

A look ahead to 2026



LUKE WILCOX provides some insight on issues and topics for the coming year.

As we approach Christmas and the end of 2025, we can reflect that, once again, this year has delivered several important rating cases, addressing a number of “hot topics” and advancing our understanding of the law in this field. 2026 promises to be an even better year for rating practitioners.

The repairing assumption remains a subject of intense litigation. It is remarkable to think that, despite *Monk*¹ having been decided by the Supreme Court in March 2017, and despite the repeated analysis of Lord Hodge’s judgment by the Upper Tribunal (in *Canary Wharf*, *Colour Weddings*, *Carey and Blackrock 2*, to name a few), we are still so far from having resolved the scope of the principle. 2025 saw the Upper Tribunal consider the applicability of *Monk* to warehouses, in the *Blackrock 2* decision (*BNPPDS(J) Ltd v Hitchings (VO)* [2025] RA 177², to give it its proper name). But I am aware of at least two, and possibly more, appeals to come in 2026 which will consider the extent to which the *Blackrock 2* principle itself applies to warehouse schemes of redevelopment. After almost a decade of litigation, we are still a long way from settling this issue. Maybe 2026 is the year when the sector will finally agree on its scope.

A far older part of the rating legislation is the agricultural exemption, yet that too remains uncertain. The 2003 amendments to the exemption were designed to bring pooling arrangements into scope. The Court of Appeal in *Fridays*³ has confirmed that even in pooling cases, an agricultural building can only be exempt where it occupied together with agricultural land so as to form, in a real sense, a single agricultural unit. But that begs the question: what does it mean to be a single agricultural unit in the 21st century? Farms today look very different to farms in the late 19th or mid-20th centuries. And a farm in West Wales may be structured very differently to one in East Anglia. How do those differences affect the application of the agricultural exemption? The Upper Tribunal will be grappling with

these and other issues in the *Puffin Produce* case in 2026.

Rates avoidance (or rates mitigation, if you are acting for a ratepayer rather than a local authority) remains a heavily contested subject. The Court of Appeal has given permission for the City of London to appeal against its loss in the *City of London v 48th St Holdings*⁴ case (AKA *Principled Offsite Logistics Ltd* round two). That appeal will be heard in 2026, and will be the first time that the effectiveness of an intermittent occupation scheme will have been considered at appellate level. It may well be the most important case on rates mitigation since *Rossendale v Hurstwood*. Elsewhere in this sector, the High Court has confirmed the ineffectiveness of a series of rates avoidance schemes which rested on the use of single-purpose vehicles and the insolvency exemptions from the empty rate (*Wigan Council v PAG* [2025] EWHC 2336 (Ch)⁵). There are, however, a number of variations on these schemes which remain to be tested. In my view, the need for the Government to grapple properly with the empty rate is becoming ever more urgent – the empty rate was designed for very different market conditions to those which prevail today. Until the structure of the empty rate is brought into line with commercial and economic reality, creative and intensive avoidance schemes will continue to flourish.

Advertising rights hereditaments, and incorporeal hereditaments generally, is an arcane subject even by rating standards.



After decades of calm, this issue has become litigious in recent years in the context of advertising rights in operational railway stations (*NRIL v List (VO)*⁶). What, if anything, is the role of concepts just as general control and mutual purpose when deciding whether such a hereditament has come into existence? The VTE and the Upper Tribunal reached opposite views on these issues. The Court of Appeal heard the appeal in the case in early December. The decision is expected early in the new year, and whatever is decided, it will doubtless inform our understand of how these unusual hereditaments come into existence, with potentially wide-ranging consequences for the rateability of adverts generally.

Turning away from case law, there are three points of particular interest to look forward to in 2026.

The first is the merger of the Valuation Office Agency (VOA) and HM Revenue and Customs (HMRC). This is, we are told, intended to bring efficiencies to the work currently carried out by the VOA. Whether it will do so remains to be seen. Equally

important, however, is what the merger will not change. Nothing in the merger alters the law under which Valuation Officers (VO) operate, and the approach to list compilation and maintenance should be unaffected. In particular, the VO's statutory role remains that of compiling and maintaining accurate lists, unaffected by considerations around the collection or the enforcement of the rates liabilities which result from those lists.

Secondly, 2026 sees the compilation of the new rating list, and the introduction of the new multipliers announced at the 2025 Budget. The changes in the multipliers will inevitably alter the economic incentives around appeals. There may be a number of sectors, including highly valuable ones, where the combination of an increased RV (following the removal of the COVID depressing effect present at the time of the 2023 list AVD) and a changed multiplier will create a new incentive for ratepayers to litigate. The new list also brings with it the prospect of triple list maintenance: I have a number of unresolved 2017 list appeals on my desk, and the resolution of 2023 list disputes is very much in its infancy. I wouldn't be surprised if, by the end of the decade, we have active appeals for four rating lists

at once: a challenge for the VO, for rating advisers, and for the tribunals, all of which will need to keep track of numerous sets of regulations, not to mention the widely varied applicable economic inputs to valuations.

Thirdly, and in some ways most interestingly for valuers, is the increasing intensity of consideration of the R&E method. The 2023 list has thrown up some fascinating and difficult issues around the method in general, and the determination of the tenant's share in particular. The 2026 list promises more of the same. The uncertainties around R&E valuations have led the Government to consult on the impact of the method on business investment. I will await the result of that consultation with great interest. I am particularly keen to see how if at all the Government proposes to modify the operation of the method to reduce its uncertainties: might we see the statutory prescription of the tenant's share by sector, for instance, as we have for stage 4 decapitalisation rates in contractor's basis valuations?

One thing is for sure: rating remains a stimulating and fruitful area of work for both valuers and lawyers, and that is not likely to change in 2026!

"I am particularly keen to see how if at all the Government proposes to modify the operation of the method to reduce its uncertainties..."

FOOTNOTES:

- ¹ *Newbiggin (Valuation Officer) v SJ & J Monk (a firm)* [2017] UKSC 14 (1 March 2017)
- ² <https://landschamber.decisions.tribunals.gov.uk/Aspx/view.aspx?id=2087>
- ³ <https://caselaw.nationalarchives.gov.uk/ewca/civ/2025/666?query=Friday&court=ewca%2Fcivil>
- ⁴ <https://caseboard.io/cases/60c8d0c8-53f2-4bd3-9cb0-a3259c5e4e80>
- ⁵ <https://caselaw.nationalarchives.gov.uk/ewhc/ch/2025/2336?query=Wigan+Council+PAG+%5B2025%5D+E-WHC+2336+%28Ch%29>
- ⁶ https://landschamber.decisions.tribunals.gov.uk/judgmentfiles/j2046/LC-2023-393%20final_.pdf

LUKE WILCOX – Barrister, Landmark Chambers an Honorary Member of the Rating Surveyors' Association and author of 'A Practical Guide to Valuation for Rating'.

IRR V HONOURS QUALIFICATION

DO YOU WORK IN COUNCIL TAX, BUSINESS RATES, VALUATION, SUNDRY DEBTS OR WELFARE BENEFITS?

UNLOCK NEW CAREER OPPORTUNITIES AND TRANSFORM YOUR FUTURE WITH THE IRRV HONOURS QUALIFICATION!

OUR QUALIFICATION WILL HELP TAKE YOU FROM WHERE YOU ARE IN YOUR CAREER TO WHERE YOU WANT TO BE!

For more information, please visit irrv.net/honours or email Vaishali Patel, vaishali.patel@irrv.org.uk