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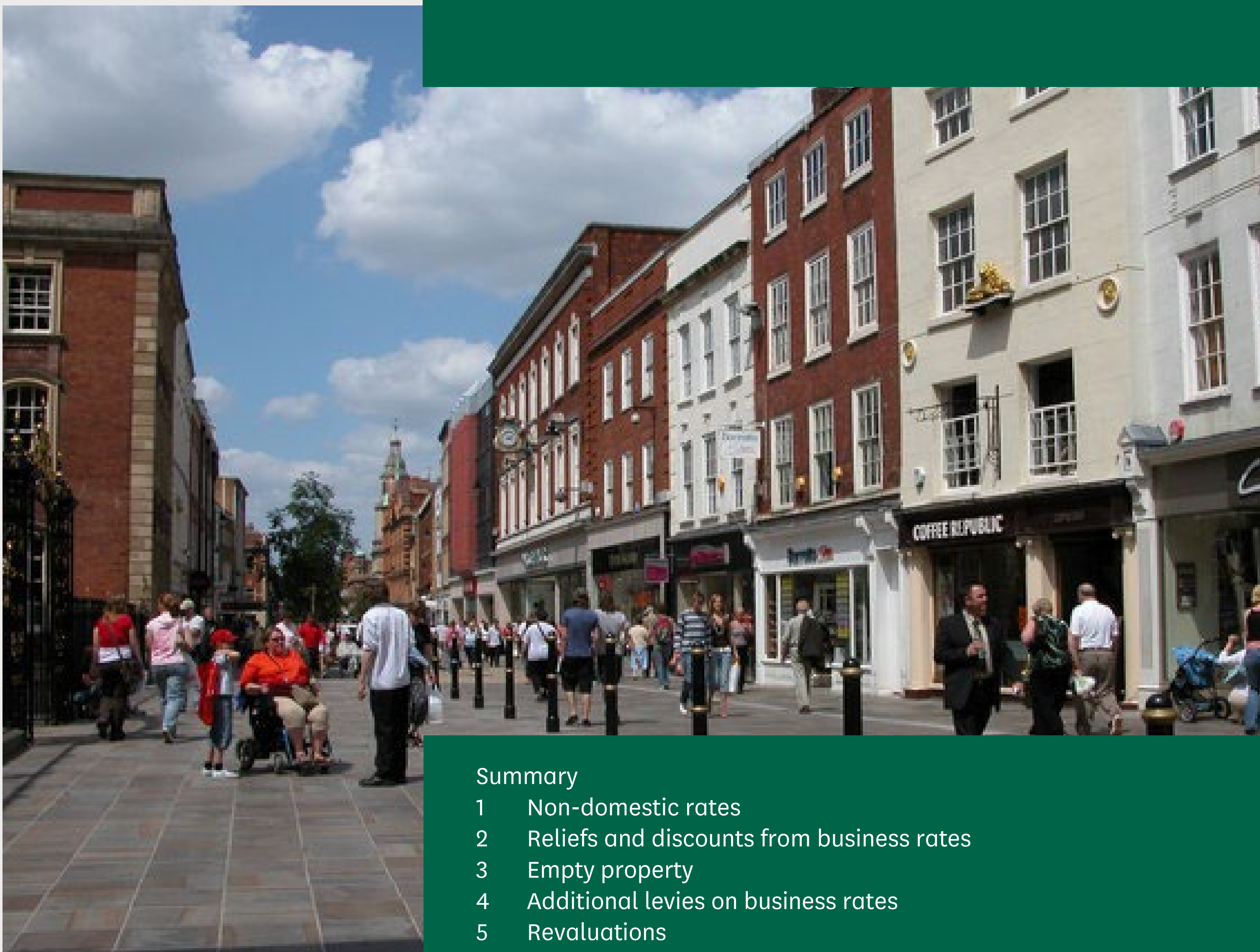
Business rates



Summary

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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 is determined by multiplying the rateable value of a property (a 'hereditament' or 'heritage') by the 'multiplier'. Properties' rateable values are set by the Valuation Office Agency in England and Wales, the Assessors in Scotland, and Land and Property Services in Northern Ireland.

The multiplier is expressed in pence per pound of rateable value. It is set by the UK Government in England and by the Scottish and Welsh Governments in Scotland and Wales. In Northern Ireland, both the Northern Ireland Executive and the district councils set separate rating multipliers, with the full rate liability collected by Land and Property Services. Therefore, a property with a rateable value of £100,000, where the multiplier was 54.6 pence in the pound, would have an annual business rate liability of £54,600.

Billing authorities (district and unitary councils) collect business rates. In England, the revenue is partly pooled at central government level and redistributed, and part is retained locally. In Scotland and Wales, the rates collected are pooled at the devolved level and redistributed to local authorities via a needs-based formula.

Various reliefs, both mandatory and discretionary, are available from full business rates liability. Additional details on business rate reliefs, and on grants paid through the business rate system during the Covid-19 pandemic, can be found in the Library briefing paper Business rates reliefs. Limited powers also exist for local authorities to set supplementary business rates.

Business rates are devolved to Scotland, Wales and Northern Ireland. The essentials of the business rates system are the same in all four parts of the UK. This paper focuses on the system in England but notes some instances where the UK's different systems diverge.

Additional detail on the 2023 revaluation of business rates can be found in the Library briefing Business rates: the 2023 revaluation. Details of the Business Rate Retention Scheme, and associated plans to reform local government finance, can be found in the Library briefing Reviewing and reforming local government finance.

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 in England, Wales and Scotland dates from the Local Government Finance Act 1988.[1] In Northern Ireland the Rates (Northern Ireland) Order 1977, as amended, provides the statutory basis for levying non-domestic rates.

Rates are levied on non-domestic 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?

In the business rates system, each non-domestic property is assigned a **rateable value** (RV). Rateable values in England and Wales are regularly revalued (see section 5) 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 within the Department of Finance and Personnel. Normally the RV of a property reflects the annual rent that it could have been let for on the open market (though see section 6 below).

The second element in the rates bill is the **multiplier**, which is 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 Executive.[2] Before the introduction of the 1988 Act, the billing authorities in England, Scotland and Wales set the multiplier locally. The multipliers for 2021/22 are shown in the table below.

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

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

2 Both rates are levied as one within a single rate bill, collected by NILPS. When the Executive was not operating in 2017-19, regional rates were set via legislation in the UK Parliament.

rateable value of £100,000, where the multiplier was 51.2 pence in the pound, would have an annual business rate liability of £51,200.

In England 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. This is not a legal requirement in Scotland.[3]

In England, the Government's policy from 2018/19 has been to raise the multiplier by the rate of the Consumer Price Index (CPI) from the previous September.[4] The CPI rate is normally lower than that of the RPI. The Government has said that local government in England will be "fully compensated for the loss of income as a result of these measures".[5] As of the 2024/25 financial year the Government still includes this compensation in the Local Government Finance Settlement. The Welsh Government made the same change from 2018/19.[6]

From 2021 to 2024, the multiplier was frozen in England and Wales. The small business multiplier in England was frozen in 2024/25, but the standard multiplier was not. In Wales, the increase in 2024/25 was capped at 5% instead of 6.7%.

