



Department for
Communities and
Local Government

Business Rates Reoccupation Relief

Guidance

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Business Rates Reoccupation Relief – Guidance

About this guidance

1. This guidance is intended to support local authorities in administering the “Reoccupation Relief” announced in the Autumn Statement on 5 December 2013. This Guidance applies to England only.
2. This guidance sets out the detailed criteria which central government will use to determine funding in respect of Reoccupation Relief. The Guidance does not replace existing legislation on retail properties, any other relief, or development control.
3. Enquiries on this measure should be addressed to:
ndr@communities.gsi.gov.uk

Introduction

4. The government wants to encourage thriving and diverse town centres and wants to see the number of vacant shops decrease. This relief is intended to encourage reoccupation of shops that have been empty for a long period of time and reward businesses that make this happen.
5. The government announced in the Autumn Statement on 5 December 2013 that it would provide a 50% business rates discount for 18 months for businesses moving into previously empty retail premises between 1 April 2014 and 31 March 2016, up to State Aid De Minimis limits.
6. This document provides guidance to authorities about the operation and delivery of the policy.

Section 1:

Reoccupation Relief

How will the relief be provided?

7. As this is a temporary measure that applies to ratepayers moving into previously empty retail premises between 1 April 2014 and 31 March 2016 only, the government is not changing the legislation around the reliefs available to properties. Instead the government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended), to grant relief. It will be for individual local billing authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47. Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003). The government expects local government to grant relief to qualifying ratepayers.
8. Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance. Local authorities will provide an estimate of their likely total cost for providing the relief in their National Non Domestic Rate Return 1 (NNDR1) for 2014-15, 2015-16, 2016-17 and 2017-18. Central government will provide payments of the local authorities' share to authorities at the end of the relevant years.

Which properties will benefit from the relief?

9. Properties that will benefit from the relief will be occupied hereditaments that:
 - When previously in use, were wholly or mainly used for retail as set out in paragraph 11 below
 - Were empty for 12 months or more immediately before their reoccupation
 - Become reoccupied between 1 April 2014 and 31 March 2016
 - Are being used for any use (ie not just retail use) except as set out in paragraph 13 below
10. There is no rateable value limit for the hereditament in respect of either the previous or reoccupied use. However, State Aid De Minimis limits may limit the amount of relief given.

What is retail use?

11. In relation to a premises' previous use for the purposes of Reoccupation Relief we consider retail to mean:

i. *Hereditaments that were being used for the sale of goods to visiting members of the public:*

- Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/ caravan show rooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

ii. *Hereditaments that were being used for the provision of the following services principally to visiting members of the public:*

- Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- DVD/ video rentals
- Tool hire
- Car hire

iii. *Hereditaments that were being used for the provision of the following services principally to visiting members of the public:*

- Financial services (e.g. banks, building societies, bureaux de change, payday loan shops, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)

iv. *Hereditaments that were being used for the sale of food and/ or drink to visiting members of the public:*

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

12. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that government considers for this purpose to be retail. Authorities should determine for themselves whether particular properties not listed were broadly similar in nature to those above and, if so, to consider them to be retail. Conversely, properties that were not broadly similar in nature to those listed above should not be considered to be retail.

Reoccupied use

13. The new use of the reoccupied premises can be for any use (i.e. not just retail uses) except for hereditaments wholly or mainly being used as betting shops, payday loan shops, and pawn brokers¹.
14. As the grant of the relief is discretionary, authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the authority's wider objectives for the local area or where it would not help a shopping area to thrive. We would encourage councillors to be consulted on the final scheme that the local authority adopts, so there is a clear line of accountability in case of a dispute on the final local scheme that is adopted.

How much relief will be available?

15. Relief will be available for 18 months from the first day the hereditament becomes occupied as long as the first day falls between 1 April 2014 and 31 March 2016, subject to the hereditament remaining continuously occupied.
16. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.
17. Under this scheme the relief available for each property is 50% of the business rates liability after any mandatory or other discretionary reliefs (other than retail relief) have been applied, up to State Aid De Minimis limits. The relief should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.
18. Of course, councils may use their discretionary powers to offer further discounts outside this scheme (and under local rate retention, 50 per cent of the cost would be locally funded and 50 per cent funded by central government).

¹ In the context of the public debate about the cumulative impact of betting shops, payday loan shops and pawn brokers the Government does not consider it the best use of public funds to offer tax relief that would encourage and incentivise the proliferation of these types of uses.

State Aid

19. State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However Reoccupation Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)².
20. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)³) and the requirement to convert the aid into Euros⁴.
21. To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). Section 3 of this guidance contains a sample De Minimis declaration which local authorities may wish to use. Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance⁵.

Splits, mergers, and changes to existing hereditaments

22. Where a new hereditament has been created by a split or merger of hereditament(s), the new hereditament will be eligible for the Reoccupation Relief where at least half of the floor area of the new hereditament is made up of retail hereditaments that have been empty for 12 months or more (subject to meeting the other criteria in paragraphs 9 and 13).
23. Where a hereditament in receipt of Reoccupation Relief splits or merges to form new hereditaments, the new hereditaments will not be eligible for the remaining term of Reoccupation Relief.
24. Where a hereditament in receipt of Reoccupation Relief becomes unoccupied for any period of time less than 12 months it will not be eligible for any further Reoccupation Relief on occupation. However, if a hereditament that has previously received Reoccupation Relief becomes empty for 12 months or more it will be eligible for an additional 18 months Reoccupation Relief if the criteria are met.

