

2010 No. 403

LOCAL GOVERNMENT, ENGLAND

RATING AND VALUATION, ENGLAND

**The Business Rate Supplements (Accounting) (England)
Regulations 2010**

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| <i>Made</i> - - - - | <i>21st February 2010</i> |
| <i>Laid before Parliament</i> | <i>25th February 2010</i> |
| <i>Coming into force</i> - - | <i>22nd March 2010</i> |

The Secretary of State, in exercise of the powers conferred by section 29(1) of, and paragraphs 2, 3 and 5 of Schedule 3 to, the Business Rate Supplements Act 2009(a), makes the following Regulations:

Citation, application and commencement

1. These Regulations, which apply in relation to England only, may be cited as the Business Rate Supplements (Accounting) (England) Regulations 2010 and shall come into force on 22nd March 2010.

Interpretation

2. In these Regulations—

“the Act” means the Business Rate Supplements Act 2009;

“the Transfers Regulations” means the Business Rate Supplements (Transfers to Revenue Accounts) (England) Regulations 2009(b);

“financial contribution” means a financial contribution such as is mentioned in section 3(6) of the Act; and

“revenue account” means the account kept by —

- (a) a levying authority under paragraph 1(1) of Schedule 3 to the Act, or
- (b) a functional body under paragraph 1(2) of Schedule 3 to the Act.

The BRS revenue account

3. Schedule 1 shall have effect with respect to the keeping of a revenue account.

(a) 2009 c.7. These powers are exercisable by the appropriate national authority, which is defined by section 30(1)(a), in relation to a levying authority whose area is in England or in relation to hereditaments in England, as the Secretary of State.
(b) S.I. 2009/2543.

Deficit in the BRS revenue account – levying authority

4.—(1) Subject to paragraph (2), after the end of each financial year of a BRS, a levying authority shall—

- (a) make good any deficit in its revenue account from its general fund by 31st July in the following financial year; or
- (b) apply any credit in its revenue account towards making good to its general fund any amount charged to that fund under sub-paragraph (a) in the ten years immediately preceding that financial year.

(2) Paragraph (1) shall not apply where the imposition of a BRS has come to an end in that financial year.

Deficit in the BRS revenue account – functional body

5. After the end of each financial year of a BRS, the Greater London Authority shall make good any deficit in the BRS revenue account of a functional body from its own revenue account by 31st July in the following financial year.

Refunds and credits

6. Schedule 2 shall have effect with respect to refunds and credits in respect of a financial year where—

- (a) (i) the imposition of a BRS has come to an end; or
(ii) the Secretary of State has, under section 24(3), directed the levying authority to cancel the imposition of the BRS of the Act; and
- (b) the revenue account is in credit.

Amendment of the Transfers Regulations

7.—(1) The Transfers Regulations are amended as follows.

(2) In Schedule 1 (transfer of BRS Revenues: billing authorities which are levying authorities)—

(a) for paragraph 1, substitute—

“1.—(1) A billing authority which is a levying authority shall transfer any amounts it receives in respect of BRS (including the amount of any financial contributions made to it for the purposes mentioned in section 3(6) of the Act) during a financial year from its collection fund to its revenue account.

(2) The amount of any financial contributions made to the billing authority for the purposes mentioned in section 3(6) of the Act, shall be ignored for the purpose of the application of paragraphs 2 and 3.”; and

(b) in paragraph 3(1), for the year “2010” substitute “2011”.

(3) In Schedule 2 (transfer of BRS Revenues: billing authorities which are not levying authorities)—

(a) in paragraph 1 (interpretation)—

(i) for definition of “final return” substitute—

““final return” means the return required by paragraph 7(1);” and

(ii) for the definition of “provisional return” substitute—

““provisional return”, except in the expressions “revised provisional return” and “variation provisional return”, means the return required by paragraph 2(1);”;

(b) after paragraph 1, insert—

“Transfer of financial contributions

1A.—(1) A billing authority which is not a levying authority shall transfer the amount of any financial contributions made to it for the purposes mentioned in section 3(6) of the Act from its collection fund to the levying authority’s revenue account.

(2) Transfers under sub-paragraph (1) shall be made as soon as practicable after the receipt of the financial contributions.

(3) The amount of any financial contributions shall be ignored for the purpose of the application of paragraphs 2 to 10.”;

- (c) in paragraph 5(7), for the words “If the amount referred to in sub-paragraph 2(c) is greater than zero,” substitute “If the total amount calculated under sub-paragraph (3) is greater than the aggregate of the instalments the billing authority has paid to the relevant levying authority in the relevant year,”;
- (d) in paragraph 6(2), for “sub-paragraph (6)” substitute “sub-paragraph (5)”; and
- (e) in paragraph 10(1)(b), omit the words “(in the absence of an authorisation under sub-paragraph (2)(b))”.