Table: business rate multipliers, 2024/25

Location	Standard multiplier	Other multipliers
England	54.6p	49.9p (small business: £51,000 and under)
Scotland	49.8p	54.5p (intermediate: £51,001 to £100,000 RV) 55.9p (higher: above £100,000 RV)[7]
Wales	56.2p	
Northern Ireland	29.02p	District council multipliers ranging from 25.69p to 38.22p, thus a cumulative multiplier of 54.71p to 67.24p.[8]

3 See Scottish Parliament Information Centre, Non-domestic rates and the 2017 Revaluation, 2017
4 HM Treasury, Budget 2017, p34. The relevant legislation is the Local Government Finance Act 1988, schedule 7, paragraph 5 (3)
5 Ibid.
6 Welsh Government, Non-domestic Rates, 11 April 2018. See the Non-Domestic Rating (Multiplier) (Wales) Order 2019 (SI 2019/1497)
7 See Scottish Government, Non-domestic rates guidance, 1 April 2024
8 See the full list of district council rates on the website of the Department of Finance and Personnel.

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 Wales, the unitary local councils are the billing authorities; in Scotland, the unitary councils are the 'levying authorities'; and in Northern Ireland, the task falls to Land and Property Services. Ratepayers may pay in monthly 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 (see the Library briefing paper Business rate reliefs).

Unlike property taxation in many other states, the **occupier** of the property is liable for business rates. In most cases, owners become liable where a property is unoccupied.

1.4 The central list

A small number of properties are subject to rating via the 'central rating 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 in HM Treasury, not to local government. Central list properties can be viewed 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 numerous amendments since their initial publication. Revenue from the central list must be redistributed to local government via grants.

Proposals appeared in the 2010s to transfer properties, or classes of properties, between the central list and local lists.[9] In August 2021 the Government published a consultation proposing to move certain classes of property to the central rating list:

- Large telecommunication networks (not including locally-based private circuit leased lines);
- Mobile telecom operators: this would include office sites and equipment such as masts, towers, poles and fibre;
- The Channel Tunnel Rail Link.[10]

9 See for instance London Councils, written evidence to Communities and Local Government Committee [BUR-07], February 2016

10 MHCLG, Business rates revaluation 2023: the central rating list, 16 Aug 2021

The consultation states that the roll-out of 5G technology could, as things stand, lead to the creation of a very large number of small hereditaments in the form of 5G masts. Moving mobile telecom operators on to the central list is intended in part to mitigate the administrative impact of treating 5G masts as individual properties.

The consultation also reiterated the Government's criteria for placing a class of properties on the central rating list:

a. The nature and use of the property;

b. The size and geographical spread of the property; and

c. The suitability or otherwise for assessment of the property on local non-domestic rating lists.[11]

1.5 Scotland, Wales and Northern Ireland

Business rates are devolved to Scotland, Wales and Northern Ireland, though the system works in very similar ways in England, Scotland and Wales. Northern Ireland's non-domestic rating system has always operated separately, and uniquely in the UK, it continues to operate alongside a system of domestic rating. As the community charge and council tax were not introduced in Northern Ireland, the system of domestic rates remains in place.

Since devolution to Scotland and Wales, the systems of relief there have diverged from those in England. The devolved administrations have introduced new reliefs, and changed the eligibility criteria for others. Northern Ireland's rates system has always operated distinctly from that of Great Britain. Further details can be found in the Library briefing paper Business rates reliefs.

Business rates were fully devolved to Wales as of 1 April 2015. Revenue from business rates now remains in Wales, and it is redistributed amongst Welsh local government by the Welsh Government. Previously, rises and falls in Welsh rate revenue were compensated for via the Barnett Formula, so the Assembly's budget was not affected.[12] The Assembly has had the power to set the multiplier since its establishment in 1999.[13]

11 MHCLG, Business rates revaluation 2023: the central rating list, 16 Aug 2021. These criteria previously appeared in MHCLG, Business Rate Retention Reform, December 2018, pp35-36. See also a paper from the MHCLG-LGA working group published in January 2020.

12 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.

13 See HM Treasury, Empowerment and responsibility: devolving financial powers to Wales, 2013.

2 Reliefs and discounts from business rates

Various reliefs from liability for business rates, and exemptions from business rate liability, are available. The relief systems in England, Scotland, Wales and Northern Ireland diverge in a number of ways. More information on business rate relief is available in the Library research briefing Business rates reliefs.

The UK Government website provides a list of reliefs available in England, whilst the devolved administrations provide equivalent lists for Scotland, Wales, and Northern Ireland.

Entitlement to 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 entitlement to business rate relief may also change.

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. Ratepayers can appeal both against their rateable value and their rate bill (see section 7).

The reliefs available in England include:

- Small business rate relief
- Charitable relief
- Rural rate relief
- Telecommunications relief
- Enterprise zone relief
- Local newspaper relief

Several times during the 2010s and previously, the UK Government has established additional relief schemes in England targeting specific sectors. The majority of these relief schemes have, in law, consisted of funding for billing authorities to provide local discretionary relief, and have not required legislative changes.

These relief schemes are subject to 'Barnett consequentials'. This means that the devolved administrations receive additional funding as a result of the schemes, which they can then spend as they see fit.

Substantial additional business rate relief was made available during the 2020/21 and 2021/22 financial years, as part of the Government's response to the Covid-19 pandemic. Further details are available in the Library research briefing Business rates reliefs, and included:

- Retail, hospitality and leisure relief
- Day nursery (childcare) relief
- Pub relief

Billing authorities were also responsible for the distribution of a number of the support grants made available to businesses during the Covid-19 pandemic. The eligibility criteria for many of these grants related to whether a business had a property or properties in the business rates system, and if so what the property's rateable value was. Further details on these grant schemes can be found in the Library briefing paper Coronavirus: support for businesses. They include the:

- Small Business Grants Fund
- Retail, Hospitality and Leisure Grants Fund
- Local Authority Discretionary Fund
- Local Restrictions Support Grant
- Closed Businesses Lockdown Payment
- Restart Grants

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).[14]

Empty properties with a rateable value of under £2,900 (£2,600 in Wales) are entirely exempt from business rates.[15] Empty properties held by charities and companies in administration are exempt from business rates. Empty listed properties are exempt from business rates.[16]

In England and Wales, 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 thirteen weeks' occupation, the exemption period does not re-start: only the **remainder** of the **original** three-month exemption period is available.[17] In Scotland, from 2020-21 a six-month period of occupation is required before a new exemption period can begin.

Some companies have occupied 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 business rates case law.

14 The changes were made via the Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 (SI 2008/836). Prior to the 2007 Act, industrial and storage premises enjoyed indefinite exemption from business rates.

15 See regulation 4 of the Non-Domestic Rating (Reliefs, Thresholds and Amendment) (England) Order 2017; and the Non-Domestic Rating (Unoccupied Property) (Wales) (Amendment) Regulations 2011 (SI 2011/197).

16 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

17 Until April 2024 this period was six weeks, not thirteen. The change was made by the Non-Domestic Rating (Unoccupied Property) (England) (Amendment) Regulations 2024

3.1 Scotland: empty property

In Scotland, as of 1 April 2013, empty properties are entitled to 50% relief for the first three months in which they are empty, followed by 10% relief as long as they remain empty.[18] The Scottish Government website sets out certain types of property that receive 100% rate relief when they are empty.

The Non-Domestic Rates (Scotland) Act 2020 repealed the Scottish Government's powers to give empty property relief as of 1 April 2022.[19] Local authorities will still have the power to give empty property relief via the Community Empowerment (Scotland) Act 2015.

Since 2018/19, 'Fresh Start relief' has provided a 100% discount for twelve months on empty properties which have been brought back into use after being empty. Properties must have been empty for a minimum of six months, and have a rateable value of under £100,000. Reoccupation must have begun after 1 April 2018.

A property that is newly occupied after a period of being empty must be occupied for at least six months in order to be eligible for a further period of empty property relief.[20]

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18 See the Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2013. Previously, empty properties attracted 50% relief.

19 Scottish Parliament, Official Report, 4 Dec 2019

20 Scottish Government, Reforms to non-domestic rating system [letter], 24 February 2020

4 Additional levies on business rates

Two routes currently exist to apply an additional (supplementary) business rate at a local level: Business Improvement Districts and Business Rate Supplements.

Each of these systems allows for an additional multiplier to be applied to properties' rateable value, alongside the main multiplier. Normally, the additional multiplier will be set at a few pence in the pound.

4.1 Business Improvement Districts

Local authorities may create Business Improvement Districts, on demand, for specific areas within the locality. These are established and run by local business groups, who must also determine the geographical area covered. They must determine the level of the additional multiplier (the 'BID levy') to be collected, and any exemptions or discounted rates that are to apply.

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 ratepayers, both by rateable value and number, in a referendum. The billing authority collects the additional revenue and make it available for spending according to the prospectus.

BID levies do not have to follow the patterns of existing mandatory or temporary reliefs. Thus small businesses or charities (for example) that pay no business rates may still have to pay a BID levy. Liable businesses within the specified area of the BID cannot opt out of paying the BID levy.

Further details are available in the Library briefing paper Business Improvement Districts.

4.2 Business Rate Supplements

Local authorities in England and Wales, and combined authorities in England, may levy an additional multiplier on the standard business rate in certain circumstances. This is known as a 'business rate supplement' (BRS). The relevant legislation is the Business Rate Supplements Act 2009. The maximum level of a business rate supplement is an additional 2p in the pound on top of the national multiplier.

All proposals for the establishment of a BRS, and all variations to the original prospectus, must be approved by a majority, by number and by rateable value, of all those eligible to vote.[21] This replicates the provisions made for Business Improvement Districts. This provision was brought in by section 68 of the Localism Act 2011.

The only supplement scheme in existence so far is a 2p multiplier levied on businesses in London with a rateable value above £75,000. This runs from the 2010/11 to the 2037/38 financial year. The revenue contributes towards the Crossrail development.[22]

The Barclay Review proposed the piloting of business rate supplements in a small number of locations in Scotland, potentially to be applied to 'out-of-town' ratepayers or 'predominantly online' ratepayers. The consultation on the implementation of the Review, published in June 2018, invited views on how this should be taken forward.[23]

The main features of the English and Welsh legislation are:

- Upper tier local authorities, combined authorities, and the Greater London Authority may levy a BRS;
- BRS revenues must be spent on economic development (see the Government guidance).[24] In addition, the 2009 Act specifies certain matters on which a supplement may not be spent;[25]
- 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 any supplement;[26]
- 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;

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21 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.

22 Prior to 2011, a ballot was only required where the supplement was to fund more than a third of the total cost of the relevant project(s). The Crossrail BRS was established in 2009. See also Paying for Crossrail: business rate supplement; also the Library briefing paper Railways: Crossrail (SN/BT/0876).

23 Scottish Government, Barclay Implementation: A Consultation on Non-Domestic Rates Reform, June 2018

24 HM Treasury/DCLG, Business Rates Supplements: guidance for local authorities, January 2010

25 It may not be used to provide housing, social services, education services, services for children, or health services.

26 See the Business Rate Supplements (Rateable Value Condition) (England) Regulations 2009 (SI 2009/2542)

- there must be additionality i.e. revenues may not be used for expenditure that would have been incurred if no supplement had been levied.[27]

[27] 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 revalued regularly. The most recent revaluation in each area came into effect on 1 April 2023 (see the Library briefing Business rates: the 2023 revaluation). The previous 'rating list' in each area came into effect on 1 April 2017.

A revaluation came into effect in Northern Ireland on 1 April 2023, with an AVD of 1 April 2021. The next revaluation in Northern Ireland will come into effect on 1 April 2026, with an AVD of 1 April 2024.

As of 2023, the standard length of a revaluation cycle in each part of the UK is three years. For England, this followed a consultation in June 2021 on moving to a three-yearly revaluation cycle.[28] The Government also stated that reducing the length of time between the AVD and a revaluation taking effect, currently two years, remains "an aspiration".[29] In the longer term, the Government will consider the case for an annual revaluation cycle.[30]

In England and Wales, the next revaluation is due to come into effect in 2026, based on an AVD of 1 April 2021. In Scotland, the next revaluation will take effect on 1 April 2026, with an AVD of 1 April 2025.[31]

The UK Government had originally planned to bring the 2022 revaluation forward to 2021, followed by three-yearly revaluations (2024, 2027 etc.). After the VOA had made substantial progress on the 2021 revaluation, it was postponed in May 2020 due to the Covid-19 pandemic.[32] The Government then announced the delay to 2023 on 21 July 2020.[33] The Welsh Government delayed its revaluation to the same date.

In England and Wales, legislation provides that 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. Any real-terms rises in the overall yield are due to the

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28 A previous consultation took place in 2016 on the same subject. The Non-Domestic Rating (Lists) Bill 2017-19 would have changed the frequency to three years, but it did not complete its passage through Parliament. See the Library briefing for further background on the 2017-19 Bill.

29 HM Treasury, Business Rates Review: final report, October 2021, p11

30 Ibid.

31 Scottish Government, Barclay Implementation: A consultation on non-domestic rate reform, June 2018, p8. See also section 2 of the Non-Domestic Rates (Scotland) Act 2020.

32 MHCLG, "Business rates revaluation postponed", 6 May 2020

33 HC WS 400 2019-21, 21 Jul 2020. Changing the revaluation date will require primary legislation. The Non-Domestic Rates (Lists) Bill would have implemented the change to 2021. This Bill reached committee stage in the House of Lords in mid-2019 but made no further progress.

creation of additional physical property.[34] In Scotland, this is not a legal requirement, but it has been the practice of successive Scottish governments.

For instance, multipliers in England, Scotland and Wales were reduced by several pence in the pound at the 2005 and 2010 revaluations, offsetting an overall rise in rateable value. In 2017-18, in England, the standard multiplier fell from 49.4p to 47.9p, and the small business multiplier from 48.4p to 46.6p.[35] Conversely, total rateable value in Wales fell at the 2017 revaluation, so the Welsh multiplier rose from 48.6p to 49.9p.

[34] See the Local Government Finance Act 1988, schedule 7, paragraphs 4A and 4B
[35] See DCLG, Business Rates Information Letter 2017/3, March 2017

6 Alternative valuation methods

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. A useful resource is the Valuation Office Agency's manual, which is a guide for valuers when calculating rateable value.[36] The main alternative valuation methods are:

- **The 'receipts and expenditure' basis.** This is most commonly used for pubs and hotels (see below), where it is hard to obtain a meaningful annual rental figure. This method aggregates the property's turnover into a series of categories and multiplies each of them by a percentage (e.g. 30% for drinks receipts, 40% for food receipts). The figures are then added together to produce the rateable value.

- **The contractor's basis**. This is most commonly used for old or unique buildings. The cost of reconstructing the building from scratch is estimated. A statutory 'decapitalisation rate' is applied to this figure: this represents the rate of interest that funds would attract if they were not used for a rebuild.[37]

These methods are not set out in separate legislation. They represent mechanisms to approximate the valuation of properties as closely as possible to the standard method of valuation – identifying the annual rental value.

For other classes of property, such as telecommunications cables, standard rating scales, often agreed with industry representatives, are applied.

6.1 Receipts and expenditure valuation

Public houses' rateable value is normally calculated on the basis of "fair maintainable trade" – that is, the receipts and expenditure method. The use of this method dates back to the late 1800s. The current methods of valuation (agreed with the industry) are set out in the publication Valuation of Public Houses 2023.

36 See Valuation Office Agency, Rating Manual 4, 2012

37 This is prescribed in secondary legislation: see the Non-Domestic Rating (Miscellaneous Provisions) (No. 2) Regulations 1989 (Amendment) (England) Regulations 2016 (SI 2016/777). The Government consulted in 2019 on the decapitalisation rate for the aborted 2021 revaluation in England.

The justification for using this 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.[38]

The valuer must calculate the turnover that would be expected on the antecedent value date, assuming that the business was run competently by a 'hypothetical tenant'. This will inevitably have some relationship to, but need not be exactly equal to, the actual trade figures in recent years.[39]

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.[40] The percentage selected is principally 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 value figure is not substantially out of line with rateable values for similar properties nearby (the "stand back and look stage"), as the intention 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 assessment of similar styles of property and if it fits into the band range and pattern of assessments in similar localities.[41]

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

6.2 The contractor's basis

The contractor's basis of valuation estimates the capital cost of the land and buildings at the property and then multiplies this by a "decapitalisation rate"

38 Phil Askham and David Mackmin, Rating Law: The Uniform Business Rate, Sweet & Maxwell, 1995, p. 151-152

39 Valuation Office Agency, Rating Lists 2017 – Valuation of Public Houses: Approved Guide, p. 4

40 Ibid., pp. 7-15

41 Ibid., p.6

to give the rateable value. The aim is to approximate to the cost of rebuilding the building from scratch. A Government consultation describes it as follows:

> The contractor's basis works on the principle that, in theory, the tenant in the rating world could build their own property rather than rent the actual property and this will inform their rental bid. Therefore, they will not pay more in rent than the annualised cost of buying land and building a similar property nearby. Using this principle, the method broadly:
>
> - examines the cost of building a similar property (stage 1)
> - makes some adjustments for the obsolescence of the actual property (stage 2)
> - adds the land value (stage 3)
> - decapitalises the result to reach an annual value (stage 4), and
> - stands back to check the result (stage 5)[42]

This method is normally used for old and/or unique buildings. The rationale is that a building's uniqueness would have a critical impact on the amount of rent that could be charged from it. This would be because a tenant would want to rent that particular building, rather than choosing from a range of similar buildings on an open market.

The decapitalisation rate is specified in legislation at each revaluation. In England, for the 2017-2023 rating list, the Government prescribed two rates, one for educational, healthcare and defence properties, and one for all other properties valued on the contractor's basis. The decapitalisation rates for these classes of property are 2.6% and 4.4% respectively.[43] The Government announced on 6 May 2022 that these rates would remain in place for the 2023-26 rating list.[44]

42 MHCLG, The decapitalisation rates for the 2021 business rates revaluation, 2019, p5-6

43 Details of the analysis leading to these figures can be found in the DCLG consultation paper and response, published in September 2015 and April 2016 respectively, See DCLG, The decapitalisation rate for the 2017 business rate revaluation: Government response, April 2016, p. 6

44 DLUHC, Business rates information letter 4/2022, 6 May 2022.

7 Appeals

7.1 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 for England and Wales, the Assessors in Scotland, or NILPS in Northern Ireland. Details of how to do this in England and Wales are available on the VOA website. Details of the appeals process in Scotland can be found on the Scottish Government's website, and for Northern Ireland on the Northern Ireland Executive's website. If the ratepayer is dissatisfied with the VOA's decision, s/he can appeal to the Valuation Tribunal (in Scotland, the Lands Tribunal) and after that to the High Court.

Similar properties nearby having a 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.

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.

7.2 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 on this issue, s/he can appeal to the Valuation Tribunal, and after that to the High Court.

7.3 Appeals: England

A new business rate appeals system was introduced in England as of 1 April 2017. This is called Check, Challenge, Appeal. The 'check' and 'challenge' elements of the service are administered by the VOA, with the Valuation Tribunal handling appeals.

Check

At the 'check' stage, ratepayers must check and confirm "the accuracy of the facts on which their rating list entry is based". The intention is that the majority of disagreements over rateable value will be resolved quickly at the 'check' stage.[45] The Government's response to consultation states that the VOA intends to "respond … to the great majority of cases within 3 months" at this stage.[46]

It is possible for a group of properties with similar characteristics to submit a request for a Group Pre-Challenge Review (GPCR). The occupants of all the properties must consent to participating in a GPCR, and participants must agree on a single point of contact for discussions with the VOA. Further details can be found on the VOA website.

This process sits between the 'check' and 'challenge' stages. It may involve a challenge to a local or regional 'scheme of valuation': this is when similar properties in similar areas are grouped together to ensure that the rateable values assigned to them are in line with one another.

Challenge

Ratepayers who disagree with their rateable value following the 'check' process may initiate the 'challenge' stage. This must be initiated within four months of the end of the 'check' stage (although any case that has spent more than twelve months at 'check' stage without an extension being agreed will move on automatically). Ratepayers will be able to enter this stage immediately if they have "confirmed, within the last 4 months, that property specific details held by the VOA are correct".[47]

A challenge must contain:

- The name, address and contact details of the proposer;
- Details of the (legal) grounds for the challenge;
- A proposed alternative rateable value;
- Evidence or analysis supporting the proposed alternative rateable value.

