

# IRRV EXAMINATIONS - December 2005

## Technician

### NON-DOMESTIC RATING LAW SCOTLAND

Time allowed: 3 hours

Answer SIX questions

All questions carry equal marks  
(Maximum marks 300)

- **Candidates should illustrate their answers with reference to appropriate case law and legislation.**
- **Where questions are divided into sections, marks will be allocated equally between sections unless otherwise indicated.**

1. Draft a letter to a ratepayer explaining how the 2005 revaluation has affected what he has to pay and any transitional arrangements that exist.
2. Explain the statutory provisions for the award of rebates of rates where properties are used for the care or employment of disabled persons.
3. You are a member of a team preparing a training manual for Non Domestic Rates and you have been asked to prepare the module entitled 'Appeals against the assessment of Rates'.  
  
Draft the content of the module explaining the statutory provisions for dealing with these appeals through to court and detailing what can be appealed against.
4. Explain what you understand by the following terms.
  - a) Possession (20 marks)
  - b) Actual use (15 marks)
  - c) Permanence (15 marks)
5. The coordinator of a local association for voluntary organisations has written to you asking for details of the circumstances under which mandatory relief of rates can be awarded.  
  
Draft a letter explaining the statutory provisions for the award of mandatory relief.

6. A major employer in your area has approached you because they cannot afford to pay their outstanding arrears of rates of £75,000 due to a downturn in business. They have advised you that they have a financial plan that will ensure future employment for their employees and payment of future rates liabilities. The ratepayer has asked that your Council consider remission of the £75,000 on grounds of hardship.

Draft a report to your Council asking them to consider the ratepayer's request and explaining the statutory provisions for remission of rates on the grounds of hardship.

7. The Corporate Communications Unit is currently reviewing all of the Council's written communications with its customers, and the head of the unit has asked you for a briefing paper on what must be included in a Rates Demand Notice.

Draft the briefing paper detailing the information that must be shown on demand notice and any explanatory note and other information in support of the notice.

8. A local MSP has written to you to say that he has received an enquiry from an owner of a property who is being charged rates on an empty property and that he knows other owners of empty property who are not being charged.

Draft a letter describing the circumstances under which a property may be exempt for unoccupied rate charges.

9. Explain what you understand by the term 'Seasonal Occupation' making reference to any relevant case law.

10. Describe what information you would find in the Valuation Roll and explain the circumstances in which entries can be altered.

## **December 2005 Examination**

### **Introduction to Non Domestic Rating Law**

# Technician Scotland

## Examiner's Report

General Note – Only three candidates returned scripts for this paper and in view of this, answer script statistics would not be appropriate.

In view of the above, the report focuses on the main points that should have been included in the answer script for each question.

### Question 1

Draft a letter to a ratepayer explaining how the 2005 revaluation has affected the amount he has to pay and any transitional arrangements that exist.

Revaluation effective from April 2005
Production of new valuation roll
Revised rateable values
Update RV's to reflect more up to date rental values
Values in individual properties may increase or decrease
Rate poundage set at 46.1
Rateable Values increased by average of 13.3%
Impact on SBRR
Transitional Scheme
Bill increases in real terms limited to 12.5% for all subjects
Bill decreases in real terms limited to 10% for all subjects
Transition phased over a 3 year period
After 3 years all should be paying the real bill
Upper transitional limits showing combination increase limit and inflation
<b>Lower transition limits showing combination decrease limit and inflation</b>
Where value subsequently altered on appeal transition recalculated
Special rules apply for merges splits and reorganisations
Transition continues over changes in ownership or occupation
Where empty rate applied it will also apply to bills net of transition
Relief and rebate applies to bill net of transition
Neatness, clarity and style of letter etc.

## Question 2

Explain the statutory provisions for the award of rebates of rates where properties are used for the care or employment of disabled persons.

