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rating news

THE 2007 BUDGET

21 March 2007

A number of important changes to the non-domestic rating system were announced in the Budget generally with reference to the recommendations in The Lyons Inquiry Report. The key changes are as follows:

REDUCED DURATION OF RATES RELIEF FOR EMPTY PROPERTY

The Government announces its intention to limit the duration of unoccupied property relief. Currently most property is 100% exempt from rates for the first three months from the date it becomes empty with 50% rates payable thereafter until re-occupied. Certain properties, notably industrial, warehouse and storage properties and listed buildings remain 100% exempt from rates until they become occupied again.

The Government is to reduce the duration of the existing empty property relief to three months for most properties, and six months for industrial and warehouse properties only. Complete exemption from rates will be given to empty properties held by charities.

This change is to have effect from 1 April 2008. The measure will only apply to England and Wales unless The Scottish Executive decides to reflect the change in Scotland. In Northern Ireland empty property rates legislation similar to that currently in operation in England and Wales was introduced on 1 April 2004 and an announcement on whether this will also change is awaited.

This will have a significant effect on those companies, for example development and investment companies, which hold a high proportion of empty properties. The effect on the retail sector could also be highly significant. The current aggregate RV of retail property is over £38 billion. Latest estimates suggest that approximately 7% of stock is vacant. If vacant space is spread evenly across all sizes of property then it could represent an aggregate RV of vacant retail property in excess of £2.5 billion. On this amount of RV the difference between full rates and the current empty rates (50%) would be more than £0.5 billion per annum.

The will also be a substantial effect on the Industrial and Distribution sector. Whilst the aggregate rateable value for these sectors is significantly lower at approximately £12 billion, there are higher vacancy rates in these sectors and the loss of relief will represent the difference between a zero liability, as at present, and 100% liability from 1st April 2008.

The government argues that this measure will enhance the supply of commercial property, reducing rents and improving access for new and existing firms. However, we have serious reservations about this assertion, having seen empty rating surcharges fail before.

REVIEW OF OTHER RELIEFS AND EXEMPTIONS FROM BUSINESS RATES

The Lyons Inquiry recommends that the other relief and exemptions in business rates be subject to review, and the Government accepts this recommendation - with the exception of the relief for charities, which is to remain in its current form. The Government is to consider the merits of extending rates to include derelict and vacant previously developed land, and assess other reliefs and exemptions in business rates.

RETENTION OF THE UNIFORM BUSINESS RATE (UBR)

The Government agrees with the conclusion of the Lyons Inquiry that the UBR and the annual RPI cap on increases in the UBR should be retained, and that it is not appropriate to return business rates to local control (local poundages last operated in England and Wales in 1989/90).

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LOCAL SUPPLEMENTARY RATES

The Lyons Inquiry proposes local supplements on business rates in order to promote the role of Local Authorities in boosting economic growth and to create communities with sustainable environments for business growth, The Government agrees that a local supplement has the potential to support local economic development, but would need to be subject to credible accountability to ratepayers and real protection for any businesses that might be disproportionately affected. The Government is to consider what the best options might be and consult with business, local government and other stakeholders.

COUNCIL TAX REFORM

The Lyons Inquiry concludes that council tax should be retained as part of the local government finance system but that there remain a number of problems with it, including strong public feelings of its perceived unfairness, and the fact that it has to be raised every year to increase revenue, having no automatic link to increased prosperity.

The Government agrees with this analysis and to seek to ensure that Council Tax payers get a "fair deal" is to:

- continue to use capping powers each year to ensure that council tax rises are affordable.
- not to revalue council tax for the lifetime of this Parliament to avoid the disruption to individuals and families that such change might cause. In the absence of revaluation it is not feasible to change the council tax banding structure
- consider the analysis in the Lyons Inquiry Report on other potential financing options for the medium to long term.
- the Government agrees with the Lyons Inquiry that local councils can do much more to encourage the take up of council tax benefit (CTB) and will work with the Local Government Association to improve the performance of all local councils in this respect.

The Lyons Inquiry Report

On the same day as the Budget, 21 March 2007, Sir Michael Lyons published the much anticipated final report from his independent Inquiry into the future role, function and funding of local government - *Place-shaping: a shared ambition for the future of local government.* The 2007 Budget referred to some of the Reports recommendations with regard to the future of Business Rates and Council Tax and these have been referred to above.

A summary of the main conclusions of The Lyons Inquiry Report are in a Rating Briefing Paper issued separately.

