



## BRIEFING PAPER

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# Business rates

By Mark Sandford

### Inside:

1. Non-domestic rates
2. Reliefs and discounts from business rates
3. Empty property
4. Business rate supplements
5. Revaluations
6. Scotland and Wales
7. Alternative calculations of rateable value
8. Frequently asked questions



# Contents

<b>Summary</b>	<b>4</b>
<b>1. Non-domestic rates</b>	<b>5</b>
1.1 Background	5
1.2 How are rates bills calculated?	5
1.3 Collection of rates	6
<b>2. Reliefs and discounts from business rates</b>	<b>7</b>
2.1 Permanent reliefs	7
Relief for small businesses in England	7
Charitable relief	8
Rural rate relief	8
Discretionary relief	8
2.2 Temporary reliefs	9
Flooding relief	9
Retail relief	9
Reoccupation relief	9
Enterprise zones	10
2.3 Local newspaper relief	10
<b>3. Empty property</b>	<b>11</b>
<b>4. Business rate supplements</b>	<b>13</b>
4.1 Business Improvement Districts	13
4.2 Business Rate Supplements	13
4.3 Combined authority mayor supplements	14
<b>5. Revaluations</b>	<b>15</b>
5.1 Transitional relief	15
<b>6. Scotland and Wales</b>	<b>17</b>
6.1 Empty property rating	17
Wales	17
Scotland	18
6.2 Small business rate relief in Wales	18
6.3 Small business rate relief in Scotland	18
<b>7. Alternative calculations of rateable value</b>	<b>20</b>
7.1 Valuation of pubs	20
<b>8. Frequently asked questions</b>	<b>22</b>
8.1 How do I challenge my rateable value?	22
8.2 How do I challenge my bill?	22
8.3 Limits on backdating of business rate refunds following successful appeal	22
8.4 When do I pay business rates?	23
8.5 Why don't online businesses pay rates?	23
8.6 Working from home	23
8.7 State Aid	24
8.8 The agricultural exemption and rates on rarely-used land	24
8.9 How can my council introduce a supermarket levy?	24
8.10 Business rates and fracking	25

### 3 Business rates

#### 8.11 The central list

25

## Summary

This note provides a brief guide to the system of non-domestic rating, better known as 'business rates'.

Business rates are a property tax paid by occupants of non-domestic properties. The basic rates bill of a property (a 'hereditament') is determined by multiplying its rateable value by the 'multiplier'. A property's rateable value is set by the Valuation Office Agency (in Scotland, the Assessors; and in Northern Ireland, Land and Property Services) at regular intervals. The multiplier is expressed in pence per pound of rateable value.

Local authorities ('billing authorities') collect business rates: in two-tier areas in England, this function falls to district councils. In England, the rates are partly pooled at central government level and redistributed, and retained in part by billing authorities. This takes place under the Business Rates Retention Scheme, introduced in 2013-14. In Scotland and Wales, the rates collected are pooled at the devolved level and redistributed to the billing authorities via a needs-based formula. Scotland also operates a Business Rate Incentive Scheme. In Northern Ireland, both the Northern Ireland Executive and the district councils set separate rating multipliers, with the full rate liability collected by the councils.

Various reliefs, both mandatory and discretionary, are available from full business rates liability. Limited powers also exist for local authorities to set supplementary business rates.

Business rates are devolved to Scotland, Wales and Northern Ireland. This note focuses on the operation of the business rates system in England.

A further Library briefing, [Reviewing and reforming business rates](#), covers developments in 2015 and 2016 in more detail.

# 1. Non-domestic rates

## 1.1 Background

Non-domestic rates, or 'business rates', are a tax on non-domestic property. Rates have been in existence in some form since the Poor Law of 1601, though a standardised system of non-domestic rating dates to the *Rating and Valuation Act 1925*. The current system dates from the [Local Government Finance Act 1988](#).<sup>1</sup> Rates are levied on business properties on the basis of their **rateable value** and the national **multiplier**, and the amount payable may then be subject to a number of **reliefs** or **exemptions**.

## 1.2 How are rates bills calculated?

The **rateable value** (RV) of a property is the first element in the calculation of the rates bill. Rateable values in England, Wales and Scotland are assessed on a five-yearly basis (though see section 5 below) by the [Valuation Office Agency](#) (VOA), which is an executive agency of HM Revenue and Customs. In Scotland this task falls to the [Scottish Assessors](#), and in Northern Ireland to [Land and Property Services](#). Normally the RV of a property reflects the annual rent that it could have been let for on the open market (though see section 8 below).<sup>2</sup>

The second element in the rates bill is the **multiplier**, which is normally expressed in pence per pound. This is set by the UK Government for England, the Scottish Parliament for Scotland, and the National Assembly for Wales. In Northern Ireland, district councils set one multiplier and a further one is set by the Northern Ireland Assembly. Before the introduction of the 1988 Act, the billing authorities in England, Scotland and Wales set the multiplier locally.

In England, Scotland and Wales, in each financial year, the multiplier may be raised by a maximum of the inflation rate of the Retail Price Index (RPI) from the previous September.<sup>3</sup> In recent years a number of commentators have proposed that the Consumer Price Index (CPI) should be used in place of the RPI.<sup>4</sup> The 2016 Budget announced that this change will be made as of the 2020-21 financial year.<sup>5</sup>

The multipliers for 2016-17 are shown in the table below. Previous years' multipliers for England and Wales can be found on the VOA website.<sup>6</sup>

The basic business rate liability for a property is calculated by multiplying the rateable value of a property by the multiplier. Hence, a property

<sup>1</sup> Technically, the 1988 Act introduced the 'National Non-Domestic Rate' (NNDR) in place of local business rating. However, the phrase 'business rates' remained in use throughout.

