RATES (AMENDMENT) BILL

RHM Commercial

BRIEFING NOTE

Purpose
If the Bill passes through the Assembly and receives Royal Assent it will become the Rates (Amendment) Act (Northern Ireland) 2012 and amend the Rates (Northern Ireland) Order 1977.

Planned Commencement Date
1 April 2012

Proposals
The Bill contains 4 proposals:

1. Introduce a 3 year Rates Levy on retail properties with an NAV of £500,000 and above.

2. Allow the use of shop windows in empty shops for (non-political) community or non-commercial purposes without the ratepayer losing 50% empty rates relief.

3. Clarify valuation assumptions at Revaluations.

4. Amend the way in which properties such as public houses and hotels are valued.

Proposal 1: Rates Levy

- The Levy would apply for the 3 rate years ending 31 March 2013, 2014 and 2015.
- The next General Rating Revaluation is due to come into effect on 1 April 2015.
- The Levy will be applied through an 8.52 pence in the pound increase in the regional rate for 2012/13.
- The average rate poundage in NI for 2011/12 is 55.5968 pence in the pound. If this average increases 2% in 2012/13, the Levy will represent a 15.02% increase in liability for those properties affected.
- In Belfast City Centre, the current poundage is 57.7995 pence in the pound - a 2% increase would take it to 58.95549 pence in the pound and 8.52p would represent a 14.45% levy.
- The Levy would apply to any retail property with an NAV not less than £500,000 that is “occupied and used primarily for retail sales” excluding sales of vehicles or “meals or refreshments prepared to order for immediate consumption elsewhere”. This first exclusion takes the Charles Hurst car complex at Boucher Road in Belfast out of the Levy. We are not sure why properties selling takeaway meals and refreshments are excluded because none have an NAV of £500,000 or more.

The Bill allows DFP to change which properties are subject to the Levy (using subordinate legislation) and could, for instance, include/exclude certain types of properties in Belfast City Centre.

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RHM Comment

The Minister should be given power to quickly exclude a property if it becomes clear that the retailer may be forced to close and the staff made redundant.

Retailers such as House of Fraser and Debenhams are, in essence, a collection of small retailers operating under one roof and there is a real danger that many of these small concessions will close because House of Fraser/Debenhams will be forced to pass-on the Rates Levy.

There is a strong argument that these department stores in Belfast City Centre should be excluded from the Levy because of the strong “anchor” or “magnet” role they perform, which is essential to the viability of the City Centre.

Proposal 2: Use of Vacant Shop Windows

- This relief will also apply for the 3 rate years ending 31 March 2013, 2014 and 2015.
- The ratepayer will still retain 50% vacant rates relief if:

  a) The window display is not more than 1.5 metres (just under 5 feet) deep and not more than 5% of the floor area “of that part of the building fronted by the window display”.

  b) The display does not identify a trade or business.

  c) The display is not for political purposes or detrimental to good community relations.

  d) The premises were last used or constructed/adapted for the “retail provision of goods or services”.

RHM Comment

Northern Ireland currently has the highest level of retail vacancy in the UK and Ireland and we welcome this move to help deal with the blight of vacant properties.

However, the wording of the relief is too restrictive and would be very costly to try and enforce. In particular, we consider that the 5% limit is unnecessary and the requirement that the display does not identify a trade or business should be removed.

To be effective, it must be easy for landlords to secure someone to provide the window display that improves the shopping environment - the shops adjoining and closeby are the obvious candidates.

In addition, the relief should not be limited to retail shops - it should apply to any vacant property.

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Proposal 3: Revaluation Assumptions

At a Rating Revaluation, properties are valued at a date usually 2 years before the new Valuation List comes into effect.

There has been some debate about whether economic changes between the “antecedent valuation date” and the effective date of the new list can be taken into account.

This proposal clarifies that only physical changes to the property, its use, the physical state of the locality and use of properties in the locality during the 2 year period can be taken into account.

It only relates to the situation at a Revaluation and does not allow a ratepayer to obtain a revised assessment if a “material change of circumstance” takes place after a new Valuation List comes into effect.

RHM Comment

This proposal clarifies the law and still means that, for instance, a material increase in vacancy can be taken into account.

Proposal 4: Valuation of Pubs, Hotels etc

This proposal seeks to amend the legislation so that from the next General Revaluation in 2015 and onwards certain properties valued by reference to their trading potential (e.g. pubs, hotels and petrol stations) will no longer be valued taking into account “the probable volume or quantity for the first year with respect to which that valuation will be in force”.

As such, the proposal brings such properties into line with other types of commercial properties i.e. they will be valued at the antecedent valuation date rather than the date that the new list comes into effect 2 years later.

RHM Comment

The original Public Consultation Paper (June 2011) confirmed that the intention was “simply to provide greater clarification, with no real change to the operational practice still in place”.

Various organisations made representations about the proposal including Maxol Oil. The company expressed its concern that the proposal would affect its ability to obtain a fair rating assessment if a new petrol station opens in the locality between valuations.

However, the Department assured objectors that the proposal relates “only to changes at a general revaluation”.

We have studied the proposed change to the legislation contained in the Bill and have concerns that it goes beyond what was intended. We are seeking clarification from the Department and Land & Property Services on this issue.

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Summary
We consider that the Bill should be amended in the following respects to improve its fairness and effectiveness:

Rates Levy

- The Minister should be given the power to quickly exclude a property to save jobs.
- Large retail premises in Belfast City Centre should be excluded because of their important anchor/magnet role.

Use of Vacant Shop Windows

- Remove 5% floorspace limit.
- Remove requirement that the display does not identify a trade or business.
- Relief should not be limited to retail shops - it should apply to any vacant property.

Valuation of Pubs, Hotels etc

- Proposed amendment to legislation goes beyond what is intended and requires clarification.

More Information
To discuss any aspect of this Briefing Note or other property issues, please contact Nick Rose or Tom MacLynn on (028) 9043 4300.

23 January 2012