



Ibec policy brief

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Reforming Commercial Rates: Local Government (Rates) Bill 2018

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Legislation seeking to modernise the commercial rates system, dating from 1826, is on the way. It appears, however, that local authorities will benefit more than business from the changes.

Background

Government is introducing new legislation to reform and modernise the commercial rates system. This is largely focused on improving the effectiveness of the rates collection process. Local government was identified as a priority sector under the debt management review led by the Department of Public, Expenditure & Reform.

Government approved the Heads of the Commercial Rates Bill on 11 April 2017. While the original intention was to secure legislative passage in the same year, the Local Government (Rates) Bill was not published until August 2018. The volume and often arcane nature of legislation concerning commercial rates has been cited as the reason for the slow pace. It has proven to be a difficult challenge to draft a single, consolidated rates bill. This policy brief will highlight the changes that have occurred since the initial framing of the legislation. These will have also to be accounted for in the final legislation. Amendments on additional areas are intended to be added to the bill during its passage through the Oireachtas. The bill is currently at Third (Committee) Stage in Dáil Éireann.

Commercial Rates

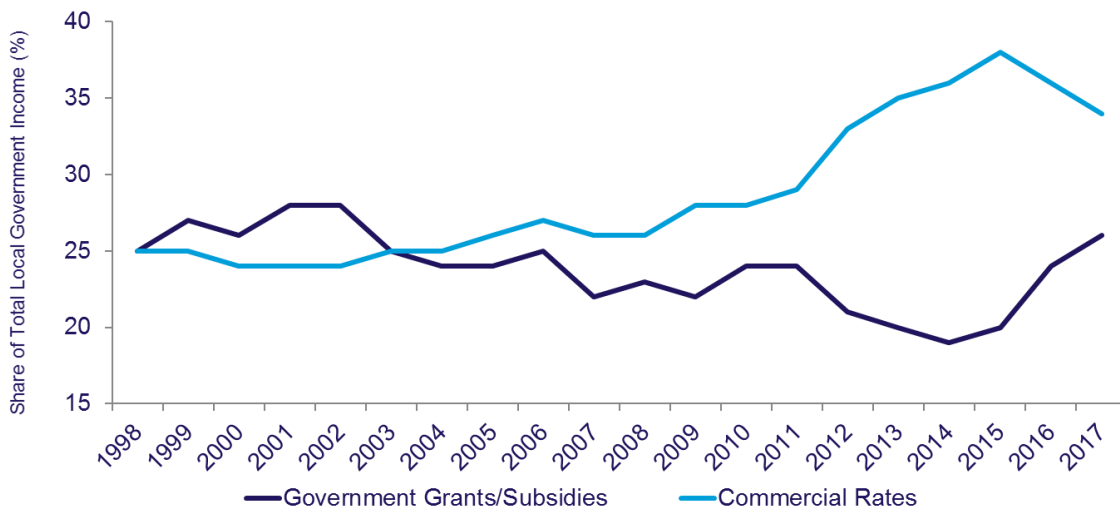
Local businesses, not central government, are the primary source of income for local government in Ireland. Thus, local authorities have a significant impact on business conditions and cost competitiveness in their locality through commercial rates and other charges.

In 2019 business contributions will directly account for €1.55 billion or 34% of the total local government budget. This represents a 14% increase in the total value of commercial rates collected since 2010.

Rates are now increasing annually. Local authorities generally exercised restraint during the recession. Recent freezes to the Annual Rate on Valuation (ARV) were forced upon some local authorities due to the rates harmonisation resulting from the abolition of town councils. This has now been completed. The revaluation process has also contributed to higher rates businesses face.

Commercial rates are a form of local taxation, mostly to fund services that businesses do not consume. Local authorities use business to balance their books. In other words, business picks up the tab for any expenditure gaps or funding shortfalls that arise in their annual budgets. Reductions in central government contributions and other revenue sources have resulted in local authorities becoming ever more reliant on local business for their revenue. This is not sustainable.

Figure 1.
Share of local government funding over the last two decades





Seeks to consolidate and modernise rates legislation

The primary objective of the Local Government (Rates) Bill is to have one single consolidated rates legislation. This includes repealing of existing outdated and/or unnecessary provisions. For example, rates are currently payable in two halves (moieties) in a calendar year. This provision will be removed. Instead, flexibility on payment options is to be provided for, under a simplified charging regime.

