



Helping people make **great places**

CONSULTATION RESPONSE

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Business Rates Review

June 2015

## ABOUT THE ATCM

The Association of Town & City Management (ATCM) is a not-for-profit membership organisation dedicated to promoting the vitality and viability of town and city centres. It has 900 members including key stakeholders in town and city centres across the UK and Ireland. 400 of these are town and city centre management practitioners and active initiatives. The majority of these function as partnerships, some with several hundred contributing members. They develop and implement shared visions, strategies and action plans for a total of more than 700 district, town and city centres throughout the UK and Ireland. ATCM has been operating for over 20 years and can offer a significant body of experience in the field of place management.

ATCM's membership consists of a mix of publicly funded town centre managers, Business Improvement Districts (BIDs), Community Interest Companies (CICs), Town Teams and more. They span across the private, public and voluntary sectors and, as a collective, do not have a sector specific agenda. Instead they are focused on the promotion of healthy places for the benefit of all stakeholders.

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## EXECUTIVE SUMMARY

The Business Rates system is obsolete. The rationale for revenue neutrality (price inelasticity) is no longer relevant to modern day business practices thanks to the emergence of digital technology. Distortion between different routes to market is now possible, making commercial property price elastic. However, pressure on tax revenue from other business taxes, in particular Corporation Tax, have made it very difficult for the Government to make the necessary structural readjustments without a significant fiscal shortfall. Technological advancements and modern business practices have unsettled the entire UK business tax regime and so holistic reform is required to support high street retail. Despite the difficulties of this, we argue that there is no alternative because of the increasing irrelevance of the tax system to modern business, something which carries dangers for the future of urban regeneration, the UK economy and funding for public services.

We believe a critical mass of key MPs and Government Ministers have already accepted the need for urgent action with the Chancellor, BIS Select Committee and the Public Accounts Select Committee all acknowledging the problems of the tax regime.

Therefore, ATCM recommends:

1. The comprehensive modernisation of UK business taxation to ensure it is suitably aligned with 21<sup>st</sup> Century business practices and targets real economic activity to support urban regeneration, UK commerce and secure the future of public services.
2. Any tax on commercial property, land, or otherwise, that either revises or completely replaces Business Rates must accurately reflect the value of the

activity or asset being taxed from the outset, and adjust to shifts in value in a timely manner thereafter.

3. The inevitable drop in revenue from the current, unsustainable levels of tax on property should be offset by revenue derived from the Diverted Profits Tax and/or other measures introduced to tackle aggressive tax planning, allowing for fiscal neutrality and ending distortion sectors that are reliant on both physical and virtual environments.

4. Without full fiscal devolution across the UK, revenue captured from successful attempts to tackle aggressive tax planning should not only be allocated across England to alleviate Business Rates (or any alternative tax) but also apportioned to other nations in the UK for the same purposes. Careful consideration must be given to Northern Ireland following the devolution of Corporation Tax.

5. Careful consideration is given to local government financing should any significant revision of Business Rates take place to ensure local services are adequately funded.

6. The impact of changes to the Business Rates system on BIDs funding is fully understood prior to alterations being made and all necessary steps are taken to ensure businesses are able to adequately invest in BIDs regardless of these alterations.

7. A proportion of the tax revenue derived from commercial locations should be ring-fenced and reinvested back into local economic development through various channels decided locally such as partnership capacity building, business support or infrastructure investment.

8. The tax system must incentivise the private, public and voluntary sectors to invest in the upgrade of existing property assets to boost urban regeneration on brownfield sites and encourage a more productive use of land.

9. The smallest businesses should be taken out of the tax system altogether, if possible, to support sustainable economic growth, innovation and employment.

10. Charity retail tax relief should be retained, but must be reformed to prevent large scale clustering, and direct competition with ratepayers.

## 1. INTRODUCTION

Britain has one of the highest property taxes as a percentage of GDP in the developed world. During a recession that saw major retail casualties, rates have gone from representing 36% of rent in 2007 to 46% of rent in 2012.<sup>1</sup> And they have not relented. The net yield from Business Rates in the year 2012/13 was £21.8 billion for England, an increase of 3.7% on the previous year despite the tough trading environment.<sup>2</sup> In fact, the Telegraph reports that rates will be worth £30 billion to the Treasury in two years, more than council tax or fuel duty.<sup>3</sup>

Despite these challenges faced by the retail sector, the UK Government took the controversial step of postponing the revaluation of Business Rates by two years through the introduction of the *Growth and Infrastructure Act 2013*.<sup>4</sup> The legislation permitted Welsh ministers to take the same course of action whilst the Scottish Government introduced the *Valuation (Postponement of Revaluation) (Scotland) Order 2013* for the same purpose.<sup>5</sup>

With businesses across England, Scotland and Wales locked to paying rates at levels calculated in 2008 at the height of the property market, a sense of injustice pervaded across those sectors that rely on commercial property.<sup>6</sup> Pricewater House Coopers estimated that the rates contribution of large retailers increased in excess of 30% between 2008 and 2010 during the recession<sup>7</sup>. However, sales in March 2013 were only 2% higher than in March 2008 with profit margins and

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<sup>1</sup> An overhaul of business rates is vital for Britain's wider economic recovery, The Telegraph, 21<sup>st</sup> November 2013, [www.telegraph.co.uk/finance/comment/104is-vital-for-Br66764/An-overhaul-of-business-rates-itains-wider-economic-recovery.html](http://www.telegraph.co.uk/finance/comment/104is-vital-for-Br66764/An-overhaul-of-business-rates-itains-wider-economic-recovery.html)

<sup>2</sup> 'Non-domestic rates collected by local councils in England: 2012 to 2013 (updated)' Department for Communities and Local Government, 17<sup>th</sup> December 2013

<sup>3</sup> An overhaul of business rates is vital for Britain's wider economic recovery, The Telegraph, 21<sup>st</sup> November 2013, [www.telegraph.co.uk/finance/comment/104is-vital-for-Br66764/An-overhaul-of-business-rates-itains-wider-economic-recovery.html](http://www.telegraph.co.uk/finance/comment/104is-vital-for-Br66764/An-overhaul-of-business-rates-itains-wider-economic-recovery.html)

<sup>4</sup> 'Business Rates', House of Commons Library Standard Note SN/PC/06247, 20<sup>th</sup> September 2013

<sup>5</sup> 'Partial Business and Regulatory Assessment: Postponement of 2015 business rates revaluation to 2017', The Scottish Government, 2013

<sup>6</sup> A different time frame for revaluations takes place in Northern Ireland.

<sup>7</sup> 'The Contribution of Retailers to the UK Public Finances: Total Tax Contribution', Pricewater House Coopers, 2013

volume stagnating. It is widely acknowledged that the failure to undertake a revaluation disadvantages those sectors of the economy and those regions that have fared relatively less well since the previous revaluation.<sup>8</sup> As a consequence, the process of revaluation has been called into question.