Main Points that should have been included in the Answer Script.
In respect of institutions occupied by LA or other body
Half or more of floor area used exclusively one or more qualifying purpose
Residential accommodation for care or after care of persons with illness
Facilities for training or keeping suitably occupied persons with illness
Residential accommodation for disabled persons
Facilities for training or keeping suitable occupied disabled persons
Provision of welfare services for disabled persons
Facilities under section 15 of Disabled Persons (Employment) Act 1944
Provision of workshop or other facilities under section 3(1) of Disabled Persons (Employment) Act 1958
The rebate is the amount of rates attributable to the part of the property used exclusively for the qualifying purpose
Assessor required to certify the RV for the relevant part of the property
Any mandatory or discretionary relief on the whole property is calculated after taking into account disabled rebate
Application must be made to the local authority
Rebate will be granted for a period not exceeding a financial year and applications for each year are needed
Possible to backdate by up to one year in exceptional circumstances
Rebate takes the form of reduction in rates payable
If rebate refused applicant can appeal to sheriff
In first instance refusal should be discussed with the authority and if not resolved applicant can have statement as to reasons for refusal to enable appeal to sheriff
Appeals against the certificated value by the assessor are dealt with as if they were valuation appeals
90% of the cost of the rebate is covered by government grant

### Question 3

You are a member of a team preparing a training manual for Non Domestic Rates and you have been asked to prepare the module entitled 'Appeals against the assessment of Rates'.

Draft the content of the module explaining the statutory provisions for dealing with these appeals through to the court stage and detailing what can be appealed against.

Main Points that should have been included in the Answer Script.
Section 238 of 47 act
Fixing dates for appeal and hearing
Notice contained in demand notice
Discretion to fix consistent rules
Does not include valuation appeals
Improper assessment
- Person not the rateable occupier
- RV not the same as Valuation roll
- arithmetically incorrect
- relief remission or exemption not allowed
Usually relate to matter of fact and can normally be resolved without hearing
Proper officer will normally be the Director of Finance
Appeal Committees
- effect of running roll on timescales
- appeal within a set time running from the issue of demand
- convene meetings of committee when required
Appeal must be lodged in writing giving grounds
Appellant can present the case orally
No provision for further appeal except on a point of law
Court of session for Judicial Review
Neatness, clarity style of module etc.

Question 4

1. Explain what you understand by the following terms.

- d) Possession (20 marks)
- e) Actual use (15 marks)
- f) Permanence (15 marks)

Main Points that should have been included in the Answer Script.
Possession
Primary element of occupation
No occupation without possession
Possession must be exclusive
Others may have a right in premises – landlord in a tenanted property
Exclusive possession rests with person who has right of regulation and control
In let property tenant normally has right of regulation and control although landlord may to some extent be able to restrict use and enjoyment
Clarity, Examples and reference to case law
Actual Use
Some amount of actual use essential for rateable occupation
Use must be directed towards the purpose for which it might reasonably be intended that the property be used
Amount of use to amount to rateable occupation may vary in differing circumstances
Clarity, examples and reference to case law
Permanence
Occupation should be of permanent nature
Temporary occupation insufficient to establish rateable occupation
Sufficient permanence establishes rateable occupation
Sufficiency of permanence may vary from case to case
Clarity, examples and reference to case law

Question 5

The co-ordinator of a local association for voluntary organizations has written to you asking for details of the circumstances under which mandatory relief of rates can be awarded.

Draft a letter explaining the statutory provisions for the award of mandatory relief.

Main Points that should have been included in the Answer Script.
80%
1962 Act as amended by 1988 Act
Occupied by charity or trustees of a charity
Wholly or mainly used for charitable purposes
Definition of a charity
Certificate issued by Inland Revenue defining no taxable income
Charitable purposes divided into groups
Relief of poverty
Advancement of religion
Advancement of education
Interests recreation and leisure time occupation
Interests of social welfare
Other purposes beneficial to the community not in previous groups
Definition of charity shops
Wholly or mainly for the sale of donated goods
Proceeds of sale used for the purposes of the charity
Notice in writing by the claimant to the rating authority
No subsequent yearly notice needed
Authority entitled to examine evidence in support of notice
May be backdated but only for the relevant period in the year prior to the claim
Neatness, clarity and style of letter etc.

## Question 6

A major employer in your area has approached you because they cannot afford to pay their outstanding arrears of rates of £75,000 due to a downturn in business. They have advised you that they have a financial plan that will ensure future employment for their employees and payment of future rates liabilities. The ratepayer has asked that your Council consider remission of the £75,000 on the grounds of hardship.

Draft a report to your Council asking them to consider the ratepayer's request and explaining the statutory provisions for remission of rates on the grounds of hardship.