There will be new obligations on owners and/or occupiers to provide information to local authorities required for the levying and collection of commercial rates. A new property database is to be established and operated by the Local Government Management Agency.

Promotion of national and local policy objectives

Local authorities will be able to introduce rates alleviation measures to support Project Ireland 2040 objectives, economic and rural development, urban regeneration and better spatial planning. Government's Climate Action Plan 2019 calls for assessing the "feasibility for commercial rates to be linked to BER". There is the potential to vary rates upwards as well as downwards. The full list of applicable objectives will be detailed in new regulations being developed. The cost of these schemes are to be carried by the relevant local authority, therefore potentially being allocated to other rate payers.

Local business incentive schemes can be a welcome measure to support entrepreneurs and start-ups. They can help rejuvenate specific areas by stimulating economic activity through commercial rates exemptions. These schemes could be strategically used to support objectives set out in local economic and community plans, local and regional development plans. Reference has been made to the role such a mechanism, if available to municipal district councils, in reinvigorating town and village centres.

Funding for these schemes must not fall on the remaining rate payers within the local authority by crudely raising the ARV. Based on commercial rate bands published by local authorities, the commercial rate system is already highly progressive. These new schemes introduced should be properly budgeted and accounted under the local economic development heading.

Attempts to increase commercial rates on certain categories of business may be highly discriminatory. There have already been attempts within local development plans to use zoning to place unfair and unsubstantiated restrictions on trading by certain types of businesses (e.g. fast food, off licences etc). Giving local authorities powers to specifically single out categories of businesses would be unfair, disproportionate and potentially a restraint on trade.

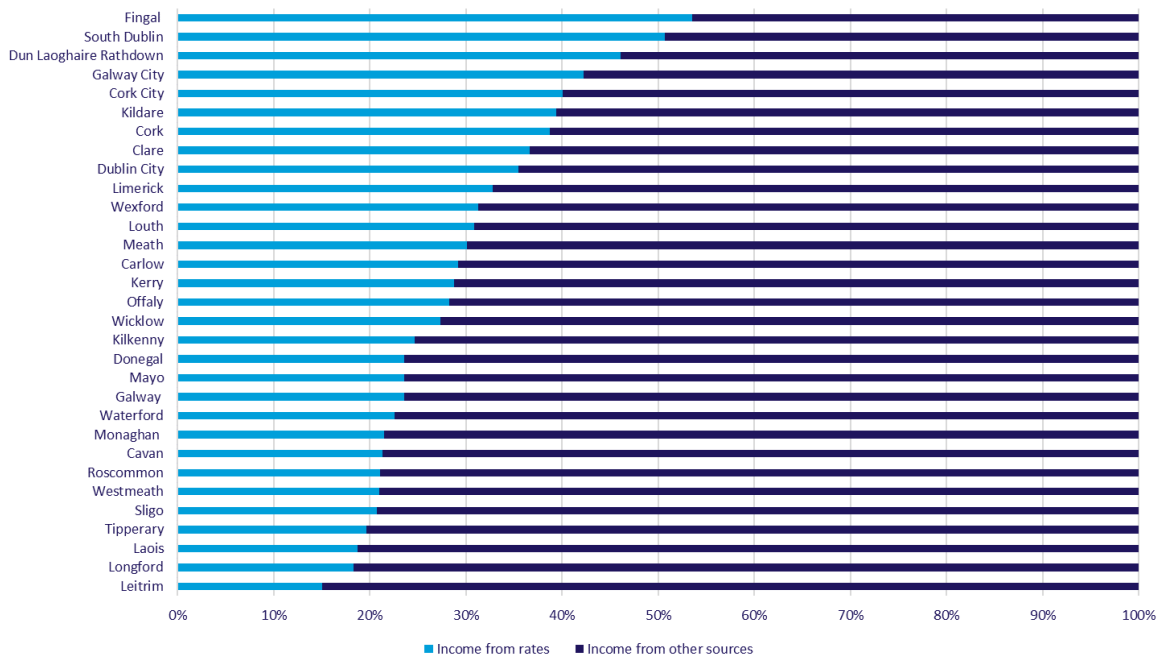
Local authorities can set local charges in a range of areas such as setting development contribution schemes. Elected members can vary the basic Local Property Tax rate on residential properties in their administrative area. In determining schemes such as these, there is a required for a public consultation to be conducted locally. A similar requirement should apply to the development and approval of rates alleviation schemes (e.g. Section 20 of the Finance [Local Property Tax] Act 2012). This does not limit the reserved function of elected members, boosts transparency and contributes to better policy making. Section 14 of the Local Government (Rates) Bill should be amended accordingly.

