Business Rates Review: terms of reference and discussion paper

12 June 2015

1. The Local Government Association (LGA) welcomes the chance to comment on this discussion paper.
2. The LGA is here to support, promote and improve local government. We will fight local government's corner and support councils through challenging times by making the case for greater devolution, helping councils tackle their challenges and assisting them to deliver better value for money services.
3. This response has been agreed by lead members of the LGA's Resource's Board.

Key points

4. The LGA wants to see a business rates system which is buoyant, responsive to local needs, fair to all which promotes growth through incentives.
5. We welcome the fact that the terms of reference review go beyond consideration of administration issues. Our response to the June 2014 discussion document was that it missed the opportunity to reform business rates more fundamentally so that it is fit for purpose in the 21st century. We are therefore happy that the Government is undertaking a more fundamental review.
6. Business rates raised around £23bn in 2012-13 to fund local services. There are nearly 1.8 million properties liable for business rates in England. Business rates account for around 19% of the income of local government. Therefore local government have strong interests in a reformed business rates system which commands confidence. Buoyancy is important; we welcome the assurance that review will be fiscally neutral but also consider that the government should look at the benefits of local government having a buoyant source of income.
7. The review asks for evidence on the incidence of property taxes on various sectors and for views on the fairness and sustainability of business rates as a tax based on property values. It asks for any evidence for a move away from property as a basis of valuation.
8. We consider that property continues to be the best basis for business rates as it is efficient and 98% of business rates are collected in year.

Local Government Association

Submission

Local Government House, Smith Square, London SW1P 3HZ
Email info@local.gov.uk
Tel 020 7664 3000 Fax 020 7664 3030
Information centre 020 7664 3131 www.local.gov.uk

But we do think that exactly how this is defined needs a basic rethink. As we mention below, many fundamental concepts such as beneficial occupation have been set by case law and not by statute, leading to results which may seem puzzling to laypersons, such as the fact that large vacant sites may not pay business rates.

9. In view of this we would like the government as part of the review to bring forward proposals for changes in the basis of valuation so that more is defined in statute. Precisely how this should be framed should be the subject of a further consultation; we would look forward to the Government involving the LGA and the sector in this.

10. We welcome the inclusion of measures to enable data sharing between the VOA and councils in the Enterprise Bill as announced in the Queens Speech. At the same time we look forward to the Government giving local authorities powers to tackle avoidance; this may also provide a suitable legislative opportunity.

11. Following the introduction of business rates retention appeals has become a key issue. Large recent appeals have exacerbated this, leading many in local government to consider that they are bearing too much risk, particularly since the government has top-sliced a total of £120m from the local government settlement since 2013-14 to pay for the safety net; this is in large part caused by uncertainty over appeals.

12. We welcome reform of the appeals system as announced in the Queens Speech; we think that this could include a role for self-assessment with any reduction in business rates yield being made up for by an increase in the multiplier.

13. We call on the government to reconsider its decision not to set appeals up to 1 April 2013 against the old business rates pool.

14. We also think that the government needs to look at the basis of the incentive under business rates retention. We consider that the local share should be raised so that it reaches 100%, with top-ups and tariffs being recalculated accordingly. As the Independent Commission on Local Government Finance said, revaluation to a constant yield, whilst it increases risk, has an effect of dampening the incentive as it redistributes the incentive according to the property market in different parts of the country.

15. The LGA would like to see a system where councils can set their own business rates.

16. The following sections expand on these points; detailed answers to the consultation questions are in the appendix.

Business rates as a property tax

17. There are many advantages to property as a basis for business rates. It is relatively efficient, it is stable and 98% of business rates are collected in year.

18. The basis for business rates is rateable occupation. However this is not defined further in statute; interpretation being left to the courts. Case law has established that such occupation must be 'beneficial', that is it must be of some benefit to the occupier and that it must be 'no-transient'.

19. This gives rise to the following anomalies

    a. Large properties in town centres awaiting redevelopment may not pay business rates because they are not capable of 'beneficial occupation'.

    b. Funfairs in parks (which are themselves exempt) are not subject to business rates as the use is seen as transient.

