Scottish Land&Estates

Briefing Note

Non-Domestic Rates Bill (Scotland)

Summary

SLE broadly welcomes the changes to Non-Domestic Rates regulations as set out in the Bill. We are delighted to see proposals that will support long-term growth and investment in Scotland. It is also encouraging to see measures that will tackle current inequalities and loopholes. However, we have concerns that some proposals will have unintended consequences.

We support the proposal that:

- revaluation of properties subject to non-domestic rates will be carried out every three years rather than every five years
- new properties will be granted 100% relief for 12 months after they are first occupied
- Councils can initiate debt recovery proceedings for unpaid rates sooner
- the extension of the deadline in which ratepayers must return their form to 56 days.

We are concerned about:

- the introduction of a fee to lodge an appeal
- the entry of practically all non-domestic property and land into the Valuation Roll
- the requirement for properties to be let out for 70 days to qualify for non-domestic rates
- having a business tax regime which does not put Scotland at a competitive disadvantage to the rest of the United Kingdom.

Three yearly revaluations

The bill proposes an increase to the frequency of re-valuations from five-yearly to three-yearly re-valuations with valuations based on the market value on a date one year prior. This is scheduled to begin with the next re-valuation on 1 April 2022 using 1 April of 2020 as the valuation date changing to a one-year prior date in 2025. We are supportive of this proposal and feel it will be a positive step forward as it will increase the accuracy of assigned rateable values. However, it will rely on the reform of other aspects of the rates system, such as appeals.

Business Growth Accelerator

The Barclay Review suggested the introduction of the 'Business Growth Accelerator'. This will introduce a 12-month delay before rates are increased when an existing property is expanded or improved and before rates apply to new build property. We support the relief for new properties for 12 months after they are first occupied. We agree that these properties should still be entered on the valuation roll, which ensures integrity and transparency of the roll. We support the move for this to be an automatic process, rather than taxpayers having to apply for the relief. We support the policy objectives behind this principle, namely, to help grow the economy and encourage more business in Scotland.

Discretion in relation to whether entries in the valuation roll are to be deleted

The bill intends to give local authorities limited discretion to decide whether a dwelling (self-catering holiday accommodation) should remain on the Non-Domestic Rates Valuation Roll instead of being entered in the Council Tax Valuation List. We do not support the requirement for properties to be let for 70 days. It is unclear how this will consider a non-domestic property which has not had enough interest or business to meet this. This could mean that a poorly performing business would lose its small business bonus scheme relief and would be charged additional costs through council tax. Furthermore, we cannot see how this will be measured or enforced.

Reform of the appeal system

The Bill suggests a new requirement for ratepayers to lodge a proposal with assessors before lodging a formal appeal. This will allow assessors and ratepayers to have a discussion surrounding the valuation without going to appeal. It should be noted that under the previous system, an appeal could only result in the rateable value of property either decreasing or staying the same. However, this Bill introduces the provision for a rateable value to increase after the appeal process. It will be crucial that the appeals system is managed efficiently for the three-yearly review time scale to be stuck too. We support the changes which should result in a quicker and more transparent appeals process. We agree with the new approach where an official appeal isn't the first option. However, we do not support the proposal to introduce an appeal fee to cover the structural change. Businesses are already paying their rates bill, and this would be an additional expense which some SMB's could not afford. It is disappointing that it has not been recognised that businesses must still pay the incorrect amount while an appeal is outstanding. If fees are applied to appeals, then we would want to see these fees refunded to applicants if an appeal is successful.

Non-use or underuse of lands and heritages: notification

We support the introduction of more rigorous anti-avoidance measures for intentional abuse of the legislation. This measure should stay with local authorities, as they are best placed to understand circumstances around specific properties.

Earlier initiation of debt recovery by local authorities

We support the measure that will allow the Scottish Government to combine the recovery of non-domestic rates and council tax into the same timeframe. In practice, this will enable Councils to take enforcement action earlier in the year. Ratepayers need to be made aware that payments for non-domestic rates still need to be made regardless of whether the ratepayer has appealed.

Assessor & Local authority information notices

The bill recommends the introduction of greater information-gathering power for assessors. To facilitate this there is going to be an increase from 14 days to 56 days to respond to an assessor's request for information. The current criminal penalty for non-provision of information to Assessors is scheduled to change to a civil penalty by 2020. There is also the suggestion of the introduction of a similar penalty for failure to provide information to local authorities. These changes are intended to reduce the burden on the appeals system and incentivise the return of information to the Assessor. We support this. It should help get valuations right, reduce appeals and streamline the whole process. We are wary about Assessors seeking information from sources other than the occupant- this must be done with care. The extension to the deadline for when ratepayers return their forms from 14 days to 56 days is welcome.

Anti-avoidance regulations

There is a recommendation in the bill to allow Scottish Ministers to introduce new anti-avoidance regulations. This is intended to close current loopholes and stop any future loopholes from being exploited. We support the principle of introducing GAAR as an additional tool.

General Principles

There are two suggestions in the Stage 1 report which cause us concern. The unintended consequences of prioritising town centres. Barclay's original recommendations suggested the implementation of an out of town levy. We continue to believe this recommendation is inappropriate would negatively impact on rural businesses and investment in rural areas.

We also have concerns about the recommendation for the entry of practically all non-domestic property and land into the Valuation Roll. We do not see the benefit of undertaking the administrative burden of valuing currently exempt subjects. Furthermore, that despite the proposal of having exemptions for agricultural subjects, the levels surrounding de minimis would negatively impact many rural businesses tax burden.

For more detailed information

Marcelina Hamilton

Policy Adviser - Rural Business & Property

✉: marcelina.hamilton@scottishlandandestates.co.uk ☎: 0131 653 5400