Transitioning: Dealing with Levy Account Balances

Introduction

By virtue of Schedule 7B to the Local Government Finance Act 1988, levy and safety net payments have to be credited or charged to a "Levy Account".

The outstanding balance on the account at the end of any year is carried forward to the next. Where there is a credit balance, the Government must determine whether it is to be carried forward, or whether some, or all, of the credit balance should be redistributed to local authorities.

Whilst the post-2020-21 levy and safety net regime has still to be determined, it is quite possible that it will look very different from the existing regime and equally possible that it will be funded differently.

We need to decide whether there should be a "clean break" at the introduction of the "new" rates retention system, with any outstanding credit/debit on the Levy Account at the end of 2019-20 being "dealt with" under the current 50% scheme, or whether the final year's balance should be carried forward into the "new" world, subject only to Government decisions on the distribution of all, or some of any credit balance.

This paper explores the issues and looks at the practicalities of "clearing" the outstanding balance on the account before the start of the "new" retention scheme.

IWG is invited to discuss the issues and consider how best to deal with the outstanding credit/debit relating to the 50% rates retention scheme at the end of 2019-20.

Background

1. Part 6 of Schedule 7B to the Local Government Finance Act 1988 requires the Secretary to State to keep, for each year, a "Levy Account".

2. Sums paid by local authorities as "levy payments" must be credited to the account. Safety net payments made to authorities must be debited to the account.

3. The Secretary of State may also credit a sum to the account, providing that his/her intention to do so was set out in that year's Local Government Finance Report and the Report has been approved by Parliament. Since 2013-14, successive Governments have "top-sliced" an amount from that year's "Settlement funding" and credited it to the Levy Account.

4. At the end of the year, any credit or debit on the account is carried forward to the following year, subject only to a decision to redistribute all, or part, of any credit balance between local authorities.

5. The decision to redistribute a credit balance is governed by paragraphs 29 and 30 of Schedule 7B, which require the Secretary of State to first calculate the balance on the account and then determine that an amount equal to the whole or part of the balance is to be distributed, "…among one or more relevant authorities…", in accordance with a "basis of distribution" set out in Regulations.

6. The statutory framework was designed specifically to recognise that the levy and safety net regime is essentially redistributing local authorities' "own money" between councils and, ultimately, that any credit balance on the account should go back to local government. The levy account is simply a mechanism to ensure that the process is transparent.

7. Because of timing differences, the balance on the account at the end of any year comprises payments to/from authorities in respect of two financial years. To take the 2014/15 levy account as an example, payments to and from the account during the course of the year would have comprised:

   i. Safety net "on account" payments – relating to 2014-15 (based on 14-15 NNDR1s);

   ii. A top-slice from the 2014-15 "Settlement";

   iii. Levy payments – relating to 2013-14 (based on 2013-14 NNDR3s); and

   iv. Payments reconciling 13-14 safety net "on account" payments (made in 2013-14) with the "final" safety net payments in respect of that year (as determined by 2013-14 NNDR3s).

   Hence, payments to/from the levy account in 2014-15 covered two financial years – 2013-14 and 2014-15 and some amounts due in respect of 2014-15 will not have been recognised in the levy account until 2015-16.

8. Any deficit on the account at the end of a year is a cost on central government. The Government can respond to the existence of a deficit by:

    i. Adjusting the amount it top-slices from the Settlement;

    ii. Reducing the protection available to authorities through the safety net; or

    iii. Increasing the levy.

9. The balance on the levy account at the end of each year since 2013-14 has been:

	£ million				
	2013-14	**2014-15**	**2015-16**	**2016-17**	**2017-18**
Opening Balance b/f	0	-44.016	-34.776	-41.236	-112.146
Payments during year	-69.016	-144.99	-111.631	-139.668	-14.474
Receipts during year	25	154.23	105.171	68.758	139.317
Closing balance c/f	**-44.016**	**-34.776**	**-41.236**	**-112.146**	**12.697**

<u>Options for dealing with the 2019-20 balance</u>

10. Until 2017-18, the levy account has was running at a deficit. Government has responded to the deficit by top-slicing amounts from Settlement funding (and relying on the fact that at some point levy receipts might be expected to exceed safety net payments).

11. No decisions have yet been taken in relation to the 2017-18 credit balance or about the basis on which it, or future, credit balances will be distributed. But in the past, local government has indicated a preference for distributing a sum, equivalent to the total amount top-sliced from the Settlement, on the basis of RSG distribution formulas. It has been further mooted that any amount in excess of that should be distributed to those authorities who have paid the levy – on the grounds that had the account been set to “break even” the levy could have been lower- although, obviously, there are other arguments that could be made in favour of different bases of distribution.

12. The actual basis of distribution to be employed, in the event that Ministers decide to distribute all, or part of any levy account balance, will be the subject of future consultation with the sector and, prior to that, discussion at IWG.

13. However, the point is that the basis of distribution of any credit balance in respect of 2017-18, 2018-19 or 2019-20 levy accounts might be linked to payments made by, or due to individual authorities under the current 50% arrangements. But following the re-set, the pattern of payments (and the identity of authorities making or receiving levy and safety net payments) is likely to be very different from that under the 50% rates retention scheme.

14. Moreover, it is conceivable that, post-2020-21, if levy payments are scrapped and safety net payments are met from a top-slice that is credited to the levy account, there may not be a credit balance to distribute under the "new" retention scheme.

15. It might be argued, therefore, that any balance on the levy account remaining at the end of the 50% retention scheme, should be distributed in accordance with a basis of distribution that reflects the pattern of payments under the 50% scheme.

16. If so, the most transparent option would be to clear the balance on the account at the point that 50% rates retention becomes the "new" rates retention scheme.

17. This however, would necessitate:
    i. Determining how to clear any debit balance (if one existed); and
    ii. Working out how to deal with the fact that some payments relating to 2019-20 will not be recognised in the levy account until 2020-21.

18. In theory, a debit balance could be cleared by building it into tariffs and top-ups in 2020-21 – ie all or some authorities would meet the cost of the debit by having their tariffs set slightly higher (or top-ups set slightly lower) in the first year after the reset – ie 2020-21.. Tariffs and top-ups would then need to be readjusted in 2021-22, as the deficit will have been paid off. As tariffs and top-ups will, in any case, need to be adjusted in 2020-21 to deal with the Revaluation, this would simply be part of a more general change to tariffs and top-ups. However, if we went down this path, we would need to work out which authorities were to bear the cost of the deficit and how it was to be apportioned between them.

19. If instead of a debit balance, there was a credit balance, this could simply be distributed in accordance with a basis of distribution appropriate to the 50% retention scheme.

20. The timing difference is more difficult to deal with. It would be straightforward to calculate how much of the 2020-21 levy account balance was due to payments relating to 2019-20. But, it cannot be known whether there will be a credit balance on the levy account in 2020-21 and therefore, whether a "credit" relating to 2019-20 could be redistributed to authorities.

21. If the 2019-20 element of the 2020-21 levy account balance, on the other hand, was a "debit", we would have either to adjust tariff and top-ups, or offset the sum "owed" by authorities against a sum to be distributed as part of a wider 2020-21 credit balance.

22. In either case, dealing with the timing difference would introduce further complexity to distribution arrangements.

23. The alternative would be to draw a line under the "old" arrangements with the calculation of the 2019-20 levy account balance, and dispose of any balance on the 2020-21 account as part of the "new" scheme, notwithstanding that it contained sums relating to the 50% scheme.