

Partial Business and Regulatory Impact Assessment

Postpone the 2022 Non-Domestic Rates revaluation until 2023 with a Tone date of 1 April 2022 - bringing forward of 1 Year Tone date

The Valuation (Postponement of Revaluation) (Coronavirus) (Scotland) Order 2020

Purpose and intended effect

Background

The Valuation (Postponement of Revaluation) (Scotland) Order 2020 postpones the date on which the next non-domestic rates (NDR) revaluation comes into effect from 1 April 2022 to 1 April 2023. It will also set the Tone date for the next revaluation one year prior to revaluation.

Objective and Rationale for Government intervention

Non-Domestic Rates (NDR) in Scotland are based on the rateable value (RV) of individual non-domestic properties. RVs are determined by independent assessors on the basis of the notional rental value that a non-domestic property could be expected to receive on the open market if vacant and to let. In order to ensure that RVs more accurately reflect true market rental values they are periodically reviewed at 'revaluation'.

The rates liability of an individual property is a function of the RV of that property multiplied by the tax rate ('poundage' and any supplements) and adjusted for reliefs. While there is no statutory requirement to do so in Scotland, historically revaluations have typically been designed to re-distribute the tax base as opposed to raising more revenue. As such, revaluations result in 'winners' and 'losers'.

In order to ensure consistency across sectors and geographies, all properties' rateable values are benchmarked against rental values at a fixed point in time – the 'Tone' date. Historically, the Tone date has been 1 April two years prior to the revaluation date, although the independent Barclay Review of Non-Domestic Rates ("the Barclay Review") recommended moving to a one-year Tone date. The Barclay Review highlighted the financial risks of economic turbulence between the Tone date and revaluation date as justification for a shorter Tone period – pointing to the financial crisis and the oil and gas crash as recent examples.

The original date for the revaluation in Scotland was 1 April 2022, based on a Tone date as at 1 April 2020.

The UK Government and Welsh Governments have confirmed the next business rates revaluation in England and Wales respectively will take place on 1 April 2023, based on a Tone date as at 1 April 2021.

The Programme for Government 2020 announced the Scottish Government would make legislation to delay the next revaluation to 1 April 2023, but with a Tone date of 1 April 2022. This will mean the date of revaluation is the same in England, Wales and Scotland, but with

more up-to-date valuations in Scotland which more accurately reflect the post-Covid-19 and post-EU Exit property market.

Consultation

Within Government

No formal consultation has been undertaken.

Public Consultation

No formal consultation has been undertaken, although Ministers regularly engage with business organisations and rating professionals to listen to their views.

Business

The Scottish Ministers have powers conferred by section 37(3) of the Local Government (Scotland) Act 1975 to vary the year of a revaluation by Order subject to affirmative procedure in Parliament. There is no statutory requirement to consult on this instrument.

Options

There are 4 options available to Scottish Government:

1. Proceed with the 2022 revaluation with a Tone date of 1 April 2020 (in effect do nothing)
2. Hold the 2022 revaluation with a revised Tone date of 1 April 2021
3. Postpone the 2022 NDR revaluation until 2023 with a Tone date of 1 April 2021
4. Postpone the 2022 NDR revaluation until 2023 with a Tone date of 1 April 2022

Each of the options shares the same characteristics that a revaluation is designed to redistribute the tax base to reflect prevailing market evidence. On that basis, the revaluation process itself creates 'winners' and 'losers' and between revaluations the RV and rates liabilities of individual properties may change substantively. However, as the process has historically been designed to be revenue-neutral, in aggregate the winners and losers net to zero.

To assess the effect of these options on individual businesses' NDR bill profile would require an accurate assessment of how rental values on different dates (1 April 2020, 1 April 2021 or 1 April 2022) would translate into revaluation RVs. It would further require an accurate estimation of the poundage in both 2022-23 and 2023-24 under the different scenarios, as well as any public support offered e.g. reliefs. Businesses would need to have access to an assessment of all of these parameters in order to form a full judgement of which option offered the lowest liability for them.

However, for the reasons outlined below it is not possible to estimate the outcome of a revaluation or provide any detailed analysis of what may happen to rental markets (and therefore RVs) for all individual ratepayers under the different scenarios. It is also not possible to accurately determine the rate at which the poundage will be set in future and what form any reliefs may take for business.

1. Proceed with the 2022 revaluation with a Tone date of 1 April 2020 (in effect do nothing)

Sectors and groups affected

NDR are levied on the occupiers of business (non-domestic) property. Currently 255,000 individual premises are liable for NDR, although the majority (over 158,000 as at May 2019) of these benefit from the Scottish Government's relief package so pay a reduced or zero bill.

