RATING IN BRIEF

Lambert Smith Hampton

Autumn Statement leaves ratepayers spectacularly underwhelmed

In his first (and last!) Autumn Statement, the Chancellor Philip Hammond confirmed the Government's proposals for its transitional relief scheme, which will phase in the changes in business rates liabilities from the 2017 revaluation over a period of up to five years.

Ratepayers with a rateable value of more than £100,000 will see the maximum increases in their liabilities reduced from 45% to 42% in 2017/18 and from 50% to 32% the year after – see table 1 below:

Table 1: Transitional Arrangements 2017 revaluation (before inflation) funded by 3 caps on reductions

	Property Size	2017/18	2018/19	2019/20	2020/21	2021/22
Upwards Cap	Small	5.0%	7.5%	10.0%	15.0%	15.0%
	Medium	12.5%	17.5%	20.0%	25.0%	25.0%
	Large	42.0%	32.0%	49.0%	16.0%	6.0%
Downwards Cap	Small	20.0%	30.0%	35.0%	55.0%	55.0%
	Medium	10.0%	15.0%	20.0%	25.0%	25.0%
	Large	4.1%	4.6%	5.9%	5.8%	4.8%

Note: these are year on year caps on increases. For instance, the maximum increase for small properties over 5 years would be 64%. But a small property with an increase of 7% would reach their full bill in year 2. Medium is above rateable value £28,000 in London and £20,000 elsewhere. Large is above rateable value £100,000.

The Small Business Rates Relief package announced in the 2016 Budget - which would double the exemption threshold to a rateable value of up to £12,000 - was confirmed to go ahead from 2017, and the Chancellor also announced that there will be 100% business rates relief on the new fibre infrastructure/networks in order to kick start investment in the new 5G infrastructure.

The only other specific business rates announcement was a rather underwhelming confirmation that rural rate relief will be increased to 100%. While this could mean savings of up to £2,900 for small businesses in rural areas, it affects only a very small segment of the business community.

In a separate announcement, the government also confirmed it will now reduce the small business non-domestic multiplier from48.4p in 2016/17 to 46.6p for 2017/18 while the national non-domestic multiplier will fall from 49.7p in 2016/17 to 47.9p for 2017/18 – a reduction of 0.1p from what was previously estimated.

Paul Easton, National Head of Business Rates at LSH, commented: *"While these changes will undoubtedly offer a modest financial saving for some, they're hardly significant and nowhere near far reaching enough. More importantly, the Chancellor failed to mention the penal phasing in of reductions in business rate liabilities following the revaluation.*

Significant regional and sectoral variations hidden within the Draft Rating List

Like many of our industry colleagues, we awaited the publication of the Draft Rating List with baited breath.

Much has changed since the last revaluation. The 2010 Rating List was based on rental values as at 1 April 2008 (the antecedent valuation date), a time which coincided with the very peak of the occupier market.

In the seven years that have passed, there have been wide variations in how rents have moved; for some locations, rental values have barely recovered to their 2008 level, while others have recovered and moved on very strongly. This has produced some very significant variations in the rateable values contained within the Draft Rating List, which comes into effect on 1 April 2017.

>> Download our regional winners and losers map [document is best viewed in Adobe Reader]

Unsurprisingly, London and the South East were the hardest hit of all the regions, adding further impetus to the pledge made by the Prime Minister to rebalance the economy across the country as a whole.

With Yorkshire and Humber offices also seeing the biggest fall of any sector in any region, the case for the Northern Powerhouse as a viable alternative for businesses seeking to relocate away from the capital, received a substantial boost.

In terms of specific sectors, England's retail sector took a hammering, with an overall increase of 4.8%, compared with a reduction of 8.5% in Wales. London, as predicted, will see the biggest increases. The sector is already navigating the significant changes in consumer shopping habits over the last 41 years and the new rateable values may lead to further debate about the need for retailers to invest in a robust online strategy.

Infrastructure and utility occupiers will have a shocking 41.9% increase in England and 29.1% in Wales. Not good news for consumers.

Paul Easton, National Head of Business Rates at LSH, commented: *"We strongly advise ratepayers to use the opportunity between now and the Rating List going live to review their new assessments and inform the Valuation Office Agency of any factual errors where appropriate to avoid falling foul of the new 'Check Challenge Appeal' regulations, which will make it increasingly complicated, costly and time consuming to challenge new rateable values from 1 April 2017 onwards."*

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Businesses urged to seek advice as the Mazars ruling leads to a steep rise in rating assessment reviews

Occupiers of business premises split across multiple floors or neighbouring properties are being urged to seek professional advice before being hit with a hefty backdated business rates bill as a result of the Mazars v Woolway Supreme Court ruling.