Despite widespread and unified business protest, the UK, Welsh and Scottish governments persisted with this course of action. It is only a detailed analysis of the Business Rates system that reveals deep structural flaws indicating a revaluation would not alleviate the tax burden on town centre retail businesses despite the deterioration of trading conditions since 2008.

The original rationale for revenue neutrality (price inelasticity) is no longer compatible with modern business practices and that this incompatibility is not only distorting the retail market, but is also a disincentive to all activity that relies on non-domestic property in a way that is contradictory to the desires of communities and businesses.

There emerges a clear case for the modernisation of Business Rates. And this modernisation is not just about supporting high street retail, but will be fundamental to the future of all urban regeneration, the funding of public services and the UK economy.

We assume that the UK Government is fully aware of some of these problems or else would not have insisted on postponing the revaluation. We outline why it is difficult for the UK Government and others to implement the urgent modernisation that is required with other elements of the UK tax system failing to keep pace with evolving business practices. It is becoming increasingly clear that

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<sup>8</sup> 'Effect of Non-Domestic Rates on Commercial Property Rents: An Empirical Study', Journal of Property Valuation and Investment, Vol 14, No. 4, Stephen Bond, Kevin Denny, John Hall and William McCluskey, 1996



significant parts of our business tax system (in particular, Corporation Tax) are now unable to target real economic activity and this not only carries severe consequences for long-term business survival, but also funding for public services.

The result is that the business sectors relying on property carry a significant tax burden that is not fairly allocated across the economy and not reflective of modern commercial activity. Rather than this being a problem exclusive to the UK, there are likely similar trends across the globe (although they are more acute in the UK than anywhere else). While the Government has promised reform of business rates administration,<sup>9</sup> this is not the wholesale modernisation urged by the Business, Innovation and Skills Select Committee<sup>10</sup>. Instead, it is this consultation that opens up the opportunity for the significant change that is required.

Following years of research and dialogue with ATCM members across the public, private and voluntary sectors, we now urge the Government to take forward the comprehensive modernisation of the business tax system to alleviate the worst effects of distortion. Co-ordination and collaboration on a scale seldom seen before is required to find an alternative and more productive route forward and the private sector, local government, the UK's policy-makers and international actors, to name a few, must be part of this discussion.

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<sup>9</sup> 'Administration of Business Rates in England: Discussion Paper', HM Treasury & Department for Communities and Local Government, April 2014

<sup>10</sup> 'The Retail Sector: Eighth Report of Session 2013-14, Volume I', Business, Innovation and Skills Committee, 4<sup>th</sup> March 2014

## 2. THE ROLE OF REVENUE NEUTRALITY

In the late 80s, the Thatcher administration became concerned about the role of local authorities in dictating rates and, through the 198 Green Paper 'Paying for Local Government' proposed a uniform business rate (UBR) which would apply across Great Britain, transforming a non-domestic rate into a *national* non-domestic rate.<sup>11</sup> The proposal was brought forward in Great Britain (but not Northern Ireland where the power to set the tax rate remains with district councils) through the *Local Government Finance Act 1988* and made effective on the 1<sup>st</sup> April 1990.<sup>12</sup> This Act represents the last major structural change to the mechanism for calculating business rates.

To reflect the likelihood that property values will fluctuate over time the *Local Government Finance Act 1988* established that a revaluation should take place once every five years. The VOA (and the Assessors in Scotland) will reassess properties and determine a new rateable value from a specific date (known in England and Wales as the Antecedent Valuation Date and in Scotland as the Tone Date).

The most important feature of the Business Rates system is the mechanism that sustains revenue neutrality after every revaluation – the setting of the UBR. A new UBR has to be set, based on the reassessed national rateable values. The reason for this is the *Local Government Finance Act 1988* requires that the tax rate is adjusted to ensure the yield from rates remains exactly the same, ensuring revenue neutrality. In effect, with every revaluation, the national government does not aim to collect any more or any less revenue in 'real terms' than it did previously.

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<sup>11</sup> 'The Effect of Business Rates on Rental Values', Journal of Property Valuation and Investment, Vol 7, No 4, Ian Sibley, 1989

<sup>12</sup> 'Business Rates', House of Commons Library Standard Note SN/PC/06247, 20<sup>th</sup> September 2013

### **The Historic Rationale for a Revenue Neutral Commercial Property Tax**

The central premise of this consultation response is that the historic rationale of revenue neutrality no longer applies to many of the sectors that pay Business Rates. It is essential for the Government to understand why this is.

Consider retail, the sector that has probably been most exposed change (as a tax on fixed capital, rates naturally have a particularly heavy burden on the distributive trades<sup>13</sup>).

At the time of the introduction of the *Local Government Finance Act 1988*, retail was a very different industry. Although revenue neutrality means Business Rates deviated from most other taxes because it did not target activity or flows of income or expenditure, having only a nominal affiliation to business performance through a link to property rental values, it carried certainty for the Government without greatly distorting investment. Property is relatively price inelastic and could be taxed without significantly altering behaviour. In an era where the majority of retail trade took place on the high street, investors, businesses and consumers would have little choice but to absorb the cost of a property tax or be alienated from the market. Hence, price inelasticity was strong and readjustments of property ratings through revaluations would result in businesses located in the poorer performing retail centres likely to pay less over time, subsidised by those businesses in better performing centres, a reasonable compromise with stability for the funding of public services.

### **The Impact of Revenue Neutrality During the Recession**

The recession posed a challenge to the principle of revenue neutrality. While other business taxes shift depending on economic conditions, a revenue neutral tax cannot. The Institute Fiscal Studies states that in 2007/8 at the start of the

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<sup>13</sup> 'Effect of Non-Domestic Rates on Commercial Property Rents: An Empirical Study', Journal of Property Valuation and Investment, Vol 14, No. 4, Stephen Bond, Kevin Denny, John Hall and William McCluskey, 1996

recession, Business Rates accounted for 3.9% of the total tax take. While other taxes shrank, Business Rates grew to 4.6% of the total tax take by the end of the recession.<sup>14</sup> The problem is that, during the recession the fall in rental values has been nearly universal. Revenue neutrality cannot protect any businesses in a climate where everyone is struggling.

The Investment Property Databank's annual Key Centres report estimates that from December 2007 to December 2011, rental value in retail centres across England dropped by 14%. While 2007 to 2011 does not represent the exact timeframe that would have been used for a revaluation, it can act as a useful barometer for illustrating the impact on retail businesses. Because of a revenue neutral rates system, rather than this result in a 14% drop in the rates bill the Government would increase the UBR to sustain the same tax rate. It means the tax liability is merely apportioned differently amongst the occupiers of commercial property with the same net result. With -14% acting roughly as the benchmark, it is only those occupiers who see their rental values drop in excess of -14% that are likely to get any decrease in the rates bill. This means retail centres that have experienced difficult trading conditions leading to a 10% fall in the rental value of property would be likely to see a rates increase (around 4%). Those businesses that have seen no change in their rental value would see a 14% increase.