Benefits and costs

The purpose of revaluations is to redistribute the tax burden and overall is intended to be broadly cost-neutral (the total amount of revenue raised is intended to neither increase nor decrease in real terms purely as a consequence of a revaluation, although individual ratepayers may pay more or less at a revaluation as the total tax liability is redistributed).

So while the impact of a revaluation may see aggregate property RVs rise or fall, a compensating decrease or increase in the poundage has historically been applied to allow the impact on the revenue forecast to be raised through NDR over the cycle to be cost-neutral.

For context, at the last revaluation in 2017, property valuations increased by an average of 6% (excluding Designated Utilities). Despite this increase, due to changes in the poundage

and relief eligibility, the average net bill (after reliefs) was forecast to reduce by 2-3% in cash terms (excluding Designated Utilities).

Although the majority of premises saw relatively moderate rises or falls in property valuations, some sectors experienced significant increases in RVs, with Hotels and Public Houses for instance seeing an average increase in property values of 40% and 20% respectively. This led to the introduction on 1 April 2017 of transitional relief for the hospitality sector and offices in Aberdeen and Aberdeenshire at the 2017 revaluation.

More information on the 2017 revaluation is available here:

<https://www.gov.scot/publications/reevaluation-2017-scotland/pages/1/>

Some businesses, sectors or geographic regions may benefit from proceeding under this option but on average this will be offset by businesses, sectors or geographic regions who may lose out, particularly where the 1 April 2020 Tone date does not accurately reflect the market reality as at 1 April 2022. Should Ministers continue to pursue a revenue-neutral approach to revaluation, the net cost would be nil, all else being equal.

It is not possible to provide a full or accurate assessment of the likely redistributive impacts of a revaluation in 2022 with a 2020 Tone date on individual businesses, sectors or geographic regions, as to do so would require full revaluation processes to take place under this and the other options.

However, without a change in the Tone date for the next revaluation would fall on 1 April 2020, just three weeks after the World Health Organisation declared Covid-19 to be a global pandemic and during a period when many businesses had temporarily stopped trading. The potential volatility of rental values between that date and the next revaluation make it a challenging base to attempt to determine robust RVs for the next revaluation.

This could lead to a lack of certainty to businesses and introduce significant risks to public finances and therefore public services.

Further, a revaluation in 2022 with a 2020 Tone date could mean that relief thresholds, including those for the Small Business Bonus Scheme (SBBS), may have to be reviewed as they were at the 2017 revaluation, which could create uncertainty for the over 110,000 business properties that currently receive 100% SBBS. If aggregate RVs decreased substantially for instance, significantly more properties may become eligible for SBBS and the thresholds of the current scheme may also have to be reduced, in order for the scheme to remain affordable. This would create further uncertainty for many businesses on top of the uncertainty of Covid-19 and EU Exit.

Local authorities currently collect NDR and the changing of the date should have no administrative impact on collection.

The Barclay Review highlighted the financial risks of economic turbulence occurring between the Tone date and revaluation date. It is anticipated that a 1 April 2020 Tone date would result in a significant volume of rating appeals and place a significant burden on assessors and the Scottish Tribunals (once the transfer of Valuation Appeals Committees to Scottish Tribunals has occurred).

2. Hold the 2022 revaluation with a revised Tone date of 1 April 2021

Sectors and groups affected

NDR are levied on the occupiers of business (non-domestic) property. Currently 255,000 individual premises are liable for NDR, although the majority (over 158,000 as at May 2019) of these benefit from the Scottish Government's relief package so pay a reduced or zero bill.

Benefits and costs

The purpose of revaluations is to redistribute the tax burden and overall is intended to be broadly cost-neutral (the total amount of revenue raised is intended to neither increase nor decrease purely as a consequence of a revaluation, although individual ratepayers may pay more or less at a revaluation as the total tax liability is redistributed).

So while the impact of a revaluation may see aggregate property RVs rise or fall, a compensating decrease or increase in the poundage has historically been applied to allow the impact on the revenue raised through NDR to be cost-neutral.

As revaluations inherently produce 'winners' and 'losers' it is acknowledged that some businesses, sectors or geographic regions will face greater costs as a consequence of a later Tone date but on average this will be offset by businesses, sectors or geographic regions who benefit from the decision should ministers continue to pursue a revenue-neutral approach to revaluation.