20. As mentioned above we think there should be a review of the basis of valuation with a view to arriving at a new statutory definition.

Different bases of valuation lead to very different rates liabilities

21. A further issue relates to the basis of valuation used by the Valuation Office Agency. One current case concerns the rateability of doctors' surgeries which has found that they should be valued on the 'contractors' method rather than the 'rental' method of valuation. This implies a reduction in rateable value of 60%. It does not seem credible that two different methods of valuation can produce such different results.

Appeals

22. Since the implementation of business rates retention and the Government's decision that councils should bear 50% of the risk of backdated appeals this has become a significant risk issue for local government. This has been exacerbated by the fact that the government set a deadline for all appeals relating to the 2010 valuation of 1 April 2015, in order for them to be capable of backdating to 2010. This has led to a large number of appeals and to uncertainty.

23. Some of those appeals relate to large national hereditaments such as Virgin Media putting in an appeal to merge over sixty separate hereditaments into one; this is naturally causing concern for the authorities concerned who fear a backdated rates liability running into millions.

24. We welcome the announcement that the Enterprise Bill will include reform of the appeal system and await seeing details of the proposed changes. We think appellants should have to state much clearer reasons for their appeal and there should be a phase of negotiation with the Valuation Office; the government consulted on similar lines in 2014. One idea would be for there to be a system of self-assessment of rateable values which is then challengeable by the VOA and councils; whilst any appeals are resolved the multiplier should be raised so that total yield is maintained.

Exemptions

25. There is a list of statutory exemptions including parks and agricultural land. Although we note that the Government states that it does not want to increase business rates for those most deserving of relief and exemption we consider that there should be a review of the scope of the agricultural exemption. The LGA has heard anecdotally that some usages which would pay business rates if located in towns do not pay business rates if they are located on farms.

Reliefs

26. The LGA notes that the current reliefs system is very heavily weighted towards centrally determined reliefs. The ability to give reliefs, both mandatory and discretion, is determined by statute, central regulations and case law. We would like to see local authorities having more discretion in this area, so that they can help local and independent businesses in order to stimulate the local economy.

27. One area where authorities do have discretion is reliefs under the Localism Act, where they may get the benefit of a 50% contribution from central government due to the working of the rates retention scheme. We would like to see more incentives to authorities to use these powers – for example the ability to retain 100% under rates retention in a similar way to enterprise zones and New Development Deals.

28. On the whole the reliefs system is administered well. We would not want to see any reforms place more burdens on authorities.

Business rates retention and incentives

29. Local government has welcomed the introduction of partial business rates retention, whilst calling for it to go further. We are in favour of 100% business rates retention by local government, subject to appropriate equalisation methods such as tariffs and top-ups. We look forward to local government having 100% of business rates retention, as foreshadowed by pilots in Greater Manchester and Cheshire and in Cambridgeshire and Peterborough, although we recognise that conditions have been imposed in these cases.

Ability to set business rates

30. We reaffirm the LGA's commitment to local government having the power to set its own rate, in order to respond to local circumstances. Up to 1991 local government set business rates as a local tax; with different capacity to raise income taken into account in the grant equalisation calculations.

Appendix

Answers to the questions and requests for evidence in the discussion paper

1. **What evidence and data can you provide to inform the government's assessment of the trends in use and occupation of non-domestic property?**

   We do not have access to any up-to-data other than that which is available to the Government. The document reports that average property size is getting smaller even though the total volume of total property is increasing, particularly office spaces. Large industrial uses have tended to decline at the expense of retail like large supermarkets.

2. **Is there evidence to suggest that changing patterns in property usage are affecting some sectors more than others?**

   One comment which we have heard is that the business rates system has not come to terms with the rise of e-business. For e-business which operates from low tax jurisdictions this is part of a wider problem. Small domestic based operations may also fall beneath the business rates threshold. On the other hand large warehouses for online businesses such as supermarkets do pay business rates.

