

DRAFT STATUTORY INSTRUMENTS

2015 No.

RATING AND VALUATION, ENGLAND

The Non-Domestic Rating (Levy and Safety Net) (Amendment) Regulations 2015

Made - - - -

Coming into force in accordance with regulation 1

The Secretary of State for Communities and Local Government makes the following Regulations in exercise of the powers conferred by sections 143(1) and (2) of, and paragraphs 22, 25 and 28 of Schedule 7B to, the Local Government Finance Act 1988(a):

A draft of this instrument was laid before and approved by a resolution of each House of Parliament in accordance with section 143(9D)(b) of that Act.

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Domestic Rating (Levy and Safety Net) (Amendment) Regulations 2015.

(2) Regulation 2(4) comes into force on 1st April 2015 and has effect in relation to the financial year beginning with 1st April 2015 and subsequent financial years.

(3) The remaining provisions of these Regulations come into force on the day after the day on which these Regulations are made.

Amendment of the Non-Domestic Rating (Levy and Safety Net) Regulations 2013

2.—(1) The Non-Domestic (Levy and Safety Net) Regulations 2013(c) are amended as follows.

(2) In regulation 2 (interpretation) in the definition “relevant year” before “means” insert “, except in Schedule 1A where it is subject to the definition contained in that Schedule,”.

(3) In regulation 4 (meaning of retained rates income for purposes of levy and safety net calculations)—

(a) in paragraph (1) for “paragraph 1 of Schedule 1” substitute “paragraphs 1 and 1A of Schedule 1 and paragraphs 3 and 4 of Schedule 1A”;

(b) in paragraph (2) after “Schedule 1” insert “and paragraphs 5, 6, 7 and 8 of Schedule 1A.”.

(a) 1988 c 41. Schedule 7B was inserted into the Local Government Finance Act 1988 by section 1 of, and Schedule 1 to, the Local Government Finance Act 2012 (c. 17).

(b) Section 143(9D) was inserted by section 1 of the Local Government Finance Act 2012.

(c) S.I. 2013/737; amended by S.I. 2014/822.

- (4) In regulation 8 (payments on account)—
- (a) in paragraph (1) for “10” substitute “12”.
 - (b) in paragraph (1)(b) for “9” substitute “11”.
 - (c) for paragraph (2) substitute—

“(2) The first four instalments are each to be of 9 per cent of the amount payable and each other instalment is to be 8 per cent of the amount payable.”
- (5) After paragraph 1 of Schedule 1 (calculation of retained rates income) insert—
- “**1A.** In calculating the values in paragraph 1(2), (3), (4) and (4A) there is to be disregarded in relation to the billing authority and for each relevant year the proportion of the authority’s non-domestic rating income calculated in respect of an area which has been designated in regulations made under paragraph 39(1) of Schedule 7B to the Local Government Finance Act 1998 within which all or part of the authority’s area falls.”.
- (6) After Schedule 1 insert new Schedule 1A as set out in the Schedule to these Regulations.
- 3.** In paragraph 1(4)(d) of Schedule 1 delete “Case A or”.

Signed by authority of the Secretary of State for Communities and Local Government

Name
Parliamentary Under Secretary of State
Department for Communities and Local Government

Date

SCHEDULE

Regulation 2(6)

“SCHEDULE 1A

Regulation 4

Special provision for the calculation of retained rates income for the
financial years beginning on 1st April 2013, 1st April 2014, 1st
April 2015, 1st April 2016 and 1st April 2017

Interpretation

1. In this Schedule—

“the 2003 Regulations” means the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003(a);

“the 2013 Regulations” means the Non-Domestic Rating (Rates Retention) Regulations 2013(b);

“end of year calculations” means the calculation of non-domestic rating income that a billing authority is required to make in accordance with regulation 9(1)(a) of, and paragraph 1 of Schedule 1 to, the 2013 Regulations for the relevant year;

“refunds in respect of previous years” means amounts to be repaid to ratepayers as a consequence of an alteration to a list in accordance with regulations made under section 55 of the 1988 Act in respect of a year prior to the year beginning on 1st April 2013;

“relevant proportion” means the relevant proportion of the provision for refunds in respect of previous years that a billing authority included in its calculation of surplus or

(a) S.I. 2003/3146. Relevant amendments were made by S.I. 2010/454 and S.I. 2014/1345.
(b) S.I. 2013/452; as amended by S.I. 2014/96.

deficit on the collection fund for the relevant year beginning on 1st April 2014, in accordance with paragraph 1A of Schedule 4 to the 2013 Regulations;

“relevant provision” means provision made by an authority to recognise amounts to be repaid to ratepayers as a consequence of an alteration to a list in accordance with regulations made under section 55 of the 1988 Act;

“relevant year” means the year for which a calculation of non-domestic rating income or of a payment is being made in accordance with the 2013 Regulations; and

“surplus or deficit with respect to non-domestic rates” means the billing authority’s estimate as to whether there is a surplus or deficit with respect to non-domestic rates in its collection fund for the preceding year calculated in accordance with regulation 13 of, and paragraph 1 of Schedule 4 to, the 2013 Regulations.

