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Business rates: delivering more frequent revaluations

One of the Government's aims during its review of business rates administration was to create a more responsive system and in view of that aim more frequent revaluations are a key component. The Government's business rates announcement in March which included CPI-linked indexation beginning in 2020, removing independent qualifying small businesses and expanding the small business national multiplier are welcomed, however, business rates which are the highest in Europe and the OECD will continue increasing and harm business investment.

In 1990 the business rates multiplier was approximately a third of annual rental value, whereas, today it is nearly half of rateable value (RV) and expected to increase further following the 2017 revaluation. When compared to Corporation Tax and other business taxes it is excessive with particular harm to property intensive industries such as retail. As we have pointed out time and again retailers pay a disproportionate amount of business rates (nearly one-quarter of all tax receipts) despite low margins and a number of transformational challenges underway.

The business rates burden for retailers will be £600m higher by 2020 than in 2017. In addition, retail is undergoing an overall increase in centrally driven costs from policies such as the National Living Wage (£1.5/3bn per year) and the Apprenticeship Levy (£140m for first year). Waiting to slow the growing burden for some ratepayers until 2020 is too late and is further reason for more frequent revaluations to be implemented as soon as possible.

We are committed to work with Government to enable more frequent revaluations every three years, which we suggest should commence from 2020. The benefits of doing so are to make the system fairer and more reflective of economic conditions.

We do not think it is feasible to implement a self-assessment or formula-based approach of assessments for the following reasons:

- Self-assessments are unfair given the fixed tax yield and nature of valuations. If a property is undervalued other properties must make up the difference leading to an unfair competitive advantage.
- Property valuations are very different from other forms of tax accounting where self-assessments have been implemented because it requires knowledge of the value of neighbouring and comparable properties which is not readily available.
- Formulas are inherently unfair and inconsistent with the benefits of more frequent revaluations. Higher value properties should pay a proportionate share of business rates.

Instead we are willing to work with the Government to ensure the VOA has the resources and information it needs to produce fair and accurate valuations under the current bespoke valuation system and to reduce the number of appeals. Appeals are not desirable for businesses. We would like to avoid costly appeals as much as the VOA and local government, but they have become necessary because of inaccurate valuations and lack of transparency.

The solution is a closer working relationship between the VOA and ratepayers, adequate resources devoted to the VOA and a responsibility for ratepayers and the VOA to share information with one another early within the valuation process. Adequate resources should include the latest use of technology, expertise and skills. It also requires a culture change within the VOA. The role of the VOA is to fairly and accurately assess hereditaments. We believe it is most prudent to improve the VOA, not to completely change its role and function to a policing entity.

We are not aware of any country implementing self-assessments for local property taxation given the complexity, inefficiency, inconsistency and uncertainty involved. We are however aware of many international examples where more frequent revaluations have led to far fewer appeals i.e. Hong Kong, the Netherlands, Australia and British Columbia, Canada. In the Netherlands after they transitioned from valuations on a five-year basis to annually they were able to reduce the number of appeals by 80 per cent and reduce the costs of administration.

More frequent revaluations reduce the potential benefit of appealing because potential savings for ratepayers would logically be reduced. Accurate assessments would also reduce the need to appeal and is why we are supportive of assisting the VOA to publish accurate rating lists from the start. There is a strong case that by more frequently assessing properties the rating lists would naturally become more accurate, thus reducing appeals. Currently VOA resources are devoted to updating out-of-date lists instead of producing accurate lists more frequently.

There is a fundamental misunderstanding that businesses want to make appeals. This cannot be further from reality. Appeals are costly and add uncertainty. In fact, because of the uncertainty caused by appeals retail Chief Financial Officers actively discourage their property teams from making appeals which do not have a very high chance of being overturned. The retail industry strongly desires more frequent and accurate valuations which would reduce the need to appeal. The only way to feasibly introduce fair and accurate assessments is for the VOA to be strengthened, not dismantled.

There is a strong case for increasing the frequency of rating valuations, coupled with a shorter period between the antecedent date and the implementation of the new rating list. More frequent revaluations would mean each property paid a bill proportionately as close to actual rental value as is possible – whereas in the present system rateable values are seven years out of date. This would make the tax responsive to the actual state of the property market and have economic advantages by reducing the burden of taxation on businesses in economic downturns and encourage investment in depressed areas.