<sup>2</sup> See VOA, [What does RV mean](#), 2013 for further information on rateable value.

<sup>3</sup> See DCLG, [Business Rates Information Letter 3/2015](#). The multiplier has always risen by this amount, until 2014-15 and 2015-16, when a 2% cap was applied in England, and matched in Scotland and Wales.

<sup>4</sup> For instance, see Mary Portas, [The Portas Review](#), 2011, p.26

<sup>5</sup> HM Treasury, [Budget 2016](#), p.46

<sup>6</sup> See VOA, [What are the current multipliers](#), 2014.

with a rateable value of £100,000, where the multiplier was 49.3 pence in the pound, would have an annual business rate liability of £49,300.

**Table: business rate multipliers, 2016-17**

Location	Multiplier	Small business multiplier	Supplementary multipliers
England	49.7p	48.4p	
Scotland	48.4p		
Wales	48.6p		
Northern Ireland	32.4p		District council multipliers ranging from 20.12p to 28.38p, hence a cumulative multiplier of 52.52p to 60.78p. <sup>7</sup>

The Chancellor announced in October 2015 that the non-domestic multiplier would in future be 'abolished', and that local authorities would be able to set the multiplier at any level they chose. This formed part of a package of commitments that included permitting local government to retain 100% of business rates revenue. These commitments are to be implemented 'by the end of the Parliament'.

### 1.3 Collection of rates

Bills are sent out and rates collected by **billing authorities**. These are district councils (in two-tier areas), unitary councils, metropolitan borough and London borough councils. In Scotland and Wales, the unitary local councils are the billing authorities; and in Northern Ireland, the task falls to the district councils. Ratepayers may pay in instalments, as with council tax.

The billing authorities are responsible for deciding whether to apply any exemptions or reliefs to individual businesses or properties. Some reliefs are mandatory, whilst others are given at the discretion of the billing authority.

Unlike property taxation in many other states, the **occupier** of the property is liable for business rates. Owners will become liable where a property is unoccupied.

The *Local Government Finance Act 2012* introduced the Business Rates Retention Scheme in England. It does not change arrangements for collecting rates from businesses. A short explanation of the Retention Scheme can be found in section 6 of the Library briefing paper [Reviewing and reforming business rates](#).

<sup>7</sup> See [the full list of district council rates](#) on the website of the Department of Finance and Personnel.



## 2. Reliefs and discounts from business rates

Various reductions in liability for business rates are available. A relief does not change the rateable value of a non-domestic property: it is a discount from the payment owed by the liable business. If the occupier of the property changes, the business rates liability may also change. Separately, certain types of property are exempt from business rates.

Some reliefs are mandatory, whereas others are given at the discretion of the billing authority. It is for the billing authority to interpret the law when applying mandatory reliefs in their area, in the light of case law, and to make decisions on discretionary relief.

The Business Rates Retention Scheme currently provides for 50% of rate revenue to be retained by local authorities and 50% by central government. This means that 50% of any relief given is, in effect, funded by the local authority and 50% by central government.

### 2.1 Permanent reliefs

#### Relief for small businesses in England

Up to 31 March 2017 small business rate relief is available as follows:<sup>8</sup>

- Properties with a rateable value of below £6,000 are subject to a 50% discount. From September 2010 to 1 April 2017, this has been increased to 100%;<sup>9</sup>
- Properties with a rateable value of between £6,001 and £12,000 are subject to a tapering discount ranging from 0% to 100%, on the basis of 1% relief for every £60 of rateable value;
- Properties with a rateable value of between £12,000 and £17,999 (£25,499 in London) are subject to the small business multiplier only.<sup>10</sup>

As of 1 April 2017, permanent changes will be introduced to the Small Business Rate Relief system.

- Properties with a rateable value of £12,000 or less will attract 100% business rates relief;
- Properties with a rateable value of £12,000 to £15,000 will attract some business rate relief on a tapering scale;
- Properties with a rateable value between £15,000 and £51,000 will be subject to the small business multiplier.

Since 2012-13, small business rate relief has been applied automatically to rate bills.

Businesses with more than one property are only eligible for small business rate relief if their additional property or properties all have

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<sup>8</sup> DCLG, *Business rates information letter 9/2011*, 22 December 2011; *Non-Domestic Rating (Small Business Rate Relief) (England) Order 2012* (SI 2012/148).

<sup>9</sup> See HM Treasury, *Autumn Statement 2013*, p.45-6

<sup>10</sup> The small business multiplier has existed since 2003-04. The standard multiplier must be set taking into account the loss of revenue resulting from the existence of the small business multiplier.

rateable values of under £2,600, **and** the total rateable value of all their properties does not exceed £17,999 (£25,499 in London).<sup>11</sup>

The 2013 Autumn Statement introduced a year's grace for businesses which take on additional properties which would make them ineligible for small business relief.

