

Rating Bulletin

September 2024

Issue #3

Welcome to the latest in our series of Rating Bulletins.

We intend to keep you apprised of any changes in legislation and rating practice that affect your rate liability. In this month's edition we will be looking at how the new Government might approach business rates and some of the changes to the system that may be introduced. We will also introduce you to our new team members.

A change of direction and emphasis?

With the new Labour Government firmly in place they have expressed a desire to replace the current business rates system.

Their manifesto stated that the current rates system "disincentivises investment, creates uncertainty and places an undue burden on our High Streets". However, there is little detail on how the Government would reform the system other than its promise to raise the same revenue each year (£30bn) and to "level the playing field" between the High Street and online retailers.

We expect there to be further information in the Budget. Areas that will be under consideration and where there may be announcements include:

1. The multipliers to be adopted to calculate the rate liability from 1st April 2025.
2. Changes to the appeal regulations.
3. A review of reliefs currently available against properties and sectors.
4. The introduction of a consultation paper on general anti-avoidance rules.

Private schools

As widely reported, the Government will impose VAT on school fees, on a UK wide basis from 1st January 2025. In addition, private schools in England will lose their 80% charitable relief status on their business rates from 1st April 2025.

Traditionally, private schools have been valued with reference to the cost of their construction through the contractors method of valuation. We believe that an alternative approach should be considered and that "cost does not equal value". An alternative approach to valuing this class of property would be on a revenues based approach.



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Empty Rates – Update

Following the introduction of the 13 week period of occupation to generate empty rate relief we note that some Councils have mistakenly applied the new rules. The new period replaced the old six week "reset" period. However, where the period of occupation straddled 1st April 2024, the six week rule still applies. A number of Councils have failed to appreciate the foregoing. If you encounter any difficulties in generating relief in such circumstances we can assist if required.



Improvement relief

This came into effect on 1st April 2024 and provides relief to businesses that improve their property through alteration and improvement. The relief only applies to the additional value created as a result of those improvements which must have been completed after 1st April 2024. To qualify for relief the property must have remained in occupation during the period of works.

If you are about to embark on a programme of works please

remember to contact us to ensure that during the works we put in place a challenge to reduce the assessment to reflect the disturbance caused by those works and that following the conclusion of the works the correct level of improvement relief is applied.

SCAN HERE
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for latest information
on business rates

Retail, hospitality & leisure relief

This was introduced to assist qualifying ratepayers of retail, leisure and hospitality properties during the COVID-19 pandemic. Whilst the relief has been gradually reduced, we think at some stage the Government may wish to limit future benefits. However, we come across examples of properties where relief has

either not been claimed or where the Billing Authority have incorrectly applied the rules. The current relief in England remains at 75% subject to a cash cap limit of £110,000 per business. If you believe that relief has not been properly applied to your company then please contact us for further advice.



Material Change of Circumstance Appeals (MCCs)

Occupiers and owners of properties are entitled to challenge the value ascribed to their premises that came into effect following the Revaluation on 1st April 2023. There is an open right of appeal. Currently, the time limit to appeal is set as 1st April 2027. We believe this will be reigned back to a much earlier date. This would allow the Valuation Office to dispose of all 2023 appeals in a speedy manner and for them to begin dealing with any appeals under the 2026 Rating List.

There are opportunities to challenge assessments midway through the current Rating List which are known as material change of circumstance appeals. These appeals can be made as a result of a physical change to the property or locality that would impact upon the value of the property. There is no exhaustive list but examples include:

- Building works within the property that cause disturbance. This might lead to a total deletion of the assessment or a reduction in value of those parts in builders hands.
- Allowances to reflect the disturbance caused by building works outside the property. This might include roadworks or construction works that cause disturbance through noise, dust and other inconvenience.
- Opening of new competition – where a property is directly affected by the opening of new competition, for example, a new retail centre that impacts upon an existing retail centre then that would be a factor that could be taken into account.

