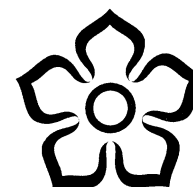


Business Rates – Reoccupation Relief Policy



Leicester
City Council

Introduction

The City Mayors Economic Action Plan established the city centre as the focus for commerce, retailing, culture, leisure and entertainment for the city and county. The retail sector across the UK is changing. Many shopping areas are experiencing challenges as a result of growing trends in consumer practices such as internet shopping. This is resulting in empty shops, which blight the area, discouraging investment and use. In order to ensure that the city and local centres continue to be key drivers in our economy we need to enhance and diversify their offer.

The Government has recently published guidance on reoccupation relief of up to 50% business rates for a period of 18 months, for businesses moving into previously empty retail premises between the 1st April 2014 and 31st March 2016. The aim of this relief is to see the number of vacant retail properties decrease; encouraging the reoccupation of retail properties that have been empty for a long period of time, and rewarding the businesses that make this happen.

The Government guidance provides the policy framework for the operation and delivery of this reoccupation relief - the detail, however, regarding its implementation has been left to be determined by Local Authorities. This policy paper establishes how this specific Reoccupation Relief will be applied to businesses across Leicester City, within the framework established in the Government guidance.

Summary

Businesses occupying, between 1 April 2014 and 31 March 2016, retail properties that have been vacant for the previous 12 months will be eligible for a 50% discount on their business rates for a period of up to 18 months.

This relief applies to businesses of any size or properties of any rateable value.

The total value of the relief to a business is dependent upon the rateable value of the property reoccupied, and is restricted by State Aid De Minimis limits i.e. a business may claim up to a maximum of 200,000 Euros De Minimis Aid in any rolling 3 year period.

Eligibility - Property

Properties that will benefit from reoccupation relief will be those that:

- i) When previously in use, were wholly or mainly used for retail purposes

And

- ii) Were empty for 12 months or more immediately before their reoccupation

And

- iii) Become reoccupied between 1st April 2014 and 31st March 2016

And

- iv) Are being used for any business use (i.e. not just retail) that is considered of benefit to the area and its community, except those set out as not eligible for this relief within this policy.

In relation to a premises' previous use, for the purposes of this Reoccupation Relief only, retail is considered to mean:

1. Premises that were being used for the sale of goods to visiting members of the public.

e.g. florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, 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.)

2. Premises that were being used for the provision of services to visiting members of the public

e.g. hair dressers, nail bars, beauty salons, tanning shops, 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, banks, building societies, bureaux de change, payday loan shops, betting shops, pawn brokers, estate agents, letting agents, employment agencies.

3. Premises that were being used for the sale of food and/ or drink to visiting members of the public

e.g. restaurants, takeaways, sandwich shops, coffee shops, pubs, bars.

The definition of retail applied here is the sale of goods and services to the public in relatively small quantities for use or consumption. To qualify for the relief premises must have previously been **wholly or mainly**¹ used for retail purposes. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Premises which were previously occupied but not wholly or mainly used for retail purposes **will not** qualify for the relief.

The following previous uses of premises are considered to be **not eligible** for rates relief.

¹ >50% of premises floor space, by use.

- Car Parks
- Conference Centres
- Nurseries, crèche and educational establishments
- Sporting clubs, gyms or other membership establishments

Eligibility – Reoccupied Use

The new use of the reoccupied premises can be for any use (i.e. not just retail uses), **except** the following that are considered to be **not eligible** for rates relief.

- Bookmakers and gambling establishments
- Payday loan shops and pawn brokers
- Shops/venues offering material of an adult or sexual nature

(NB: All lists are not intended to be exhaustive, only illustrative. If you feel your business meets the policy criteria and is therefore entitled to Reoccupation Relief please see the appeals process detailed in the named section of this policy.)

How much relief will premises receive?

Relief will be available for 18 months from the first day the premises becomes occupied as long as the first day falls between 1 April 2014 and 31 March 2016, subject to the premises remaining **continuously** occupied.

The eligibility for the relief, and the relief itself, will be assessed and calculated on a daily basis. The amount of relief per annum is calculated via the formula:

$$0.5 \quad \times \quad \frac{\text{No. of days in the financial year that the premises is eligible for relief}}{\text{No. of days in the financial year}}$$

The relief is applied against the **net** bill after all other reliefs (excluding retail rates relief) are taken into account up to State Aid De Minimis limits. The relief is calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

(Please see appendix A – Example Calculations for further information)

How will the relief be applied?

