

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

16th December 2013

BUSINESS RATES POLICY DEVELOPMENTS IN WALES

REPORT OF THE GROUP DIRECTOR CORPORATE SERVICES

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1. PURPOSE OF THE REPORT

1.1 This report provides Members with information about two new initiatives in respect of Business Rates which have been introduced by the Welsh Government (WG) that came into effect from 1st October 2013:-

- a) New Developments Scheme
- b) Open for Business Scheme.

2. RECOMMENDATIONS

2.1 It is recommended that Cabinet:

- a) Note the details of the two new discretionary rate relief schemes detailed in this report.
- b) Adopt the two new schemes in accordance with the resolution provided by Welsh Government at Appendix 1 of this report, to supplement the Council's discretionary rate relief scheme.

3. BACKGROUND

- 3.1. Welsh Government (WG) has released two new schemes to largely follow what is happening in England, following an announcement in the 2012 Autumn Statement and work undertaken by the Business Rates Task and Finish Group in Wales (led by Prof. Brian Morgan).
- 3.2. The purpose of both schemes is to attempt to stimulate and encourage construction of commercial/industrial developments in Wales. It is acknowledged that the compulsory charging of empty property rates introduced in 2008 is a significant disincentive against new development and it is hoped that a longer period of rates exemption will assist businesses and encourage investment and employment.
- 3.3. The proposed schemes have the potential to encourage business growth and development by temporarily reducing / removing business rates liability for qualifying businesses, at no cost to local authorities.

3.4. **NEW DEVELOPMENTS SCHEME**

- 3.5. Under the New Developments Scheme local authorities are able to give full exemption from empty property rate relief (subject to State Aid rules) for all newly built commercial property between 1 October 2013 and 30 September 2016. Relief can be granted during the first 18 months following completion - if completed on or after 1 October 2013, but before 1 October 2016 – while the property is empty.
- 3.6. When the property is occupied, the occupier will be liable to pay rates in the same way as any other occupied property, although there may be entitlement to other forms of rate relief during the period of occupation.
- 3.7. Properties that will benefit from the relief will be all unoccupied non domestic hereditaments that are wholly or mainly comprised of ‘qualifying new structures’. WG guidance defines what is meant by ‘qualifying new structures’ and how the rate relief will be affected by any splits, mergers and changes to existing ‘qualifying’ properties.

4. **OPEN FOR BUSINESS SCHEME**

- 4.1. This scheme is targeted at bringing long-term vacant non-domestic properties in towns and shopping centres back into use, with the aim of encouraging re-occupation of long-term vacant properties. It also seeks to support small businesses in the first year of trading or those considering a move into larger premises closer to a town centre or shopping area.
- 4.2. This Scheme will be available for 18 months and relief under the scheme will be available to eligible businesses for 12 months only. Eligible properties are those which:-
 - a) Have been unoccupied for a continuous period of 12 months or more
 - b) Have a rateable value of no more than £45,000
 - c) Meet certain previous/existing ‘use’ criteria.
- 4.3. WG guidance defines the ‘use’ criteria rules, but in essence this means that when last previously occupied, the property was in use wholly or mainly for retail purposes, or where the hereditament has never previously been occupied, it is in use wholly or mainly for retail purposes.
- 4.4. The relief is not available for premises occupied by government or public authorities.

5. Scheme Adoption and Funding Arrangements

5.1. Welsh Government has provided the following to local authorities:

- Guidance for both schemes
- A model resolution under section 47 of the Local Government Finance Act 1988
- A grant offer letter (which requires formal acceptance following adoption of the schemes)
- Template application forms for both schemes.

5.2 Welsh Government has indicated that is not changing the existing regulations relating to discretionary rate relief, but instead will allow local authorities to grant relief under existing discretionary relief powers contained in section 47 of the Local Government (Finance) Act 1988.

5.3 However, being a discretionary power, rate relief cannot be given unless an application is made for the relief in accordance with a Section 47 resolution by the authority, setting out the eligibility criteria for the scheme. Accordingly, individual local authorities will need to make a formal determination to adopt these schemes.

5.4 It is therefore recommended that the two schemes outlined above, be adopted in accordance with the detailed resolution required by Welsh Government and contained in **Appendix 1**.

5.5 It should be noted that in accordance with the Council's Constitution, the adoption of the two schemes requires an Executive decision and therefore it is for Cabinet to pass the resolution annexed at Appendix 1 on behalf of this Council.

5.6 These new schemes are fully funded and therefore at no cost to the Council, however, reimbursement of rate income 'lost' to councils will be dealt with by way of a specific grant from WG (under Section 31, Local Government Act 2003).

6. The Local Impact of the New Rate Relief Schemes

6.1 The Revenues Section has done some preliminary analysis and has identified the business premises that may potentially qualify for the 'Open for Business' scheme relief, within Rhondda Cynon Taf. These are set out in Appendix 2.