3. **What, in your view, does this evidence suggest about the fairness and sustainability of business rates as a tax based on property values?**

   There is no evidence that property is not the best taxbase for the reasons stated above such as ease of collection and high rates of payment in year. However the system needs to be reformed along the lines set out earlier in our response.

4. **What evidence is there in favour of the government considering a move away from a property based business tax towards alternative tax bases? What are the potential drawbacks of such a move?**

   We do not have any evidence that suggests that the government should move away from a property based business tax. There would be a risk that any alternative system would not maintain the existing high collection rates or command the same support.

5. **What examples from other jurisdictions and tax systems should the government consider as part of this review? What do you think are the main lessons for the business rates system in England?**

The document mentions systems in France, Germany and Ireland. We would also like to examine systems in Australia where some jurisdictions use land value.

6. **How can government use business rates to improve the incentive for local authorities to drive local growth?**

   As mentioned above local government has welcomed the introduction of partial business rates retention, whilst calling for it to go further. We are in favour of 100% business rates retention by local government, which we think would increase the incentive effect. This should be subject to reworking the tariffs and top-ups which equalise for income . The pilots in Greater Manchester and Cheshire and in Cambridgeshire and Peterborough are a start although the threshold for retention is set high in these cases. We also think that the government should look at the effect of revaluation and resets on the incentive offered by business rates retention and the risk posed by the large number of appeals.

7. **What impact would increased local retention of business rate revenue have on business growth? What would the impacts be on local authorities?**

   Work commissioned by DCLG in 2012 suggested that 100% business rates retention would give a £10bn boost to the economy. A lower rate of retention produces less of an effect. So far we do not have figures for the effects on local economies; we would look to collect these over the next few years as retention beds in.

8. **What other local incentives should the government consider to further incentivise business growth?**

   As mentioned above, revaluation to a constant yield has the effect of redistributing incentives, so we would look to the government to look at how a system of revaluation not to a constant yield would work; this would enable incentives to be retained. The government could also look at a reset which enables previous growth to be retained; this was also recommended by the Independent Commission on local government finance. Further targeted reliefs, supported by s.31 grant, could also be considered.

9. **Should business rates be reformed to make them more closely reflective of wider economic conditions and if so, how?**

   Some of the measures suggested in our answer to the previous question would have an effect of making business rates more reflective of wider economic conditions. On the other hand there is also an argument that business rates are stable because they do not go down immediately in times of recession which gives a measure of stability to local government.

10. **If business rates remain a property tax, how do you suggest business rates could take into account the individual circumstances of businesses such as their size or ability to pay rates?**

    There are already measures to assist small businesses in place which use rateable value as a criterion; we consider that the government should build upon these rather than use different criteria.

11. **How does the proportion of total operating costs accounted for by business rates vary by the sector and size of a business?**

    We do not have data to hand to answer this question.

12. **What is the impact of the business rates system on the competitiveness of UK businesses? Are there any particular impacts on SMEs?**

    Business rates are one of a number of taxes on businesses, others include corporation tax or capital gains tax. Any consideration of the impact of taxes on competitiveness should look at all these business taxes.

13. **How could the government better target support for SMEs given that the size of a company may not be reflected in the rateable value of a property it uses?**

    Local government would be able to target reliefs and incentives better if there was 100% business rates retention plus an ability to vary rates and discounts which would enable it to help small and independent businesses.

14. **Should investment in plant and machinery, energy efficiency improvements or other similar property improvements, be treated differently by the business rates system? If so what changes could be made?**

    We have heard arguments that energy efficiency improvements ought to be incentivised and that the current system does not benefit them.

15. **What evidence and analysis should the government take into account when evaluating the impact of and any changes to the range of reliefs and exemptions present in the business rates system?**

    The current system of reliefs is very complicated. The LGA has gathered evidence of business rates avoidance by charities in its reply to the recent avoidance consultation. As mentioned above we also think that the government should look to see whether the agricultural land exemption is fulfilling its purpose or whether it is facilitating avoidance.

Local Government Association
June 2015