

Consultation on the Business Rates Treatment of Self-Catering Accommodation

Purpose

For discussion and direction

Summary

This report sets out the key points in the Government's consultation concerning business rates treatment of self-catering accommodation and asks members for views on the LGA's draft response.

Recommendation

That members advise on the lines to take in response to the questions in the consultation as set out in **Appendix A**.

Action

Officers to draft a submission to be cleared by Lead Members of the Board, the Chairman and Group Leaders.

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Introduction

1. This report summarises a [consultation](#) on the business rates treatment of self-catering accommodation published by MHCLG on 7 November. The closing date for the consultation is 16 January 2019.

Background

2. Owners of second homes are generally liable for council tax, including situations where there may be some short-term letting. However when a property is used mainly for self-catering accommodation purposes ('holiday lets') it may be valued for business rates instead, as long as it is available for letting commercially for short periods totalling at least 140 days per year. If the property has a rateable value of under £12,000, it will qualify for 100 per cent small business rates relief (SBRR). For properties with a rateable value of £12,001 to £15,000, the rate of relief decreases gradually from 100 per cent to 0 per cent. Local authorities are compensated for business rates reliefs through a Section 31 grant.
3. The Government estimates that in April 2018 there were around 47,000 holiday lets in England liable for business rates; of which 96 per cent had a rateable value of £12,000 or less. The Government does not collect data on the number of holiday lets in receipt of SBRR.
4. The document states that the Government is concerned that some properties are not genuine businesses but owners may reduce their tax liability by declaring that a property is available to let but making little or no realistic effort to let it. This could include through restricting the period for which bookings can be accepted, asking for unrealistic rents or failing to market the property.
5. The Government acknowledges that the precise impact of the switch from council tax to business rates will vary between local authorities, but consider this could have a material impact on local authorities' income, and will have an impact on the Exchequer where SBRR is paid.

Proposals for Consultation

6. The Government is consulting on strengthening the criteria for a holiday let to be liable for business rates. It is proposing to add the criteria adopted in Wales in 2010. For a property to qualify it will have to fulfil three criteria:
 - 6.1. In the year under consideration, the property **will be available** for letting commercially as self-catering accommodation for short periods totalling at least 140 days; (this is the current sole criterion)
 - 6.2. During the previous year, the property **was available** for letting commercially as self-catering accommodation for short periods totalling at least 140 days;

- 6.3. During the previous year, the property **was actually commercially let** for short periods totalling at least 70 days.
7. The two new proposed criteria, as well as mirroring provisions adopted in Wales in 2010, would also reflect the approach to defining holiday accommodation for corporation tax, capital gains and income tax purposes. The Government's intention would be that such criteria would take effect 12 months after the passing of the relevant amendment to legislation in order to give sufficient notice to ratepayers that will need to take into account availability and letting patterns in the previous 12 months.
 8. A new or existing property that become available as a holiday let and a property previously available as a holiday let that changes ownership, would be liable for council tax until it could satisfy all of these criteria, at which point it would become liable for business rates. However, if and when the criteria are satisfied, it would be possible to backdate the business rate bill and have council tax reimbursed in respect of the previous year.
 9. The document considers some definitions. 'Commercially' is defined as 'with a view to making a profit', that is under normal circumstances, this would mean that the property is let at market rates and actively advertised in the usual places, such as tourism and hospitality company websites. Consequently, lettings to friends or relatives at zero or nominal rents are unlikely to be covered. A 'short period' is normally understood to mean periods of a month or less, so a property that is let on a long-term basis would be liable for council tax, rather than business rates. This is because it would become a domestic property as it is someone's sole or main residence.
 10. Some properties may also be subject to planning restrictions for use as self-catering businesses; however the document goes on to say that planning and local taxation regimes operate independently of each other; a property can be classed as a self-catering property for planning purposes while being subject to council tax.
 11. The document points out that councils have discretion to give discounts to second homes and homes that are vacant, substantially unfurnished and which require or are undergoing major repair work or structural alteration. It also notes that additional flexibility may be required in the case of business owners with multiple holiday lets at the same location or within very close proximity. To assist these business owners in meeting the criteria, one option would be to allow such owners to use the average number of letting days across their properties when establishing whether the 70-day criterion is met.

Questions

12. There are seven questions in the consultation, as detailed in Annex A. Members are invited to consider them and suggest a response.

Considerations

13. Members may like to bear in mind the following considerations in advising on any LGA response:

- 13.1. The proposals are designed to close a loophole where some owners of self-catering accommodation state that is available for letting but make little or no attempt to let it, thus avoiding paying both council tax and business rates. This has been raised as an example of avoidance in both parliament and in the press.
- 13.2. Local authorities are compensated for any loss in income due to business rates reliefs including small business rates relief.
- 13.3. Councils stand to gain from any additional council tax income, and New Homes Bonus, from properties which do not meet the strengthened criteria. The precise situation for any authority would depend on the rateable values of the properties and the council tax (and potential New Homes Bonus) which can be raised for any properties which no longer qualify for small business rates relief and instead pay council tax as a result of this change.
- 13.4. As for any legislative or regulatory change, this would be subject to a new burdens assessment.

Implications for Wales

14. There are no direct implications for Wales arising from this report. As the report notes, should the Government go ahead with its proposal, the situation in England would come into line with that in Wales.

Financial implications

15. The work outlined in the paper above is part of the LGA's core programme of work and as such has been budgeted for in 2017/18 and 2018/19 budgets.