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

³ The ‘New SME Definition user guide and model declaration’ provides further guidance:
http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf

⁴ http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

⁵ Detailed State Aid guidance can also be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf

Change of ratepayer

25. The relief will run with the property rather than the ratepayer. So if a hereditament is in receipt of Reoccupation Relief and a new ratepayer becomes liable for the property they will benefit from the remaining term of the relief, subject to the new ratepayer's State Aid de minimis limits.

How will the relief work in Enterprise Zones?

26. Where a property is eligible for Enterprise Zone relief, that relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, Reoccupation Relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Act 2003. Local authorities should not claim funding for Reoccupation Relief on properties which would otherwise qualify for Enterprise Zone government funded relief.

Section 2:

Calculation examples for 2014-15

Example 1 – A property that was previously a pub and was empty for 14 months becomes occupied on 1 April 2014 as a restaurant with a rateable value of £40,000.

Rateable Value = £40,000

Rates due (excluding any reliefs) = £40,000 x 0.482 = £19,280

Minus Reoccupation Relief for 2014-15 = £19,280 x 0.5 = £9,640

Minus 12 months retail relief = £9,640 - £1,000 = £8,640

Rates due 2014-15 (including reoccupation and retail relief) = £8,640

Example 2 – A property that was previously a small department store and was empty for 2 years splits into the following 2 separate hereditaments which become occupied on 1 April 2014:

a) a gym with a rateable value of £10,000

b) an office with a rateable value of £70,000

Gym:

Rateable Value = £10,000

Rates due (excluding any reliefs) = £10,000 x 0.471 = £4,710

Minus small business rate relief of 33% (£3,140) = £1,570

Minus Reoccupation Relief of 50% = £1,570 x 0.5 = £785

Rates due (including all reliefs) = £785

Office

Rateable Value = £70,000

Rates due (excluding any reliefs) = £70,000 x 0.482 = £33,740

Minus Reoccupation Relief for 2014-15 = £33,740 x 0.5 = £16,870

Rates due 2014-15 (including reoccupation relief) = £16,870

Section 3:

State Aid

Sample paragraphs that could be included in letters to ratepayers about Reoccupation Relief

The government announced in the Autumn Statement on 5 December 2013 that it would provide a 50% business rates discount for 18 months for businesses moving into previously empty retail premises between 1 April 2014 and 31 March 2016, up to State Aid De Minimis limits.

Awards such as Reoccupation Relief are required to comply with the EU law on State Aid⁶. In this case, this involves returning the attached declaration to this authority to confirm whether you have received any other De Minimis State Aid, which might include for example the £1000 Retail Relief that you may be in receipt of for premises other than the one to which this letter relates, and to confirm that the award of the Reoccupation Relief for this premises does not cause you to exceed the €200,000 an undertaking⁷ can receive under the De Minimis Regulations EC 1407/2013.

Please complete the declaration and return it to the address above. In terms of declaring previous De Minimis aid, we are only interested in public support which is De Minimis aid (State Aid received under other exemptions or public support which is not State Aid does not need to be declared).

Under the European Commission rules, you must retain this letter for 3 years from the date on this letter and produce it on any request by the UK public authorities or the European Commission. (You may need to keep this letter longer than 3 years for other purposes). Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on 'De Minimis' aid for the next three years.

⁶.Further information on State Aid law can be found at <https://www.gov.uk/state-aid>

⁷ An undertaking is an entity which is engaged in economic activity. This means that it puts goods or services on a given market. The important thing is what the entity does, not its status. Thus a charity or not for profit company can be undertakings if they are involved in economic activities. A single undertaking will normally encompass the business group rather than a single company within a group. Article 2.2 of the de minimis Regulations (Commission Regulation EC/ 1407/2013) defines the meaning of 'single undertaking'.

'De minimis' declaration

Dear []

BUSINESS RATES ACCOUNT NUMBER: _____

The value of the business rates Reoccupation Relief to be provided to [name of undertaking] by [name of local authority] is £ [] (Euros []).

This award shall comply with the EU law on State Aid on the basis that, including this award, [name of undertaking] shall not receive more than €200,000 in total of De Minimis aid within the current financial year or the previous two financial years). The De Minimis Regulations 1407/2013(as published in the Official Journal of the European Union L352 24.12.2013) can be downloaded at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>.

If you have previously received De Minimis aid, please list below. If you have not previously received De Minimis aid, please mark as 'nil'.

| Amount of De Minimis aid | Date of aid | Organisation providing aid | Nature of aid |
|--------------------------|-------------|----------------------------|---------------|
| € | | | |
| | | | |
| | | | |

I confirm that:

- 1) I am authorised to sign on behalf of _____ [name of undertaking]; and
- 2) _____ [name of undertaking] shall not exceed its De Minimis threshold by accepting this Reoccupation Relief.

SIGNATURE:

NAME:

POSITION:

BUSINESS:

ADDRESS:

DATE: