

PAUL GRAY

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RATING APPEALS

You asked for comments on Nicholas Ridley's minute of 6 January.

He proposes, with the Chancellor's agreement, to announce legislation to nullify the effect of any proposals by ratepayers, domestic and non-domestic, to alter 1973 rateable values during the remaining 16 months life of the 1973 list. The purpose is to free Valuation Office resources in order to complete the non-domestic revaluation on target by end-89.

This target is in jeopardy because

- of severe professional staff shortages in the Valuation Office (a shortfall of about 300 valuers at end-88, more than the number required for the whole revaluation);
- the shortage will be exacerbated further by an expected surge in proposals for change to the 1973 list by firms seeking to gain maximum advantage under the transition arrangements for the new business rate (crudely, the lower than existing rates the better).

A particular worry is that, unchecked, this surge would create lengthy delays in clearing appeals on the old list after the new non-domestic list is introduced in 1990 (up to 3 years is estimated). There will be knock-on effects on the speed at which tribunals can deal with the initial surge of Community Charge appeals.

COMMENT

However, the proposal is likely to be extremely controversial and could possibly backfire under legal challenge especially from hostile local councils aiming to hinder the smooth introduction of the Community Charge:

- it will effectively remove ratepayers' legal rights of proposal and appeal. This will be intrinsically unpopular but it could also affect people's liabilities beyond 1990 where water charges remain linked to the old rateable values;
- the justification is shortage of staff: not the strongest of arguments. The Government will be asked why it failed to anticipate and tackle the shortage until the eleventh hour. In any case the real reason for this move - avoiding a surge of new proposals - will easily be recognised;
- the aim is to facilitate the new business rate, but the proposal affects domestic as well as non-domestic ratepayers equally. This may be hard to justify since the Treasury and DOE agree that the resources freed by limiting domestic proposals are relatively small (50 valuers against 290 from limiting non-domestic);
- the position of rating authorities (ie local councils) is ambiguous. They may also make proposals to the Valuation Office to reduce rateable values. DOE seems rather unsure whether or not they are included: it assumes they are, but the point is not addressed by Nicholas Ridley. There is a new dimension if the proposal is to remove local authorities' rights too: this will surely be contested by some left-wing councils out

to embarrass the Government and possibly hinder the smooth introduction of the Community Charge;

- it is unclear exactly how far behind schedule the non-domestic revaluation is and whether the issue is purely one of timing or the quality of the revaluation too, ie will the measures achieve the objective? DOE officials seem unsure about this too and are prepared to wonder whether the proposal really will deter businesses from making speculative proposals.

LEGAL ANGLE

Nicholas Ridley has copied to the Attorney but has given no indication of the legal aspect. I understand that the Solicitor-General has already advised strong caution about the use of retrospective legislation, especially if the gap between announcement and Royal Assent was of almost 12 months duration (as was envisaged when he was first consulted). The gap in this case as of now is likely to be at least 9 months, so this caveat remains and it is clearly essential to have a formal view from the Law Officers before any decision is taken.

RECOMMENDATION

Regardless of the Attorney's views, there are certain aspects on where it seems necessary to have further advice before a decision is taken:

- the case for including domestic as well as non-domestic ratepayers;
- the position of local councils as rating authorities. Are their rights to be equally limited? What potential is there for hostile

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councils to exploit the issue or try to make it backfire?

- a franker assessment of the overall political controversy which this will generate measured against the impact which the proposal will actually have on the stated objectives of completing the non-domestic revaluation by the end of this year and significantly reducing the number of proposals and appeals from businesses. Are they not going to go on regardless in the hope of favourable appeal decisions before Royal Assent?

I suggest a decision is deferred pending advice from the Law Officers and further advice on the points outlined above from the Secretary of State.

JM.

JOHN MILLS

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