In effect, struggling centres will only get relief from a revaluation if other centres that will also be struggling (but to a lesser extent) absorb the tax liability.

While the postponement of the revaluation has harmed those businesses that have seen their rental values fall, the next revaluation will ruthlessly decimate those few businesses that had thrived despite the recession. Research from Gerald Eve indicates that West End shops that already pay some of the highest

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<sup>14</sup> Stuart Adam and Helen Miller, Institute of Fiscal Studies, *Green Budget*, February 2014

commercial property costs in the country could see their rates bills increase by 80%.<sup>15</sup> This is unsustainable.

### **Why the Downward Trend in Property Values are Permanent, Not Cyclical**

Reform of this system has been resisted on the notion that this is cyclical and that revenue neutrality will protect businesses during a period of growth in the same way it may harm them during a recession. However, this is no longer the case, the market structure is almost completely unrecognisable today.

There has been a fundamental shift in the retail paradigm caused by digital technology. Online retail expenditure in the UK has increased from £0.4 billion in 1998 to an estimated £29.6 billion in 2012 according to Verdict Retail, an increase of 14 percentage points in just over a decade (see Figure 1).

This means trade is no longer dependent on property, retail has a range of effective routes to market that negate the need for any significant property portfolio.

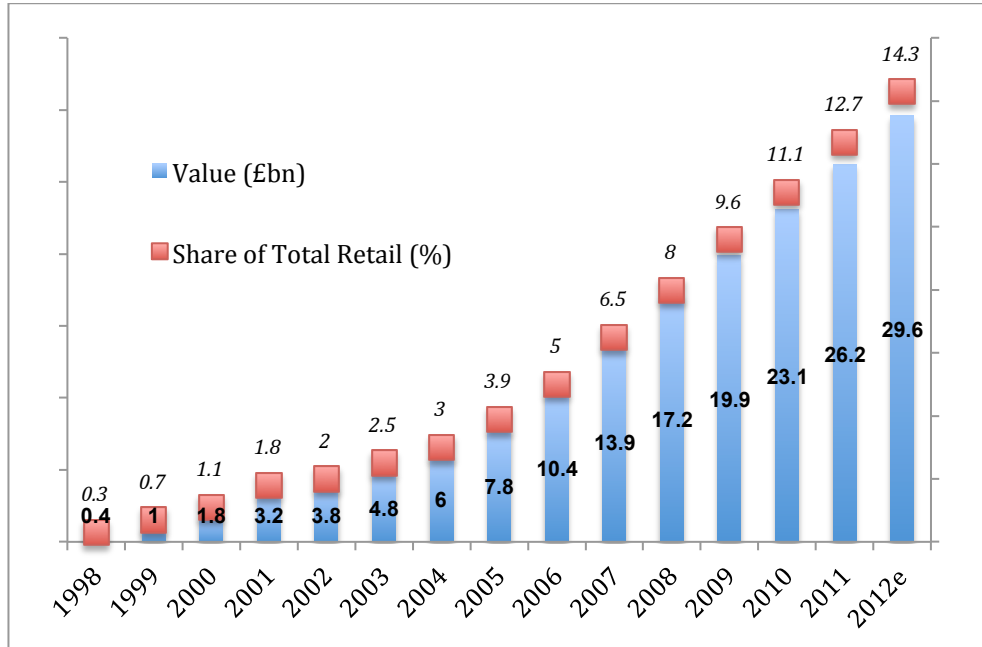
This is not limited to shopping. A broad range of advancements through ICT means organisations as different as banks, travel agents and local authorities can all offer services online to rationalise property costs. Even office space is not the necessity it once was for small businesses as people are able to work wherever they have access to a mobile phone, a laptop and Internet access, demonstrated by the fact that the UK now has 2.9 million home based businesses.<sup>16</sup> We are at the dawn of a new era for society where digital is the norm.

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<sup>15</sup> Gerald Eve, West End Shops Face 80% Surge In Business Rates Bills, [www.geraldeve.com/news/west-end-shops-face-80-surge-in-business-rates-bills/](http://www.geraldeve.com/news/west-end-shops-face-80-surge-in-business-rates-bills/)

<sup>16</sup> BIS, Backing for home-based business boom, [www.gov.uk/government/news/backing-for-home-based-business-boom](http://www.gov.uk/government/news/backing-for-home-based-business-boom)

**Figure 1 - UK Online Retail Expenditure 1998-2012e and Share of Total Retail Expenditure**



The core rationale for a revenue neutral tax system, price inelasticity, is effectively redundant with investors, businesses and consumers able engage in a range of practices without the need for commercial property. If price inelasticity is redundant then a revenue neutral system is obsolete. The Business Rates system, no longer reflects neither modern business practices nor real economic activity. The falls we have seen during the recession are not cyclical and we do not expect to see rental values reach pre-recession levels without major structural readjustment. The question is whether this readjustment is proactively and positively shaped by the Government, or if it is left to the market under the cloud of a distortive tax system combined with pressures on land-use.

### 3. WHY MODERNISATION IS NEEDED

Something that is frequently asked is whether consumers still actually value the high street or whether society has simply moved on. The evidence suggests that not only do consumers still value the high street but it is no longer taken for granted following the visible turbulence caused by the recession.

The response to the Portas Review can be used as an indicator with nearly 400 proposals to form a pilot put forward in Spring 2012. The willingness to reverse decline locally by community-led groups has taken many by surprise.

Other research complements this view. 70% of shoppers surveyed claimed that in-store shopping was still critical because of the interaction with products and social interaction important for both those who view shopping as a leisure activity or require detailed product information from staff prior to purchase.<sup>17</sup>

In a separate survey on the transformation of the Post Office network more than 90% of respondents stated that the main town or city centre Post Office should be located centrally where it is conveniently accessible and not relocated out-of-town.<sup>18</sup> It is clear that consumers still value the high street with shopping just one of many important dimensions of the offer.

Not surprisingly, businesses want to be where their customers want to be and their concerns about the Internet as a substitute mirror that of their customers. Research shows that suppliers still value having their products sold through a physical store because it is an environment and medium that cannot be

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<sup>17</sup> 'The Multichannel High Street, A Nation of Shoppers – But is it a Nation of Shopkeepers?', Squire Sanders, Kantar Retail & Retail Trust, 2013

<sup>18</sup> 'Centre First: Making Changes to Main town and City Centre Post Offices Right for Consumers' Andy Burrows, Consumer Futures, 2013

completely replicated online.<sup>19</sup> In fact, it has emerged that, despite being the fastest growing segment of retail, shoppers, suppliers and retailers do not believe that online shopping is ideal for all occasions.<sup>20</sup> There are concerns about its efficiency, especially in relation to the costs and timings of deliveries being problematic. Difficulties with product returns and the communication of any detailed product information have also been identified.

