

Business rates



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Introduction

If you own or use commercial premises, the chances are you will be liable to pay business rates. These rates are charged by the local council and used for the provision of local services. The calculation of rates is a complicated process and there are many reliefs which could be available to you. We set out below information and practical advice regarding the payment of business rates.

What are business rates?

Business rates are taxes to help pay for local services. They are charged on most non-domestic properties, and can be thought of as the commercial equivalent of council tax. Business rates will probably become payable if you use a building or part of a building for non-domestic purposes – they're payable by the owner (if unoccupied) or, if the building is occupied, by the person who is using it.

The amount owners/occupiers are required to pay depends on three things:

- The rateable value of the property – that is, the rent the premises would be let for if it was offered on the open market on the valuation date. This figure is set by the Valuation Office Agency (VOA) and revised every five years or so to reflect changes in the property market. In all likelihood it is not equivalent to the rent currently paid for the premises.
- The multiplier set by central government – also known as the uniform business rate. This figure represents the percentage of the rateable value that is owed in business rates and changes annually in line with inflation.
- Whether any rate relief schemes may apply.

The formula itself is as follows:

$(\text{Rateable value} \times \text{Business Rates Multiplier}) - \text{Rate Relief Schemes discount} = \text{Business Rate}$.

The multiplier for 2013/14 is 47.1 in England (46.2 for small businesses), 47.5 in the City of London (46.6 for small businesses) and 46.4 in Wales.

The next revaluation of rateable values is due in 2017. At revaluation, the multipliers are also revised so that the overall national business rates bill only changes in line with inflation. This means that a change in your rateable value doesn't always mean a change in your bill.

Big business?

If your property has a rateable value below £18,000 (or £25,500 in Greater London), you're considered a small business. Business rates will therefore be calculated using the small business

multiplier instead of the standard one.

Transitional relief is also available if the rateable value of your property changes significantly as a result of the revaluation. If you get transitional relief, the council will automatically include this in the business rates calculation.

Rateable value

If you think your business rates are wrong, contact the Valuation Office Agency (VOA).

The first step in appealing your business rates is to ask the VOA to check the details. This can change how much you pay for your business rates. If you think your rateable value is wrong, check the details used to value your property and make a valuation enquiry.

A material change affecting part or all of your property can change its rateable value. Material changes can include changes to how the property is used, new developments in the area, and new roads or changes to access routes. If the VOA becomes aware of a material change, they'll look at how it affects the rental value and whether this means the rateable value needs to be adjusted.

After you discuss your case with the VOA, they may agree to a change. If you can't agree, you can take your case to the Valuation Tribunal.

The hearing usually lasts about 45 minutes. The Valuation Tribunal will tell you of their decision by post, about a month after the hearing. You can then appeal the tribunal decision to the Upper Tribunal (Lands Tribunal). You can only do this if you attended or were represented at the hearing. You must give notice in writing to the Upper Tribunal within four weeks of the date of the decision.

Charity relief

Charitable rate relief is available for charities and amateur community sports clubs. You can apply for relief of up to 80% if a property is used for charitable purposes. You may also be eligible for an additional 'discretionary relief' of up to 100%, in certain circumstances.

Agricultural land and buildings, use of buildings for training or welfare of disabled people and



buildings registered for public religious worship or church halls are exempt from business rates altogether.

If you're in an enterprise zone, you'll qualify for enterprise zone relief. To do this, you must start up or relocate the business by April 2015. The council will work out how the business rate relief is applied, but you can qualify for up to 100% relief for five years, saving a maximum of £275,000.

What a waste of space

Empty properties still attract business rates – the person liable is the owner; that is, the person entitled to possession, and so includes a tenant who has vacated but is unable to surrender the lease or find an assignee. There is, however, a 100% relief available for a continuous period of three months only for retail and office property, or six months for industrial and warehouse property.

Short term occupation of the property (six weeks or less) during the period will be ignored; this prevents owners from gaining additional periods of exemption by establishing a temporary letting. However, if occupation is for more than six weeks, the exemption will end at the start of that period, and when the property becomes vacant again, a new exemption period can be claimed.

The use of genuine short-term lettings may therefore be a useful way of reducing liability. For example, an owner may grant a licence or contracted out lease for the use of a property as a Christmas or charity shop, renewing the period of relief when the occupation ends. The occupation need not necessarily be of the whole property to attract the relief.

New build, new relief

A new empty property rate relief scheme for newly built commercial buildings is now available. Relief is available for new properties completed between 1 October 2013 and 30 September 2016 that are unoccupied for the first 18 months after completion of their construction.

A new property will become liable for rates from the completion date. Developers may therefore try to delay completion until they are close to

exchange; if the council become aware of this, they may serve a completion notice on the property owner.

In the case of stalling developments, where genuine conversion works are well advanced but struggling, the property should not be brought into the rating list on the ground that it could be repaired to its former state. Plans and full planning permission would indicate that there is a genuine scheme.

If, however, there is no genuine intention to carry out redevelopment works, and what is being done is a rate avoidance device, the property will be retained in the rating list. The rateable value will be assessed on the basis that it is in disrepair, and consider whether it would be economically reasonable to repair.

Constructive vandalism

Constructive vandalism occurs when a property owner removes services from a property and then argues that rates are not payable because the property cannot be let unless the owner carries out works that go beyond repair, or would be uneconomic, or will be prohibited under health and safety legislation.

A ratepayer who is considering "constructive vandalism" would need to balance any potential savings in rates against the cost of putting the property beyond economic repair, and the cost of the additional works that would be required if he subsequently wished to let the property.

No demand

Where there is no demand for a property, it will command no annual rent and it may be removed from the rating list. In determining whether there is any demand, the Valuation Office Agency (VOA) will consider whether there are similar properties in the locality that are occupied, and whether the lack of demand is due to oversupply, or the owner's actions. The owner must show that it has carried out active and comprehensive marketing. Restrictive marketing, such as short term lets, or letting the car park separately, indicates that the owner is not acting reasonably.

What can I do?

In 2007 the business rates relief available for empty properties was reduced. The steering committee for the Code for Leasing Business Premises (Code) therefore issued guidance for landlords and tenants faced with the restriction of rates relief. The guidance suggests that landlords may consider charging higher rents for shorter leases to reflect the risk of the property becoming vacant sooner. Also, landlords should quantify the risk of void periods when no one is in occupation, and make it clear who is expected to bear the cost of any period during which the property is empty. Tenants should ensure that they have flexibility under the lease to assign or underlet the property without unreasonable restrictions, allowing them to mitigate the business rates they may incur if the property becomes surplus to requirements and has to be left empty.

The lease should make clear who has liability for rates. Most modern leases impose liability for rates on the tenant. If a tenant ceases to occupy the property prior to expiry or termination of the lease, it can claim business rates relief. When the lease terminates the landlord can claim only the remainder of the appropriate period of business rates relief. This may mean that the landlord will incur more expense than it anticipated during the re-letting period. The landlord may therefore wish to provide that the tenant will compensate the landlord for any empty property relief that the landlord loses.

Business properties are re-valued for rating purposes every five years. Since the occupier may make a proposal to alter the rateable value through redecoration or structural alteration, the landlord may wish to prohibit this in the lease, to prevent a jump in business rates after revaluation.

**For further information
on this subject please contact:**

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