

EXECUTIVE NOTE

The Valuation and Rating (Exempted Classes) (Scotland) Order 2008 SSI/2008/80

The above Order is made in exercise of the powers conferred on the Scottish Ministers under Section 1 of the Valuation and Rating (Exempted Classes) (Scotland) Act 1976 and by all other enabling powers. The instrument is subject to the affirmative resolution procedure.

Background

Occupiers of non-domestic subjects in Scotland pay non-domestic rates. Broadly speaking, non-domestic rates are levied on the basis of a national poundage rate multiplied by the rateable value of each non-domestic subject in the valuation roll. Rateable values in Scotland are set by the Scottish Assessors. The rateable value is the Assessor's estimate of the annual rent which that property would command on the open market.

Under existing legislation, offshore telecommunications and electricity transmission and distribution cables that lie seaward of the low water mark of ordinary spring tides in Scottish waters have a liability for non-domestic rates. In England and Wales, rateability is determined by local authority boundaries and, in broad terms, liability for rating ceases at the low water mark. In Northern Ireland, rates can only be levied on hereditaments "in district", i.e. within a local government district boundary (there is a common law presumption that land between high and low water marks is not within a district boundary).

Policy Objective

The key purpose of this Order is to harmonise the valuation treatment of telecommunications and electricity cables across the United Kingdom by excluding from rating cables connecting two or more international jurisdictions.

The Order will exempt from rating all telecommunications and electricity transmission and distribution cables which begin or end outwith Great Britain together with any associated apparatus and works, so far as lying seaward of the low water mark of ordinary spring tides. The Order has been carefully drafted (after consultation with the Scottish Assessors Association) to ensure that the rating exemption does not include wholly domestic/internal cables. This broadly brings the treatment for rating of such cables in Scotland into line with England, Wales and Northern Ireland as far as local variations in common law allow.

Consultation

One hundred and sixty-seven organisations were consulted on the draft Order during the seven week period from 4 October 2007 to 26 November 2007. Of the 167 consultees, 7 organisations provided a substantive response (Aberdeen City Council, BT Scotland, CBI Scotland, the Highland Council, P/F Shefa and the Scottish Assessors Association). All respondents fully supported the policy intention of harmonisation of valuation practice in Scotland with valuation practice in England, Wales and Northern Ireland. The final version of the Order has been agreed with the Scottish Assessors Association and with the relevant Scottish Government policy officials to ensure the scope of the Order is consistent with the policy intention of valuation harmonisation with the rest of the UK and to ensure that

telecommunications and electricity cable companies are not discouraged from investing in telecommunications and electricity infrastructure in Scotland.

Financial Effects

The costs of this measure are likely to be negligible. This Order will not impose any financial burden on local authorities or business.

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