Interestingly, the picture that emerges from both consumers and businesses is not that they see the high street and Internet pitched against each other. Rather, each route to market has its own particular strengths and these can be merged through multi-channel strategies for the benefit of everyone. Consumers want the capacity to use a variety of methods to engage with, and purchase their products, possibly benefitting from the high street and digital technology at the same time in a seamless experience.<sup>21</sup> Retailers of all kinds are adapting accordingly.<sup>22</sup>

Argos claims that multi-channel already accounts for half of all its revenues and a store is involved at some point during 90% of all its transactions.<sup>23</sup> Amazon, meanwhile, recognising that consumers want choice, have revealed the need for a physical presence on the high street.

Despite shoppers and businesses alike desiring a physical and virtual offer that complement each other, the high street appears unable capitalise on the opportunity to be part of this future with lop-sided growth exclusively favouring online. Regardless of the desires of shoppers, the truth is that 90% of those

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<sup>19</sup> 'The Multichannel High Street, A Nation of Shoppers – But is it a Nation of Shopkeepers?', Squire Sanders, Kantar Retail & Retail Trust, 2013

<sup>20</sup> 'The Multichannel High Street, A Nation of Shoppers – But is it a Nation of Shopkeepers?', Squire Sanders, Kantar Retail & Retail Trust, 2013

<sup>21</sup> 'The Multichannel High Street, A Nation of Shoppers – But is it a Nation of Shopkeepers?', Squire Sanders, Kantar Retail & Retail Trust, 2013

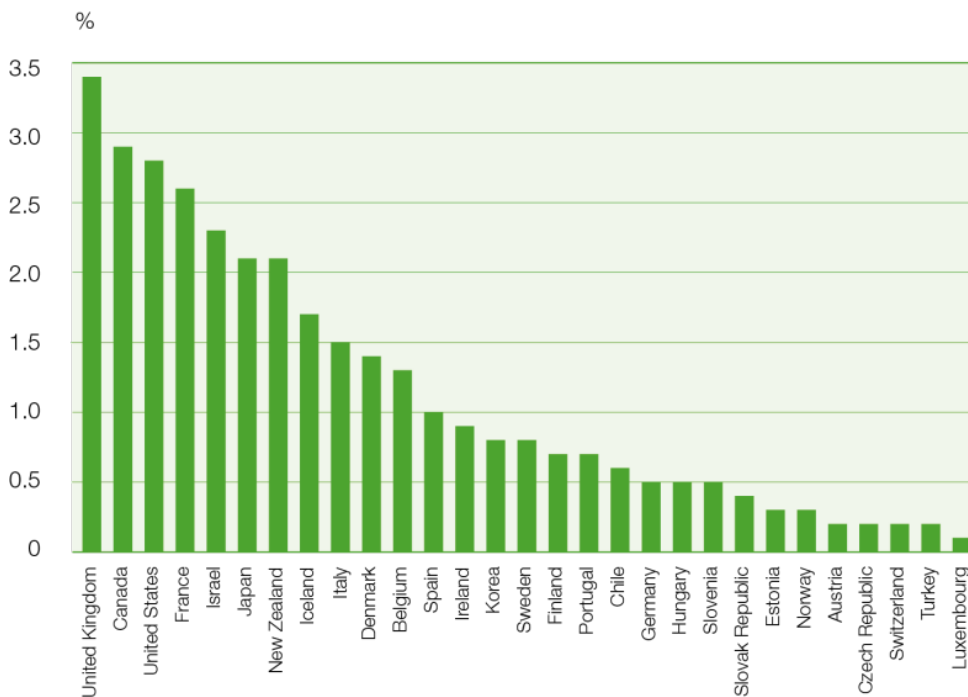
<sup>22</sup> 'Online retailers move into bricks and mortar stores' BBC News, Baker, L. <http://www.bbc.co.uk/news/business-24728406>, 2013

<sup>23</sup> 'The Multichannel High Street, A Nation of Shoppers – But is it a Nation of Shopkeepers?', Squire Sanders, Kantar Retail & Retail Trust, 2013



surveyed have confessed to ‘showrooming’, whereby they get the required product information in-store and then purchase the product in question from an alternative channel.<sup>24</sup> 76% of the shoppers admitted defecting to the Internet to capitalise on lower prices.

**Figure 2: Recurrent Property Taxes as % of GDP**



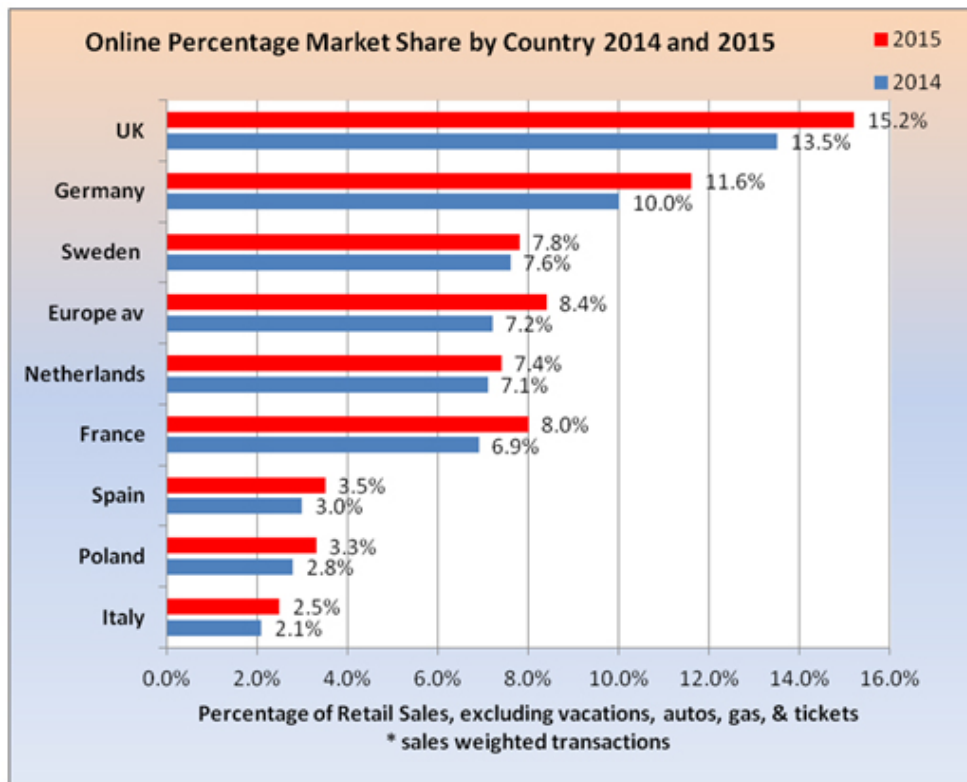
Although there may be a number of reasons why prices might be cheaper online, the burden of rates is likely to be a major contributory factor as it is an obvious point of differentiation between the operations of a traditional retailer and an online retailer. It is fair to ask if there is any correlation between the UK having the highest recurrent property taxes of all OECD countries as a proportion of GDP (see figure 2)<sup>25</sup> and some of the highest levels of online shopping in the world

