

No Relief for Ratepayers on £1 Billion Empty Rate Tax

Retrospective Tax

The Government confirmed earlier this year that the new empty rate relief regulations will apply retrospectively. This means that if the Ratepayer's property was already empty for the relief period before the 1st April they will be forced to pay the full charge straight away. This was a shock to many businesses who will simply not have budgeted for this substantial hike in tax. The scale of the impact is evident from the Government's own estimate that they will be receiving over £1 billion in extra tax as a result.

The changes in the regulations were originally rushed through Parliament in July last year with the passing of the Rating (Empty Properties) Act 2007. At that time the economy was yet to suffer the global credit crunch and vacancy rates were at their lowest for some years. This had changed by the autumn when Government finally sought to consult ratepayers. In spite of the continued weakening of the economy the Government have pressed ahead and recently published their response to the consultation in the report 'Modernising Empty Property Relief'.

Response to Consultation

This report has confirmed that there is to be no change in the main provisions of the Act. Thus all commercial and retail properties will only qualify for 3 months rates exemption when empty. In addition, Industrial properties will only qualify for 6 months exemption before the full rate is charged. The report also confirms that Charities and Community Amateur Sports Clubs (CASCs) will have complete exemption when empty.

Listed Buildings Repeived

Surprisingly, the Government have backed down from their preferred choice of removing the exemption for empty Listed Buildings. The current 100% exemption is now set to stay in force.

Six Week Occupation Rule

The report also confirmed that the 6 week occupation rule is to be retained. This means that owners who reoccupy their vacant properties for more than 6 weeks will qualify for a new exemption period if they vacate again. This is particularly favourable to Industrial owners who qualify for the longer six month exemption.



Completion Notices

The report also contains good news for developers who deliberately leave their schemes in an unfinished state to avoid rates. In order to succeed the development must have more than 3 months work remaining before it is capable of being occupied. Government had consulted on extending this period and fortunately for developers they have decided to retain the 3 month period.

Anti-Avoidance Measures Shelved

In fact the whole thorny and complex issue of antiavoidance legislation has been shelved. The Government's report concluded it would be unlikely that an owner would deliberately set out to vandalise their assets to avoid rates. The stated intention is to monitor the situation and introduce legislation at a later stage, if necessary. This is very good news for the industry as it ensures that the current process of removing assessments from the rating list remains possible.

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However, it is clear that owners will need to seek professional advice to have their assessments deleted from the Rating List. It is simply not the case, as the Government states, that owners are keeping buildings empty to drive up rents. Instead the reasons appear two fold: the lack of demand in the market place, or the owner is caught up in a long drawnout planning process. It is therefore inevitable that owners will indeed be forced to vandalise their properties to avoid this punitive tax. In the event that Government does introduce antiavoidance measures at a later stage they are likely to be unworkable.

Companies in Receivership

The Government have confirmed that companies in administrative receivership will now be exempt from empty rates. This brings them into line with the current exemptions that apply to companies which are subject to bankruptcy or winding up orders.

Power to Reverse Changes

The lack of mainstream media exposure to the tax changes mean many businesses have not been prepared. With the economy faltering, this sharp increase in tax has come at the wrong time. The legislation does provide a new power for Government to reinstate empty rate relief up to a maximum of 50%. This is apparently only to be used when circumstances demand it and we would suggest that there is a strong case right now.

Table of Changes in Empty Rate Relief Regulations

Scheme	Relief Before 1 st April 2008	From 1 st April 2008
Empty Commercial Property	First 3 months exempt followed by 50 %	First 3 months exempt followed by full occupied rate.
Empty Industrial Property	100 % Exempt	First 6 months exemption followed by full occupied rate.
Empty Listed Commercial Property	Exempt	Exempt
Part Occupied	Proportional relief at discretion of Local Authority	Proportional relief at discretion of LA but restricted to exempt period of qualifying property.
Registered Charity	10% at Local Authority discretion	Exempt *
Sports Club Registered as a community amateur sports club (CASCs)	10% at Local Authority discretion	Exempt*
Empty Commercial Properties less than Rateable Value £ 2,200	Exempt	Exempt
Company is insolvent and subject to either a bankruptcy or winding-up order.	Exempt	Exempt
Company is in Administrative Receivership	No Exemption	Exempt

*Exemption will only apply if it appears to the Authority that when next in use the property will be used by a Charity or Amateur Sports Club respectively.

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