Main Points that should have been included in the Answer Script.
Section 156 of the 1994 Act
Application must be made by person liable to pay
Authority may remit part or all of the rate charged
Authority must be satisfied as to hardship if not remitted
Must have regard to interests of taxpayers
Hardship not confined to financial hardship
Can apply to companies and corporate bodies as well as individuals
Can extend to both occupied and unoccupied properties
No precise definition of hardship
Authorities should adopt rules for dealing with cases
A blanket policy is not appropriate
Should be considered in exceptional circumstances
75% of cost met from pooling arrangement
25% met by local taxpayers
Neatness clarity and style of report

### Question 7

The Corporate Communications Unit is currently reviewing all of the Council's written communications with its customers and the head of the unit has asked you for a briefing paper on what must be included in a Rates Demand Notice.

Draft the briefing paper detailing the information that must be shown on a demand notice and any explanatory note and other information in support of the notice.

Main Points that should have been included in the Answer Script.
Section 237 of 47 act
Schedule 9 of 73 act
Section 8 of 75 act
Code of practice
In demand
Name and address of occupier or the phrase 'the occupier'
Address and description of rateable property
Rateable value
Rate poundage
Period over which rates levied
Total rates due for the year
Deductions in respect of any relief
Notes on TR
Dates on which monthly instalments payable
Amount of each instalment
Instalments of like amount may be rounded to nearest 5p
In support of demand
Methods of payment
Timetable for payment and advice on penalty if not paid on time
Advice on appeals against rates and time limits
Notes on remission, RDP relief and empty property rating helpful
Neatness, clarity and style of briefing paper etc

Question 8

A local MSP has written to you to say that he has received an enquiry from an owner of a property who is being charged rates on an empty property and that he knows other owners of empty property who are not being charged.

Draft a letter of reply describing the circumstances under which a property may be exempt for unoccupied rate charges.

Main Points that should have been included in the Answer Script.
154 and 155 of 1994 Act
Effective from 1/4/1995
Unoccupied properties regs. 1994
Exemptions
Listed buildings
Ancient monuments
Industrial property (other than retail) Property constructed or adapted for Manufacture repair adaptation of goods or materials Subjection of goods or materials to any process Storage Mineral processing or working Generation of electricity
Retail means where all or part of any building is used for the retail provision of goods or services
RV less than £1700
Person entitled to possession is trustee for creditors, trustee under award of sequestration, executor of an estate
Liquidation
The property is owned by a company which is being wound up
Owner is prohibited by law from occupation or they are being kept vacant because of government or LA action which will lead to prohibition of occupation
Neatness clarity ,style of letter etc.

Question 9

Explain what you understand by the term 'Seasonal Occupation' making reference to any relevant case law.

Main Points that should have been included in the Answer Script.
Extension of reserved occupation
Not in actual occupation but held for use
Unoccupied rate not levied
Rent fixed on the basis of seasonal variation and this reflected in RV
If rated only during peak period benefit would be gained twice
Mackie V Assessor for Renfrewshire
Midlothian V International Harvester Co.
Impact on liability
Arbuckle Smith and reference to English cases
Warehouses and industrial building not used
Rating Appeal Case
Clydesdale Bank Ltd to Lothian
Neatness and clarity

Question 10

Describe what information you would find in the Valuation Roll and explain the circumstances in which entries can be altered.

Main Points that should have been included in the Answer Script.
Val roll and Val notice (Scotland) Order 1990
Tabular form
Description and situation
Names of proprietor tenant and occupier
NAV
RV
Effective date
Apportionment note
Effective date of apportionment note
Indicator to show industrial or freight transport
Indicator to show buildings used for livestock production
Indicator to show salmon fishery
Alter the roll at any time in force to show
Entry of properties which existed but were not included in roll when made up
Entry of properties which have come into existence since roll made up
Entry of properties which have ceased to be public undertakings
Entry of properties which have come into area as result of boundary change
Alteration of value as a result of material change in circumstances
Alteration of value of properties used for keeping or breeding livestock
Alteration of value as result of decision on appeal
Alteration of value to correct errors
Entry of subjects as directed by the assessor of public undertakings
Deletion of properties which have ceased to exist
Alteration of proprietor, tenant or occupier
Entry of properties which have ceased to become domestic subjects
Deletion of properties which have become domestic subjects
Effective date of alteration will be shown in roll
Neatness and clarity