NEW BUILD EMPTY PROPERTY EXEMPTION 2013

NOTES FOR GUIDANCE AND INFORMATION

From 1st October 2013 a new scheme came into being which exempts all newly built commercial property completed between 1st October 2013 and 30th September 2016, up to state aid limits.

What is the new scheme?
The scheme is a discretionary relief power under Section 47 of the Local Government Finance Act and will be awarded to all unoccupied non-domestic hereditaments completed between 1st October 2013 and 30th September 2016 that are wholly or mainly comprised of qualifying new structures.

Which properties will benefit from relief?
Properties that will benefit from the relief will be all unoccupied non-domestic hereditaments that are wholly or mainly comprised of qualifying new structures.

‘Structures’ means foundations and/or permanent walls and/or permanent roofs.

‘New’ means completed less than 18 months previously, and completed after 1 October 2013 and before 30 September 2016.

‘Wholly or mainly’ means more than half. Factors such as the area or volume of the property will be relevant.

New structures are to be considered ‘completed’ when the building or part of the building of which they form part is ready for occupation for the purpose it was constructed (unless a completion notice has been served in respect of such a building or part of a building - in which case it would be the date specified in that notice).

It is not intended to capture properties that have been refurbished but it is intended to capture those that have been the subject of substantial structural construction, so for example those properties that are built on existing foundations or built around a retained façade are likely to benefit from the relief.

Splits, mergers, and changes to existing hereditaments
Where a hereditament is created as a result of a split or merger of other properties, or where the existing hereditament is altered for example with an extension, the same test will apply i.e. the hereditament must be wholly or mainly comprised of new structures completed within the necessary timeframes to benefit from the exemption.

Change of ownership
The relief will be on the property rather than the owner.

Properties built before 1 October 2013
Properties that are completed before 1 October 2013 will not benefit from this extra rate relief.

How much relief will be available?
100% relief will be available at the discretion of the council in the prescribed circumstances, up to state aid limits.
How long is the relief for?
The new build empty property exemption is to apply to unoccupied non domestic properties for the first 18 months following completion, if completed after 1 October 2013 and before 30 September 2016.

Regulations already provide that empty property rates are not payable until a property has been empty for 3 months (or an industrial property has been empty for 6 months). So in practice, an unoccupied new build property would benefit from the relief for periods that rates are normally payable – i.e. once the initial 3 or 6 month rate free period has expired, subject to the state aid limit.

A simple example is a new build office that is unoccupied from the date it is completed for 18 months. In such a circumstance the ratepayer would not be required to pay rates for the first 3 months under existing regulations and then would benefit from 15 months new build empty property relief.

However, some properties may switch between being occupied and unoccupied. The ratepayer would still be able to benefit from the relief for any relevant period in the 18 months.

So for example, a new shop that is initially unoccupied for 8 months and becomes occupied for 4 months but becomes unoccupied again for 6 months will be treated as follows:

- 3 months – no rates payable
- 5 months – new build empty property relief
- 4 months – property occupied (occupier rates payable as normal)
- 3 months – no rates payable
- 3 months – new build empty property relief

At the end of the 18 month period, the funding of the relief will end. If the property continues to be unoccupied then rates will be payable.

State Aid de minimis limits
To establish whether you are eligible to receive de minimis state aid you must declare the full amount of de minimis state aid which you have already been granted during the previous two years and the current year.

State aid is generally prohibited by European Community rules. However, there are exceptions to this, and some financial aid is allowed under the ‘de minimis’ rules if the total amount of funding received by an organisation does not cumulatively exceed €200,000 over a three year period.

Any assistance you have received or are due to receive from a public body may be a de minimis state aid. This could be any aid, grant or support from central, regional, devolved governments or agencies or a local council.

The following is not a comprehensive list of all possible forms of aid. However, it should give you an indication of common forms of aid.

You should have received a letter informing you if you were given assistance under the de minimis regulation. If you are not sure whether or not any public assistance you have received is de minimis aid, please contact the body which granted the assistance to clarify this. Please then
provide us with information about all forms of public assistance under €200,000 you have received in the last three years.

Forms of possible aid:
- State grants
- Interest rate relief
- Tax relief; Tax credits; Tax exemptions
- State guarantees or holdings
- State provision of goods or services on preferential terms
- Direct subsidies
- Preferential interest rates
- Guarantees of loans on especially favourable terms
- Acquisition of land or buildings either gratuitously or on favourable terms
- Provision of goods and services on preferential terms
- Indemnities against operating losses
- Reimbursement of costs in the event of success
- State guarantees, whether direct or indirect, to credit operations preferential re
- discount rates - Dividend guarantees
- Preferential public ordering
- Reduction of, or exemption from, charges or taxes, including accelerated depreciation and the reduction of social contributions
- Deferred collection of fiscal or social contributions - Assistance financed by special levies
- Capital transfers - Certain State holdings in the capital of undertakings

Further advice and information can be obtained from the Business Rate Team