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

Barbara Follett

Parliamentary Under Secretary of State

Department for Communities and Local Government

21st February 2010

SCHEDULE 1

Regulation 3

The BRS Revenue Account

PART 1

Credits to the Account

1. For each year of the imposition of a BRS, a levying authority or a functional body shall carry to the credit of the account amounts equal to the items listed in this Part of the Schedule.

Item 1: BRS revenues, comprising—

- (a) amounts transferable by a levying authority which is a billing authority in respect of BRS (including the amount of any financial contributions) from its collection fund under regulation 3 of and Schedule 1 to the Transfers Regulations;
- (b) amounts transferable by a billing authority (which is not a levying authority) in respect of BRS (including the amount of any financial contributions) from its collection fund under regulation 4 of and Schedule 2 to the Transfers Regulations;
- (c) amounts receivable by a functional body under section 3(5) of the Act.

Item 2: Credit balance from previous year

Any credit balance shown in the account for the previous year.

PART 2

Debits to the Account

2. For each year of the imposition of a BRS, a levying authority or a functional body shall carry to the debit of the account amounts equal to the items listed in this Part of the Schedule.

Item 1: Administrative expenses of BRS

Administrative expenses of a billing authority for the year in respect of collection and enforcement of BRS under regulations 3 and 4 of and the Schedule to the Business Rate Supplements (Administrative Expenses) (England) Regulations 2010(a).

Item 2: BRS expenditure, comprising—

- (a) the expenditure of the levying authority for the year, in respect of the project to which the BRS relates (including making good to the levying authority's general fund any amounts transferred from the general fund in respect of any deficit on the revenue account); and
- (b) the expenditure of a functional body in respect of the project to which the BRS relates.

Item 3: Payments to functional bodies

Payments to be made by the Greater London Authority to the revenue account of a functional body.

Item 4: Refunds

The following—

- (a) payments to be made by the levying authority for refunds or credits to persons who were liable to BRS, where the imposition of a BRS has come to an end or where the Secretary of State has made a direction under section 24(3) of the Act;
- (b) payments to be made by the levying authority to its general fund, where the imposition of a BRS has come to an end and no further refunds or credits are due to persons who were liable to BRS; and
- (c) payments to be made by a functional body to the revenue account of the Greater London Authority, where the imposition of a BRS has come to an end.

Item 5: Debit balance from previous year

Any debit balance shown in the account for the previous year.

SCHEDULE 2

Regulation 6

Refunds and credits

Interpretation

1. In this Schedule—

“appropriate proportion” has the meaning set out in paragraph 3(5).

Transfers by a functional body

2. As soon as practicable after the imposition of a BRS has come to an end, the functional body shall transfer the amount by which its revenue account is in credit to the revenue account of the Greater London Authority.

Refunds by a levying authority which is not a billing authority

3.—(1) Sub-paragraphs (2) to (5) apply to a levying authority which is not a billing authority.

(2) Sub-paragraph (3) does not apply where the Secretary of State has directed the levying authority to cancel the imposition of the BRS under section 24(3) of the Act.

(a) S.I. 2010/134.

(3) Before making the transfer provided for in sub-paragraph (4), the levying authority shall first ensure that any amount charged to its general fund in respect of making good a deficit in its revenue account, and which has not been made good previously, shall be made good out of its revenue account.

(4) The levying authority shall transfer an amount equal to the appropriate proportion of the amount by which the revenue account is in credit to—

- (a) each billing authority within the levying authority area; and
- (b) each person who made a financial contribution to the levying authority.

(5) The appropriate proportion for each billing authority or person who made a financial contribution shall be calculated in accordance with the formula—

$$A \left(\frac{B}{(C + D)} \right)$$

where—

A is the amount by which the revenue account of the levying authority is in credit;

B is either—

- (a) where the sum is to be transferred to a billing authority, the total amount transferred from the collection fund of the relevant billing authority in respect of the BRS levied for its area to the levying authority's revenue account over the chargeable period of the BRS; or
- (b) where the sum is to be transferred to a person who made a financial contribution to the levying authority, the amount of the financial contribution;

C is the total amount transferred by all billing authorities in respect of the BRS levied for their areas to the levying authority's revenue account over the chargeable period of the BRS; and

D is the total amount of all financial contributions transferred to the levying authority's revenue account.

(6) Transfers under sub-paragraph (4) shall be made by 31st May of the financial year following the financial year in which the imposition of a BRS came to end.

Refunds by a billing authority

4.—(1) Sub-paragraphs (2) to (9) below apply to—

- (a) a levying authority which is a billing authority; and
- (b) a billing authority which is not a levying authority, on receipt of the appropriate proportion from the levying authority,

together referred to in this paragraph as “the billing authority”.

(2) If the billing authority received a financial contribution, before making the arrangements set out in sub-paragraphs (4) to (9), the billing authority shall make arrangements for the refund to the body which made the financial contribution of the relevant part of—

- (a) the amount by which the revenue account is in credit; or
- (b) the appropriate proportion.