The Valuation Office Agency's (VOA) latest 'Non-domestic rating: challenges and changes' report highlights that, as at 30 September 2016, the VOA has initiated a total of just over two million reviews of rating assessments against the 2010 rating list. These are typically attributable to a demolition, new property build or other physical change to a property.

However, in the first two quarters of 2016/17, 161,000 assessment reviews were initiated, a nine per cent increase on the previous two quarters. This was a result of just over 94,000 reviews in Q2 of 2016/17 (the largest single quarter total for the 2010 list), where over a third were attributable to work undertaken to reassess office properties as a result of the Mazars v Woolway Supreme Court ruling. Something which is likely to have major financial consequences for thousands of occupiers.

Beverley McDougall, Director of Business Rates at LSH's Manchester office, said: *"The ramifications of the Mazars ruling are far reaching. Essentially, it boils down to there being one rating list entry for several floors of an occupiers' accommodation and access can only be made between each floor by going through a common part. For example, a common stairwell or lift – this means that each floor has to be individually entered into the rating list. Consequently, any allowance for size that would be within the single assessment would be lost, resulting in increased cumulative values for the separately-rated floors and increased rates bills.*

"This is not an easy task for the already overstretched VOA. They have to examine almost every valuation if the circumstances apply and, in some cases, its records will be insufficient to determine whether it does or doesn't apply. However, it doesn't just apply to offices – it can affect occupiers of other types of property as well."

Fortunately, there are restrictions in England on how far back the VOA can split individual rateable values – but this doesn't apply in Wales. For England, the earliest a split can now occur is 1 April 2015. However in Wales, it can go back to 1 April 2010. What ratepayers will find even more frustrating is that the VOA currently has until 31 March 2018 to complete this exercise. This could result in ratepayers facing large retrospective bills for increases in liability, even if they have vacated the property. More notably, the VOA will have until 2023 to take action on the 2017 Rating List.

Beverley added: *"Implementing the Supreme Court's landmark decision will not only increase the number of rating assessments for many tenants and landlords, it will also increase their rates bills.*

"However, we are noticing that there are mistakes being made when splits take place. If you occupy more than one floor or property either vertically or horizontally, we would urge every ratepayer who thinks they are affected to seek advice now."

Consultation on statutory implementation of Check, Challenge, Appeal delivers yet another blow for ratepayers

The latest plans from the Government in respect of the ongoing reform of the business rates system in England could have 'significant financial consequences' for those ratepayers with a valid appeal from 1 April 2017.

The publication of ‘Check, challenge, appeal – reforming business rates appeals – consultation on statutory implementation’ made clear the Government’s intention to plough on blindly, despite many months of discussion and countless papers submitted by industry experts stressing that the proposals are in fact more confusing, less transparent and more unwieldy than the current system.

Under the latest proposals the Valuation Tribunal will be prevented from amending the rateable value of a property unless it is ‘outside the bounds of reasonable professional judgement’. The actual range is yet to be defined but even a margin of 10% either way could have significant financial consequences for those ratepayers with a valid appeal.

For example, if a property was originally valued with a rateable value of £1m and the ratepayer believes it should be £900,000, the Valuation Tribunal would be directed to rule that the original valuation should stand, irrespective of the evidence presented to them.

Paul Easton, National Head of Business Rates at LSH, commented: *We’ve been lamenting unreasonable delay between revaluations that have left so many businesses paying pre-crash level rates bills for years. However, we now have a revaluation that will have a limited impact due to an acceptance that the rates will not be changed on appeal, even if they are 10% adrift of a fair value! No other tax system operated by HMRC works in this way.*

“What incentive for corporate investment in England will such an unchallengeable property tax regime be? With an immoveable empty property rates tax and the increasing inability to delete buildings from the rating list during periods of redevelopment, it seems the Government is trying to disincentivise investment - seemingly totally at odds with the important ‘open for business’ message that is being bandied about post-Brexit.

“A lot of this is also fuelled by the need for local authorities to have certainty of income for the business rate retention scenario that is being phased in by 2020; no challenge, no shortfalls. Increasingly, however, the local authorities are getting anxious about retention and themselves are calling on Government for more clarity on the funding reforms.

“The Government needs to stop tinkering and needs to start listening to those who actually use the rating appeal system."

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Details of Lambert Smith Hampton can be viewed on our website www.lsh.co.uk Due to space constraints within the report, it has not been possible to include both imperial and metric measurements.

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