Challenges lacking these four elements will be returned as 'incomplete'. If an incomplete challenge is to be resubmitted, this must be done within four months of the end of the 'check' stage.[48] The VOA will then respond to the

[45] See DCLG, Reforming business rates appeals: Government response to consultation, July 2016, p. 4
[46] Ibid., p. 5
[47] Ibid., p. 5
[48] DCLG, Check, challenge, appeal: reforming business rates appeals, 2015, p. 12. The time limit pauses whilst the VOA is deciding whether to accept the challenge as valid.

ratepayer's arguments and evidence.[49] It is expected that the information presented at the beginning of the challenge stage will normally be sufficient for the case to be determined:

> It should not be assumed that new evidence or arguments, or amendments to the challenge, will automatically be accepted. It is therefore in ratepayers' interests that they and their professional representatives make full disclosure of all relevant evidence at the beginning of the process.[50]

If the ratepayer and the VOA cannot reach an agreement during the challenge stage, the VOA will issue a letter setting out a summary of their decision on outstanding matters, with the reasons for their decision. This will formally end the challenge stage and the ratepayer will have four months in which to lodge an appeal against the VOA's decision. Ratepayers will also have the right to move to appeal stage if 18 months have elapsed at challenge stage without a decision.

Appeal

Appeals take place before the Valuation Tribunal for England.

The introduction of substantial new evidence at appeal stage by either party to the appeal is restricted, save at the mutual agreement of the parties.[51] The Government has introduced a fee for the appeal stage, of £300 for large businesses and £150 for small businesses.[52]

The regulations provide that the Valuation Tribunal should only order a change in rateable value if the valuation is not seen as 'reasonable'. The response to consultation published in March 2017 stated:

> The Government will not impose an arbitrary fixed percentage boundary on decisions by the VTE. Instead it will be for the VTE to take a view, based on the available evidence, on whether they consider the valuation to be reasonable. Where they consider that the current list reflects a reasonable valuation, it is right that they should not order a change.[53]

The regulations omitted a proposal that had appeared in the original consultation, published in August 2015, that:

> … the VTE, in considering an appeal, should order a change in the rateable value only where their view is that the valuation is outside the bounds of reasonable professional judgement. In cases where the VTE consider the

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49 Ibid., p. 5

50 DCLG, Check, challenge, appeal: reforming business rates appeals, 2015, p. 13.

51 Ibid., p. 16

52 DCLG, Reforming business rates appeals: consultation on statutory implementation, August 2015, p.10

53 DCLG, Check, challenge, appeal: reforming business rate appeals – consultation on statutory implementation, March 2017, p10

> extant valuation is within the bounds of reasonable professional judgement, no change will be made to the valuation.[54]

This is known within the valuation profession as 'blunting'. Its inclusion provoked an adverse response from the profession. The local finance officers' website Room 151 quoted John Webber, Head of Rates at property consultants Colliers, as saying:

> Valuations can vary between 10% and 20% within the bounds of reasonable judgement. This is saying your rates bill could be 20% higher than you think it should be and it doesn't matter.
>
> That is bad enough for a ratepayer. For a local authority it will mean a flurry of appeals come in before the new rules are introduced.
>
> After that, more challenges will end up at appeals. The Valuation Office Agency will just fold its arms at the first stage.[55]

Appeals in England: statistics

In May 2024, the VOA published statistics on the use of the Check, Challenge, Appeal system.[56] These showed that:

- In the first year of the 2023 rating list (1 April 2023-31 March 2024), 63,100 checks and 7,810 challenges had been registered. 5,930 of the challenges had not been resolved by 31 March 2024.
- 22,900 challenges relating to the 2017-23 rating list remained unresolved by 31 March 2024, from a total of 188,300.

7.4 Check, challenge, appeal: policy review

The Government stated in 2018 that it would review the Check, Challenge, Appeal system in 2019.[57] It published an interim review document in February 2020.[58] This stated that, whilst the Government accepted that some administrative difficulties had arisen in the implementation of the new system, there were some "positive initial signs".[59] These included a large

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54 Ibid., p12-13. See also the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2017 (SI 2017/155)

55 John Webber, Colliers, quoted in Colin Marrs, "Business rates 'bombshell' could worsen appeals backlog", Room 151, 18 August 2016

56 VOA, Non-domestic rating: challenges and changes statistical commentary, May 2024

57 HCLG Committee, Government response to the Housing, Communities and Local Government Committee's Fifth Report of Session 2017-19 on Business Rate Retention, Cm 9686, August 2018, para 44

58 MHCLG, Check, challenge, appeal: interim review of reforms to the business rate appeals system, 27 February 2020

59 Ibid., p8

number of initial 'checks' and 'challenges' leading to resolution between the ratepayer and the VOA rather than proceeding to appeal. The report states:

> Since the introduction of the new system, and as of 31 December 2019, ratepayers have made 137,360 Checks and 26,690 Challenges. Of those who have completed the Challenge stage, 305 have gone on to make an appeal to the Valuation Tribunal.[60]

A review of the customer experience of Check, Challenge, Appeal, published in September 2020, found that:

- The average time taken to resolve each case under Check, Challenge, Appeal was approximately half that under the previous system. The reviewers noted that the two systems were very different and a direct comparison had limited meaning. The reduced time in the new system did not translate into greater customer satisfaction;
- Fewer cases were being submitted under Check, Challenge, Appeal than under the previous appeal system;
- User opinion was divided on whether the system, and the electronic portal that administers it, was easy to use. Many users perceived administrative burdens at the outset of an appeal process to have increased;
- Ratepayers disliked having reduced contact with VOA staff and perceived a "lack of transparency from not being able to access VOA evidence".[61] Nevertheless, customer perceptions of the fairness of the system had remained similar to those under the previous system.[62]

The call for evidence for the fundamental review of business rates, published in July 2020, included three questions seeking evidence relating to the Check, Challenge Appeal process.[63] The interim response to the fundamental review set out a number of similar wishes from respondents, including adequate resourcing for the VOA, shorter statutory time limits on the Check and Challenge stages, better communication from the VOA during the process, and more transparency regarding rental evidence held by the VOA.[64]

The final report of the fundamental review stated that the Government would introduce a new duty on ratepayers, which is to be phased in between 2023 and 2026:

60 Ibid., p5
61 ICF, Evaluation of the impact of business rates appeals reform on customer experience, VOA, 29 Sep 2020, p.1
62 Ibid., p22
63 HM Treasury, Fundamental review of business rates: call for evidence, 21 July 2020, p23-25
64 HM Treasury, Business rates review: interim report, June 2021, p18-19

> Ratepayers will be required to notify the VOA of changes to the occupier or physical property characteristics, and to provide rent and lease information to the VOA, as well as trade information used for valuation.[65]

This duty was implemented by the Non-Domestic Rating Act 2023. In tandem with this requirement, the final report stated that the Government intends to remove the 'Check' stage from the appeal process, and introduce a three-month window for Challenges, in 2026, at the point when the revaluation after the next revaluation is planned to take effect. 'Check' will remain in place for the valuation list that is to apply from 2023 to 2026.[66] From 2026 the VOA will be required by law to resolve Challenges within the lifetime of the list (in that instance, from 2026 to 2029).

7.5 Appeals: Wales

Wales adopted an equivalent system to Check, Challenge, Appeal as of 1 April 2023, after the Senedd passed regulations in March 2023.[67]

Appeals that relate to prior financial years would still be made under the previous system. This involved submitting an appeal to the Valuation Office Agency, and progressing an unsuccessful appeal to the Valuation Tribunal for Wales. That system is the same as the one that operated in England until 1 April 2017.