It is not possible to provide a full or accurate assessment of the likely redistributive impacts of a revaluation in 2022 with a 2021 Tone date, as to do so would require full revaluation processes to take place under this and alternative scenarios. This is further complicated by the fact that it would require evidence on the economic circumstances prevailing at a specific date in the future (the Tone date).

Notwithstanding, it appears likely that the non-domestic property market will continue to be impacted into 2021-22 due to Covid-19 and EU Exit. On this basis, a 1 April 2021 Tone date is considered to present a similar level of risk as 1 April 2020 and could lead to a lack of certainty to businesses and introduce significant risks to public finances and therefore public services.

A revaluation in 2022 with a 2021 Tone date could also mean that relief thresholds, including those SBBS, may have to be reviewed as they were at the 2017 revaluation, which could create uncertainty for the over 110,000 business properties that currently receive 100% SBBS. If RVs for some properties or sectors decreased substantially for instance, significantly more properties may become eligible for SBBS and the thresholds of the current scheme may also have to be reduced, in order for the scheme to remain affordable. This would create further uncertainty for many businesses on top of the uncertainty of Covid-19 and EU Exit.

Local authorities currently collect NDR and the changing of the date should have no administrative impact on collection.

The Barclay Review highlighted the financial risks of economic turbulence occurring between the Tone date and revaluation date. It is anticipated that a 1 April 2021 Tone date would result in a significant volume of rating appeals and place a significant burden on assessors and the Scottish Tribunals (once the transfer of Valuation Appeals Committees to Scottish Tribunals has occurred).

Assessors are currently working towards a one-year Tone date from 1 April 2024 (for a 2025 revaluation) and additional funding has been provided by the Scottish Government to

support additional recruitment, training and IT developments. In addition, a number of measures in the Non-Domestic Rates (Scotland) Act 2020 were introduced to support that transition. Bringing those plans forward by three years would introduce significant risks to the operation of the system and would be expected to lead to a large number of appeals – something the Barclay Review actively sought to address.

3. Postpone the 2022 NDR revaluation until 2023 with a Tone date of 1 April 2021

Sectors and groups affected

NDR is levied on the occupiers of business (non-domestic) property. Currently 255,000 individual premises are liable for NDR, although the majority (over 158,000 as at May 2019) of these benefit from the Scottish Government's relief package so pay a reduced or zero bill.

Benefits and costs

The purpose of revaluations is to redistribute the tax burden and overall is intended to be broadly cost-neutral (the total amount of revenue raised is intended to neither increase nor decrease purely as a consequence of a revaluation, although individual ratepayers may pay more or less at a revaluation as the total tax liability is redistributed).

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As revaluations inherently produce 'winners' and 'losers' it is acknowledged that some businesses, sectors or geographic regions will face greater costs as a consequence of a later Tone date but on average this will be offset by businesses, sectors or geographic regions who benefit from the decision should ministers continue to pursue a revenue-neutral approach to revaluation.

It is not possible to provide a full or accurate assessment of the likely redistributive impacts of a revaluation in 2023 with a 2021 Tone date on individual ratepayers, as to do so would require full revaluation processes to take place under this and alternative scenarios. This is further complicated by the fact that it would require evidence on the economic circumstances prevailing at a specific date in the future (the Tone date) as current evidence would not be valid.

Notwithstanding, it appears likely that the non-domestic property market will continue to be impacted into 2021-22 due to Covid-19 and EU Exit. On this basis, a 1 April 2021 Tone date is considered to present a similar level of risks as 1 April 2020 and could lead to a lack of certainty to businesses and introduce significant risks to public finances and therefore public services.

Further, given the uncertainty associated with Covid-19 and EU Exit, it is considered that there will be significant risks that the market evidence available for a 1 April 2021 Tone date is unlikely to accurately reflect the prevailing market circumstances two years later on 1 April 2023.

A revaluation in 2023 with a 2021 Tone date could also mean that relief thresholds, including those for SBBS, may have to be reviewed as they were at the 2017 revaluation, which could create uncertainty for the over 110,000 business properties that currently receive 100% SBBS. If aggregate RVs decreased substantially for instance, significantly more properties may become eligible for SBBS and the thresholds of the current scheme may also have to

be reduced, in order for the scheme to remain affordable.

Local authorities currently collect NDR and the changing of the date should have no administrative impact on collection.

