



# EMPTY RATES – EMPTY WORDS

## **Empty Property Rates relief in brief**

The old Empty Property Rates (EPR) rules provided that the ratepayer was entitled to a three month exemption from rates. This was followed by a fifty per cent exemption from rates for the remainder of the empty period. Industrial properties enjoyed full benefit from relief for the whole of the empty period. The relief was introduced during the economic recession in the late 1980's to help the property industry during a time when there was low demand for commercial property.

The relief was reformed from 1 April 2008 so that empty commercial properties are now exempted from EPR for three months, or six months if qualifying industrial property, but after that full rates apply. Whilst there are other exemptions, these are the most commonly available when a property becomes empty.

This reform was intended to provide an incentive for owners to re-use, re-let or re-develop their empty properties. The main purpose was to increase supply of commercial property to new and existing businesses to help reduce rent levels and free up competition in the UK property market. Ironically, these reforms which were borne during the property industry boom, are now biting hard during the downturn.

There can be few owners now intentionally keeping their properties vacant simply to push up rents (as suggested by the Government as a justification for introducing the reforms). Many more are likely to be struggling to let: tenants are facing the same economic downturn as landlords, and the prospect of going bust, or slimming down operations is very real.

So the reformed regime now only adds pressure to owners already operating in extremely difficult market conditions.

## FOLLOWING THE RECENT TURMOIL IN THE PROPERTY MARKETS, THE SECTOR HAS BEEN DEALT YET ANOTHER BLOW IN THE PRE-BUDGET REPORT.

IT WAS WIDELY HOPED THAT THE GOVERNMENT WOULD REMEDY THE NEGATIVE EFFECTS THAT EMPTY PROPERTY RATES (EPR) ARE HAVING ON THE INDUSTRY. THE CONCESSIONS THAT HAVE BEEN MADE ARE UNLIKELY TO BE OF MUCH PRACTICAL SIGNIFICANCE TO MANY LANDLORDS. DESPITE STRONG CAMPAIGNING LED BY THE BRITISH PROPERTY FEDERATION, IT IS CLEAR THAT THE INTENTION OF THE GOVERNMENT IS THAT THE NEW RULES RELATING TO EMPTY RATES ARE HERE TO STAY. IT WOULD THEREFORE BE SENSIBLE TO REMIND OURSELVES OF WHAT THE RULES DO.

### The Pre-Budget changes

In small recognition of this, the Chancellor announced modest reforms. The pre-budget changes provide full relief from rates for the tax year 2009/10, but only for properties with a rateable value of under £15,000 per annum. This will be of help to some, but, I would suggest, not many.

### So what can be done?

Landlords who in times gone by readily pursued their rights under the forfeiture provisions must now consider their options more carefully. In some circumstances, it may be better to delay the exercise of such rights, particularly where it is unlikely that a new tenant could readily be found. Similarly, where a tenant makes request for a surrender of its lease, it will be vital to consider whether the premium offered does take account of the possible extra cost of EPR.

What about tenants who are sensibly trying to reduce costs by reducing the space they occupy? They are similarly affected by EPR. If their landlord will

not take a surrender then it will be the tenant picking up the EPR bill. Where tenants are proposing to take on new leases, they should negotiate break provisions and seek to agree provisions enabling them to underlet part as well as the whole of the property.

There are some interesting, and extreme, ways ratepayers have sought to minimise their rates liability. Extraordinarily, some have reckoned it more economical to demolish a building rather than pay the rates! Others have tried to take advantage of the exemption which applies to premises not fit for occupation by making their premises unoccupiable (not surprisingly such attempts are unlikely to be successful on account of anti-avoidance legislation aimed specifically at this sort of abuse). Others are taking advantage of the let out for properties where the ratepayer is a charity or a registered community amateur sports club and it appears that the next use will be for such purposes, when again no EPR is payable.

### Whose Darling?

For most landlords the Chancellor's proposals will be of little or no comfort. The Relief would seem to be a relief only in name. Those operating in the property market will again have to rely on acumen and flair rather than Government help in the form of reliefs or substantial injections of taxpayers money.

Empty Property Rates is a much bigger subject than can be covered in a single article. if you would like more detailed advice on the regime, reliefs, and your position as landlord or tenant please contact Ian Gill in our commercial property team or your usual Pemberton Greenish contact.



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