

MONTAGU EVANS TALKS...

BUSINESS RATES AVOIDANCE AND EVASION

BY JOSH MYERSON



S.45 of the Local Government Finance Act 1988 determines that an owner or person entitled to possession of an empty non-domestic property is liable to pay business rates.

However, when a property becomes vacant, a Ratepayer can, depending on the circumstances, access temporary or permanent Empty Property Rate Relief (EPR). In 2023/24 the Government expects to award over £1 billion associated with this relief.

Central and Local Government are now exploring whether it is appropriate to limit the circumstances in which EPR can be claimed and, to that end, have issued a consultation paper exploring what they dub Business Rates Avoidance and Evasion.

In this release, we summarise the system currently in place and the potential changes proposed within the consultation.

THE CURRENT SCHEME PROVIDES FOR EMPTY RATES RELIEF IN THE FOLLOWING CIRCUMSTANCES

- Where the property is a listed building.
- Where the property has a rateable value less than £2,900.
- Where the property's next in use is likely to be wholly or mainly for charitable purposes.
- Where, following a period of continuous occupation lasting at least six weeks, a property becomes vacant. In these circumstances the ratepayer will receive three months (or six months for industrial properties) relief.

THE CONSULTATION PAPER FOCUSES ON THE FINAL TWO OF THESE POINTS, SUGGESTING THE FOLLOWING:

- An increase of the minimum period of occupation from six weeks to either three or six months.
- Limiting the number of times Empty Property Relief can be claimed in a given time period (with that period to be defined).
- An amendment to the required qualifying conditions of occupation. Such as, stipulating that more than 50% of a property's floor space should be occupied.
- Providing local authorities with the discretionary authority to award the relief.
- Removal or revision of the 'next in use' exemption which affords indefinite relief when it appears (to the billing authority) that the next occupier will be a charity.

Should any of these suggested options come into force, they will give rise to a significant limitation on a landlord or occupier's ability to access empty rate relief, either through the deployment of court-backed empty rate mitigation schemes or more generally...

NOTWITHSTANDING, THERE WILL STILL BE A NUMBER OF WAYS TO REDUCE OR EXTINGUISH EXPOSURE TO LIABILITY

- Landlords bringing forward schemes of work rendering properties incapable of beneficial occupation and thereby deleting assessment from the Rating List.
- Occupation by charities meeting the required conditions of occupation and gaining the benefit of mandatory charitable relief.
- Properties being used for exempted uses, such as places of public religious worship or for domestic purposes

We believe that whatever changes are made, there will continue to be a place for intermittent occupation strategies, though, in the future, these are likely to be only viable for larger buildings that are likely to be vacant or mothballed for extended periods of time.

TALK TO ONE OF THE TEAM...



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