Payment of Empty Rates by Companies in Administration - Trident Fashions PLC Case

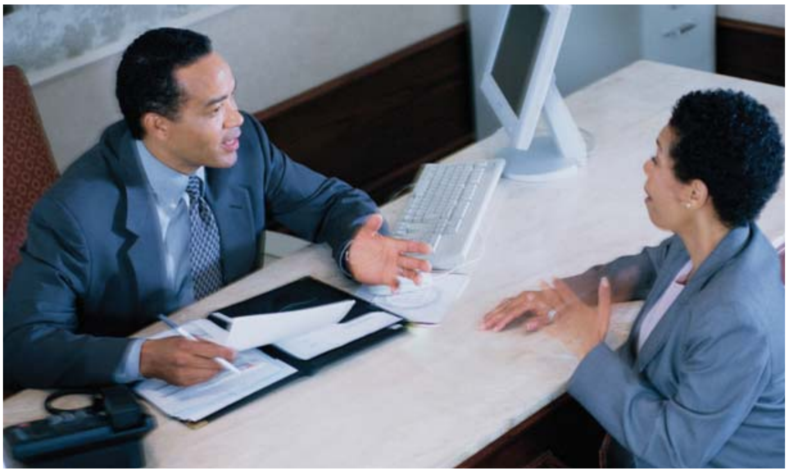
Exeter City Council v Bairstow, Martin and Trident Fashions plc (2007) EWHC is an important case regarding payment of rates by companies in administration. This is the first case on liability for rates following changes to the insolvency laws in 2002. The case decides that administrators will be liable to pay occupied rates in respect of properties occupied and trading in administration, which is the law as we understood it to be under the old insolvency procedures. However, the case also decided that administrators will be liable to pay empty rates in respect of properties where leases are held by the company in administration. This is in contrast to the position under the old insolvency procedures whereby liquidators and the like were exempt from empty rate liability. We are concerned that this change may force into liquidation (which is exempt from empty rate liability) companies that might previously have been rescued by administration.

The 2005 Revaluation - an Update

There have been significantly fewer appeals made against the 2005 Rating Lists compared with the 2000 Rating List. At 30 September 2006 the Valuation Office Agency (VOA) reported that 353,000 appeals had been received in England and Wales compared with 850,000 at 30 September 2001. Of the appeals received 144,000 (41%) had been settled compared with 19% under the 2000 List and around 38,000 (26%) has resulted in reductions in Rateable Value.

There are a number of reasons for the fewer number of appeals. The VOA's "Right First Time" initiative has in fact resulted in many under-valuations; the removal of time limits for the submission of appeals has encouraged some to delay making appeals; and the requirement to state the rent for an appeal to be valid has dissuaded some from appealing.

The VOA significantly underestimated the number of appeals it would receive and therefore the number it advised the government that it would settle. As a consequence it has used the programming system (England & Wales) to target most of the appeals it has received for immediate discussion. This has put serious pressure on the VOA and ratepayer appellants, and also the Valuation Tribunal Service (VTS) in attempting to process and clear the huge numbers of appeals. Many of the self imposed VOA rules, for example of stopping discussions beyond its Target Date for each appeal, have had to be abandoned by local VO offices as unworkable.



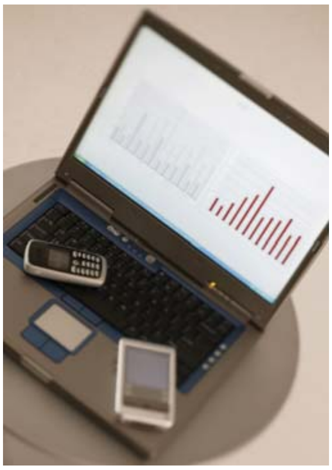
Programming was designed to promote the orderly processing of rating appeals within realistic time frames and we supported it. The use of programming to seek rapid settlement of very large numbers of appeals to enable the VOA to try and satisfy an unrealistic commitment to government has brought the process into disrepute. The RICS Rating Panel and other representative bodies have highlighted this very unsatisfactory situation through representations to the VOA and government and we are seeking to rectify the present position.

The Uniform Business Rate (UBR) and Transitional Limits for 2007/08

The UBR for England and Scotland for 2007/08 is 44.1p. The Small Business Relief UBR Supplement is 0.3p giving a total UBR of 44.4p for medium and large businesses. The City of London UBR supplement is 0.3p. In Wales the 2007/08 UBR is 44.8p. Full details of the UBR and Transitional Limits for the 2005/06 to 2009/10 period are on the attached document.

Interest Rate on Refunds of Overpaid Rates for 2007/08

Interest is payable on refunds of overpaid rates which arise from alterations to the rating list. The regulations specify that the rate should be set at 1% below the standard interest rate at 15 March in the preceding year. As the standard rate of interest on 15 March 2007 was 5.25%, the rate of interest to be applied for 2007/08 is 4.25%.



Managing Rate Demands and Refunds

2007/08 Rate Demands are now arriving in large numbers and for companies occupying a significant number of properties, the sheer administrative burden of handling these and ensuring systems are set to pay the correct instalment amount at the optimum time is a significant burden. Managing refunds and empty rates adds to the complexity. We have a rate payment and refund management team which manages rates and rate payments for a number of large client organisations. If you would like more information on this service please contact Jayne McCarthy or Janice Tobin on 020 7851 4987/4986 or your regular GL Hearn contact.

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