Introducing more frequent revaluations and removing the smallest hereditaments will reduce the likelihood to appeal, therefore, freeing up resources at the VOA enabling it to assess properties more efficiently and accurately, and result in fewer appeals. Referring to the key principles the BRC identified last year for fundamental business rates reform the proposed self-assessments are neither fair, or simple to administer and formula-based valuations similarly are not fair or simple to administer.

Retailers are not encouraged to conduct self-assessments as this could lead to an even more complicated appeals process. What benefit would there be if assessments, which are ultimately evidenced opinion, were retroactively challenged by the VOA? Self-assessments would create more complexity and uncertainty, not less. It also imposes additional up-front costs on retailers who would have to pay a surveyor to prepare valuations.

Formula-based valuations would reduce the accuracy of property assessments. We support the removal of machinery from inclusion in the rateable value assessment i.e. air conditioning units to encourage investment in property, however, properties with higher annual rental values should pay more in business rates. It would be fundamentally unfair to tax unequal properties the same amount as would be the case if they are defined by a particular formula. Similarly, it is unfair to tax different shops of the same size, but very different locations and rental value within the same local authority equal amounts.

More frequent revaluations would also have an overall positive impact by decreasing the value shifts and reducing the number of appeals as the incentive to do so will be greatly reduced as costs will outweigh savings. More frequent revaluations should ensure that each property pays a fair share of the rates burden relative to all other properties and greatly enhances transparency as the tax levied is based upon recent market valuations.

When changes in the property market mean that the valuations do not reflect the situation on the ground the distribution of the tax becomes unfair. This dilemma can be minimised by more frequent revaluations, and once local government has full retention of business rates they will have more control over local finances. The BRC is also receptive to enabling local government to have further fiscal powers such as stamp duty retention and council tax banding to help manage local finances. The impact of business rates on high streets is detrimental because the only way for ratepayers to reduce their rates burden is to close premises leading to high vacancy rates. Therefore, government cannot continue to depend solely upon business rates revenue which disproportionately impacts property intensive uses such as retail.

More frequent revaluations under the current system

We acknowledge the Government's desire to implement a system that provides a stable business rates base, is affordable to administer, fair between ratepayers and fiscally neutral. Amending the current valuation process is the preferred option given self-assessments and formula-based valuations will be difficult to administer, costly to transition to and unfair to ratepayers.

By sharing rental evidence upfront with ratepayers, removing 600,000 qualifying small properties from the system and strengthening the current system the VOA will be in a far stronger position to implement revaluations every three years. We believe given the changes already underway and commitment by the private-sector to improve VOA valuations there is no reason the VOA cannot carry out impartial, bespoke assessments taking into account the individual features of non-domestic properties.

Regardless of who is responsible for valuing properties the VOA or some other body would need to collect significant amounts of data relating to properties, rents and occupation across England to ensure adequate checks are in place to ensure fairness. As has been stated within the discussion paper property valuations are estimates based on making an informed judgement about the specific value of a given property.

Ratepayers currently have a responsibility to provide information and this should continue and potentially be strengthened. Government could potentially remove the need for valuing properties by implementing a formula approach, but this is inherently unfair. More valuable properties should be responsible for a higher proportion of tax, therefore, it is necessary to take account of the individual characteristics of a property.

Particular stages of the valuation process where reforms would be needed to deliver more frequent valuations

The BRC has consistently supported the principle that evidence and information available to the VOA should be shared with ratepayers upfront as part of the Check Challenge and Appeal (CCA) reforms. The details of how the sharing of evidence could be implemented while ensuring sensitive commercial data is not needlessly distributed needs to be considered. We believe the VOA should share with ratepayers the underlying rental evidence used to value their properties, in advance of any challenge, then businesses would be able to audit their assessments and would be more likely to accept the valuations at check stage if they could see they are supported by the evidence.

For full benefit to be derived from three-yearly revaluations, the time between the Antecedent Valuation Date (AVD) and implementation date should be reduced from two years to one year. With the use of modern-day technology such as Computer Assisted Mass Appraisal (CAMA) and efficiencies this is achievable as demonstrated elsewhere in the world. We note that the VOA deposited draft 2017 RVs to the VOA at the end of May 2016, only 14 months after the AVD.