Application of Schedule

2. This Schedule applies where—

- (a) a billing authority—
 - (i) in its calculation under regulation 3 of the 2013 Regulations (calculation of non domestic income) of the amount specified by paragraph 1 of Schedule 1 to those Regulations, for the year beginning on 1st April 2013, spread its provision for refunds in respect of previous years over a 5 year period; and
 - (ii) in its calculation of the surplus or deficit with respect to non domestic rates for the relevant year beginning on 1st April 2014 included in the amount specified by paragraph 1(3) of Schedule 4 to the 2013 Regulations an amount equal to the relevant proportion;
- (b) a billing authority in accordance with regulation 30J(2) of the 2003 Regulations credited to a revenue account an amount equal to 80% of the amount of the relevant provision;
- (c) a major precepting authority, in accordance with proper practices, was required to recognise a relevant provision in a revenue account for the financial year beginning on 1st April 2013 and in accordance with regulation 30J(3) of the 2003 Regulations credited to a revenue account an amount equal to 80% of the amount found in accordance with paragraph (4) of that regulation;
- (d) a major precepting authority, in accordance with proper practices, was required to recognise a relevant provision in a revenue account for the financial year beginning on 1st April 2013 and a billing authority from whom the major precepting authority received non-domestic rating income for that year, in accordance with regulations 5(2), 6(2) or 14(1) of the 2013 Regulations, included in its calculation of surplus or deficit on the collection fund for the financial year beginning on 1st April 2014 an amount in accordance with paragraph 1A of Schedule 4 to those Regulations.

Calculation for billing authorities for the financial year beginning on 1st April 2013

3.—(1) This paragraph has effect in respect of the financial year beginning on 1st April 2013.

(2) For the purposes of regulation 9 (requirement to make a safety net payment) and regulation 10 (requirement to make a levy payment) the retained rates income for the financial year beginning on 1st April 2013 of an authority that is a billing authority is calculated by adding to the amount calculated in accordance with paragraph 1 of Schedule 1 the amount calculated in accordance with the formula—

$$KV \times 4/5$$

Where—

K has the same meaning as in paragraph 1 of Schedule 1; and

V is the provision for refunds in respect of previous years that the authority has included in its end of year calculation of non-domestic rating income for the financial year beginning on 1st April 2013.

Calculation for billing authorities for the financial years beginning on 1st April 2014, 1st April 2015, 1st April 2016 and 1st April 2017

4.—(1) This paragraph has effect in respect of the financial years beginning on 1st April 2014, 1st April 2015, 1st April 2016 and 1st April 2017.

(2) For the purposes of regulations 9 and 10, the retained rates income for the financial years beginning on 1st April 2014 of an authority that is a billing authority is calculated by deducting from the amount calculated in accordance with paragraph 1 of Schedule 1 the amount calculated in accordance with the formula—

$$KV/5$$

Where—

K has the same meaning as in paragraph 1 of Schedule 1; and

V is the provision for refunds in respect of previous years that the authority has included in its end of year calculation of non-domestic rating income for the financial year beginning on 1st April 2013.

(3) For the purposes of regulation 7 (safety net on account) and regulations 9 and 10, the retained rates income for the financial years beginning on 1st April 2015, 1st April 2016 and 1st April 2017 of an authority that is a billing authority is calculated by deducting from the amount calculated in accordance with paragraph 1 of Schedule 1 the amount calculated in accordance with subparagraph (2).

Calculation for major precepting authorities for the financial year beginning on 1st April 2013

5.—(1) This paragraph has effect in respect of the financial year beginning on 1st April 2013 if the circumstances mentioned in paragraph 2(c) alone applies or if the circumstances mentioned in paragraph 2(c) and (d) both apply.

(2) For the purposes of regulations 9 and 10, the retained rates income for the financial year beginning on 1st April 2013 of an authority that is a major precepting authority is calculated by adding to the amount calculated in accordance with paragraph 2 of Schedule 1 the amount calculated in accordance with the formula—

$$SW \times 4/5$$

Where—

S is calculated as in paragraph 2 of Schedule 1; and

W is the sum of the provision for refunds in respect of previous years that every billing authority from whom the major precepting authority received non-domestic rating income has included in its end of year calculations.

6.—(1) This paragraph has effect in respect of the financial year beginning on 1st April 2013 if the circumstances mentioned in paragraph 2(d) alone apply.

(2) For the purposes of regulations 9 and 10, the retained rates income for the financial year beginning on 1st April 2013 of an authority that is a major precepting authority is calculated by adding to the amount calculated in accordance with paragraph 2 of Schedule 1 the amount calculated in accordance with the formula—

$SY \times 4/5$

Where—

S is calculated as in paragraph 2 of Schedule 1; and

Y is the aggregate of the provision for refunds in respect of previous years of every billing authority from whom the major precepting authority received non-domestic rating income, where that billing authority has—

- (a) in its calculation under regulation 3 of the 2013 Regulations (calculation of non domestic income) of the amount specified by paragraph 1 of Schedule 1 to those Regulations, for the year beginning on 1st April 2013, spread its provision for refunds in respect of previous years over a 5 year period; and
- (b) in its calculation of the surplus or deficit with respect to non domestic rates for the relevant year beginning on 1st April 2014 included in the amount specified by paragraph 1(3) of Schedule 4 to the 2013 Regulations an amount equal to the relevant proportion.