Stronger enforcement powers

Local government was singled out as a key sector by Government's debt management review. The legislation will introduce new measures and powers to improve debt collection. These include:

- Revenue sheriff – Unpaid debt certificates can be sent directly to

Figure 2. Commercial rates as a % share of local authority income (2019)



sheriff, who will be required to act immediately.

- Attachment orders – Local authorities to be given power to attach where they identify a person (on earnings, assets and bank accounts) associated with a non-compliant rate payer, to increase the collection of commercial rates debts. To be used in exceptional circumstances.
- Interest on overdue payments – Ability to apply penalties and interest on late payments. Legislation will have to be checked to see if this will be unilaterally applied to all late payments or will it apply from a set timeframe. Exceptions may be required in the special cases, e.g. companies appealing a valuation etc.

Certifying compliance

In order to boost overall payment compliance, the new legislation introduces the ‘rates compliant certificate’. The Minister for Housing, Planning and Local Government will have the power to prescribe certain licences that would require a rates compliance certificate. The option remains open for Government to explore attaching non-payment of rates to a business’ tax clearance certificate.

The rationale is to ensure that a business pays its commercial rates bill by making it harder to gain an unfair advantage through non-payment. This enforcement tool may remove the financial benefit breaching the rules. Well-structured and designed it can prevent businesses operating outside the law from gaining a competitive advantage over their compliant competitors.

Further detail is needed on the types of licences earmarked under the legislation. Certain sectors relying on certain licences will be targeted over those that don’t. Application must be proportionate and should allow grounds for appeal. This will be important if applied to matters such as public procurement.

Delays in valuing new premises

The revaluation process conducted by the Valuation Office is too slow, too expensive and lacks transparency. This has placed severe resource constraints on the Valuation Office. Together with a general spike in economic activity, this has led to considerable delays in valuing new and/or altered property.

The loss of rates revenue due to these delays is estimated by Government at €25 million p.a. The legislation provides mechanism for local authorities to issue preliminary valuations and levy commercial rates based on them. However, a significant change has occurred that calls into question the need for this specific provision to be made.

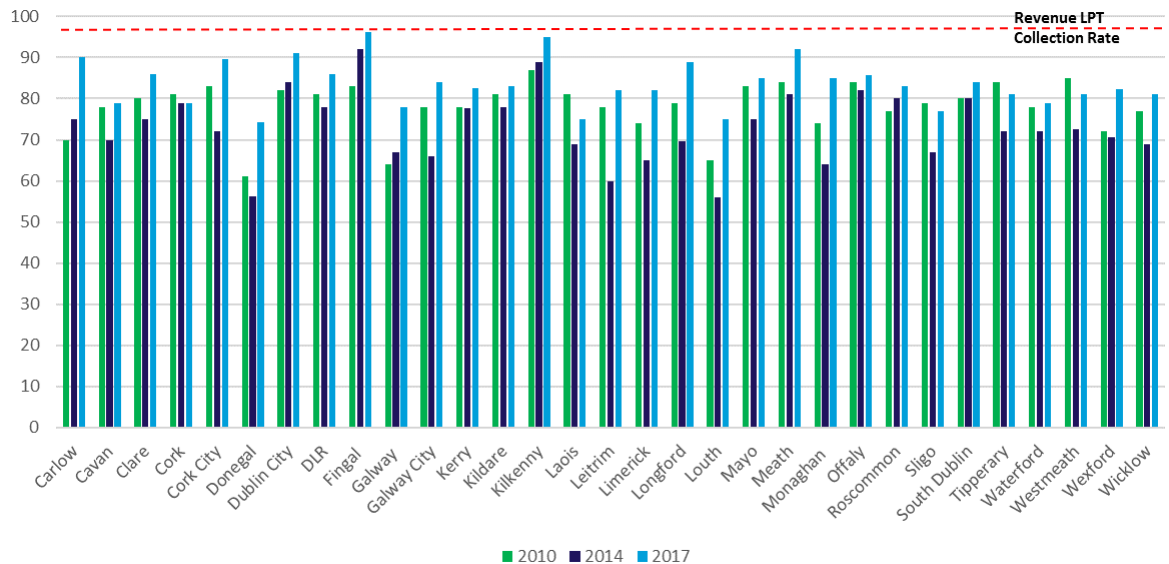
In December 2018, the Valuation Office was moved into the Department of Housing, Planning and Local Government. This is significant and ends the structural separation of accountability over the commercial rates system.

