

Welsh government: Consultation on improvement rates relief

Response by the Chartered Institute of Taxation

1 Executive Summary

- 1.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the UK for advisers dealing with all aspects of taxation. We are a charity and our primary purpose is to promote education in taxation with a key aim of achieving a more efficient and less complex tax system for all. We draw on the experience of our 19,000 members, and extensive volunteer network, in providing our response.
- 1.2 We suggest the proposal for improvement relief should be formally evaluated against the Welsh Government's core tax principles – perhaps as part of the final impact assessment in the interests of transparency.
- 1.3 The regulations implementing the new relief should set out clearly how the policy objectives are to be interpreted and applied by both the Valuation Office and the billing authority, to avoid the unwelcome situation that applies at present with Local Government Finance Act 1988 section 44A relief where its availability differs widely from authority to authority or even between case handling officers.
- 1.4 The occupation requirement (that is, the ratepayer remains in occupation while the qualifying works are carried out) may have unintended consequences in dissuading ratepayers from taking up the relief because of the practical difficulties in remaining in occupation whilst works of alteration or improvement are carried out.

2 About us

- 2.1 The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

- 2.2 The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.
- 2.3 The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.
- 2.4 The CIOT's Business Rates Working Group consists of rating specialists and tax advisers including members in industry. The remit of the CIOT's Welsh Technical Committee covers all aspects of Welsh taxation and taxes devolved to Wales.
- 2.5 Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3 Introduction

- 3.1 Business rates policy is fully devolved to Wales. However a common legal framework in the form of the Local Government Finance Act 1988 (LGFA) extends to England and Wales. At the request of the Welsh Government parts of the Non- Domestic Rating Bill 2023 (amending the LGFA) will apply to Wales including the introduction of an enabling provision for a new improvement relief available initially to 1 April 2029. The policy aim is to support ratepayers investing in improvements to existing business premises by providing relief from the effect of a resulting rateable value increase in their business rates liability for a period of 12 months from completion of the works or on ceasing occupation, if earlier. The relief is for the net increase in rateable value.
- 3.2 Improvement relief will apply to local and central ratings list subject to 2 conditions: The conditions for relief are:
- The 'qualifying works' condition: the improvements must meet the definition of qualifying works (as certified by the Valuation Office) and set out in regulations, and
 - the 'occupation' condition: the property must have remained in occupation by the same ratepayer in the period since the qualifying works began. Qualifying occupation will be defined in regulations. In respect of the local rating list, it is for the relevant billing authority to be satisfied the occupation condition has been met.
- 3.3 Our stated objectives for the tax system include:
- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
 - Greater simplicity and clarity, so people can understand how much tax they should be paying and why.
 - Greater certainty, so businesses and individuals can plan ahead with confidence.

- A fair balance between the powers of tax collectors and the rights of taxpayers (both represented and unrepresented).
- Responsive and competent tax administration, with a minimum of bureaucracy.

3.4 The Welsh Government's core tax principles are:

Welsh taxes should:

- raise revenue to fund public services as fairly as possible.
- deliver Welsh Government policy objectives.
- be clear, stable and simple.
- be developed through collaboration and involvement.
- contribute directly to the Well-Being of Future Generations Act 2015 goal of creating a more equal Wales.

We suggest the proposal for improvement relief should be formally evaluated against these principles – perhaps as part of the final impact assessment in the interests of transparency.

3.5 We have answered questions 1-3 only. Question 4 concerns the effects on the Welsh language which is outside our area of expertise.

4 **Question 1: Do you agree that the proposed improvement relief will help to incentivise businesses and other ratepayers to invest in improving the properties they occupy?**

4.1 We agree that the relief should assist to some extent in removing the distortionary effect of improvements disincentivising businesses from equipping or expanding. It is of course debatable economically whether the occupier or landlord ultimately benefits from the improvements but it will undoubtedly incentivise them. We do however consider that the 12 month period is very short and may not be long enough to meet the policy objective, particularly as the relief is at the margin relating only to the rateable value added by the improvements. Consideration may need to be given to a longer period, for instance 24 or 36 months.

5 **Question 2 Do you think that the qualifying works and occupation conditions will support the policy intent?**

5.1 The many different property improvement scenarios and nature or status of the persons involved, will make framing the regulations challenging. Despite this challenge, the regulations should set out clearly how the policy objectives are to be interpreted and applied by both the Valuation Office and the billing authority to ensure consistency in application from authority to authority and between case handling officers (reference the current difficulties with LGFA 1988 section 44A relief where its availability differs widely).

5.2 The occupation condition could have unintended consequences. We note that the intention is not to subsidise property developers, but the practical ability to remain in occupation whilst works of alteration or improvement are carried out is not considered in the consultation. For example, a small village shop that has an upgrade to wiring, installation of aircon and a small extension may not be able to remain open while the builders and other tradespeople undertake their work (and indeed health and safety concerns may dictate

the temporary vacation of the premises). The business occupier may hire a portacabin and set it up on part of the shop carpark to maintain service to the community and provide business continuity. Under this scenario, it appears the small business will not qualify for improvement relief because it fails the occupation condition. Is this intended?

- 5.3 Similarly a larger business, say a factory employing 100 local people, might be restructuring production, investing in new equipment and extending the factory. They have another factory in a nearby town in Wales and will set up temporary additional production facilities there and bus the 100 workers over to the other site whilst the building works and production changes are made which are programmed to take 15 months. Rating law has developed following the *Monk*¹ case in the Supreme Court where ratepayers can justifiably have their rating list entry removed for the period of such works. Under the proposed rules, this business would not be allowed to have the factory removed from the rating list for the period of the works which is counter intuitive. They would be in a better position if they followed the *Monk* process and ceased payment of rates on the whole site for 15 months than seek to benefit from 12 months improvement relief on the marginal increase in RV. Again, is this intended?

6 Question 3 Do you have any other comments on the policy proposals or their practical application?

- 6.1 Improvement relief will be applicable to the local and central rating lists. Is the improvement relief intended to be available to water, gas, electricity and pipeline companies extending or upgrading their networks under statutory duties? There may be a concern that large network companies could find it easier to qualify for substantial amounts of the new improvement relief, than a small community business or a medium sized manufacturer.
- 6.2 We suggest there should be a prescribed time by which the certificate of change in rateable value will be issued by the VOA; a 4-week period seems reasonable.

7 Acknowledgement of submission

- 7.1 We would be grateful if you could acknowledge safe receipt of this submission, and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

26 July 2023

¹ Newbigi (Valuation Officer) (Respondent) v S J & J Monk (a firm) (Appellant) [2017] UKSC 14