7.6 Appeals: Scotland

In Scotland, the Non-Domestic Rates Act 2020 provided for the establishment of a two-stage appeal system as of 1 April 2022. The new system permits an appeal to the Scottish Assessors by 31 August 2023 – that is, within four months of the 2023 revaluation taking effect. Alternatively, an appeal may be submitted within four months of a change to a property's rateable value, or within four months of a new person becoming the ratepayer for a property.

An unsuccessful proposal can be appealed to the Local Taxation Chamber for Scotland, which is part of the First-Tier Tribunal. The appeal must be made within 28 days of receiving the Assessor's decision on the proposal.[68]

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[65] HM Treasury, Business Rates Review: final report, October 2021, p11

[66] Ibid., p12

[67] See the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2023

[68] See Scottish Government, Non-domestic rates appeals, for further information

7.7 Appeals: Northern Ireland

Businesses in Northern Ireland receive a ‘certificate of valuation’ when a property is revalued, or when it is valued for the first time. Businesses have 28 days from receipt of a certificate of valuation to appeal to the Commissioner of Valuation.

Businesses dissatisfied with the Commissioner’s response can appeal to the Northern Ireland Valuation Tribunal if the net annual value (rateable value) of the property is under £12,500, or to the Lands Tribunal for Northern Ireland for all other properties.

8 Frequently asked questions

8.1 When do I pay business rates?

From 2014-15, businesses in England 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.[69]

8.2 Why don't online businesses pay rates?

A repeated feature of debate on business rates is the assertion 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 (see section 4 of the Library briefing paper Town centre regeneration). The issue was discussed in the Government's 2015-16 review of business rates, and in the 2020/21 fundamental review of business rates.

Businesses pay business rates according to their use of property. 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.

The final report of the fundamental review of business rates, published in October 2021, announced a further consultation on introducing an online sales tax. This was presented as a means of reducing business rates for "retailers with properties in England":

> An OST levied at 1% or 2% would not raise sufficient revenue to be a feasible alternative to the business rates levied on retailers. However, it could help to rebalance the tax burden between bricks and mortar shops and online retail, which is typically less dependent on high-value property.

69 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.

> The evidence provided has not established that the business rates system is responsible for the shift to online or for broader problems on the high street. Other factors that may be relevant include changing consumer preferences, improvements in the choice and convenience available to online shoppers, and differences in the amount of stock that physical stores carry as compared with online retailers.[70]

The Government announced in the 2022 Autumn Statement that it had decided not to introduce an online sales tax.[71] The response to consultation said:

> As will be explored in more detail below, the balance of responses suggested that an OST would be complex, distortive, and would not raise sufficient revenue to fund the scale of business rate relief stakeholders have called for. The proposal does not command widespread support from the retail sector or members of the public. … As was explained in the consultation document, initial estimates suggested that an OST could raise approximately £1 billion per annum in the near term. Respondents' feedback suggested that any plausible model of OST would not raise enough funding to provide sufficient business rates relief to all retailers with physical stores.[72]

8.3 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, may be liable for business rates. Individuals who work at home and use a room or area which is also used for domestic purposes are unlikely to be liable. There is case law in this area and no definitive guidelines can be given.

8.4 Self-catering holiday lets

As of 1 April 2023, to be placed on the business rating list, a holiday let must be available for commercial let for 140 days and actually let for 70 days during the forthcoming year. It must also have been available for let for 140 days and actually let for 70 days in the previous 12 months.

Prior to April 2023, to be liable for business rates, a holiday let needed only to be available for rental as self-catering accommodation for 140 days or more in the forthcoming 12 months.[73] There was no requirement to demonstrate that it had been let for any period of time. The Government launched a consultation in November 2018 following concerns that some properties

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70 HM Treasury, Business Rates Review: final report, October 2021, p7
71 HM Treasury, Autumn Statement 2022, 2022, p54
72 HM Treasury, Online Sales Tax - Response to the consultation, Feb 2023
73 See section 66 (2B) of the Local Government Finance Act 1988.

benefiting from this provision were not available to let in practice.[74] A Government response to the consultation was published on 14 January 2022: this led to the changes made in April 2023.[75]

Holiday lets that do not meet these criteria are defined as domestic properties and are subject to council tax.

In many cases, owners of smaller holiday lets that are classified as non-domestic would be able to claim small business rate relief (see section 2 above). This could reduce their rate liability to zero, whereas in the council tax system, they would face a minimum of a band A council tax bill. The Government consultation estimates that as of April 2018 there were 47,000 holiday lets in England liable for business rates, of which about 96% had rateable values of £12,000 or less.

The new criteria require a property to have been available for let and/or to have actually been let prior to the point at which it is moved on to the business rates list. This means that new holiday lets will remain liable for council tax when they first come into existence, until they have met the 70 and 140 day criteria. At this point, a new holiday let could be moved from the council tax list to the business rating list. The Government's response to consultation states:

> On the day that [the] two criteria are met, assuming the property will continue to be available for 140 days in the coming 12 months, it will qualify for a business rates assessment.
>
> For example, a property that is first advertised as a holiday let would be liable for council tax for the next 140 days. If it was actually let out for 70 of these days, on day 141, it would qualify for a business rates assessment (provided the owner intended to advertise it for 140 days in the coming 12 months).[76]

The Scottish Government consulted on similar proposals in June 2018: their consultation closed in September 2018.[77] Since April 2022, the Non-Domestic Rates (Scotland) Act 2020 requires evidence to be provided that a property has been let for 70 days in the preceding financial year in order for it to be placed on the non-domestic valuation list and thus liable for business rates instead of council tax.

In Wales, the 70-day rule was put in place in the 2016/17 financial year.[78] From 1 April 2023, the Senedd passed legislation requiring a holiday let to have

74 See, for instance, House of Commons PQ 177781 2017-19, 10 Oct 2018; PQ 170758 2017-19, 5 Sept 2018; PQ 163512 2017-19, 12 July 2018, which includes a table of number of holiday lets by local authority area.

75 The change was implemented by the Non-Domestic Rating (Definition of Domestic Property) (England) Order 2022

76 See DLUHC, Business rates treatment of self-catering accommodation: summary of consultation responses and government response, 14 Jan 2022

77 Scottish Government, Barclay Implementation: A consultation on non-domestic rate reform, June 2018, pp16-17

78 See the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2016 (SI 2016/31)

been available for let 252 days of the year, and actually let for 182 days of the year (that is, half of the year in total).[79]

8.5 ATMs

Until May 2020, the VOA treated many ATMs (automatic teller machines) as liable for business rates in their own right.[80] The Supreme Court decided, in a case in May 2020, that ATMs do not constitute a 'hereditament' and therefore cannot be assigned a separate rate bill.