<sup>24</sup> ‘The Multichannel High Street, A Nation of Shoppers – But is it a Nation of Shopkeepers?’, Squire Sanders, Kantar Retail & Retail Trust, 2013

<sup>25</sup> OECD revenue statistics 2013

both in terms of proportion of market share (figure 3)<sup>26</sup> and sales per person (figure 4)<sup>27</sup>.

**Figure 3:**



**Figure 4:**

Internet sales per shopper 2014-2015			
	Sales per shopper 2014	Sales per shopper 2015	Increase in sales per shopper
UK	£1,071	£1,174	9.6%
Germany	£890	£1,023	14.9%
France	£767	£847	10.4%
Spain	£458	£499	8.9%
Italy	£444	£485	9.2%
Netherlands	£613	£663	8.1%
Sweden	£539	£588	9.1%
Poland	£181	£206	14.2%
Europe*	£738	£820	11.1%
U.S.	£1,043	£1,120	7.4%
Canada	£731	£780	6.8%

<sup>26</sup> Online Retailing: Britain, Europe, US and Canada 2015, Centre for Retail Research

<sup>27</sup> Online Retailing: Britain, Europe, US and Canada 2015, Centre for Retail Research

If this is the case then there is a strong argument to suggest the decline of the high street is not exclusively driven by consumer and business behaviour because of societal changes, but this behaviour is distorted by the tax system. The distributional effects of the burden of tax is often evaluated on the principle of 'ability to pay'. Clearly, the existing Business Rates system completely fails this principle.<sup>28</sup>

Without intervention, the contraction in retail businesses could be severe. The Centre for Retail Research suggests that retailers in the UK have to downsize and use the Internet to compete to prevent entire product categories being dominated by pure online players.<sup>29</sup> They estimate that those who achieve the development of a strong web offering now only need 70 high street stores to have a national presence in comparison to 250 in the mid 2000s. Consequently, the Centre predicts that online retail in the UK will account for 21.5% by 2018, the highest proportion in the world.

### **Other Negative Outcomes**

Without comprehensive modernisation we could see significant problems in other areas.

- Undesirable Changes in the Business Mix: Businesses with rate relief and those with high margin operations will increasingly dominate the high street as landlords can be assured of a return on investment. We have already seen this, rightly or wrongly, with the clustering of charity shops, payday loan shops and betting shops. Vacant units and high business churn are already persistent problems.

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<sup>28</sup> 'The European Commission's proposal for a common consolidated corporate tax base', Oxford Review of Economic Policy, Vol 24, No 4, pp.720-739, Clemens Fuest, 2008

<sup>29</sup> 'Retail In 2018: Shop Numbers, Online And The High Street' Centre for Retail Research, 2013

- Higher Barriers to Entry for Entrepreneurs: Start-ups and small businesses have been increasingly vocal about their inability to expand operations because of occupancy costs. Even where landlords have been willing to take a hit on rent, the rates alone can be too much for small businesses to absorb.
- Persistent Productivity Problems: Innovation is a driving force behind strong productivity growth. However, with high commercial property costs, taking on office space is not an attractive proposition for small businesses meaning they lose the opportunity to co-locate, collaborate, network and ultimately innovate with others. If clustering of entrepreneurs and creative businesses is discouraged, then our productivity problems will persist.
- Deterioration of Accessibility to Public Services: This distortionary effect also spreads to the decision-making of public agencies with many local authorities looking to cut costs by rationalising their property portfolio and, sometimes moving important services out of more expensive town centre locations, making them less accessible for staff and users, and contributing to a drop in town centre footfall.
- Lack of Investment by Landlords: Excessive tax rates merged with a tough lending environment means we have seen increasing apathy by landlords towards investing in their town centre stock. In some areas of Great Britain, we have seen a huge appetite to actually divest in their commercial assets completely, converting to more profitable residential property. Despite a genuine need to create more housing through a planned system, a danger has emerged where key employment and service hubs are being lost as individual landlords attempt to protect their assets

from the tax system. The suffocation of investment in property undermines urban regeneration.

- Potential Collapse of Revenue for Public Services and Pensions: As the capability of digital technology grows we must expect long-term significant shrinkage in parts of the tax base. The negative effects of this will be felt primarily by public services that depend on the sustainability of this revenue and pensions that traditionally hold huge stakes in commercial property.

## 4. WHY THE WIDER TAX SYSTEM PREVENTS THE MODERNISATION OF BUSINESS RATES

Business Rates is a significant proportion of the UK's tax revenue. ATCM acknowledges that significant cuts cannot happen unless income for local public services can be sustained through other sources. However, over the past two decades academics have raised concerns here, stating there is a general challenge for many governments, prompting them to become inflexible with taxes on commercial property and other fixed assets. Tax authorities across the world have been struggling for decades with the emergence and growth of mobile capital.

### **Mobile Capital and the Problem for Tax Authorities**

The mobility of capital in modern business practice is best illustrated by changes to Corporation Tax over the last 100 years. In 1920, in an attempt to foster cross-border trade following the war, the League of Nations developed a set of tax principles that would lead to domestic and international rules minimising double taxation.<sup>30</sup> It meant multi-national organisations, when operating across many different domestic tax authorities would not be taxed for the same activity more than once.

Nearly 100 years later, and business practices have moved on. According to the OECD, globalisation is nothing new but its pace has changed significantly. Global business models, once the exception, are now the norm with the free movement of capital and manufacturing to lower cost locations. Developments in technology and telecommunications enabled an evolution from country specific operating models to global models more aligned to matrix management and integrated supply chains. The growth of a knowledge economy where value in

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<sup>30</sup> 'Addressing Base Erosion and Profit Shifting' Organisation for Economic Co-operation and Development, 2013-12-17

goods and services can be found in things such as product design, R&D support and intellectual property has meant great emphasis placed on intangibles. Add to this the rise of the digital economy and it becomes clear that the movement of capital is far more fluid than it has ever been. Meanwhile, the taxation model for cross-border activity remains relatively unchanged.