If you consider that any of your properties are affected by any factors, whether internal or external, and even those outside of your control then please speak with us for advice on how your liability may be managed and reduced during the disturbance.



Case Law

MCCs

Cluttons has successfully contested an MCC appeal concerning the impact of the opening of an out of town shopping centre known as Rushden Lakes. Our argument was that the opening of the out of town centre had a detrimental impact upon the value of the town centre units in its locality and, consequently, a reduction in assessment was sought. It was generally accepted that the term "locality" extended to factors including rental evidence that had a direct impact upon the assessment of the subject property. The VOA in Tribunal tried to redefine the definition of "locality" in rating terms and to restrict the impact of an MCC to the immediate vicinity of the subject property.

We were successful in the Valuation Tribunal in persuading it to retain the current understanding and definition of "locality". The Tribunal accepted our proposition that Rushden Lakes had a detrimental impact upon retail units within Northampton and agreed to reduce them by 7.5% to reflect the impact of its opening. The VOA appealed the decision to the Upper Tribunal (Lands Chamber). Following further discussions they withdrew their appeal. This now protects the validity of MCCs as a means to reduce the business rates liability as a consequence of factors that impact upon occupation, irrespective of the distance between the cause and the subject, so long as a value significant impact can be proven.

Empty Rates

In a recent Court of Appeal decision, an empty rate strategy was branded unlawful and they refused to allow an exemption from the payment of rates.

The rate payer put in place an agreement with a tenant for the use of vacant offices to be used as a "snail farm". The tenant argued that the space was being used as a legitimate snail farm operation and therefore would qualify as "agricultural use". Premises used in connection with agriculture are exempt from the payment of rates.

The Court of Appeal upheld the High Court's decision that the rental agreements were a "sham" and that there was no agricultural operation in progress.

Completion Notices

We are detecting an upturn in the service of Completion Notices for Rating Purposes. These are a mechanism that allow a Billing Authority to bring back into rating an assessment that has been deleted as a consequence of building works. The notice can also apply to new buildings.

The effect is to certify a date from which the Council believe the property may be capable of being complete and hence

available for occupation. The rules behind the notices are complicated. If a notice is served we can provide advice on how it may be challenged.

It is crucial that an appeal is lodged within 28 days of the service of the notice.

Failure to challenge a Completion Notice may mean that the property comes into assessment which could have been avoided if timely action were taken.



Meet the team

Aidan Botham

Aidan has joined the business rates team as a graduate surveyor, based in Manchester. Aidan previously studied Planning and Real Estate with professional placement and gained a first class honours degree. Prior to joining Cluttons he worked as a sandwich student in the Valuation Office Agency and hopefully will live up to the maxim of "gamekeeper turned poacher". He is an avid Manchester United supporter.



Aidan Botham

David Lawrence

David has joined the team as a Key Account Manager assisting in the development of the rating business. He will work closely with our Business Development team based in London. David has over 30 years experience having worked for a number of other firms specialising in business rates. He will help manage our client base to ensure that we are kept up to date with any changes to their portfolios.



David Lawrence



And finally...

The Business Rates team work very closely with our Building Consultancy teams, led by Alex Cocking (London), Alan Watson (Manchester) and Ian Paton (Oxford). They oversee teams of chartered building surveyors, project managers, engineers and CAD technicians. They provide technical building consultancy and project services throughout the UK to corporate occupiers and landlords. The workflow covers traditional due diligence, dilapidations and project services as well as more specific infrastructure, flooding and energy instructions.

The team works closely with other teams within Cluttons to be able to deliver best possible advice and solutions in an holistic and commercially relevant way, to support the optimisation of property to support the client's business interests.

Changes in energy efficiency legislation for property (MEES Regulations) as well as spiking fuel costs mean that current building energy consumption may not be optimised for performance, compliance or operation costs. The Cluttons our building consultancy team can obtain and analyse energy performance data to identify short-term low-cost improvements as well as longer-term and more capex intensive system upgrades with the objective of optimising energy consumption towards an achievable net-zero target.

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