The subject was raised in a Westminster Hall debate on business rates in rural areas on 8 September 2015. Jake Berry MP said:

> In the past five years, the number of ATMs liable to business rates has risen from about 3,000 in 2010 to over 12,000 this year. Each through-wall ATM that is liable to business rates has an average charge of £3,600. Major supermarkets or petrol retailers, such as Shell or BP, may be able to absorb such costs, but a small village store or post office will not. A small village store or post office may be exempt from business rates, due to this Government's action, through small business rates relief, but creating a second rateable unit at the shop means that it is hit with a bill in excess of £3,000.[81]

For the Government, Marcus Jones MP replied:

> It is for the Valuation Office Agency to decide, based on the facts, whether an automated teller machine should be separately assessed for business rates. That is decided independently of Ministers, based on the facts of each case, and we do not intervene. However, where cash machines are assessed for rates, it is fair that the cash machine operators, which include banks and other financial organisations, pay rates alongside other sectors, such as retail and offices.[82]

In the early 2010s, some press articles asserted that the VOA had become readier to assign a rateable value to ATMs instead of treating them as forming part of the property in which they are located.[83] Depending on the nature of the agreement between the occupant of the property and the ATM owner, either could have been held liable for the rate bill.

In a judgment in January 2017 (*Sainsbury's v Sykes and Others*), the Upper Tribunal found that the VOA was correct to rate ATMs as separate 'hereditaments' (rateable properties), on the grounds that in legal terms they were 'occupied' by a different company from the occupier of the building in which they were located. The key question was whether the presence of an

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79 See the Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022

80 The liability attaches to the site on which the ATM is located, rather than the machine itself: see the VOA Manual entry on ATMs.

81 HCDeb 8 Sep 2015 c25WH

82 HCDeb 8 Sep 2015 c27WH

83 For instance, see Alex Hawkes, "Banks and supermarkets face unexpected rates bill of almost £500 million for cash machines installed in shops", Financial Mail on Sunday, 16 November 2013

ATM constituted a separate hereditament.[84] This decision, however, was reversed by the Court of Appeal in November 2018 (*Cardtronics and Others v Sykes*). The VOA appealed to the Supreme Court. In May 2020 the Supreme Court found that ATMs were not separately rateable.[85] This meant that billing authorities had to make backdated repayments in respect of ATM sites which should never have been in the rating list: media coverage estimated the total sum to be repaid to be in the region of £4-500 million in England.[86]

Sainsbury's v Sykes also suggested that 'internal ATMs', which are only accessible by going into a shop and are therefore 'occupied' by the retailer, would not necessarily constitute separate hereditaments and thus would not necessarily attract a separate rateable value. This part of the judgment was left untouched by the November 2018 appeal.

8.6 Music festivals / car boot sales

Agricultural land has been exempt from business rates since 1929.[87] However, land must be used for agricultural purposes in order to attain the exemption. If it is used for other purposes, even for only a small part of the year, it may be rateable. 'Other purposes' could include car boot sales or music festivals held on agricultural land. A few trade press articles in the mid-2010s indicated that a number of owners of farms which host festivals had received business rates demands backdated to 2010.[88]

According to the Valuation Office Agency, generally only "repeated" or "substantial use" of a site for a music festival will mean that the site becomes rateable. The VOA's Rating Manual indicates that decisions should be taken on a case-by-case basis:

> Some sporting or recreational activities held for a few days in a year may be disregarded (e.g. a field occasionally used for amateur cricket, village show, motor show and football matches or as a car park in connection with such occasional events), but only where it is clearly a use that ceases to exist before the end of the day and does not resume again without an intervening agricultural use. Setting up and taking down periods not exceeding 14 days or fewer days should be disregarded. A pragmatic view should be taken on whether a rating list should be altered in such circumstances, after having regard to the size, scale and duration of such an event.[89]

During a Westminster Hall debate in September 2015, Marcus Jones MP, for the Government, said:

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84 *Sainsbury's v Sykes*, [2017] UKUT 0138 (LC), p. 34
85 See UKSC 21 2020
86 Colin Marrs, "Councils face £500m bill after ATM business rates ruling", Room 151, 15 Nov 2018
87 For a definition of 'agricultural land' for this purpose, see the Local Government Finance Act 1988, Schedule 5 paragraph 2
88 See, for instance, "Festivals stung by business rates blitz", Record of the Day, 11 December 2014
89 Valuation Office Agency, Rating Manual, Section 8, Part D, paragraph 4.1

> ...if there are no permanent physical adaptations to the land to facilitate festival use, and the duration of the festival is only a matter of a few days, it is unlikely to attract a rating assessment in its own right. Any assessment would be proportionate to the scale of the festival. Of course, if a ratepayer is unhappy with their assessment, they have a right of appeal to an independent tribunal.
>
> The VOA is working with the Events Industry Forum to draw up guidance to help organisers better understand when rateability will arise.[90]

8.7 The 'staircase tax'

In 2018 the Government introduced legislation to reverse the effects of the court case *Woolway v Mazars*, which became known as the 'staircase tax'. The legislation became the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018. A full account of this case and the bill leading to the 2018 Act can be found in the Library briefing paper on the Bill.

Prior to the case, where two or more properties were contiguous and occupied by the same business, they could be valued as a single property even if they were not directly linked (e.g. by an interconnecting door or a staircase). This had been standard VOA practice for many decades. *Mazars* meant that such properties had to be valued separately. This led to overall rises in rate bills for many businesses. Businesses could also face backdated rises in their bills, as far back as 2010.

The *Mazars* case also had effect in Wales, but the 2018 Act does not extend to Wales. The Senedd made the equivalent change to the 2018 Act as of the 2023/24 financial year, via the Non-Domestic Rating (Property in Common Occupation) (Wales) Regulations 2022. Scotland and Northern Ireland are unaffected by both the *Mazars* case and the 2018 Act.

8.8 Plant nurseries

The Government issued a Written Statement on 28 March 2018 stating that it planned to introduce retrospective legislation to reverse the decision of the High Court in the case *Tunnel Tech v Reeves*.[91] This issue was initially raised in Parliament on 21 February 2017 by Steve Double MP.[92]

Subsequently, the Non-Domestic Rating (Nursery Grounds) Act 2018 received Royal Assent in November 2018. This extended exemption from business rates to 'nursery grounds'. It extends to England and Wales. In England, it has

90 HC Deb 8 Sept 2015 cc28-29WH
91 EWCA Civ 718 2015. See HCWS 606 2017-19, 28 Mar 2018
92 PBC Deb 21 Feb 2017, c350

retrospective effect to 1 April 2015, but in Wales, retrospective effect only applies from 1 April 2017. Scotland and Northern Ireland are unaffected.

Tunnel Tech v Reeves concerned the rateability of a property which was used for the initial stages of growing of mushrooms under cover, following which they were transferred to another producer before being sold to consumers. The High Court found that the property in this case was liable for business rates, because the mushrooms were produced in order to be sold on to complete the cultivation process elsewhere, not to be sold direct to consumers. Because of this, the property did not attract an agricultural exemption. In rating terms, it was a 'nursery ground' and not a 'market garden'.[93]

8.9 Day nurseries (childcare)

The Government announced full relief from business rates for all day nurseries in England for 2020/21 on 18 March 2020, as part of its response to the Covid-19 pandemic. The relief was available to "hereditaments occupied by providers on Ofsted's Early Years Register and wholly or mainly used for the provision of the Early Years Foundation Stage".[94] It was extended through to the first three months of the 2021/22 financial year, with 66% relief available for the remainder of that financial year. Nurseries that have closed because of coronavirus will be eligible.