The effect of more frequent revaluations on appeals

More frequent assessments would offer a more accurate snapshot of a property's value and lead to a fairer system. In addition, the number of appeals would be reduced as the need and incentive to appeal would be reduced. The incentive to appeal is massively reduced by default, as any saving achieved would only be for three years in a three-yearly revaluation system (compared to the five/seven-year benefit in the current system). Hong Kong, the Netherlands and British Columbia, Canada carry out annual valuations and have far fewer appeals than England.

The increase risk of appeals and how could this be avoided or managed

More accurate and timely valuations, supported by transparency of rental evidence, will reduce the need to appeal. By improving the process and resources sitting behind VOA valuations resulting in more accurate valuations you reduce the number of appeals. Also the Government's plans for CCA already address these concerns to some extent. We support the Government's efforts to promote early engagement by all parties at all stages so that cases are resolved as soon as possible and appeals are avoided.

Ratepayers appeal when they have reason to believe their property assessment is inaccurate or where there has been no explanation of the evidence supporting the valuation. Many appeals would be avoided if the VOA more freely shared evidence with ratepayers at the earliest stages indicating why a particular valuation was reached. Currently this information is only released in the late stages of an appeal. The VOA should be required to provide more extensive evidence about the basis for the ratings assessment upfront, in order to allow a ratepayer to audit their rateable value. Business rates are the only national tax in respect of which the taxpayer is not in possession of the relevant data, which forms the basis of the tax assessment and liability.

Accessing the skills to deliver more frequent revaluations

By removing the need to appeal the smallest qualifying hereditaments (600,000 in total) VOA resources will be freed, enabling improvements to the valuation process. Further resources would become available if all hereditaments below the threshold (regardless of whether they are independent) were removed because occupation will dictate whether that particular hereditament is responsible for paying business rates. More frequent revaluations, regardless of who leads them, will require a different way of working including potentially more qualified surveyors, skilled employees and better use of technology. It is noted, however, that the cost of running the VOA is extremely modest by comparison with the total yield from business rates.

The Government's consultation acknowledges the difficulty in recruiting chartered surveyors at the VOA, which may demonstrate the need for culture change within the agency. We are certain Britain has the ability to meet any skills shortages with the help of the Royal Institution of Chartered Surveyors (RICS) and others. Creating a less robust formula-based system is not the logical solution, whereas, self-assessments would require the same expertise to be provided privately.

How the delivery of rating valuations could be reformed to support more frequent revaluations

The VOA already collects information between revaluations and with the better use of modern technology could do so far more effectively. The process described in the consultation of maintaining multiple lists helps illustrate the inefficiencies of infrequent revaluations. It is true that information that becomes available for a draft list may result in a change to valuations in the previous list. This is why more frequent revaluations will be more accurate and reduce the incentive to appeal, thus freeing up resources at the VOA to undertake more frequent revaluations. Implementing more frequent revaluations will reduce appeals and ultimately lead to cost savings.

Collection and analysis of information to support more frequent revaluations, including the role of ratepayers

We could potentially support leases being deposited with the VOA upon occupation to provide them with accurate base data, although this will increase the workload of the VOA if they are to collate the information from individual leases. Ratepayers are already responsible for providing information to the VOA to enable both parties to work more constructively with one another. There should also be better coordination between local government and the VOA, as information in relation to building control, etc. is already readily available to local government and should be shared with the VOA when appropriate.

A self-assessment option

The potential compliance regime under self-assessment

Assessing property requires expert skills, robust evidence and training. Ratepayers are not in a strong position to assess properties. Self-assessment would continue to require significant resource from the VOA despite the possibility of its role fundamentally changing from assessing to policing.

Ratepayers have a responsibility for providing factual information, but beyond that should not be responsible for assessing the value of their own properties. To do so increases complexity and uncertainty for all parties – likely leading to compliance challenges led by the VOA. A penalty scheme for self-assessments would be difficult to implement as surely a fine would be inappropriate where there was a genuine attempt to supply a fair and supportable valuation even if ultimately found to be inaccurate. Would there be a negotiation process if the VOA arrived to a different assessment? Also, would ratepayers, advisers or both parties be penalised if it were determined an assessment was inaccurate based on VOA data? And lastly, who would decide and what would be the process?

