal was made. This could be very important in the period immediately after 1 April 2015.

Where notices of alteration are received from the VO after 1 April 2015 it will be important to review these notices and, where necessary, make any proposal against them within six months in order to ensure that proposal can have backdated effect. As we get closer to 1 April 2016 it will be important to review all circumstances where ratepayers may wish the VO to take action to alter

the rating list with backdated effect and to ensure that any such action is taken before that date.

For the time being, any financial accruals held against circumstances where the VO might alter the rating list with backdated effect should be retained. It may be possible to release such accruals after 1 April 2016.

Proposals proliferate

These are significant changes and it is not entirely clear why they are being made now. The suggestion from the Department for Communities and Local Government (DCLG) is that the regulations merely replicate what would have happened had the rating list ended on 1 April 2015, as it was due to do. However, the rating list is not ending then, because the government postponed the revaluation that was due to take effect on that date. The regulations also change the position for proposals made by reference to a court or tribunal decision from what would have happened had the rating list ended, so the DCLG's suggested reasons do not really bear scrutiny.

What does seem likely is that these changes will lead to a flood of proposals during March 2015. There were fewer than 10,000 proposals made in March 2014. It seems likely that the number made in March 2015 will be at least six times that figure. Such a deluge will not

be welcome at a time when the Valuation Office Agency (VOA) and valuation tribunals are doing their best to meet the target set by the chancellor in the Autumn Statement 2013 that 95% of rating appeals then outstanding would be resolved by the end of July 2015, and at a time when the VOA is embarking on work for the 2017 revaluation. But the important thing for ratepayers and their advisers will be to have reviewed all assessments and, where necessary, to have made proposals before April Fools' Day 2015.

The text of the regulations is available at www.legislation.gov.uk/uksi/2015/424/contents/made

Blake Penfold is a business rates consultant at GL Hearn and at blakepenfold.com