6.2 An initial analysis of the Council's rating records indicates that the communities most affected by empty business premises are the main strategic towns of Pontypridd, Aberdare, Porth and Treorchy.

6.3 In terms of publishing and promoting these new schemes, it is proposed that the following actions are taken:

- Write to owners of empty properties
- Contact business club members
- Press release
- Provide information on the Council Web Site

- Officers in Financial Services and Economic Development & Regeneration work together to promote the two new schemes within the business community

Arrangements are in place for applications for both schemes (in hard-copy and on the council web-site) bilingually.

APPENDIX 1

RESOLVED

1. Section 47 (discretionary relief) of the Local Government Finance Act 1988 (the Act) will apply as regards the hereditaments described below in accordance with the rules described in relation to those hereditaments.

It is reasonable for the Council to make this decision having regard to the interests of persons liable to pay council tax set by the Council.

2. Relief is not available under this resolution in respect of any hereditament which is occupied by –
 - the Welsh Ministers, a Minister of the Crown or government department,
 - any public authority (including any local authority),
 - the holder of any public office, or
 - the Crown.

For the avoidance of doubt, in respect of any chargeable day, rate relief under this resolution is not available in addition to any other relief or business rates-related support for the same day. Business rates-related support includes grant under the Welsh Government's "Enterprise Zone Business Rates Scheme".

First category of hereditament (New Development)

3. Paragraph 7 of this resolution applies to a hereditament in respect of chargeable days described in paragraph 4 if the following conditions are fulfilled in respect of any such day (and subject to paragraphs 2, 3 and 4) -
 - (a) on the day none of the hereditament is occupied;
 - (b) on the day the ratepayer is the owner of the whole of the hereditament;
 - (c) the hereditament is shown for the day in the Council's local non-domestic rating list in force for the relevant chargeable financial year;
 - (d) the hereditament is wholly or mainly comprised of qualifying new structures where the completion date for the structures is on or after 1 October 2013 but before 1 October 2016;
 - (e) the hereditament is unoccupied on the completion date;
 - (f) any rate relief granted in consequence of this paragraph would not be incompatible with article 107(1) of the Consolidated Version of the Treaty on the Functioning of the European Union;
 - (g) the owner of the hereditament has submitted an application to the Council requesting that paragraphs 1 to 7 of this resolution together with the annex apply to the hereditament, together with such information as is necessary for the Council to establish that the conditions above are fulfilled;

- (h) where the Council has requested further information to establish that the condition in paragraph (f) continues to be met, the owner of the hereditament has supplied that information to the satisfaction of that Council;
- (i) the application to the billing authority relates to the chargeable days (as described in paragraph 4) during the period no longer than 18 months beginning with the completion date for the hereditament.

4. The chargeable days are those days after the expiry of the following period, namely –

- in the case where the hereditament is one described in regulation 4(a) of the Non-Domestic Rating (Unoccupied Property) (Wales) Regulations 2008, three months;
- in the case where the hereditament is one described in regulation 4(b) of those Regulations, six months.

If this resolution is applied to a hereditament which is subsequently occupied (and therefore rates are payable in the normal way) and then subsequently unoccupied, this resolution will not re-apply until the expiration of any further applicable period under those Regulations.

5. Where the owner disposes of the hereditament, the discretionary relief available in respect of the hereditament under this resolution will continue to apply provided that, within 28 days after the date of the disposal, the new owner notifies the Council in writing of the disposal and provides it with information to establish that the condition in paragraph 3(f) continues to be met.

6. For the purposes of paragraph 3 of this resolution –

“completion day” means, in relation to structures, the day on which the building or part of the building of which the new structures form part is ready for occupation for the purpose for which it was constructed unless a completion notice has been served in respect of the such a building or part of a building, in which case the completion date is the date specified in that notice;

“qualifying new structures” means those structures which fall within the criteria described in the annex to this resolution.

7. The chargeable amount is 0.

Second category of hereditament (Open for Business)

8. Paragraph 10 of this resolution applies to a hereditament in respect of chargeable days during the period beginning on 1 October 2013 and ending on 31 March 2016 if the following conditions are fulfilled in respect of any such day (subject to paragraph 2)-

- (a) on the day the hereditament is occupied;
- (b) on the day the occupier is the occupier of the whole of the hereditament;