## Charitable relief

Properties which are occupied by charities and wholly or mainly used for charitable purposes are entitled to a mandatory reduction of 80% in business rates, as are community amateur sports clubs (CASCs).<sup>12</sup> Billing authorities have the discretion to increase this to 100%.<sup>13</sup> It is for the billing authority to determine whether a property is 'wholly or mainly used for charitable purposes'. Case law establishes that the use of the property, not merely whether the occupant is a charity, is key.<sup>14</sup>

## Rural rate relief

Public houses or petrol stations which are the only such business in a rural settlement, and which have a rateable value of less than £12,500, are entitled to 50% mandatory Rural Rate Relief, which can be topped up to 100% at the billing authority's discretion. Sole shops, general stores or post offices with a rateable value of less than £8,500 are also entitled to this.<sup>15</sup> Local councils in Wales can also give relief to other rural retail businesses of up to 100% (for properties with a rateable value under £16,500).

Rural Rate Relief takes precedence over Small Business Rate Relief, so it is possible for a property to attract a 50% mandatory discount under the former, in place of a 100% mandatory discount under the latter. In such situations, the local authority has the discretion (but no obligation) to top up the discount to 100%.

## Discretionary relief

Section 69 of the [Localism Act 2011](#) provides a new discretionary power for billing authorities in England and Wales to reduce the business rates of any local ratepayer. The Government has not issued guidance in respect of how this power might be used, though councils must ensure that the reliefs they allow do not transgress state aid rules.<sup>16</sup> A Written Answer in October 2013 provided figures for the amount of business rate relief granted under this power.<sup>17</sup>

A power also exists to grant relief if a business would suffer 'hardship' if they had to pay their full business rates liability. There is no definition of

<sup>11</sup> See the [Non-Domestic Rating \(Small Business Rate Relief\) \(England\) Order 2012](#) (SI 2012/148)

<sup>12</sup> A list of registered CASCs is available at <http://www.hmrc.gov.uk/casc/clubs.htm>. For a definition of the category, see the [Community Amateur Sports Clubs Regulations 2015](#) (SI 2015/725).

<sup>13</sup> See the [Local Government Finance Act 1988](#), sections 43 and 47.

<sup>14</sup> See, for instance, [Public Safety Charitable Trust v Milton Keynes](#) (2013); see also the Government's 2015 paper [Business rates avoidance: summary of responses](#).

<sup>15</sup> See the [Local Government Finance Act 1988](#), section 43

<sup>16</sup> For further information see DCLG, [Business Rates Information Letter 6/2012](#). Some guidance on the state aid rules is available at DCLG, [Enterprise zones: state aid and business rate discounts](#), February 2012.

<sup>17</sup> See [HCD 31 Oct 2013](#) c567-8W



'hardship' in legislation, though relevant case law exists. The billing authority must take into account the interests of council tax-payers in their area before granting hardship relief. This power has largely fallen into disuse since the introduction of discretionary relief.

## 2.2 Temporary reliefs

### Flooding relief

In recent years, the Government's policy has been to fund full relief from business rates for businesses that have become unable to trade during periods of severe flooding. For instance, following 'Storm Desmond' in late 2015, the Secretary of State for Communities and Local Government, Greg Clark, announced:

We have offered council tax and business rate relief to those affected. As part of the recovery scheme, my Department will make funding available to enable councils to offer a 100% council tax discount to anyone who is unable to occupy their home and a 100% business rates discount for firms that have been impacted by flooding. This will be made available on at least as generous terms as in 2013-14.<sup>18</sup>

Businesses affected by the severe flooding in early 2014 were entitled to three months full relief from business rates. This followed a statement from the Prime Minister in February 2014.<sup>19</sup> The decisions to grant this relief were to be taken by billing authorities, with the Government reimbursing them for any lost revenue.

### Retail relief

A discount of £1,000 on business rates bills for retail premises with a rateable value of up to £50,000 was introduced for 2014-15.<sup>20</sup> This was increased to £1,500 for 2015-16.<sup>21</sup> This was a flat rate on all qualifying premises, irrespective of the number of properties occupied by the business or other existing discounts. It did not apply to empty properties. Billing authorities were fully reimbursed by central government for any relief granted.

Guidance on the definition of 'retail premises' is available in the Government's guidance note on the scheme.<sup>22</sup> A ratepayer who already pays a heavily discounted rate could find that the £1,000 discount reduces their business rate liability to nil.

### Reoccupation relief

From 2014-15, the Chancellor introduced a 50% discount from business rates for new occupants of previously empty retail premises. The discount would last for 18 months. The relief was available to businesses moving in to properties between 1 April 2014 and 31 March 2016. They need not themselves be retail businesses.

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<sup>18</sup> [HCDeb 17 Dec 2015 c94WS](#)

<sup>19</sup> See DCLG, "[New measures to help communities hit by flooding](#)", 12 February 2014

<sup>20</sup> HM Treasury, *Autumn Statement*, 2013, p45-6

<sup>21</sup> HM Treasury *Autumn Statement 2014*, 2014, p45-6

<sup>22</sup> See DCLG, [Business Rates retail relief – guidance](#), 2014, p. 5-6

Guidance published in March 2014 provided lists of types of property which would and would not be intended to benefit from the relief.<sup>23</sup> The relief will be granted under local discretionary discount powers, and local authorities reimbursed for the full amount of relief granted.