This has given rise to two problems in particular. Firstly, it can be genuinely difficult for a multi-national corporation to identify exactly where it should be allocating its profit and therefore paying tax.<sup>31</sup> Because a corporation's ability to derive profit from a global operation may rely on the different benefits offered by different countries, allocating tax to just one jurisdiction would be arbitrary.

Secondly, multi-national corporations can, and will, exploit gaps in the international tax system to allocate profits to the most generous tax authorities using a range of initiatives including transfer pricing and other intra-group financial transactions.<sup>32</sup> There are approximately 40 tax havens across the world and they host a disproportionate amount of the world's foreign direct investment.<sup>33</sup>

In November 2012 by the appearance of Amazon, Google and Starbucks (amongst others) in front of the Public Accounts Select Committee indicated the scale of the problem. Despite having more than 7,000 staff in the UK working from over 800 stores and recording £3.1 billion in sales during that time, Starbucks was alleged to have paid just £8.6 million in tax according to the Guardian.<sup>34</sup> This is in contrast

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<sup>31</sup> 'Business Taxation in a Globalized World', Oxford Review of Economic Policy, Vol 24, No.4, pp. 625-638, Michael Devereux, 2008

<sup>32</sup> 'Addressing Base Erosion and Profit Shifting' Organisation for Economic Co-operation and Development, 2013

<sup>33</sup> 'What problems and opportunities are created by tax havens?' Oxford Review of Economic Policy, Vol 24, No 4, pp. 661-679, Dhammika Dharmapala, 2008

<sup>34</sup> 'Amazon, Google and Starbucks accused of diverting UK profits', The Guardian, Rajeev Syal, 12<sup>th</sup> November 2012

to competitor Costa Coffee who had paid nearly double that amount for just 2011 alone.<sup>35</sup>

Google was accused of recording £2.5 billion in UK sales in 2011 alone but paying only £3.4 million in tax, channelling non-US sales through Ireland and diverting profits to Bermuda.<sup>36</sup>

Finally, Amazon was accused of achieving £3.3 billion in sales in the UK in 2011 but paying no Corporation Tax, allocating its profits to Luxemburg.<sup>37</sup> These are just the high profile examples but other companies have also been accused of similar tax avoiding practices.

### **The Emergence of Tax Competition**

These gaps in the tax system are leading to tax competition between nations. Corporation Tax rates have fallen across the OECD from an average of 47% to 27.5% between 1982 and 2007.<sup>38</sup> In 2007, the tax rate was an average of 10% lower across the EU than it was in 1982. And, by 2008, every country in the OECD had reduced its tax rate within the past 25 years. This year, the UK has dropped the main tax rate to 20% in order to remain competitive. While a competitive tax rate is welcomed, this particular tax structure has triggered a universally damaging race to the bottom.

It has been established that between 1982 and 2007, large countries (who tend not host tax havens) have supplemented decreasing tax revenue by broadening

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<sup>35</sup> 'A highly taxing session for the men from Amazon, Google and Starbucks', The Guardian, Simon Hoggart, 12<sup>th</sup> November 2012

<sup>36</sup> 'Amazon, Google and Starbucks accused of diverting UK profits', Rajeev Syal, The Guardian, 12<sup>th</sup> November 2012

<sup>37</sup> 'Britain's missing billions: counting the true cost of corporate tax avoidance', The Independent, 22<sup>nd</sup> November 2012

<sup>38</sup> 'Corporate taxation in the OECD in a wider context', Oxford Review of Economic Policy, Vol 24, No 4, pp. 639-660, Simon Loretz, 2008



their tax bases.<sup>39</sup> However, we may have reached a point where governments are finding it difficult to broaden the tax base any further, as this has been slowing amongst OECD nations for the past 15 years.<sup>40</sup> This means this tax competition may have started impacting the ability of governments to pay for public services within the last ten years.

It is this trend within tax systems across the globe that have been concerning academics for a considerable amount of time. In 'Property Taxation, Nash Equilibrium, and Market Power' by Hoyt, in the *Journal of Urban Economics*, it was concluded that tax competition leads to an inefficiently low tax rate.<sup>41</sup> Others have gone further. Bucovetsky in 'Asymmetric Tax Competition' which appears in the *Journal of Urban Economics* and Wilson in 'Tax Competition with Two Tax Instruments' which appears in the *Regional Science and Urban Economics*, both argue that tax competition induces a shift towards less mobile capital.<sup>42 43</sup> Based on a detailed comparison of rates for Corporation Tax and Personal Income Tax across the globe, Simon Loretz concluded that there is a direct link between the inability of governments to sustain Corporation Tax revenue and a shift towards high taxes on consumption and property.

This knowledge, brought forward by academics in peer reviewed publications leads ATCM to make the following observations which HM Treasury should consider in the context of tax reform:

1. The mobility of capital, as demonstrated by the loss of Corporation Tax revenue, may be a contributory reason why the UK, Scottish and Welsh governments have been inflexible in reforming the Business Rates system

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<sup>39</sup> *ibid*

<sup>40</sup> *ibid*

<sup>41</sup> 'Property Taxation, Nash Equilibrium, and Market Power', *Journal of Urban Economics*, Vol 34, pp. 123-31. WH Hoyt, 1991

<sup>42</sup> 'Asymmetric Tax Competition' *Journal of Urban Economics*, Vol 30, pp. 167-81, S Bucovetsky, 1991

<sup>43</sup> 'Tax Competition with Two Tax Instruments', *Regional Science and Urban Economics*, Vol 21, pp. 333-50, J Wilson, 1991

as property is a fixed asset and cannot be shifted in the same way profits can.

2. The problem is not a British one, but is an international one with the US and much of the EU experiencing the same challenges. Despite the devolved Business Rates systems across the UK, long-term solutions will need dialogue both across the UK and internationally.
3. It is not accurate to claim high profile retail failures are caused entirely by market forces. Not only are high street businesses like HMV and Waterstones paying excessively high Business Rates, but in some cases they are paying them to subsidise the tax not being paid by direct online competitors. This is a significant distortion that is neither fair, nor supportive of the balanced economy desired by businesses and the communities that rely on them.

### **The Future for Urban Regeneration, the UK Economy and Public Services**

There is one further implication that is perhaps the most worrying of all. It appears that traditional retail bears the brunt of these shifts in the tax system. Property and consumption are at the very core of the traditional retail operation. However, in the longer-term retail will not be the only victim.

If we are locked to a tax system that has to deliver maximum revenue from fixed assets then question marks have to be placed on the viability of all businesses that rely on fixed assets including the restaurants, cafes, hospitality functions and leisure facilities that may emerge to replace retail in town centres. Some of these businesses may prove more resilient than retail because their offer cannot be replicated online. However, a relentless pressure on profit margins, led by an extremely high property tax, will erode viability. Furthermore, if property continues to be the target of high taxation to compensate for a loss of tax

revenue elsewhere, then all urban regeneration and place-making activities could be negatively affected. This topic is presented as being focused on high street retail, but this may be just the tip of the iceberg. Retail may only serve as a barometer of what is to come for other business activities.