- (c) the hereditament is shown for the day in the Council's local non-domestic rating list in force for the relevant chargeable financial year;
- (d) on the day the rateable value of the hereditament is no greater than £45,000;
- (e) prior to the occupier occupying the hereditament the hereditament was not occupied for a continuous period of 12 months or longer;
- (f) either –
 - (i) when last previously occupied, the hereditament was in use wholly or mainly for retail purposes, or
 - (ii) where the hereditament has never previously been occupied, it is in use wholly or mainly for retail purposes;
- (g) the first day of occupation by the occupier is during the period beginning on 1 October 2013 and ending on 31 March 2015.
- (h) the application to the billing authority relates to the chargeable days during the period no longer than 12 months beginning with the first day of occupation by the occupier;
- (i) any rate relief granted in consequence of this paragraph would not be incompatible with article 107(1) of the Consolidated Version of the Treaty on the Functioning of the European Union;
- (j) the occupier of the hereditament has submitted an application to the Council requesting that paragraphs 1 and 2 and 8 to 10 of this resolution apply to the hereditament, together with such information as is necessary for the Council to establish that the conditions above are fulfilled; but where, by virtue of an arrangement between the occupier and another person ("L"), L agrees to pay the rates, an application may only be made jointly by the occupier and L, and in such cases L must undertake to apply the relief for the benefit of the occupier;
- (k) the application under paragraph (h) is submitted to the Council no later than (a) 6 months after the first day of occupation or (b) if earlier, 30 June 2015;
- (l) where the Council has requested further information to establish that the condition in paragraph (i) and the undertaking mentioned in paragraph (j) continue to be met, the occupier of the hereditament has supplied that information to the satisfaction of that Council.

9. For the purposes of paragraph 8 of this resolution –

- (a) a hereditament is used for retail purposes if a trade or business is carried on there which consists wholly or mainly of the provision of goods or services for the personal use of members of the public who visit the hereditament;
- (b) "goods" includes –

- (i) meals or refreshments for consumption on or off the hereditament on which they are sold or prepared; and
- (ii) intoxicating liquor for consumption on or off the hereditament on which it is sold;

(c) "personal use" means unconnected with a trade or business;

(d) "services" excludes provision of sleeping accommodation.

10. The chargeable amount is one half of the amount which would have been payable if it was calculated in accordance with the formula -

$$(A \times B) \text{ divided by } C$$

and for these purposes A, B and C have the meanings given in section 44(2), (4) and (6) of the Act.

Criteria for qualifying 'new' structures.

Meanings

"structures" means:

- a) foundations and/or
- b) permanent walls and/ or
- c) permanent roofs

"mainly" means more than half.

General

This resolution is not intended to capture properties that have been refurbished: it is intended to capture those that have been the subject of substantial structural construction, so for example those properties that are built on existing foundations or built around a retained façade are likely to benefit from the relief.

Splits, mergers, and changes to existing hereditaments

Where a hereditament is created as a result of a split or merger of other properties, or where the existing hereditament is altered for example with an extension, the same test will apply i.e. the hereditament must be wholly or mainly comprised of new structures completed within the necessary timeframes to benefit from the discretionary relief under the resolution. There will be some instances where this is not clear cut (such as where a hereditament is formed from the merger of a hereditament that comprises mainly or wholly of new structures with a hereditament that comprises structures that are not new) – the relief will only be available where the new hereditament wholly or mainly comprises qualifying new structures.

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Potential Qualifying Empty Retail Premises

Appendix 2

Community Area	Description of Property in Non Domestic Rating List																								
	Bank	Betting Shop	Bingo Hall	Cafe	Club House	Day Nursery	Forces Careers	Funeral Home	Garage	Gymnasium	Hairdressing Salon	Health Centre	Launderette	Market Stall	Offices	Pharmacy	Pool Hall	Public House	Restaurant	Shop	Studio	Surgery	Surgery, Office	Vehicle Repair	Grand Total
Pontypridd		3	1		1		1			4				1	36		1	3		25					75
Aberdare			1		1			1		1				1	18			2	1	21					47
Porth		1	1	1						2					3			3		17		2			30
Treorchy					1			1							10			3		10					25
Ferndale				1		1		1				1			1			1		16				1	23
Penygraig	1			1	1										2			2		15					22
Aberaman					2			1							4			4		8		1		1	21
Mountain Ash					1	1				1					8			1		9					21
Llantrisant							1			1					6			2		6	3		1		20
Abercynon					1										12					5					18
Taffs Well															14					1					17
Tonypanyd		1								1	1				4			1		4					12
Treherbert		1													2			1		6	1				11
Llanharan															6			1		3					10
Penrhawceiber		2								2										6					10
Pentre								1		1		1			1				1	5					10
Tylorstown					1					1					2					4		1			9
Ynysir															3			1		5					9
Hirwaun															3	1		1		2				1	8
Llantwit Fardre				1											3					4					8
Cwmbach								1		1					2			2		1					7
Pontyclun															3					1	1				5
Tonyrefail		1								1	1				1			1		4					5
Ynysybwl		1																		4					5
Ystrad																				5					5
Llanharry		1													2										3
Trealaw															2			1							3
Gilfach Goch																				1				1	2
Penywaun											1									1					2
Rhigos															2										2
Llwydcoed																								1	1
Grand Total	1	11	3	4	9	2	1	1	6	1	16	2	2	1	150	1	1	32	2	185	5	4	1	5	446

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