

# Reform of Empty Property Rates Relief for non-domestic property

## Introduction

The Rating (Empty Properties) Act 2007 ("the Act") comes into effect on 1 April 2008. In the Act, the Government has set out its reforms to business rates relief for empty non-domestic properties.

## Current Basis of Relief

The current situation is as follows:

- 1 Most empty commercial properties receive 100% relief from business rates for the first three months that they are unoccupied. After that, they receive relief of 50%.
- 2 Industrial and warehouse premises receive 100% relief when they become empty, for as long as they remain empty.
- 3 Unoccupied commercial buildings that are listed buildings are exempt from business rates.
- 4 Empty properties owned by charities and community amateur sports clubs currently receive 90% relief on business rates.

## Proposed Changes

Once the Act comes into force on 1 April 2008, the situation will be as follows:

- 1 A 100% business rate relief will exist for the first three months for most empty commercial properties. After three months, full business rates apply.
- 2 A 100% business rate relief will exist for the first six months for most empty

industrial and warehouse premises. After six months, full business rates apply.

## Government Consultation

Prior to the Act being given royal assent, there was a series of Government consultations. As a result of the consultation, the Government clarified the position in respect of the following two situations:

### 1 Listed Buildings

The Government has confirmed that the permanent exemption from business rates for vacant non-domestic listed buildings will continue.

### 2 Companies in Administration

Under the current legislation, companies in liquidation and individuals subject to bankruptcy proceedings do not have to pay business rates on empty property. However, there is no such exemption for companies in administration.

The Government has confirmed that it will introduce a permanent exemption from empty property rates for vacant non-domestic properties owned by companies in administration. This will remove the current inconsistency.

## Rates Avoidance

There has been much discussion on ways in which the Government may deal with activity which is designed to avoid or reduce the liability for rates on empty non-domestic properties.

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## Reform of Empty Property Rates Relief for non-domestic property (continued)

### 1 Deliberately Damaging Property

One way in which owners may try to avoid rates on empty properties is for them to be deliberately damaged by leaving them uninhabitable. This may be as simple as removing the key services to the building.

The Government has confirmed that, at the present time, it will not be introducing any anti-avoidance legislation in respect of deliberate damage to property. This is mainly because it may be difficult to prove whether or not an owner has deliberately damaged his property. There is also no substantive evidence that landlords would deliberately damage their own property.

Even if a landlord did remove the services from the property in order to make it "uninhabitable", there is the question of the cost of reinstating the services on a re-letting of the property. It would be difficult to see how the landlord could pass this cost on to the tenant.

### 2 Delay in Completion

Another possible way of avoiding empty property rates is to delay completion on large developments.

The Government has indicated that if this becomes an issue it will encourage and assist local authorities to use their existing powers to require that works are completed in order to complete development.

### 3 Intermittent Occupation

It is possible to arrange for empty properties to be occupied for a short time. This means that a new period of empty property rates relief applies once the building is vacated again.

The Government has made it clear that it does not want to restrict property owners from allowing short term lettings or be flexible in dealing with their properties. Therefore, it is possible to put tenants in on short term leases, tenancies at will or licences in order to mitigate the effect of the need to pay business rates on an empty property.

Therefore, a previously vacant commercial property that is occupied for at least six weeks will continue to qualify for a new period of empty rates relief when the occupation ends.

### Conclusion

The Government has been criticised over the Act by some members of the property industry for adopting an unrealistic view of the time it is taking to re-let properties. This is especially the case in a difficult market. Some property industry experts have expressed a view that the proposed changes would inhibit regeneration or redevelopment of existing premises.

### Further Information

This information sheet has been prepared to highlight the reform of empty property rates relief for non-domestic properties. It is intended to be for general guidance only and is not a substitute for specific advice. It is based upon our understanding of the legal position as at March 2008 and may be affected by subsequent changes in the law. For more information please contact Sarah Easton on 01892 510000 or email at [sarah.easton@ts-p.co.uk](mailto:sarah.easton@ts-p.co.uk).