

Cloud Cuckoo Land

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Non-Domestic Property Tax - Rates

- Taxes property for which a rent would be paid;
- Exemptions include agricultural property;
- Level of tax fixed by Central Government;
- Tax collected and spent by Local Government;
- Tax levied on occupier;
- Taxable unit is "hereditament";
- Valuations every five years (1 April 2000);
- Basis of tax is the Rateable Value.

Rateable Value

- Annual Rent;
- Assuming a reasonable state of repair;
- Tenant to pay all outgoings;
- Assuming Existing Use only;
- Antecedent Valuation Date (1 April 1998).

Hypothetical Tenant

- Assumed regardless of actual occupier;
- Assumed typical for the property/location;
- Pays rent and observes repair obligation;
- Defined in case law;
- Rental bid of hypothetical tenant is rateable value.

Assumptions

- Vacant and to let;
- Personal covenants ignored;
- Statutory restrictions on rent ignored;
- *Rebus sic Stantibus*:
 - same mode or category of use as actual;
 - no structural alternations;
 - but ignore actual state of repair.
- Fresh of the Scene;
- Single (Antecedent) Valuation Date.

Assumptions create the scenario
in which the valuer must arrive at
a rateable value.

“The world of rating appears ... to be cloud-cuckoo land, a world of virtual unreality ...”

China Light & Power Co. Ltd. v Comr. For Rating and Valuation 1995

Valuation

- Consider all evidence;
- All methods of valuation are “admissible”;
- “Goodness or badness ... goes to their weight as evidence.”
- Law intervenes with:
 - formulae for certain property types; and
 - decapitalisation rate for contractors’ basis.

Rental Evidence

- Considered the “best evidence”;
- Use of market evidence from transactions of comparable properties;
- Must be or be capable of adjustment to a net annual rent.

Profits Method

- Legal or physical monopoly;
- Three years’ accounts;
- Hypothetical tenant – average competence;
- No market evidence to justify outcome.

Contractors’ Test

- Cost-based method;
- Assumes cost and value are linked;
- Six stages – estimating costs of replacement building etc.;
- “Method of last resort”.

Sustainability

- Discourages physical improvements;
- Fails to tax all occupiers;
- Encourages the withholding of land for development;
- Does not tax development value;
- Fails to support sustainability in urban areas.

Land Value Taxation

- LVT levied on owners;
- "Highest and best use" based on planning system;
- Taxes valued added by community efforts e.g. planning permission;
- Encourages physical improvements to land;
- Helps reduce urban sprawl.

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Valuation for LVT

- Based on unimproved site value;
- Limited market evidence;
- Adaptation of existing valuation methodologies;
- Residual method?
- Cost-based system?
- Back to "cloud-cuckoo land"?

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Conclusions

- Tax based on open market value;
- Tax must use defensible methodologies;
- Tax should support sustainable principles;
- Tax must be acceptable by the public:-
 - reflect ability to pay;
 - be proportional;
 - comprehensive in coverage;
 - based on values they can relate to.

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