

SECRET

Prime Minister 2 34(a)-

The second part of this note explains the position of shops with residential accommodation above, which you asked about.

BT 26/4

PRIME MINISTER

THE COMMUNITY CHARGE

Thank you.  
MB

You will recall that, at your meeting with Mr Patten a few days ago, you asked about the treatment of so-called composite hereditaments (eg shops with residential accommodation above) and about non-working wives.

I enclose notes which I have received from the Department of the Environment on both issues.

Note B on non-earning wives is persuasive. No change in liability for full community charge would appear to be justified. Moreover, any concession would be expensive and would add to the headline community charge figure.

Note A is perhaps not as clear as it might be. The essential points, however, are as follows.

- (i) There is no double taxation on composite hereditament properties.
- (ii) The business (non-domestic) and domestic parts of such properties, ie that part which represents the shop and that which represents residential accommodation, are separated by the valuation officers when they assess rateable values. Only the shop element is rated. No rates are payable on the domestic part of such premises.
- (iii) The business part is subject to the uniform business rate.
- (iv) The treatment of the domestic part is not fully explained at 'X' in Note A. I have spoken further to the Department of the Environment. It may be easier to describe the four most likely cases.

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- The shop owner lives in the residential accommodation above the shop. He is then liable for the personal community charge, if it is his main residence, and for the standard community charge if it is not.
- The shop owner rents out the residential accommodation to someone else. The tenant is liable for the personal community charge.
- The shop owner leaves the residential accommodation vacant. The shop owner is liable for the standard community charge.
- The shop owner uses the residential accommodation for some non-domestic purpose, eg storage. The valuation officer has thus made a mistake (or been deceived). The property should no longer be a composite hereditament. Rather the whole premises should be liable for non-domestic rates (such cases should be brought to the attention of the local valuation officer).

Any discussion?

One reason why there may have been suspicions of double taxation may be that, under the old domestic rating system, any living accommodation attached to shops had a relatively low rateable value.

For shop owners with residential accommodation above their shops, the switch from rates to the non-domestic<sup>rate</sup> community charge régime typically means a higher local tax bill (non-domestic rates plus community charge) particularly since rateable values for retailing have generally risen relative to other sectors in the economy. In areas where community charges are also high, eg parts of inner London, the increase in local tax bills is even worse. This may help to explain the apparent disquiet.

BHP

BARRY H POTTER

25 April 1990

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**NON-DOMESTIC RATES AND THE COMMUNITY CHARGE: TREATMENT OF  
COMPOSITE HEREDITAMENTS**

In properties which contain both domestic and non-domestic accommodation (known as 'composite hereditaments') only the non-domestic use of the property is subject to business rates. Where the living accommodation is used as a sole or main residence the occupants will be liable to the personal community charge, otherwise the standard community charge may be payable in respect of that accommodation.

The most common example of properties which are composite are shops with living accommodation attached. But many other types of property may be composite eg homes from which people run businesses, hotels occupied both by short-stay guests and by the proprietor and his staff, most public houses etc.

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When assessing the rateable value of a composite hereditament, the Valuation Officer values only the non-domestic use of the property. The value of any domestic use is not taken into account. In order to determine the extent of non-domestic as opposed to domestic use, the Valuation Officer is required to consider how a hypothetical tenant in that locality would use the property if vacant and to let, rather than the actual level of use in the particular case: so a parade of identical shops with flats above will all attract the same rateable value even though some of the shopkeepers may use some of the living accommodation as storage space and some may not, or vice versa.

People who run businesses from home will usually only be liable for rates where the business use prevents part of the property being used wholly for domestic purposes. So, where a room in a house is used as a doctor's surgery or is equipped as an office, rates will generally be payable; but a householder who uses the sitting room for child minding or a home telephone as a call-out number for a taxi service will not be liable. People who provide bed and breakfast accommodation in their homes will not pay rates



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unless they intend to make it available for 100 days a year or more. There has been some criticism of this rule and DOE Ministers are considering whether it needs modification using their Order making power.

The transitional arrangements for the business rate apply to the non-domestic part of a composite hereditament as they do to any other business property. Community charge transitional relief is also available to those living in composite hereditaments. The baseline for determining eligibility in both cases has been established by apportioning the 1973 list rateable values of composite properties between their non-domestic and domestic parts.

There have been many complaints from small shopkeepers who live over the shop at having to pay both business rates and the community charge and at the increase in their overall bill compared with the old rating system. The first criticism is misplaced: rates and the community charge relate to different parts of the property and there is no reason why a shopkeeper who lives over the shop should be treated differently from one who lives elsewhere and pays the community charge at that address. As to the second, it is true that shops in many areas will attract higher rate bills, mostly as a result of revaluation; but the main reason why people in this position are facing higher total bills appears to be that, under domestic rating, living accommodation attached to shops generally had a relatively low value and the switch to the community charge may therefore bear heavily on the occupants. However, the position of such small shopkeepers will be eased by the transitional <sup>rules</sup> arrangements, as explained above.



THE COMMUNITY CHARGE AND INCOME TAX: JOINT LIABILITY OF HUSBANDS AND WIVES

Husbands and wives living in the same household and couples living together as husband and wife are jointly and severally liable for each other's community charge. Husbands and wives are now assessed separately for income tax.

The reason for the difference in treatment lies in the different nature of income tax and the community charge. A spouse who has insufficient income to be liable to income tax simply pays no tax. There is no need to provide for his or her partner to pay it instead. But every non-exempt adult has to pay a community charge, regardless of income.

A single person with little or no income will be able to apply for community charge benefit to reduce his or her community charge bill by up to 80%; and if the individual is eligible for income support that benefit contains an amount to help pay the remaining 20%. But in the case of couples benefit entitlement is calculated on the basis of their joint income. It is therefore possible for a spouse with no income of his or her own to be liable for a full community charge, but to have no means of paying it because the other partner's income takes the couple outside the scope of benefit. It is therefore necessary to make provision for the charge to be paid by the partner.

If there were no joint and several liability it would be necessary either to exempt non-working spouses from the charge, or to allow couples to be assessed separately for community charge benefit. The former would weaken the principle that everyone, not just the head of the household, should receive a bill for local services, and would lead to inequitable results. A couple with one partner earning £30,000 would pay one community charge; a couple where both partners worked would pay two, even if their joint earnings were less than that amount.

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Separate assessment for benefit would mean benefit going to well-off couples, which besides increasing the cost, would go against the Government's policy of targeting benefit where it is most needed.