

Business Rates – Empty Rate Relief Guidance

Introduction

Section 45 of the Local Government Finance Act 1988 as amended by the Non-Domestic Rating (Unoccupied Property)(England) Regulations 2008, states that the owner (ie the person entitled to possession) of an unoccupied non-domestic property is liable to pay 100% of the basic occupied business rate.

Rates will not be payable for the first three months that a property is empty. This period will be extended to six months for qualifying industrial hereditament.

What is a 'qualifying industrial hereditament'?

The regulations define a 'qualifying industrial hereditament' as any hereditament other than a retail hereditament in relation to which all buildings comprised in the hereditament are:

- (a) Constructed or adapted for use in the course of a trade or business; and
- (b) Constructed or adapted for use for one or more purposes ancillary thereto:-
 - (i) The manufacture, repair, or adaptation of goods or materials, or the subjection of goods or materials to any process;
 - (ii) Storage (including the storage or handling of goods in the course of their distribution);
 - (iii) The working or processing of materials;
 - (iv) The generation of electricity;

The regulations define a 'retail hereditament' as any hereditament where any building or part of a building comprised the hereditament is constructed or adapted for the purpose of the retail provision of:

- (a) goods, or
- (b) services, other than storage for distribution services, on or from the hereditament.

How much is the empty rate?

The full 100% of the basic occupied business rates will be payable on all relevant non-domestic hereditaments unless they fall within one of the categories defined within paragraph 4 of the Non Domestic Rating (Unoccupied Property)(England) Regulations 2008 (as amended by The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2009). These categories are shown below.

What exemptions are there from empty rates?

Any hereditament which falls within one of the below categories will be exempt from empty rates:

- ☐ It is held by a charity and appears likely to be next used for charitable purposes.
- ☐ It is held by a community amateur sports club and appears to be next used for the purpose of the club.
- ☐ The rateable value of the property is less than £2,600.
- ☐ The owner is prohibited by law from occupying the property.
- ☐ The owner is prohibited by action taken by the Crown, or any other local or public authority from occupying the premises.
- ☐ The owner is entitled to possession only in his capacity as the personal representative of a deceased person.
- ☐ The property is included in the schedule of monuments compiled under s.1 to the Ancient Monuments and Archaeological Areas Act 1979.
- ☐ The building is the subject of a building preservation notice, or which is included in a list of buildings of special architectural or historic interest.
- If the following insolvency or debt administration situation exists:
- ☐ A bankruptcy order within parts 8 to 11 of the Insolvency Act 1986.
- ☐ The owner is a trustee under a deed of arrangement to which the Deeds of Arrangement Act 1914 applies.
- ☐ The owner is a company subject to a winding up order made under the Insolvency Act 1986.
- ☐ The owner is entitled to possession of the property in his capacity as liquidator under s112 or s145 of the Insolvency Act 1986.
- ☐ The owner entitled to possession of the property is a company in administration.

After the initial three or six month rate-free period expires, empty property will be liable for 100% of the basic occupied business rate, unless it:

- ☐ Qualifies for the new zero rate provided by the rating (Empty Properties) Act 2007. The rates liability of empty property that is held by a charity and appears likely to be next used for charitable purposes, or that is held by community amateur sports club and appears likely to be next used for the purposes of the club, will reduce from 100% of the basic occupied rate to zero.

How to apply

To claim this reduction you should provide confirmation that the property is empty and unused, giving the relevant date and details of who is now responsible for the property.

In the meantime, if you have applied for empty rate relief you should continue to pay in line with your current bill. If the reduction is then awarded, you will be issued with a further bill and new payment instructions. This will take account of any payments you have already made.

The decision

On receipt of your request the rating authority will arrange for an inspector to visit the property and verify the information provided. If awarded you will be issued with a further demand, if empty rate relief has not been awarded then the rating authority will write to you with the reasons why.

The rating authority will also visit periodically to ensure the property remains empty and unused. You must advise them immediately of any changes.

Empty rates avoidance

Shops and offices qualify for 100% relief for a continuous period of three months, industrial and warehouse properties qualify for 100% relief for a continuous period of six months.

However if a property is occupied for six weeks or more following a period in which a claim for 'empty rates' has been made, an owner may claim a further period of exemption when the property becomes vacant again.

In order to determine whether there is rateable occupation, the following four conditions need to be satisfied:

- ☑ There must be actual occupation of the property.
- ☑ The occupation must be exclusive to the occupier.
- ☑ The occupation must be of some benefit to the occupier.
- ☑ The occupation must not be for too transient a period.

If a ratepayer has the intention of using a property for a short period only to enable them to qualify for 100% relief again, an inspector will carry out a visit to the property to ensure the above conditions are satisfied.

Note rating authorities will not backdate requests for temporary occupation periods.