### Enterprise zones

Businesses moving into Enterprise Zones (EZs) before April 2015 are entitled to a 100% discount for five years. This is awarded at the discretion of the billing authority, but will be funded by the Government. The Government will also fund any existing discounts that are being awarded in the zone:

The regulations provide for the costs of *any discount* under section 47 (i.e. including discounts to existing business and empty properties) granted in the zone, provided it complies with state aid de minimis limits, to be offset against the billing authority's contribution to the central pool.<sup>24</sup>

## 2.3 Local newspaper relief

At the July 2015 budget, a consultation was published on introducing business rate relief for local newspapers. Local authority income lost through any relief introduced would be reimbursed via a 'Section 31 grant'. The consultation paper asked for views, amongst other things, on eligibility for any such relief: whether it should go to property used by journalists or for the production process; whether only particular sizes of firm should be eligible; and how long any relief should last.<sup>25</sup>

The 2016 Budget committed to introducing a discount on business rate bills for local newspapers:

The government will introduce a £1,500 business rates discount for office space occupied by local newspapers in England, up to a maximum of one discount per local newspaper title and per hereditament, and up to state aid limits, for 2 years from 1 April 2017.<sup>26</sup>

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<sup>23</sup> DCLG, [Business Rates Reoccupation Relief: guidance](#), March 2014

<sup>24</sup> See the *Non-Domestic Rating Contributions (England) (Amendment) Regulations 2012*; also DCLG, [Business Rates Information Letter 5/2012](#). The Government will provide a grant equal to the revenue foregone by the local authority, thus avoiding the 50/50 split under the Business Rates Retention Scheme referred to in section 2 above.

<sup>25</sup> See DCMS/DCLG, [The case for a Business Rates Relief for local newspapers](#), July 2015

<sup>26</sup> *Ibid.*

### 3. Empty property

Since 1 April 2008, owners of empty property in England and Wales have been liable to pay the full business rate (subject to any other reliefs that they might be entitled to). Empty property is exempt for a three-month period from the date on which the property became empty (six months for industrial and storage premises).<sup>27</sup> Empty properties with a rateable value of under £2,600 are entirely exempt from business rates.<sup>28</sup> This figure was temporarily raised to £15,000 for 2009-10 and £18,000 for 2010-11 in the light of economic conditions.<sup>29</sup>

Empty properties held by charities and companies in administration are exempt from business rates. Following consultation, listed buildings' exemption was retained.<sup>30</sup>

In Scotland, empty properties have attracted 90% of the normal business rate liability since 1 April 2013; previously the liability was 50%.<sup>31</sup>

The empty property must be occupied for at least six weeks before a further three / six-month exemption period can begin. If there has been less than six weeks' occupation, the exemption period does not re-start: only the **remainder** of the **original** three-month exemption period is available.

There have been recent instances of companies occupying very small parts of industrial premises for just over six weeks, in order to trigger a further six-month exemption and minimise their liability for business rates. A court case in July 2012, [Makro Properties v Nuneaton and Bedworth District Council](#), upheld the occupier's claim to a further six-month exemption in such a scenario.

A property that is only partially occupied, or minimally occupied, is likely to be defined as occupied for business rates purposes, under the principle 'occupation of part is occupation of the whole', which originates in case law.

In September 2013 the Government announced a full exemption from rates, in England, for newly-built commercial property that is empty.<sup>32</sup> The exemption would apply for the first 18 months after completion, to

<sup>27</sup> The changes were made via the *Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008*, (SI 2008/836), under the *Rating (Empty Properties) Act 2008*. An impact assessment forms part of the explanatory memorandum and contains government estimates of the costs and benefits involved. Prior to the 2007 Act, industrial and storage premises enjoyed indefinite exemption from business rates.

<sup>28</sup> See the *Non-Domestic Rating (Unoccupied Property) (England) (Amendment) Regulations 2010* (SI 2010/408); and the *Non-Domestic Rating (Unoccupied Property) (Wales) (Amendment) Regulations 2011* (SI 2011/197).

<sup>29</sup> See HC Deb 13 December 2010 c61-62WS

<sup>30</sup> HM Treasury, [Building Britain's long-term future: Prosperity and fairness for families: Budget 2007](#), p73; 216. See also DCLG, *Modernising empty property relief: a consultation paper*, July 2007

<sup>31</sup> See the *Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2013* (SI 2013/37).

<sup>32</sup> See DCLG, *Business rates: new build empty property – guidance*, September 2013

properties completed between 1 October 2013 and 30 September 2016. The Scottish Government has brought in a similar scheme to exempt offices and shops, including newly-built office and shop space, from business rates if their rateable value is under £45,000. The Scottish exemption will be available for a total of 15 months between 2013-14 and 2017-18.<sup>33</sup>

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<sup>33</sup> See the *Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2013* (SI 2013/37).

## 4. Business rate supplements

Two routes currently exist to apply an additional (supplementary) business rate at a local level.

### 4.1 Business Improvement Districts

Local authorities may create Business Improvement Districts, on demand, for specific areas within the locality. These are to be established and run by local business groups, who must also determine the geographical area covered. The local businesses must develop a prospectus for the spending of the money, and the scheme must be approved by a majority of the prospective rate-payers, both by rateable value and number, in a referendum. The billing authority will collect the additional revenue and make it available for spending according to the prospectus. Further details are available in the Library briefing paper [Business Improvement Districts](#) (SN/PC/4591).

