POLICY NOTE

THE NON-DOMESTIC RATES (RELIEF FOR NEW AND IMPROVED PROPERTIES) (SCOTLAND) REGULATIONS 2019

SSI 2019/40

The above instrument is made in exercise of the powers conferred on the Scottish Ministers by section 153 of the Local Government etc. (Scotland) Act 1994 and all other enabling powers. The instrument is subject to negative procedure.

These Regulations provide the following non-domestic rates relief for 2019-20:

- 100% relief on new properties for 12 months until after they are first occupied.
- 100% relief for 12 months on property improvements.

Policy objective

The independent Barclay Review of non-domestic rates recommended (Recommendation 1) the creation of a Business Growth Accelerator – "to boost business growth, a 12 month delay should be introduced before rates are increased when an existing property is expanded or improved and also before rates apply to a new build property."[1] In its Implementation Plan in response to the Barclay Review,[2] the Scottish Government went further and stated that new property would be entered on the valuation roll only once it was first occupied, meaning it would not be liable for rates until it becomes occupied.

It was subsequently decided that all new property should continue to be entered on the Roll when it came into existence in order to maintain the integrity of the Roll, but these Regulations deliver the intention of the Business Growth Accelerator and the Implementation Plan by offering:

- 100% relief on new properties for 12 months until after they are first occupied.
- 100% relief for 12 months on property improvements.

The Regulations are structured as follows.

Part 2 of the Regulations provides 100% relief on new properties for 12 months after they are first occupied.

It covers new property entered on the Roll after 1 April 2018 under section 2(1)(b) of the Local Government (Scotland) Act 1975 and which is made up of "one or more buildings or parts of a building [that] are shown in that entry, none of which were shown in any entry in the roll for the day prior to the day that entry takes effect." This covers for instance bare ground that was not previously entered on the Roll (or not entered in its own right) and which is then entered on the Roll because it has a building constructed on it.

[1] https://www2.gov.scot/Resource/0052/00523643.pdf

[2] https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2017/12/barclay-review-of-non-domestic-tax-rates-implementation-plan/documents/bf0f2ef4-bcbc-4c22-84fa-07735ee496f1/bf0f2ef4-bcbc-4c22-84fa-07735ee496f1/govscot:document/?inline=true/

It also covers new property that was entered on the Roll after 1 April 2018 under section 2(1)(d) of the Local Government (Scotland) Act 1975; which is made up of "one or more buildings or parts of a building [that] are shown in that entry, none of which were shown in any entry in the roll for the day prior to the day that entry takes effect". This is when an existing entry shown on the Roll is altered for a material change in circumstances, and the relief is available if there is an increase in rateable value on the day the alteration on the Roll takes effect. An example would be where an existing building is demolished and a new building replaces it, with a greater rateable value.

Under regulations 3(3) and 5(3), new property is eligible for relief if one of the following conditions are met:

- It was entered on the Roll within the previous 12 months;
- It was entered on the Roll more than 12 months previously, but the lands and heritages have been continuously unoccupied since that day; or
- It was entered on the Roll more than 12 months previously, but less than 12 months have elapsed since the property first became occupied.

Under regulations 3(4) and 5(4), where a property that is being granted relief is subdivided, , relief continues to be available as before on the remaining office block (i.e. indefinite until 12 months after first occupation) and for the new office unit, for 12 months from the date of occupation. An example would be where an office unit is leased to an occupier and is then entered separately from the rest of the office block in the Roll, If this unit is itself then the object of two separate entries on the Roll for instance two months later, the two new units may receive 10 months of relief.

Relief is not available for residential properties (dwellings) that become non-domestic and are entered on the Roll (see regulation 4(2)).Relief is available on the non-domestic part of residential properties, for instance if an alteration to the Roll is made to reflect a material change in this part.

Regulation 8 ensures that relief for new property can be additive. This allows relief to be given on an improvement to a new build which is receiving relief under Part 2. This is needed because regulation 9(1)(b) prevents a property that is eligible for relief under Part 2 of the Regulations, as a new build property, from receiving relief under Part 3 of the Regulations.

Part 3 of the Regulations covers property "improvements." These are changes to the property that cause an increase in rateable value ("relevant increase") which is caused (in whole or in part) by:

- the refurbishment or expansion of one or more buildings or parts of a building which form part of the lands and heritages, or
- the erection or construction of one or more buildings or parts of a building which form part of the lands and heritages.

Regulation 9(3) specifies that where the rateable value of the lands and heritages is temporarily reduced during the period of the above works, the "relevant increase" is calculated by subtracting the rateable value of the property prior to the works from the rateable value following the property improvement.

Relief is not available where an increase in rateable value is caused (in whole or in part) by:

- the combination, division or reorganisation of lands and heritages which were shown, in whole or in part, in different entries in the Roll for the day immediately prior to the day the alteration to the Roll takes effect, or
- a change in the way the lands and heritages are being used.[3]

Regulation 10 sets out 100% relief on "relevant increases" for 12 months. For instance, if the property is not eligible for transitional relief and where the rateable value has gone from £30k to £40k following an improvement, 100% relief is due on £10k for 12 months. In other words, the rates liability is the same for 12 months as had previously been before the improvement. If the property is eligible for transitional relief, the cap on gross bill increases is calculated on the basis of the rateable value before the improvement(s). Note that all increases in rateable value due to a property improvement in the past 12 months must be deducted from the rateable value to calculate the ""Adjusted Rateable Value" (ARV) in regulation 10(5). The rateable value at the revaluation (1 April 2017) is then deducted from the ARV to calculate the value of rates due, in addition to the transitional relief limit.

The formulas used to calculate reliefs have been adjusted to reflect that 2019-20 is a leap year.

Regulation 11 provides additional relief for improved property that are eligible for relief under listed other enactments, but would in effect lose some of that relief from the interaction of these Regulations and those enactments as a result of the increase in their rateable value due to the improvement(s).

An application must be made for these reliefs (see regulation 12).

Consultation

There is no statutory requirement to consult on these Regulations.

Business and Regulatory Impact Assessment

No Business and Regulatory Impact Assessment is required because the present instrument will not impose new regulatory burdens on businesses, charities or the voluntary sector.

Financial Implications

The decrease in the amount of non-domestic rates payable is in line with the policy objective as outlined above. The cost of this relief in foregone public revenue is forecast by the Scottish Fiscal Commission in Scotland's Economic and Fiscal Forecasts: December 2018.[4]

This relief is not subject to State aid de minimis.

Scottish Government
Local Government and Communities Directorate
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[3] A temporary reduction in rateable value and/or description on the Roll e.g. "bare ground", "premises under reconstruction" is not considered a change of use.
[4] http://www.fiscalcommission.scot/media/1435/scotlands-economic-and-fiscal-forecasts-december-2018-full-report.pdf