The relief will be applied to all eligible businesses on the calculation of their first bill, from the date of occupation between 1st April 2014 and 31st March 2016. All rate paying businesses will receive notes detailing the implementation of this retail rates relief policy with their next business rates bill. Those premises considered eligible by the data held in the NNDR database will be contacted and have their bills recalculated and reissued.

Where a new property has been created by a split or merger of an existing one the same eligibility criteria for reoccupation relief will apply. E.g. when previously in use more than 50% of the floor space was wholly or mainly used for retail purposes; that floor space has not been used for 12 months or more immediately before reoccupation; it is reoccupied between 1 April 2014 and 31 March 2016; and the business occupying the space will use it for purpose not excluded within this guidance.

Where a property in receipt of Reoccupation Relief splits or merges to form new premises, the new premises will **not** be eligible for the remaining term of Reoccupation Relief.

Where a property 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 an establishment 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.

The relief will run with the property rather than the ratepayer. So if an establishment is in receipt of Reoccupation Relief and a new ratepayer becomes liable for the property, with no break in the occupation (i.e. it must be continuous) they will benefit from the remaining term of the relief, subject to the new ratepayer not having exceeded State Aid De Minimis limits.

NB: companies with multiple premises/stores across the country may apply for this aid via the appeals process, evidencing that the company as a whole has not breached the De Minimis threshold.

State Aid

The provisions that govern this relief come under Section 69 of the Localism Act 2011 which amended Section 47 Local Government Finance Act 1988.

The support offered under this policy is given under De Minimis Regulations (1407/2013). 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).

All those who are considered eligible through analysis of the NNDR database will be sent with their bill a State Aid declaration form. The State Aid declaration form will set out the

amount of aid offered to the businesses through this relief in Pounds Sterling (£) and Euros (€)². This is included as a record for the business of the amount of State Aid they have received, and must be taken into account by that business for any future State Aid support they receive. Businesses will be required to retain this form for 3 years from its date.

The business will only need to complete the declaration for any other Public support received 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.

If the business has **not** received any other De Minimis State Aid, including any other Reoccupation Relief they are being granted for premises other than the one to which the bill and letter relates, they do not need to complete or return the declaration. A nil return is accepted as confirmation that the business is eligible to receive the amount of retail relief detailed in their bill.

All declarations returned, will be reviewed and should the De Minimis threshold be breached then a new bill will be calculated with the reoccupation relief removed. If the De Minimis aid threshold is not breached, no further action will be taken.

The Council is required to carry out this monitoring procedure, which will assist the Council and businesses to minimise the risk that they breach the €200,000 ceiling. The consequence of such a breach would be that the aid to a business may be held to be unlawful by the European Commission or the court and recovered from the recipient business with interest.

Appeals

An appeals process will be in operation that will be open to all business rate payers across Leicester City who feel that they meet the eligibility criteria of this policy and have not received a deduction in their business rates via Reoccupation relief.

The following occasions are the sole basis of any grounds for appeal.

- (a) The reoccupied premises is of a type specifically stated as being eligible for relief, and the Council has by error omitted to grant relief;
- (b) The reoccupied premises is not of a type specifically stated as being eligible for relief, but by analogy the use is comparable to one which is listed as eligible, and makes the same contribution to the economic wellbeing of the area.

All appeals must be made by contacting the business rates service, through the contact details on the LCC website. Appeals will be dealt with through completion of a standard form detailing the appellant's rationale for why they believe that they are eligible for Reoccupation relief. This form will be available to download from the LCC website, as will guidance on how to complete it.

² Calculated at the exchange rate of the date the bill is produced

Appeals will be judged in line with this policy and the plans and strategies of Leicester City Council. Decisions are taken at the sole discretion of the Director of Finance in consultation with the Revenues & Benefits Manager. All appeals will be reviewed within 4 weeks of submission of all necessary information. All decisions taken on appeals are final and the outcome will be recorded and delivered to the business in writing. If an appeal is successful rate relief will be backdated for the full eligible period, within that fiscal year. Appeals may only be made for the current fiscal year and cannot be applied to previous years.

If an appeal is unsuccessful the only further recourse available to applicants is a judicial review. A Judicial review is the means by which the decisions of billing authorities under discretionary rating powers may be questioned.

Appendix A: Example Calculations

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