### 4.2 Business Rate Supplements

Local authorities in England and Wales may, under certain circumstances, levy a supplement on the standard business rate under the [Business Rate Supplements Act 2009](#). The only supplement scheme in existence so far is a 2% supplement on businesses in the area of the Crossrail development in London; the revenue will help pay for Crossrail.<sup>34</sup>

The main features of the BRS legislation as it currently stands are:

- All proposals for the imposition of a BRS, and all variations to the original prospectus, must be approved by a ballot of all those eligible to vote.<sup>35</sup> This replicates the provisions made for Business Improvement Districts. This provision was brought in by section 68 of the [Localism Act 2011](#). Prior to this, a ballot was only required where the supplement was to fund more than a third of the total cost of the relevant project(s);
- Only the highest tier of local authority is to be entitled to levy a BRS. In London, the power rests with the Greater London Authority;
- BRS revenues must be spent on economic development. This requirement is explored further in Government guidance.<sup>36</sup> In addition, the Act itself specifies certain matters on which a supplement may not be spent;<sup>37</sup>

<sup>34</sup> The Crossrail BRS was established before the legislative requirement for a vote on a BRS was brought in – see the following footnote. See also [Crossrail business rate supplement](#), also the Library briefing paper [Railways: Crossrail](#) (SN/BT/0876).

<sup>35</sup> Section 68 of the [Localism Act 2011](#) was brought into force in England from 15 January 2012 by the [Localism Act 2011 \(Commencement No 3\) Order 2012](#) (SI 2012/411). Eligibility to vote is limited to those who would be liable to pay: see sections 6 and 7 of the [Business Rate Supplements Act 2009](#).

<sup>36</sup> HM Treasury/DCLG, [Business Rates Supplements: guidance for local authorities](#), January 2010,

<sup>37</sup> It may not be used to provide housing, social services, education services, services for children, or health services.

- a national upper limit of 2p per £1 of rateable value will apply (i.e. the multiplier can be raised by 2 pence in the pound);
- levying authorities are required to consult with business, and to produce a detailed prospectus, before introducing any BRS scheme;
- all properties with a rateable value below £50,000 are exempt from the supplement;<sup>38</sup>
- levying authorities will be able to offer additional reliefs;
- where a supplement is to be introduced in an area containing one or more business improvement districts, levying authorities may offset BID levies against liability for the supplement;
- two or more authorities may raise a BRS jointly;
- there must be additionality i.e. revenues may not be used for expenditure that would have been incurred if no supplement had been levied.<sup>39</sup>

### 4.3 Combined authority mayor supplements

A number of the 'devolution deals' concluded from 2014 onwards, between the Government and groups of local authorities, include a power for a directly-elected metro-mayor to introduce a business rates supplement. The revenue raised would have to be used for investment and would be likely to be subject to a cap. No power exists as yet for such a supplement to be introduced.

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<sup>38</sup> See the *Business Rate Supplements (Rateable Value Condition) (England) Regulations 2009* (SI 2009/2542)

<sup>39</sup> Guidance on this is given in HM Treasury/DCLG, *Business Rate Supplements guidance: additionality and ballots*, May 2009



## 5. Revaluations

Non-domestic properties in England, Scotland and Wales are normally revalued every five years. The most recent revaluation came into effect on 1 April 2010. The revaluation is based on rental values at a specific date (the 'antecedent valuation date' or AVD) two years before the revaluation applies. Hence the 2010 revaluation is based on rental values at 1 April 2008.

Sections 29-30 of the [Growth and Infrastructure Act 2013](#) delayed the 2015 revaluation until 2017 in England. Both the Scottish and Welsh governments subsequently also chose to delay revaluation to 2017.<sup>40</sup> The following English and Welsh revaluations will take place in 2022 (i.e. the five-year cycle has been permanently moved). In Northern Ireland, a revaluation came into effect on 1 April 2015, the previous one having taken place in 2001.

The VOA is required to send out draft rating lists to billing authorities by September in the year preceding a revaluation (e.g. September 2009 for the 2010 revaluation). Ratepayers are sent draft summary valuations and are asked to contact the VOA if they believe that there are factual errors or wish to discuss any queries arising. This is not a formal opportunity to appeal; that becomes available only when the new rating list comes into force.

A rise in rateable value at a revaluation does not lead to a rise in overall revenue from business rates. The multiplier must be adjusted to ensure that the overall yield from rates remains the same:

The aim of each revaluation is to redistribute the same overall business rates bill to businesses, based on the relative changes in property values since the last valuation date; revaluations do not raise any extra revenue.<sup>41</sup>

As revaluations are required to be revenue-neutral overall, a fall in rateable value may not translate into a fall in business rates liability for an individual property. To ensure overall revenue neutrality, the multiplier was reduced by several pence in the pound at the 2000 and 2005 revaluations, offsetting an overall rise in rateable value. By the same token, the multiplier would rise to offset any overall fall in rateable value in a future revaluation.

### 5.1 Transitional relief

England has a transitional relief scheme which is designed to phase in substantial increases or decreases in a ratepayer's bill following a revaluation. Normally such schemes have run for the full five year period between revaluations (although the scheme instituted in 2005 ran for just four years). The current scheme caps the amount by which a

<sup>40</sup> See "[Wales to defer business rate revaluation date](#)", 5 March 2013; Scottish Government, "[Swinney outlines local government settlement](#)", 27 November 2012. See also an initial report, *Supporting Business, Promoting Growth*, September 2013

<sup>41</sup> VOA, *Valuation Office Agency's high level estimates of non-domestic rental and rating assessment movements for England*, 2012, p1

business's liability can rise or fall annually after the 2010 revaluation, in effect phasing the change in. No such scheme exists in Scotland or Wales.