Calculation for major precepting authorities for the financial years beginning on 1st April 2014, 1st April 2015, 1st April 2016 and 1st April 2017

7.—(1) This paragraph has effect in respect of the financial years beginning on 1st April 2014, 1st April 2015, 1st April 2016 and 1st April 2017 if the circumstances in paragraph 2(c) alone applies or if the circumstances in paragraph 2(c) and (d) apply.

(2) For the purposes of regulations 9 and 10, the retained rates income for the financial year beginning on 1st April 2014 of an authority that is a major precepting authority is calculated by deducting from the amount calculated in accordance with paragraph 1 of Schedule 1 the amount calculated in accordance with the formula—

$$SW / 5$$

Where—

S is calculated as in paragraph 2 of Schedule 1; and

W is the sum of the provision for refunds in respect of previous years that every billing authority from whom the major precepting authority received non-domestic rating income has included in its end of year calculations.

(3) For the purposes of regulations 7, 9 and 10, the retained rates income for the financial years beginning on 1st April 2015, 1st April 2016 and 1st April 2017 of an authority that is a major precepting authority is calculated by deducting from the amount calculated in accordance with paragraph 2 of Schedule 1 the amount calculated in accordance with subparagraph (2).

8.—(1) This paragraph has effect in respect of the financial years beginning on 1st April 2014, 1st April 2015, 1st April 2016 and 1st April 2017 if the circumstances in paragraph 2(d) alone apply.

(2) For the purposes of regulations 9 and 10, the retained rates income for the financial year beginning on 1st April 2014 of an authority that is a major precepting authority is calculated by deducting from the amount calculated in accordance with paragraph 1 of Schedule 1 the amount calculated in accordance with the formula—

$$SY / 5$$

Where—

S is calculated as in paragraph 2 of Schedule 1; and

Y is the aggregate of the provision for refunds in respect of previous years of every billing authority from whom the major precepting authority received non-domestic rating income, where that billing authority has—

- (a) in its calculation under regulation 3 of the 2013 Regulations (calculation of non domestic income) of the amount specified by paragraph 1 of Schedule 1 to those Regulations, for the year beginning on 1st April 2013, spread its provision for refunds in respect of previous years over a 5 year period; and
- (b) in its calculation of the surplus or deficit with respect to non domestic rates for the relevant year beginning on 1st April 2014 included in the amount specified by paragraph 1(3) of Schedule 4 to the 2013 Regulations an amount equal to the relevant proportion.

(3) For the purposes of regulations 7, 9 and 10, the retained rates income for the financial years beginning on 1st April 2014, 1st April 2015, 1st April 2016 and 1st April 2017 of an authority that is a major precepting authority is calculated by deducting from the amount calculated in accordance with paragraph 2 of Schedule 1 the amount calculated in accordance with subparagraph (2).”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Non-Domestic (Levy and Safety Net) Regulations 2013 (“the Levy and Safety Net Regulations”).

The Levy and Safety Net Regulations are part of the system of local retention of non-domestic rates, established by Schedule 7B to the Local Government Finance Act 1998 (“the 1998 Act”). They make provision for calculating whether the Secretary of State is required to make a safety net payment to an authority or whether an authority is required to make a levy payment to the Secretary of State. Levy and safety net payments are calculated by reference to an authority’s non-domestic rating income and its baseline funding level. They also provide for the calculations of each authority’s “retained rates income”, which is the income that the authority has received from non-domestic rates, plus or minus any top up payments that the authority has received or tariff payment made under Part 5 of Schedule 7B to the 1998 Act. Various adjustments are made to an authority’s retained rates income for certain rate relief reductions and remissions to ensure their proper treatment in the calculations.

The amendments under regulations 2(2), (3), (5), (6) and (7) provide for further adjustments to an authority’s retained rates income to properly reflect the fact that if an authority elects to spread the cost of its provision for refunds in respect of previous years, as it is permitted to do by regulation 30J(4) of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 or paragraph 1A of Schedule 4 to the Non-Domestic Rating (Rates Retention) Regulation 2013, it will have more income than currently provided for in the calculation of retained rates income in the financial year beginning on 1st April 2014, 1st April 2015, 1st April 2016 and 1st April 2017.

Regulation 2(4) amends the schedule of instalments by which payments are made through the course of the financial year.

The amendments under regulation 2(6) ensure that the calculation of an authority’s retained rates income does not include amounts which billing authorities have already received in relief in respect of an area which has been designated in regulations made under paragraph 39(1) of Schedule 7B to the Local Government Finance Act 1998 within which all or part of the authority’s area falls.

The amendments under regulation 3 remove the requirement to include certain hereditaments when calculating a billing authority’s retained rates income as a consequence of the changes made by regulation 2(4).

An impact assessment has not been prepared for this instrument as no impact on the private or voluntary sector is foreseen.

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