At risk is our ability to maintain an equitable ratio of commercial property to satisfy a growing population. These tax trends throw into doubt our ability to nurture diverse, mixed-use town centres with a range of activities that generate employment and provide the foundation for sustainable communities. Without this we have to call into question the quality of life for many areas which may suffer restricted access to products, services and employment, surrounded by a decaying urban landscape too expensive to invest in. The commercial property market will also be left exposed and in danger of collapse.

One area ATCM has not explored is the potential impact on sectors that pay rates that are not linked immediately to town centres. If falls in retail rental values under a revenue neutral system shift liability to other sectors following a revaluation then it is important for HM Treasury to understand the consequences on other key areas of the economy such as manufacturing, which itself is undergoing a revolution in digital technology with new production practices. Failure to modernise the business tax regime could affect the entire competitiveness of the UK economy. And finally, there are the long-term implications for the funding of public services.

A modern business tax system is needed. A tax system that both in terms of mobile capital (like profit) and immobile capital (like property), targets real economic activity to provide the country with a sustainable future and better prospects for economic development.

Such reforms need not be about government reducing its income. If business tax is considered holistically then reforms that are fair and fiscally neutral become possible. While this potentially represents a significant departure from our existing tax system, retaining the current system is clearly not a viable option.

These views are already shared by a number of influential parliamentarians who have considered these issues in detail. The Public Accounts Select Committee has been vocal about the problems of Corporation Tax and the need to tackle aggressive tax planning.

The BIS Select Committee recommended this review of Business Rates favouring modernisation in recognition that the tax is no longer fit for purpose, especially in relation to the retail sector.

The most important endorsement yet comes from the Chancellor who has openly acknowledged a problem and promised action, saying:

*“The UK has a sophisticated digital marketplace with the highest global average online spend per capita by e-consumers. But with these opportunities we have seen new problems too when it comes to making sure companies are paying their fair share of tax. Aggressive tax planning by some digital businesses has given them an unfair advantage over their competitors. The ability of some companies to deliver products and services into a market, without the need to physically locate there, means that under current rules they can pay little or no tax on profits made in the UK. That is unfair and wrong.”<sup>44</sup>*

Since these comments, the UK Government has pledged to introduce a Diverted Profits Tax to help resolve the problem of aggressive tax planning. Although it is too early to comment on the success of legislation in this area, we welcome the

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<sup>44</sup> George Osborne, Chancellor of the Exchequer, Foreword in ‘Tackling Aggressive Tax Planning in the Global Economy’ HM Treasury & HMRC, March 2014, Page 3

action being taken. We suggest that revenue captured from this, and through other initiatives to tackle tax avoidance, are used as a basis to offset the excessive taxes levied on occupiers and owners of property.

## 5. RECOMMENDATIONS FOR MODERNISING THE TAX SYSTEM

In recognition that significant elements of our business tax system no longer targets real economic activity, fundamental tax modernisation is needed to safeguard our ability to both generate revenue and support businesses. We are thankful for the Treasury's commitment to review Business Rates, but reform must be bold and must take into consideration modern business practices in terms of the global flow of capital and the digital economy.

As its overarching recommendation, ATCM proposes:

***1. The comprehensive modernisation of UK business taxation to ensure it is suitably aligned with 21<sup>st</sup> Century business practices and targets real economic activity to support urban regeneration, UK commerce and secure the future of public services.***

There are a number of options that have been discussed by the industry and our members in relation to the transition of Business Rates. The advantages and disadvantages of three particular ideas are discussed below.

### **Remove a Government's Ability to Manipulate the UBR**

One potential mechanism for reform is to remove the ability of the Government to reconfigure the UBR when a revaluation takes place. The benefit of this alteration is a stable tax rate meaning tax liability will fluctuate for individual businesses in line with property values, providing the foundation of a system that is more responsive to the economic climate, ending revenue neutrality.

Advantages: Linking rates to rental values allows rates to be linked with a measure of economic performance. If rents go up, rates go up. If rents go down, rates go down. This requires minimal changes to the existing system.

Disadvantages: The negative aspect of this is the retention of the same basic tax system. Some feel this system is fundamentally flawed. Firstly, some believe rental values are not a fair measure of the economic performance of businesses. The Institute for Fiscal Studies has raised concerns that a tax on property is deeply inefficient because of the way it distorts land-use.<sup>45</sup> The Institute states that if property is subject to tax but land is not, then it creates an incentive for property owners to demolish property that is difficult to let. There are also strong concerns that any attempt to invest in property will be met with increased rateable values which discourages essential modernisation. Finally, the burdensome administration that weighs down the current system will continue with problems for businesses, local billing authorities and the VOA.

### **Replace Business Rates with a Tax on Land Value**

The Institute for Fiscal Studies favours a move to a Land Value Tax system. Instead of tax liability being linked to rental values, it would be linked to the value of the land on which the property is located.

### Advantages

This is a clear departure from the existing, deeply flawed property tax. The Institute for Fiscal Studies believes a Land Value Tax is designed to encourage the better use of land. There are a number of very attractive elements about this option which make it worth strong consideration.

Firstly, the taxation of land, rather than property, moves us away from the adverse system of increasing the rates bills for the owners and occupiers who invest time and money in upgrading their units. With the digital revolution taking place and growing concerns over energy efficiency, asset modernisation is essential to retaining the UK's investment potential, meeting our environmental

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<sup>45</sup> 'Tax by Design', Institute for Fiscal Studies, 2010

obligations and protecting urban architecture. A Land Value Tax can incentivise desirable investment by all users and owners of non-domestic property without the need for a series of complicated relief packages, boosting brownfield regeneration.

Secondly, a Land Value Tax relies on shifting the burden of liability from occupiers to owners. The costs will still get passed down to the occupiers (and ultimately consumers in the case of retail businesses) meaning there is no tangible difference in who eventually pays the tax. However, it brings land and property owners formally into the tax system which has many advantages for long-term engagement and capital investment opportunities. For example, our ability to develop visionary property owner Business Improvement Districts would be greatly improved as a Land Value Tax will provide the framework to make this achievable.

A Land Value Tax has the benefit of being compatible with all domestic and non-domestic properties, whether they are owned publically or privately giving the Government many options in terms of its implementation.

Finally, there would be a departure from the need to assess the value of each individual property like the VOA is required to do at the moment. This could decrease administration costs and support more frequent revaluations.

#### Disadvantages

This is very radical and would need to be thoroughly assessed for its impact, not least on rural communities where protection of the natural environment may be important but might not be economically productive under a Land Value Tax.



There may also be a suggestion that a Land Value Tax, would not produce a regime that is based on the economic performance of individual businesses and their ability to pay.