The English transitional relief system was to end in 2015, notwithstanding the postponement of the 2015 revaluation to 2017. It has been extended to 2017 for properties with a rateable value of £50,000 and under.<sup>42</sup>

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<sup>42</sup> DCLG, [Business rates: extension of transitional relief for small and medium properties – guidance](#), February 2015

## 6. Scotland and Wales

Business rates are for the most part a devolved policy matter, though the system works in very similar ways in England, Scotland and Wales.<sup>43</sup> Valuation is the responsibility of the Valuation Office Agency for England and Wales, and the Scottish Assessors in Scotland (the latter are independent officers covering local authority areas).<sup>44</sup> The Welsh Government instituted a review of business rates in Wales during 2012, led by Professor Brian Morgan.<sup>45</sup> Amongst other matters, the report recommended full devolution of business rates from the UK to Wales, and some form of retention of business rates by local authorities.

The Welsh Government's response included commitments to:

- consider mechanisms for encouraging local authorities to be focussed on growth;
- monitor the effectiveness of Tax Increment Financing across the UK;
- consider whether local communities could retain business rates from large renewable projects.<sup>46</sup>

Business rates were fully devolved to Wales as of 1 April 2015. This will mean that the revenue from business rates will remain in Wales, and be redistributed amongst Welsh local authorities by the National Assembly. The Assembly has had the power to set the multiplier since its establishment in 1999.<sup>47</sup>

### 6.1 Empty property rating

#### Wales

Provisions concerning the rating of empty property have largely mirrored the English ones, including recent reliefs. New commercial properties completed between 1 October 2013 and 30 September 2016 will be entitled to 18 months' exemption from empty property rates, if they remain empty. Occupants of retail premises which have been vacant for 12 months or more, and which have a rateable value of £45,000 or under, can claim 50% relief for 12 months: they must be reoccupied between 1 October 2013 and 31 March 2015. The new occupants need not be a retail business.

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<sup>43</sup> Though see the discussion in the report of the Silk Commission, *Empowerment and Responsibility: Financial Powers to Strengthen Wales*, 2012, pp.56-58, on the link to the Barnett Formula in Wales.

<sup>44</sup> See [the Scottish Assessors' website](#).

<sup>45</sup> The review, and the Welsh Government's response, can be found [on the Welsh Government's website](#).

<sup>46</sup> Welsh Government, *Welsh Government Response to the Business Rates Review*, 2012, p. 2

<sup>47</sup> Previously Welsh business rate revenue formed part of the block grant provided under the Barnett formula, and there was no link between the amount of the grant and any rises and falls in business rate revenue in Wales. The decision to change this is set out in HM Treasury, [Empowerment and responsibility: devolving financial powers to Wales](#), 2013.

## Scotland

In Scotland, empty property has attracted relief of 10% since 1 April 2013.<sup>48</sup> Scotland also applies a 50% relief where a retail property with a rateable value of under £65,000 is reoccupied after being empty for at least 12 months. Reoccupation must have begun after 1 April 2014. As in England and Wales, new commercial properties are entitled to 100% relief for 18 months if they are unoccupied and were completed after 1 April 2013.

## 6.2 Small business rate relief in Wales

Small business rate relief in Wales is available on the same terms as in England pre-2017. Thus, until 31 March 2017 business premises with a rateable value up to £6,000 will attract 100% relief. Ratepayers with RVs of between £6,000 and £12,000 will receive relief on a tapered basis from 100% to 0%.<sup>49</sup>

Relief is also available for post offices, child care premises, retail premises and credit unions.<sup>50</sup> Businesses not eligible for small business relief include those entitled to other types of mandatory relief, advertising rights (e.g. billboards), beach huts, communication stations, car parks, car spaces and sewage works. The scheme is financed by the Welsh Assembly Government. There is no requirement, unlike in England, for eligible businesses not to occupy any other hereditaments with a rateable value over £2,600.

Wales has not applied a transitional rate relief scheme to increases or decreases following the 2010 revaluation, nor does it operate a small business multiplier.

## 6.3 Small business rate relief in Scotland

Small Business Rate Relief was introduced in Scotland in April 2003 and ended in March 2008. It was replaced by a 'Small Business Bonus Scheme', operating on similar principles. The 2016-17 thresholds are shown in the following table:

<b>Combined rateable value (RV) of all</b>	<b>2016-17</b>
Up to £10,000	100%
£10,001 to £12,000	50%
£12,001 to £18,000	25%
£18,001 to £35,000	25% on each individual property with a rateable value not exceeding £18,000

<sup>48</sup> See the *Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2013*. Previously, empty properties attracted 50% relief.

<sup>49</sup> See the *Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2014* (SI 2014/372).

<sup>50</sup> See the *Non-Domestic Rating (Small Business Relief) (Wales) Order 2008* (SI 2008/2770).

From 1 April 2008, the Small Business Rate Relief Scheme was replaced by the Small Business Bonus Scheme. Businesses have to apply for the Small Business Bonus Scheme but do not need to reapply as long as their circumstances remain the same. Relief can be awarded for a maximum period of five years without a review being undertaken.<sup>51</sup>

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<sup>51</sup> See Scottish Government, *Small Business Bonus Scheme (SBBS)*

## 7. Alternative calculations of rateable value

Though rateable value is usually based on an estimate of the annual rental value of a property, a number of alternative methods of calculating rateable value are in use. These are used for properties for which it is difficult or impossible to determine a meaningful annual rental value. Pubs are the most common example; others include plant and machinery, electric / telecoms cables, and unique or historical buildings. A useful resource is the Valuation Office Agency's manual, which is a guide for valuers when calculating rateable value.<sup>52</sup>

### 7.1 Valuation of pubs

Public houses' rateable value is normally calculated on the basis of "fair maintainable trade". The use of this method instead of the standard method dates back to the late 1800s. The current methods of valuation (agreed with the industry) are set out in the 2010 publication [Valuation of Public Houses: Approved Guide](#).