(3) The relevant part referred to in sub-paragraph (2) shall be calculated in accordance with the formula—

$$E \left(\frac{F}{(F + G)} \right)$$

where—

E is the amount by which the revenue account is in credit or the appropriate proportion, as the case may be;

F is the amount of the financial contribution received by the billing authority; and

G is the total amount collected by the billing authority in respect of any BRS levied for its area over the chargeable period of the BRS.

(4) The billing authority shall make arrangements for credits or refunds in accordance with sub-paragraphs (6) to (9).

(5) Sub-paragraphs (6) to (7) do not apply where—

- (a) the levying authority is the billing authority; and
- (b) the Secretary of State has directed the levying authority to cancel the imposition of the BRS under section 24(3) of the Act.

(6) If the amount of the credit of the revenue account or of the appropriate proportion, as the case may be, would not provide a credit or refund equal to or greater than the minimum refund level to each person who was subject to the BRS immediately prior to the date that the imposition of the BRS came to an end, the amount shall be transferred to the general fund of the billing authority.

(7) The minimum refund level referred to in sub-paragraph (6) shall be calculated in accordance with the formula—

$$H(I + J)$$

where—

H is 0.025;

I is the rateable value amount as prescribed in accordance with section 12(1) of the Act for the chargeable period of the BRS (or, if there was more than one rateable value amount during the chargeable period, the average of those amounts); and

J is the multiplier for the BRS for the chargeable period of the BRS, expressed to no more than three decimal places (or, if there was more than one multiplier during the chargeable period, the average of those multipliers).

(8) The billing authority shall—

- (a) calculate the amount of the credit which is to be credited or refunded to each person who was subject to the BRS;
- (b) ensure the amount to be credited or refunded to each person who was subject to the BRS is calculated in proportion to the amount of BRS each person was liable to pay for the last full financial year of the chargeable period of the BRS; and
- (c) make arrangements for the amount so calculated to be credited against any liability in respect of non-domestic rates or in respect of any other BRS of each person who was subject to the BRS or, where there is no such liability, for the amount to be refunded to that person.

(9) Credits or refunds under sub-paragraph (8) shall be made by 31st July of the financial year following the financial year in which the imposition of a BRS came to end.

EXPLANATORY NOTE

(This note is not part of the Regulations)

In England, the Business Rate Supplements Act 2009 gives county councils, district councils in areas where there is no county council, and the Greater London Authority the power to levy a supplement (a “BRS”) on the national non-domestic rate with effect from 1st April 2010.

In areas where a single local authority performs all local authority functions, that local authority will be both the levying authority for a BRS and the billing authority. In areas where there remain two tiers of local government, the county council will be the levying authority and functions of the billing authority will be performed by the district councils in the area, or, in London, functions of the billing authority will be performed by the London borough councils.

These Regulations make further provision for the accounting arrangements for a BRS.

Regulation 3 and Schedule 1 set out the credits and debits for the BRS revenue account that is to be kept by a levying authority or a functional body with which the Greater London Authority has made arrangements.

Part 1 of Schedule 1 provides for items to be treated as credits to the revenue account. Those credits are the BRS revenues and any credit balance from the previous year. Part 2 of Schedule 1 provides for items to be treated as debits to the revenue account. Those debits are the administrative expenses of a billing authority in respect of collection and enforcement of BRS under the Business Rate Supplements (Administrative Expenses) (England) Regulations 2010, in the circumstances set out in those Regulations, BRS expenditure by the levying authority or functional body, payments to be made by the Greater London Authority to a functional body, refunds or credits where the imposition of a BRS has come to an end or has been cancelled by the Secretary of State under section 24 of the Act and any debit balance from the previous year.

Regulations 4 and 5 provide for any deficits in the BRS revenue accounts of a levying authority or a functional body to be made good out of the general funds of the levying authority or functional body.

Regulation 6 and Schedule 2 make provision for refunds and credits where the imposition of a BRS has come to an end or has been cancelled by the Secretary of State under section 24 of the Act.

Paragraph 2 of Schedule 2 provides for functional bodies of the Greater London Authority to transfer the amount of any credit to the revenue account of the Greater London Authority.

Paragraph 3 of Schedule 2 provides for a levying authority which is not a billing authority to transfer a proportion of the amount by which the revenue account is in credit to each billing authority within the levying authority area and each person who made a financial contribution, proportionate to the amounts originally transferred to the levying authority by way of BRS or financial contribution. The levying authority should first make good any deficit in the general fund related to making good a deficit to the BRS account (except where a BRS has been cancelled by the Secretary of State).

Paragraph 4 of Schedule 2 provides for a levying authority which is a billing authority or a billing authority which is not a levying authority to refund amounts to persons who were subject to the BRS, subject to a minimum refund level (except where a BRS has been cancelled by the Secretary of State, when no minimum refund level applies). A person who made a financial contribution should also receive a refund proportionate to the contribution.

Regulation 7 amends the Business Rate Supplements (Transfers to Revenue Accounts) (England) Regulations 2009 to correct minor errors and omissions.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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The Business Rate Supplements (Accounting) (England)
Regulations 2010

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