Finally, it rests on having extensive knowledge of land and property ownership which we currently do not. The Land Registry would need to be tasked with filling any gaps in knowledge which is arguably an important goal in its own right and financially feasible if the long-term costs of administration are reduced.

### **Replace Business Rates with a Tax on Profitability or Turnover**

It has been suggested that Business Rates should be abandoned, but not in favour of a Land Value Tax, but a tax based on the profitability or turnover of individual stores.

#### Advantages

With accurate reporting to tax authorities, this would create a tax system responsive to a businesses' ability to pay. This would allow businesses to contribute more when they are growing but less during a recession, creating a strong link to economic activity. Stores in more attractive and lucrative locations achieving a higher volume and value in sales would pay more than stores in less attractive locations. As a proportion of profitability or turnover, this tax would be expected to support business survival much better than the current system. And, such a tax could easily be expanded to include digital retail and services, broadening the tax base and reducing the burden for individual businesses.

#### Disadvantages

This alteration could not be applicable to all non-domestic property and may only work for the consumer-facing industries where sales are actually made, such as retail and leisure. It would be impossible to implement for offices, the public sector or manufacturing which would require an entirely different system.

Furthermore, problems would exist in the governance of such a tax system, especially for retail if there was a difference in the tax rate between stores and online. As companies move to m-commerce and multi-channel business models there is no certainty that tax authorities would be able to allocate sales to specific stores even though a particular store may have played an important role in the purchasing process. We could end up with a situation similar to Corporation Tax where larger companies with sophisticated operations can allocate sales accordingly to minimise their exposure to the tax, leaving other businesses to pick up the bill. This could potentially be alleviated by basing it on the destination of the sale.

There are valid ideas here, but admittedly, no perfect option. For ATCM, the best course of action is to outline the most important features we would want to see incorporated into a new tax system and then work with HM Treasury and the industry to find the most adequate solution.

These first three principles are inevitably designed to rebalance the tax system, alleviating the pressure on those who rely on non-domestic property.

ATCM recommends:

***2. Any tax on commercial property, land, or otherwise, that either revises or completely replaces Business Rates must accurately reflect the value of the activity or asset being taxed from the outset, and adjust to shifts in value in a timely manner thereafter.***

***3. The inevitable drop in revenue from the current, unsustainable levels of tax on property should be offset by revenue derived from the Diverted Profits Tax and/or other measures introduced to tackle aggressive tax planning, allowing***

***for fiscal neutrality and ending distortion in sectors that are reliant on both physical and virtual environments.***

***4. Without full fiscal devolution across the UK, revenue captured from successful attempts to tackle aggressive tax planning should not only be allocated across England to alleviate Business Rates (or any alternative tax) but also apportioned to other nations in the UK for the same purposes. Careful consideration must be given to Northern Ireland following the devolution of Corporation Tax.***

Changes to local government finance need to be carefully considered. Funding for local services are greatly dependent upon Business Rates. If the rates system is to be modernised, and we can assume that such a modernisation would lead to a drop in rates liability for most businesses, then funding for local services would need some form of alteration. Councils must be adequately compensated if such a change were to take place. The well-being and quality of life of a community is not just dictated by the commercial vibrancy of the town centre but also the quality of the public services on offer.

ATCM recommends:

***5. Careful consideration is given to local government financing should any significant revision of Business Rates take place to ensure local services are adequately funded.***

Furthermore, consideration may need to be given both nationally and locally to the way Business Improvement Districts (BIDs) are funded. Like councils, funding for BIDs is linked to Business Rates. It is clear that the introduction of BIDs to the framework of economic development has been a success in galvanising businesses around high street improvement and the pooling and coordination of

private sector investment. It would be self-defeating to town centres if changes to Business Rates unintentionally harmed BIDs.

Therefore, ATCM recommends that:

***6. The impact of changes to the Business Rates system on BIDs funding is fully understood prior to alterations being made and all necessary steps are taken to ensure businesses are able to adequately invest in BIDs regardless of these alterations.***

The pressure on council budgets for non-statutory services has seen local government slowly withdraw from local economic development. However, they remain important players in fostering the conditions that allow a business community to flourish. Rates were once perceived as a contribution towards supporting that effort and it is important that whatever the changes to the tax system, some of the revenue collected locally is reinvested to sustain our economic growth.

***7. A proportion of the tax revenue derived from commercial locations should be ring-fenced and reinvested back into local economic development through various channels decided locally such as partnership capacity building, business support or infrastructure investment.***

Any revisions to the tax system must encourage the private, public and voluntary sectors to actually invest in urban regeneration. Steep increases to already high rateable values following improvements to property do not reward the renewal and upgrade of units to ensure they meet 21<sup>st</sup> Century business and societal needs. Upgrading existing physical assets to cope with modern demands such as accommodating digital infrastructure, contemporary retail practices or energy

efficiency is currently discouraged, creating demand for developing new commercial property on greenfield sites.

***8. The tax system must incentivise the private, public and voluntary sectors to invest in the upgrade of existing property assets to boost urban regeneration on brownfield sites and encourage a more productive use of land.***

Our smallest businesses are vital to future economic growth, innovation and employment. Taking the smallest businesses out of the tax system would be a huge step towards lowering the barriers to entry into sector.

We think there is a strong fiscal rationale for this. Figures from HMRC suggest that the distribution of rateable value is highly skewed with only 20% of properties with a rateable value above £25,000 yet accounting for 82% of the aggregate rateable value<sup>46</sup>. This suggests that, the tax contribution of those businesses at the very bottom of the scale may be small enough to be affordable when the cost of collection, appeals and general administration is taken into account.

Furthermore, these figures do not take into account small business rates relief that has been in place for a number of years, demonstrating the Government's intent to support the smallest businesses already. Whatever reform takes place, regardless of other changes to Business Rates, we believe that this support for small businesses must now be made permanent.

ATCM recommends that the:

***9. The smallest businesses should be taken out of the tax system altogether, if possible, to support sustainable economic growth, innovation and employment.***

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<sup>46</sup> Stuart Adam and Helen Miller, Institute of Fiscal Studies, *Green Budget*, February 2014

During the recession we have seen a huge trend in charity shops relocating from secondary and tertiary areas in town centres to occupy prime retail space. Our members agree that it is far more desirable to see these units being occupied by charities than to see them empty. We therefore argue that tax relief for charities must be retained in some form. However, their clustering, long-term occupation of the most valuable property assets as we resolve the structural problems of our town centres and their competitive impact on private businesses that do not benefit from rate relief are all concerns. We urge the Government to redesign tax relief to avoid clustering and support business survival.

ATCM recommends that:

***10. Charity retail tax relief should be retained, but reformed to prevent large scale clustering, and direct competition with ratepayers.***