The justification for using the method relates to the difficulty of obtaining a meaningful figure for the open market rent of a pub. Many public houses are owned by breweries and let to the landlords under terms which require the landlord only to buy from that brewery (a 'tied' pub). Additionally, the nature of the public house as a rentable retail unit is fundamentally changed by the existence of a licence to sell intoxicating liquor. Askham and Mackmin describe the situation as follows:

Generally speaking, new licences are not easy to obtain and in most areas the assumption is that the status quo will continue. To an extent, therefore, licensees are each enjoying what amounts to a share in a statutory local monopoly... there is a limited supply of licensed premises and there is every likelihood that the supply will not increase. This will have an effect on value.<sup>53</sup>

Fair maintainable trade (FMT) must be calculated with reference to the "antecedent value date" (AVD), i.e. the date on which valuations on the current rating list are based. The valuer must calculate the turnover that would be expected on that date, assuming that the business was run competently by a 'hypothetical tenant'. This will inevitably have some relationship to, but need not be dictated by, the actual trade figures in recent years.<sup>54</sup>

The valuer will produce separate turnover figures for alcoholic drink, food, accommodation, gaming machines and other sources of income. Each of these categories is then attributed a percentage, following the guidance provided by the VOA.<sup>55</sup> The percentage selected is principally

<sup>52</sup> See Valuation Office Agency, [Rating Manual 4](#), 2012

<sup>53</sup> Phil Askham and David Mackmin, *Rating Law: The Uniform Business Rate*, Sweet & Maxwell, 1995, p. 151-152

<sup>54</sup> Valuation Office Agency, *Rating Lists 2010 – Valuation of Public Houses: Approved Guide*, p. 4

<sup>55</sup> *Ibid.*, pp. 7-15



## 21 Business rates

based on geographical location and turnover. The figures for receipts are multiplied by the percentage to produce a rateable value for each category, and these values are added together to produce a total rateable value.

The valuer is required to ensure that the final rateable figure is not substantially out of line with rateable values for similar properties nearby (the “stand back and look stage”), as the intention of the FMT method is to produce an approximation of a free market rent:

Having calculated the initial valuation it may be necessary to stand back and look in order to consider whether or not the resultant figure appears reasonable in comparison with the assessments of similar styles of property and if it fits into the broad range and pattern of assessments in similar localities.<sup>56</sup>

The rateable value is then combined with the multiplier, in the normal way, to calculate the business rates liability.

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<sup>56</sup> Ibid., p. 17

## 8. Frequently asked questions

### 8.1 How do I challenge my rateable value?

Appeals against the rateable value of a property consist of a 'proposal' to alter the valuation list. This must be made to the VOA (or the Assessors in Scotland, or Land & Property Services in Northern Ireland); the local authority is not responsible for the rateable value. Details of how to do this are [available on the VOA website](#). If the ratepayer is dissatisfied with the VOA's decision, s/he can appeal to the Valuation Tribunal, and after that to the High Court.

Similar properties nearby having a much lower rateable value can be, but are not necessarily, a justification for a reduction in the ratepayer's rateable value. There may be other reasons for differences in rateable value.

It is possible to agree a new rateable value with the VOA in advance of a formal appeal. Any new rateable value can be backdated to a date from which the VOA agree that it should have applied.<sup>65</sup>

In recent years it has been reported that appeals can take up to a year to be processed by the VOA. **The existing rates must be paid for the duration of any appeal:** they will be reimbursed afterwards if the appeal is successful and the rateable value is lowered. Billing authorities have a **discretionary** power to defer payment within the current financial year.

Businesses taking forward a formal appeal against their rateable value should consider retaining the services of a professional valuer.

### 8.2 How do I challenge my bill?

The billing authority should be approached in order to seek a reduction in **liability** for rates – as opposed to seeking a change in rateable value. If the ratepayer is dissatisfied with the billing authority's decision, s/he can appeal to the Valuation Tribunal, and after that to the High Court. Ratepayers may often wish to challenge both the rateable value and the bill at the same time.

The Government is proposing to introduce a new system for challenging rateable values and rate bills called *Check, challenge, appeal*. Further details can be found in section 5.2 of the Library briefing [Reviewing and reforming business rates](#).

### 8.3 Limits on backdating of business rate refunds following successful appeal

If an appeal to the VOA or Valuation Tribunal results in the rateable value being reduced, a ratepayer may be entitled to a refund of rates, for the time from which the new lower value should have applied. Normally, refunds can be backdated, at a maximum, to the date of the most recent revaluation – currently 1 April 2010.

The Government passed regulations in March 2015 to adjust this situation.<sup>57</sup> If a ratepayer makes a formal proposal after 31 March 2015, it will only be possible to backdate any resulting changes to 1 April 2015. This will apply through to the beginning of the next valuation list on 1 April 2017. Refunds will still be subject to backdating to 1 April 2010 at the earliest on appeals which were **commenced** before 1 April 2015.