The publishing of rental information by the VOA to assist ratepayers when they self-assess

By sharing rental evidence upfront with ratepayers you could reduce appeals under the current system – there is no need to move to a self-assessment system. Transparency, openness and dialogue between the VOA and ratepayer is critical to reducing appeals. We support information being more freely available, but there will always be certain limitations as to what can/will be made available to the public, therefore, the VOA as an independent body will always be in a stronger position to objectively assess properties.

It would be difficult for ratepayers and their representatives to produce their own property valuations without rental information being disclosed by the VOA. VOA rental evidence is crucial which is why it is important that information is shared upfront. Any property valuations produced by ratepayers would need to be audited as well, which would require the VOA to refer to its own evidence. This method appears no more efficient than the current system.

Unless there is a public and complete Lease Register with floor areas, services, length of terms, etc. the VOA will always possess more evidence than the ratepayers which increases the risk of challenge to self-assessed rateable values. A Lease Register providing more transparency and facilitating engagement with the VOA could potentially have the effect of making valuations more accurate and limiting the number of appeals. However, how such a register could be implemented while protecting commercially sensitive information would need to be resolved.

The publication of rateable values of all properties under a self-assessment system

We do not consider the self-assessment option to be viable. To publish self-assessed RVs may result in requests being made to the VOA to reduce one's own self-assessed RV or to increase the self-assessments of others leading to a further stretch to VOA resources, together with further uncertainty.

The role for ratepayers

The responsibility of ratepayers should continue providing the VOA with facts and characteristics of the property for the VOA to independently assess. Some ratepayers have the ability to employ surveyors and advisers if they have reason to believe the VOA assessment is inaccurate, but valuations are an educated and informed expert opinion which will vary, therefore, assessing properties should not be the responsibility of ratepayers. Additionally, it is likely that in employing surveyors/advisers to provide a self-assessment will deplete further the number of qualified personnel employed by the VOA, as demand increases to support ratepayers in producing self-assessment figures.

Few ratepayers undertake their own valuations. Those most likely to do so would be institutional landlords who undertake valuations of the investment worth of their property/portfolio and not valuations for annual rental purposes. If a retailer does undertake an asset valuation, it will either be for sale or to understand the value of the lease i.e. the amount he would receive or pay if disposing of the leasehold interest. This is not the same as an annual rental valuation on the basis of the rating assumptions. This is the case for a number of reasons including the vast majority of retailers do not own their properties and a comprehensive valuation exercise would be very costly.

Specific issues relating to smaller businesses or other ratepayers for whom self-assessment could be particularly challenging

The benefits of moving to self-assessment do not solve any problems and instead pose new challenges all while we seek to improve the current system. Self-assessment would prove to be difficult, and potentially rife with problems, irrespective of whether the business is large or small. Challenges would still be lodged, though in reverse, the VOA and/or local government(s) would likely challenge the assessments undertaken by the ratepayer raising the question of what would realistically be achieved.

As has been stated previously, ratepayers do not undertake a comprehensive valuation exercise. Some larger businesses may have a limited process in place to understand the value of their properties, but smaller businesses are even less likely to have such a process in place. Self-assessments, in addition to the complications created as outlined, would be an additional business cost all while retailers face serious transformational challenges. It would be illogical to require the 600,000 small businesses exempt from rates liability to pay a surveyor to prepare a valuation purely to prove that they should not be paying rates because their RV was below the relevant threshold.

Material Change of Circumstances (MCCs) make up a significant number of appeals raising questions as to how they would be managed under a self-assessment system. The usual process is to serve an appeal to then be put into the holding programme, and then to discuss and provide evidence of a fall in trade with the Valuation Officer.

A formula option to preparing valuations

The associated move away from a link to market values

The purpose of more frequent revaluations is to be more accurately aligned with market values so that the tax is as fair as possible. If there is a drive to remove a link to market values – which we would strongly oppose – why implement more frequent revaluations? There would be little gained in having more frequent revaluations when rates are not aligned to market values. The consultation paper acknowledges such a system would result in less of an impact on rates bills and less meaning for ratepayers adding to ratepayers' views the tax is fundamentally unfair.