Local authorities do not need the power to issue temporary valuations. Instead, the Valuation Office could be directed to value these properties. It should achieve this through using external contractors and/or allowing self-assessment, both of which have been piloted during the revaluation process.

Vacancy refunds

The proposed legislation seeks to reduce the rate of vacancy refunds granted by local authorities. Property owners can apply for rates relief for vacant premises, subject to certain conditions. While Dublin City Council currently allows a maximum 45% relief, most local authorities allow the full 100% to be recouped. This is to change. The Minister will have the power to abolish the 100%

Figure 3. Local Government rates collection performance in 2016 compared to 2014



relief rate and instead cap the maximum relief available at 50%.

It is difficult to assess the net outturn resulting from this change. Vacant property adjustments totalled €106 million in 2017. As local authorities operate different refund rates, the targeted additional income won't be half of the current cost of the adjustment. Also, refunds or credits can apply to premises vacant for part of a year, not just those vacant for the entire billing period. The collection of rates for vacant premises is more difficult than occupied premises and collection performance is likely to decline as vacancy bills increase (Foley, 2017).

It is hoped that improved changes to the vacancy relief schemes will encourage more premises to be put into active use. This will limit the additional revenue raised in the short-term through capping the relief available. However, this would be offset by premises being occupied and paying local charges.

Some commercial premises will be expected to change their use due to changing demand. New regulations regarding conversion of vacant commercial premises for residential use will see a reduction in certain types of commercial property. Whilst these properties will no longer be liable for commercial rates, they will be a new source for local property tax.

Not centralising collections is inefficient

Whilst the bill aims to improve the effectiveness of the rates collection process, it fails to address the need for a centralised collection procedure. This was dismissed by the local government sector. The debt management project team ruled out the possibility of assigning responsibility to a

Ibec recommendations

- Monitor the operation and powers exercised by local authorities set out in this legislation, including publishing transparent statistics on the efficiency of collections.
- Implement a centralised or shared model for commercial rates collection for efficiencies and better collection rates.
- Publish the draft Regulations on rates alleviation schemes setting out the parameters and operation of such schemes. The draft Regulations should be examined by the Oireachtas Committee on Housing, Planning and Local Government, with submissions invited from the business community.
- Amend Section 14 of the Bill to include the requirement for a public consultation process that must be followed by a local authority before an alleviation scheme or schemes are approved (including publication of its proposal with respect to the scheme or schemes in one or more newspapers circulating in its functional area).
- The Valuation Office not the local authorities should value all new premises using external contractors and/or self-assessment.
- Temporary valuation certificates should be open to appeal and detail all criteria used in setting the proposed valuation.
- Allow companies to pay existing rates liabilities until appeals to Valuation Tribunal have been completed.
- Increase transparency over the valuation process through publishing the methodology used to value each category of premises and use.
- The Oireachtas Committee on Housing, Planning and Local Government must scrutinise the revaluation process, including timelines and costs, with a view to expediting the process.
- Government must undertake a full review of local government finance, including examination of replacing the commercial and domestic property taxes with a site or land value tax.

central collection agency. They want each local authority to retain control of collections.

Effectiveness will improve but the efficiency of collections costs must be addressed. For example, the Office of the Revenue Commissioners, on current performance, could collect commercial rates centrally for a third of the current administrative cost incurred by local authorities. It would also reduce the level of non-payment, in addition to building on administrative efficiencies saving €16 million a year.

The debt management project indicated the legislation would allow the local authority sector to target a rates collection level of 90%. Revenue has consistently demonstrated an LPT collection rate of 97.5%. Pooling resources through a shared services model (e.g. Housing Assistance Payments managed by Limerick City & County Council) would reduce the cost of administering the commercial rates system, but it would be difficult to match the performance of Revenue.

Conclusion

The proposed commercial rates modernisation legislation will make limited improvements to a system that can trace its roots back to 1826. Some measures will benefit local businesses, but the bill is designed to benefit local authorities more.

The new legislation does not go far enough, leaving the commercial rates system still too expensive and inefficient to operate. It is time for a comprehensive discussion on local government funding.