The regulations also provide that, if the VOA makes a formal proposal by 31 March 2016, it will still be possible to backdate any resulting changes to 1 April 2010. In other words, changes to the valuation list resulting from VOA proposals made during 2015-16 may be subject to backdating back to 2010, whereas ratepayers' proposals made during 2015-16 can only be backdated to 1 April 2015. This change was announced in the Autumn Statement 2014.<sup>58</sup>

### 8.4 When do I pay business rates?

From 2014-15, businesses have been entitled to choose to pay business rates bills in twelve monthly instalments instead of the standard ten months. Previously, a scheme of ten or fewer instalments had to be used unless the ratepayer and the billing authority agreed to an alternative.<sup>59</sup>

### 8.5 Why don't online businesses pay rates?

There have been complaints in recent years that 'online businesses' are able to undercut traditional businesses, particularly in the retail sector, as they do not maintain a high-street presence and thus are not liable for business rates. This has been linked to longer-lasting concerns about the 'decline of the high street', and to calls for the reform of business rates. The issue is discussed in the Government's 2015-16 [review of business rates](#).

Business rates are only payable on the occupation of property. However, most retailers or online businesses selling products are likely to have some form of storage or dedicated building, such as a warehouse. Assuming they are used solely for business purposes, such properties will attract business rates. It may be that the rateable value of such properties is lower than a similar-sized property in a local high street: this will depend on the decisions of the VOA, based on local rent levels.

### 8.6 Working from home

Individuals who work or run a business from home will not necessarily be liable for business rates, unless there is a room or area that is used only for the business. For instance, a workshop or salon which was part of the domestic property, but is now used solely for the business, is

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<sup>57</sup> See the *Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2015* (SI 2015/424).

<sup>58</sup> HM Treasury, *Autumn Statement 2014*, p. 79

<sup>59</sup> See the *Non-Domestic Rating (Collection and Enforcement) (Amendment) (England) Regulations 2014*: these updated the *Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989* (SI 1989/1058), paragraph 7.

likely to attract business rates. Individuals who work at home and use a room or area which is also used for domestic purposes are unlikely to be caught by this: but there is case law in this area and no definitive guidelines can be given.

## 8.7 State Aid

EU regulations prevent any company from receiving more than €200,000 of state aid in a three-year period. Any amount less than this is known as 'de minimis' aid. Companies which receive business rate relief in respect of large numbers of properties may be caught by this requirement, and may thus not be eligible for all of the relief available.

## 8.8 The agricultural exemption and rates on rarely-used land

Agricultural land has been exempt from business rates since 1929. A definition of agricultural land, for the purposes of exemption, can be found in the [Local Government Finance Act 1988](#).<sup>60</sup>

The critical factor in defining whether land is exempt is its use. Farm buildings used for storage, farm diversification or other lines of business, and related businesses such as garden centres, are likely to attract business rates. There is case law in this area.

Agricultural land may attract a rateable value if events are held on the land, even for a few days per year. This may affect, for instance, fields used for car boot sales or festivals. There is substantial case law covering what can and cannot be rated in this regard. It is for the VOA to decide whether to assign a rateable value to a property and, separately, for the local authority to decide whether it wishes to award a discount on the rate bill to the liable organisation or individual.

## 8.9 How can my council introduce a supermarket levy?

There have been proposals in recent years, most notably via [a campaign by the group LocalWorks](#), for a 'supermarket levy' – i.e. higher business rates on larger properties or companies via an additional multiplier. This has been done in Scotland and Northern Ireland, but there is no power to set an additional multiplier in the England and Wales business rates legislation.

From 2012 to 2015, the Scottish Parliament imposed a 'public health supplement' - an additional 13p multiplier on properties with a rateable value of over £300,000 **and** which sold both alcohol and tobacco. The additional rate applied to the amount by which their rateable value exceeds £300,000. Therefore, a property with a rateable value of £400,000 would pay an additional £13,000. Additionally, the Scottish Parliament levied an additional 1.1p in the pound for properties with a rateable value of over £35,000 during the same period.

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<sup>60</sup> *Local Government Finance Act 1988*, Schedule 5 paragraph 2

Also from 2012 to 2015, the Northern Ireland Assembly applied a 'large retail levy' to all retail properties with a rateable value of £500,000 or more, payable on the **whole** rateable value, not just the amount by which it exceeds £500,000. The rate of the levy was 8.98p in 2014-15.

## 8.10 Business rates and fracking

On 13 January 2014, the Prime Minister announced that local authorities would be able to keep the entire business rate revenues from sites used for hydraulic fracturing (fracking). This would be achieved by excluding these sites from the mechanics of the Business Rate Retention Scheme. A fuller explanation of how this would work was set out in a response to consultation document published in January 2015.<sup>61</sup> The 'additional' 50% of revenue will be retained by upper-tier authorities, due to their role in mineral planning. District councils will continue to receive 40% of relevant revenue under the terms of the existing retention scheme.

The regulations came into force on 9 March 2015.<sup>62</sup> A similar exclusion is already in place for 'renewable energy projects'.<sup>63</sup>

## 8.11 The central list

A small number of properties are subject to rating via the 'central list'. These are mostly very extensive property holdings of former nationalised industries. Each company or group of companies is given a single rateable value, and the revenue collected goes to the Consolidated Fund, not to local government. Lists of central properties are available in the [Central Rating List \(England\) Regulations 2005](#) (SI 2005/551) and the [Central Rating List \(Wales\) Regulations 2005](#) (SI 2005/422). Both lists have been subject to amendments since their initial publication.

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<sup>61</sup> DCLG, [Business Rates Retention and Shale Oil and Gas: Summary of Responses and the Government Response](#), January 2015

<sup>62</sup> See the *Non-Domestic Rating (Shale Oil and Gas and Miscellaneous Amendments) Regulations 2015* (SI 2015/628)

<sup>63</sup> See the *Non-Domestic Rating (Renewable Energy Projects) Regulations 2013* (SI 2013/108).

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