Ordinarily, nurseries for children of pre-school age do not benefit from any specific relief scheme in England. An answer to a Parliamentary Question in February 2023 stated that the Government "has no plans to re-introduce a nurseries relief at this time".[95] Some nurseries may be eligible for charitable relief or small business rate relief. A number of Parliamentary Questions raised this issue in the 2010s, the most recent of which was asked in May 2019:

> **Gloria De Piero**: To ask the Secretary of State for Housing, Communities and Local Government, what assessment he has made of effect of the cost of business rates on the financial sustainability of the childcare sector in England.
>
> **Rishi Sunak**: Decisions on whether to grant discretionary business rates reliefs are taken by individual local authorities, and the Government does not hold data on whether local authorities award that relief to childcare providers.
>
> Since Budget 2016 the Government has introduced business rates measures in England worth £13 billion over the next five years. This includes switching the indexation of business rates from the retail price index to the consumer price index, representing a cut in rates to all ratepayers, including childcare providers, worth over £6 billion over the next five years. The Government has

93 See the VOA's Rating Manual, volume 435 section 5.3.

94 MHCLG, Business rates: nursery (childcare) discount 2020 to 2021: coronavirus response – local authority guidance, 18 Mar 2020, p.2

95 PQ HC 139305 2022-23, 9 Feb 2023

> also doubled the threshold for 100 per cent small business rate relief meaning that 655,000 businesses including many childcare providers now pay no business rates at all.
>
> The Government monitors the childcare provider market closely through a range of research projects and plans to spend around £3.5 billion on our early education entitlements this year alone.[96]

In Scotland, all day nurseries were exempt from business rates from 2018 to 2021.[97] The Welsh Government exempted day nurseries with a rateable value under £100,000 from business rates from 2019.[98]

8.10 Public toilets

As of 1 April 2020, public toilets in England that comprise a separate property on the rating list are exempt from business rates.

As they are non-domestic properties, public toilets could previously attract a rateable value and thus a business rate bill.[99] This could be a substantial outgoing for the toilet owners (often parish councils or community organisations) and could constitute an incentive for owners to close them. In 2015 the National Association of Local Councils submitted a proposal, under the Sustainable Communities Act 2007, to abolish business rates on public toilets.[100]

Billing authorities cannot currently give discretionary relief to properties, including toilets, that they own, or to those that are owned by parish councils. The 2016 Budget stated:

> The government will allow local authorities in England to use their discretionary relief powers to support publicly owned public lavatories from 1 April 2018.[101]

Clause 9 of the Local Government Finance Bill 2016-17 would have provided a power for billing authorities to give discretionary relief on toilets that they owned, or that were owned by parish councils. This Bill fell in advance of the snap 2017 General Election.

In the October 2018 Budget, the Government committed to giving 100% relief to **all** public toilets that were listed as separate properties from 2020-21.[102] This was implemented by the Non-Domestic Rating (Public Lavatories) Act

96 PQ HC-249259 2017-19, 7 May 2019
97 See the Non-Domestic Rates (Day Nursery Relief) (Scotland) Regulations 2018 (SI 2018/65)
98 See the Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2018 (SI 2018/1192)
99 For instance, see media coverage an article from the National Association of Local Councils and an article from the BBC in June 2015.
100 See NALC, "Don't let parishes get 'caught short' over public toilets", 22 June 2015
101 HM Treasury, Budget 2016, 2016, p. 108.
102 HM Treasury, Budget 2018, p46

2021 (see the Library briefing paper for more detail on the background of this Bill). This Bill had retrospective effect from 1 April 2020.

8.11 Student accommodation

Properties entirely occupied by students are exempt from council tax via a Class N exemption. Purpose built student accommodation (e.g. student halls of residence) receives a Class M exemption from council tax. The relevant legislation is the Council Tax (Exempt Dwellings) Order 1992.

Some concern was expressed in the late 2010s, by Members and by local authorities, about the effect of these exemptions on local authority finances. However, the Government has stated that it does not intend to change the current legislation:

> **Thangam Debbonaire**: In Bristol, university expansion means that a significant increase in student numbers is putting pressure on stretched local services right now, yet student accommodation providers contribute almost nothing to the costs. Will the Secretary of State meet me to discuss bringing student accommodation within the scope of business rates, like other businesses, to help to ease this strain on Bristol and other councils?
>
> **Marcus Jones**: I can confirm to the hon. Lady that we have no plans to change business rates by bringing student accommodation into their scope as she advocates.[103]

Local authority grant funding does not take account of the number of student properties in an authority's area. This did form a very small element of the calculations of Revenue Support Grant up to 2013, but even then it was not possible to identify a particular sum that a council received in respect of this issue.

8.12 Property occupied by the Crown or Members of Parliament

Historically, property occupied by the Crown was exempt from paying rates. This applied to all Government property. In practice, since at least 1874 Government policy had been to pay a contribution in lieu of rates (CILOR) to the rating authority or authorities, as if in practice the property was rateable. The exemption was abolished by section 3 of the Local Government and Rating Act 1997.

Members of Parliament who occupy constituency offices are not entitled to a discount or exemption by virtue of being MPs. It is possible that a constituency

103 HCDeb 30 Oct 2017 c572

office could attract small business rate relief, if it was the only office occupied by the MP and its rateable value was below £15,000.

8.13 Solar panels

Solar panels that are located on a building may be treated, for business rates purposes, either as part of the building on which they are installed, or as a separate property in their own right. The former is normally done where the installation produces power principally for the building itself, whilst the latter is more common where the power is being generated for sale to consumers.

In the former case, the presence of solar panels cannot be used to justify an increase in the rateable value of the building. As of 1 April 2022, valuation officers must disregard solar panels (and various other renewable energy installations) when valuing a property.[104] This was anticipated in the November 2021 publication Business Rates Review: technical consultation.

In the latter case, the owner of the solar panels would be entitled to a class 1 plant and machinery exemption, as set out in the Valuation for Rating (Plant and Machinery) (England) Regulations 2000. This type of exemption requires the valuation process to disregard, for rating purposes, items that a company uses for the production of energy.

8.14 How can my council introduce a supermarket levy?

Proposals emerged in the mid-2010s, most notably via a campaign by the group LocalWorks, for a 'supermarket levy' – i.e. to levy higher business rates on larger properties or companies via an additional multiplier. Scotland and Northern Ireland introduced higher multipliers during the 2010s. There is no legal power to set a higher multiplier in the England and Wales business rates legislation.

From 2012 to 2015, the Scottish Parliament imposed a 'public health supplement'. This was an additional multiplier on properties with a rateable value of over £300,000 **and** which sold both alcohol and tobacco (9.3p in 2012-13, 13p in 2013-15). 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.[105]

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104 See the Valuation for Rating (Plant and Machinery) (England) (Amendment) Regulations 2022

105 This was separate from the 'large business multiplier' that continues to operate in Scotland.

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.

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