EXPLANATORY MEMORANDUM

The Non-Domestic Rating (Miscellaneous Provisions) (Amendment) (England) Regulations 2004 No.1494

This explanatory memorandum is laid before Parliament by command of Her Majesty

The Office of the Deputy Prime Minister

Purpose of the regulations

1. These Regulations update the prescribed decapitalisation percentage for the valuation of properties for the 2005 rating list.

Legislative background

2. These Regulations are made under section 143(1) and (2) of, and paragraph 2(8) of Schedule 6 to, the Local Government Finance Act 1988. They are subject to the negative resolution procedure. The instrument is being made to set the decapitalisation percentage rate for hereditaments subject to valuation by reference to the contractor's basis.

Extent

3. These Regulations apply in England only. The power to make equivalent Regulations which apply in Wales is devolved to the National Assembly for Wales.

Policy background

4. On 1st April 2005, all non-domestic properties in England and Wales will be given new rateable values for the purposes of calculating their non-domestic rate bills.

5. The occupiers of all non-domestic properties in England and Wales pay non-domestic rates. Individual rate bills are based upon the rateable values of each non-domestic property. Rateable values are set by the Valuation Office Agency and are based on the rental values of those properties on the open market. To ensure that rateable values keep pace with changes in the property market all non-domestic properties are revalued every five years by the Valuation Office Agency.

6. For most valuations, Valuation Officers will use evidence of the actual rental value of the property to calculate its rateable value. However, this is not always possible. Where there is insufficient rental evidence for a particular type of property, the Valuation Officer uses other accepted methods to calculate the appropriate rateable value for that property. In many cases the Valuation Officer will use the receipts and expenditure method of valuation. This involves examining an organisation's accounts to ascertain their profit margin and then estimating the proportion of their profits that would be spent on renting out their premises. However, where there is no evidence of rents and no evidence of receipts and expenditure, for example where the property is a school or a hospital, the contractor's basis of valuation is used.

7. The contractor's basis of valuation involves estimating the cost of replacing the buildings and any other rateable items, for example plant and machinery and then adjusting this estimate to reflect any obsolescence in the actual property. The resulting figure represents an estimate of the capital value of the site. This capital value is then "decapitalised" using the decapitalisation rate to give an annual equivalent of the capital value which is taken to be the rateable value.

8. Before 1990, rating valuers and the courts had a great deal of difficulty in deciding on the appropriate decapitalisation rate to be used in non-domestic rating valuations. As a result there was extensive litigation on this issue following each revaluation. Therefore, since 1990, the government has prescribed the appropriate decapitalisation rate to be used in contractor's basis valuations. The power to prescribe the decapitalisation rate is contained in paragraph 2(8) of Schedule 6 of the Local Government Finance Act 1988.

9. The selection of the appropriate valuation method for a particular property remains a matter of judgment.The types of properties to which the prescribed decapitalisation rate will be applied in 2005 will not differ greatly from those properties valued on the contractor's basis in 2000. These include: most education and many healthcare properties, many properties occupied by a billing or precepting authority, specialised properties occupied by the crown, pipelines, sewerage treatment works, airports and airfields, mineral works and some factories including oil refineries.

10. For the Revaluations that took place in 1990, 1995 and 2000 two decapitalisation rates were set. A lower decapitalisation rate was set for education, healthcare and (in 2000). defence hereditaments.

Impacts

11. The decapitalisation rate is already prescribed. This proposal will not extend the application of the decapitalisation rate to new types of property; it will merely facilitate the revaluation of properties where the contractor's basis of valuation is applied.

12. If the decapitalisation rate stayed the same then the rateable values of properties valued on the contractor's basis would rise by more than 27.%, significantly more than the aggregate increase for hereditaments valued by other methods. By reducing the decapitalisation rate we have reduced this difference. We propose to continue to prescribe a higher and a lower decapitalisation rate for the Revaluation in 2005. In 2000 the decapitalisation rates were set at 5.5% and 3.67% respectively. For the Revaluation in 2005, the government is proposing to decrease the decapitalisation rates to 5% and 3.33% respectively.

13. A full Regulatory Impact Assessment will be made available on the ODPM website and placed in the library of both Houses of Parliament.

Contact

14. Any questions or queries about this explanatory memorandum should be made to:

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