LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

CALL FOR VIEWS ON THE NON-DOMESTIC RATES (SCOTLAND) BILL

SUBMISSION FROM SOUTH AYRSHIRE COUNCIL

Section 2 of the Bill which provides that revaluation of properties subject to non-domestic rates would be carried out every 3 years rather than every 5 years.

Comment

Whilst a programme of revaluation every 3 years may give a more accurate valuation position for ratepayers, more frequent revaluations will create additional significant administration and costs for the Assessor & Revenues functions. This includes the administration of the current appeals process which when moving to the Scottish Tribunal service needs to be mindful of volumes. Albeit the Bill aims to modernise this process, including introducing fees and the potential for the RV to increase which should reduce the extremely high volumes of appeals, however the demand for appeals will undoubtedly remain high, particularly where a number of private sector companies operate in this area and therefore the resources involved will increase, to meet the timescales of the 3 yearly cycle.

Section 3 of the Bill, which (together with section 9) makes provision in relation to new or improved properties. These delay the point at which non-domestic rates are increased because a property has been expanded or improved, or at which a new build property begins to incur liability to non-domestic rates. The underlying aim is to incentivise development and investment in business properties.

No particular comment

Section 4, which aims to increase the degree to which parks are subject to non-domestic rates, in recognition of the commercial activities that take place in some parks (eg the running of a café).

Comment

Consideration should be given for exclusions for ‘Not for Profit Organisations’ particularly those supporting health & wellbeing, often at subsidised rates for low income households.

The implications stretch beyond café type businesses to include provision for sporting activities e.g municipal golf, football pitches, bowling etc, which currently operate within public parks and if faced with NDR liability would require to increase prices, and /or reduce subsidised schemes.

Businesses such as Kiosks operated by companies or sole traders and conducted for profit should be classed as commercial activity but in most of these cases we would expect Small Business Relief would apply adding to our administrative burden.
Section 5, intended as a measure to address a perceived “loophole” that enables owners of holiday homes to avoid both council tax and non-domestic rates by making it more difficult to enter a home on the roll (and, through this, to then claim relief under the small business bonus scheme).

Comment

There is a need to have more stringent requirements around the definition of ‘self catering units’. However any evidence required needs to be readily available, simple to produce, and difficult to fabricate to ensure the administration of the scheme is not overly complex.

Sections 6-9, which aim to reduce the current high rate of valuation appeals, which the Scottish Government perceives as speculative. (Increasing the frequency of ratings revaluations in section 2 is also seen as a component of this reform.)

Section 10, which removes eligibility to claim charitable relief from non-domestic rates from mainstream independent schools, and section 11 which gives the Scottish Ministers the power to issue guidance to local authorities on the appropriate way to use their powers to grant sports club relief.

Section 12, which aims to address what the Scottish Government describes as a known tax avoidance tactic concerning unoccupied or under-used properties.

Comment

What powers of appeal will be offered to tax payers where they disagree with the decision taken by the Council. See general comment at No 13

Section 13, which will enable councils to initiate debt recovery proceedings for unpaid rates sooner.

Comment

This is a positive step bringing local taxation billing and recovery administration into line.

Sections 14, 18, 19 and 22, which together aim to strengthen the power of assessors to obtain the information they need to carry out their role, and sections 15, 16, 17, 20, 21 and 22 which give local authorities increased powers to obtain information from ratepayers, in order to ensure that the information they have is accurate, and to reduce the risk of fraud.

Comment

The Value of any Civil Penalty and the administration around collection should be considered to ensure one does not negate the other. Whilst Civil penalties exists within current Revenues administration they are rarely used as the administration of
billing and recovery of Penalties can outweigh the value of the penalty imposed, also adding a layer of additional debt to often substantial arrears does not always act as a successful deterrent for. Higher value Penalties may have a greater impact within Non Domestic Rates, however the increased ability to obtain information from other bodies may be more effective where the threat of financial penalties exist.

Part 4 of the Bill, which give the Scottish Ministers the power to make anti-avoidance regulations to prevent ratepayers gaining an advantage from avoidance arrangements that are considered artificial, and sets out definitions of “advantage” and “artificial”.

Comment

GAAR arrangements are welcomed but until the full scope of the anti-avoidance regulations are determined it is difficult to comment. Powers to obtain information should mirror the existing powers in place for HMRC both in terms of investigation and access to recourse. Investigation of potential GAAR will undoubtedly impact on resources, Corporate Fraud/Investigations Officers do not exist within all Council’s after Housing Benefit Fraud was transferred to DWP to investigate.

Other

Do you have any other comments about the Bill? In particular, is there anything not in the Bill concerning non-domestic rates that should be in the Bill?

Comment

The bill introduces some substantial changes which will require software upgrades. Scottish Government should work with Software Companies to ensure these costs are minimised and funded by SG. Any Secondary Legislation should be delivered well in advance of enactment to ensure software changes are in place in advance or for commencement of any changes.

Liability Appeals for NDR are currently not heard by Valuation Appeals Committee (although they are for Council Tax). Consideration should be given to including these when appeals move to Scottish Tribunal Service. (Council Tax appeals to VAC also consider failure to award reliefs).