We note that, at paragraph 1.12 of the Interim Findings of the Business Rates Administration Review, published in December 2014, HM Treasury and DCLG commented as follows:

"Ratepayers have sent a clear message to the government that they support an individualised approach to valuation. They want to continue receiving an individual valuation for their property, on which their business rates bill is based. Ratepayers would not support a move away from this towards more 'broad brush' approaches such as those considered in the discussion document (e.g. 'banding' or 'zoning'). Therefore, the government confirms it has no immediate plans to change the current individualised approach to valuation."

The classes of property that would be suitable for a formula approach

It is difficult to identify a particular class of property which would benefit from a formula approach.

Potentially those small businesses that qualify for the permanent extension of Small Business Rates Relief (SBRR) could participate in a self-certification process to register if/when they approach the £12,000 - £15,000 RV tapered relief threshold, albeit as mentioned previously there would be a cost to them to commission a valuation for this purpose. The extension of SBRR presents the VOA the opportunity to use their resources more effectively. To identify further resource savings this could be expanded to <u>all</u> properties below £12k in RV because the current occupier will dictate whether business rates by a particular hereditament are due. Occupation from a small independent to a multiple is possible between valuation dates, or vice versa, so it would therefore be sensible to have the same policy in place regardless of occupier – to unlock VOA resources to focus on valuing properties paying the vast majority of rates.

The factors that would need to be included in the formula beyond class of the property, size of the property and location

Valuations include a wide-range of important factors. Once you begin adding other factors to a formula-based approach it begins to mimic the current valuation process. It would be possible to add more property specific characteristics into a formula, but that would increase complexity and reduce the desired resulting simplification.

The balance of efficiency, simplicity and certainty that a formula approach would provide against any desire to retain valuations that take greater account of the individual characteristics of properties

We can understand why a formula approach may be attractive i.e. efficiency. However, as explained above it will not lead to simplicity if multiple factors are considered to try and make the formula fair. Also because business rates are based on a fixed yield there will never be certainty of a rates bill under the current system. The value of a property can reduce, but that property's business rates liability may increase following a revaluation. Formula-based valuations are not fair, flexible enough to respond to economic conditions or simple to administer.

The implications for businesses of different sizes

A formula approach would mean that lower value properties would be paying more than their fair share of business rates. A formula approach would be unfair for businesses because it would not be aligned to the value of their properties.

Conclusion

The BRC supports more frequent revaluations, on a three-yearly basis, understanding this will reduce the need and incentive to appeal valuations. More frequent revaluations make the system fairer and more reflective of economic conditions. Straight forward steps such as shortening the time between the antecedent date and implementation date would also more accurately reflect property values. The most effective way of reducing the number of appeals is to have more frequent and accurate valuations every three years alongside reducing the highest commercial property tax in Europe and the OECD. We should wait to see what the outcome of CCA reforms are before fundamentally changing the valuation system.

The fact the Government has permanently removed 600,000 qualifying properties from the system should free available VOA resources helping to enable the implementation of more frequent revaluations. SBRR qualifying businesses could simplify the process further by taking part in a self-certification process as they approach the £12,000 - £15,000 RV tapered relief threshold. We suggest going further by extending relief to all hereditaments below the threshold regardless of occupier to avoid unnecessary work when occupation changes hands between valuations.

We do not see the benefit of moving toward self-assessments or formula-based valuations. In fact, we believe the two options are not fair, simple to administer or flexible enough to respond to economic conditions. Instead, the method in which the VOA operates should be strengthened through the better use of technology and early engagement with ratepayers. A strengthened VOA which retailers are committed to help achieve would lead to a better working relationship, more accurate assessments and a reduction in appeals.

About the BRC

Retail is an exciting, diverse and dynamic industry undergoing transformational change. The BRC is at the forefront – enhancing, assisting, informing and shaping. Our mission is to make a positive difference to the industry and to the customers it serves. Our broad range of stakeholders demonstrates how retailing touches almost every aspect of our culture.

The BRC leads the industry and works with our members to shape debates and influence issues and opportunities that will help make that positive difference. We care about the careers of people who work in our industry, the communities retail touches and competitiveness as a fundamental principle of the industry's success – our 3Cs.

More information

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