The Barclay Review highlighted the financial risks of economic turbulence occurring between the Tone date and revaluation date. It is anticipated that a 1 April 2021 Tone date would result in a significant volume of rating appeals and place a significant burden on assessors and the Scottish Tribunals (once the transfer of Valuation Appeals Committees to Scottish Tribunals has occurred).

4. Postpone the 2022 NDR revaluation until 2023 with a Tone date of 1 April 2022

Sectors and groups affected

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Benefits and costs

The purpose of revaluations is to redistribute the tax burden and overall is intended to be broadly cost-neutral (the total amount of revenue raised is intended to neither increase nor decrease purely as a consequence of a revaluation, although individual ratepayers may pay more or less at a revaluation as the total tax liability is redistributed).

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As revaluations inherently produce 'winners' and 'losers' it is acknowledged that some businesses, sectors or geographic regions will face greater costs as a consequence of a later Tone date but on average this will be offset by businesses, sectors or geographic regions who benefit from the decision should ministers continue to pursue a revenue neutral approach to revaluation.

It is not possible to provide a full or accurate assessment of the likely impacts of a revaluation in 2023 with a 2021 Tone date on individual ratepayers, as to do so would require full revaluation processes to take place under this and alternative scenarios. This is further complicated by the fact that it would require evidence on the economic circumstances prevailing at a specific date in the future (the Tone date) as current evidence would not be valid.

A Tone date of 1 April 2022 will provide more opportunity for the economy and commercial property market to stabilise following Covid-19 and EU Exit than a Tone date of 1 April 2020 or 1 April 2021, making this the first suitable date at which to set the Tone date.

A revaluation in 2023 with a 2022 Tone date could also mean that relief thresholds, including those for the Small Business Bonus Scheme (SBBS), may have to be reviewed as they were at the 2017 revaluation, which could create uncertainty for the over 110,000 business properties that currently receive 100% SBBS. If aggregate RVs decreased substantially for instance, significantly more properties may become eligible for SBBS and the thresholds of the current scheme may also have to be reduced, in order for the scheme to remain affordable.

Local authorities currently collect NDR and the changing of the date should have no administrative impact on collection.

Assessors are currently working towards a one-year Tone date from 1 April 2024 (for a 2025 revaluation) and additional funding has been provided to support additional recruitment and IT developments. In addition, a number of measures in the Non-Domestic Rates (Scotland) Act 2020 were introduced to support that transition. Bringing those plans forward introduces risks to the operation of the system but tentative discussions with assessors suggest that only bringing those plans forward by two years greatly reduces those risks.

Competition Assessment

For the reasons outlined in this BRIA it is not possible to give exact indications of the impact on all areas and sectors but it is recognised that the revaluation process is implicitly designed to redistribute tax liabilities and therefore creates winners and losers. It will therefore directly impact competition between individual ratepayers, economic sectors and geographic regions but is not possible to identify who these winners and losers might be without concluding a full revaluation.

However, by implementing a one year Tone date earlier than originally intended we are ensuring that Scottish businesses will benefit from the most contemporaneous valuations in the UK and should therefore more accurately reflect the market circumstances a post-Covid and post-EU Exit.

The cost of postponing the revaluation is neutral overall and ensures that overall Scottish ratepayers will not be placed at a competitive disadvantage.

Test run of business forms

Not applicable. No new forms are required.

Legal Aid Impact Test

Not applicable.

Enforcement, sanctions and monitoring

Scottish Government already regularly monitors and collates information on the rating system from both the assessors and billing authorities (Councils).

No additional monitoring is necessary to ensure effective billing and collection due to the change in revaluation date.

Implementation and delivery plan

The proposal to delay was announced in the Programme for Government, published September 2020. Billing authorities have been made aware of the change in revaluation date via the Institute of Revenues, Rating and Valuation (IRRV). Assessors and key stakeholders (including business organisations, rating agents and professional bodies) have

also been notified.

The Scottish Government will continue to raise awareness among stakeholders, where appropriate this will be in conjunction with assessors, councils, business organisations and other relevant bodies.

Post-implementation review

It will not possible to retrospectively estimate what RVs may have been had if revaluation taken place in 2023 had assessors collated evidence at that time.

Summary and recommendation

The cost of postponing the revaluation is neutral overall and ensures that Scottish ratepayers taken in aggregate will not be placed at a competitive disadvantage.

Summary costs and benefits table

For the reasons outlined in this Business and Regulatory Impact Assessment, it is not possible to forecast the costs and benefits of revaluations taking place at future dates.

Declaration and publication

Signed: Ben Macpherson MSP

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Minister's name, title etc*

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