



Department for
Communities and
Local Government

Business Rates

New Build Empty Property – Guidance

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If you have any enquiries regarding this document/publication, email contactus@communities.gov.uk or write to us at:

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 030 3444 0000

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About this guidance

1. This guidance is intended to support local authorities in administering the “Business Rates New Builds Empty Property Relief” under the principles of the scheme. This Guidance applies to England only. The Government published a technical consultation document *Business Rates New Build Empty Property* on 12 June.
2. Further to that consultation, this guidance sets out the detailed criteria in which central Government will fund additional relief for empty new builds.
3. The Guidance in certain areas has attempted to clarify aspects of the relief after taking into consideration comments received during the consultation. The Guidance does not replace existing legislation on empty property relief or any other relief.
4. Enquiries on this measure should be addressed to:
ndr@communities.gsi.gov.uk

Introduction

5. The Chancellor announced in his Autumn Statement on 5 December 2012 that, subject to consultation, the Government will exempt all newly built commercial property completed between 1 October 2013 and 30 September 2016 from empty property rates for the first 18 months, up to the state aids limits. This document sets out the detail required for the delivery of that policy.
6. The purpose of the measure is to help stimulate construction. Construction decisions take into account the risk of paying empty property rates on newly built commercial property if the property does not become fully occupied straight away. Reducing this risk may incentivise some commercial property projects to go ahead that wouldn't otherwise, helping to stimulate the construction industry.
7. The Government's ability to take further action on empty property rates needs to be balanced against the costs involved, the targeted support the Government have already provided on business rates and the overriding need to reduce public expenditure and support the economy generally by reducing the deficit. However, the Government are keeping the matter under review and will keep consultation response comments in mind as we go forward.

Section 1:

New Build Empty Property Relief

How will the exemption be provided?

8. As this is a temporary measure, we are not changing the rules on when a property becomes liable for empty property rates. Instead we are providing the exemption by reimbursing local authorities that use their discretionary relief powers (under section 47 of the Local Government Finance Act 1988) to grant relief in prescribed circumstances. It will be for individual local billing authorities to decide to grant relief under section 47 but central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under s31 of the Local Government Act 2003) based on outturn of relief granted in the circumstances specified.
9. Through this mechanism, central government will guarantee to reimburse local government (both billing authorities and those major precepting authorities within the rates retention system) for the cost to them of relief falling under these circumstances. The precise calculation of that compensation will depend upon the type of authority.

Which properties will benefit from relief?

10. Properties that will benefit from the relief will be all unoccupied non domestic hereditaments that are wholly or mainly comprised of qualifying new structures.
11. We intend that “structures” means:
 - a) foundations and/or
 - b) permanent walls and/ or
 - c) permanent roofs
12. We intend that “new” means:
 - a) completed less than 18 months previously, and
 - b) completed after 1 October 2013 and before 30 September 2016.
13. 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.

14. In terms of considering whether a hereditament is *wholly or mainly* comprised of qualifying new structures, we intend that “mainly” means more than half. As the test is made in regards to the composition of the structure, it will not be relevant to consider matters such as the rateable value or use of parts of the property. However, factors such as the area or volume of the property will be relevant. Whilst the policy is not intended to capture properties that have been refurbished¹, 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

15. 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. We want to ensure that, on the one hand, ratepayers do not benefit merely because the property has split or merged but, on the other hand, ensure that ratepayers have some flexibility to adapt their properties without losing the relief. There will be some instances where this is not clear cut (such as where a hereditament is formed from the merger of a hereditament that comprises mainly or wholly of new structures with a hereditament that comprises structures that are not new) – in such cases we propose that the relief is only funded where the new hereditament wholly or mainly comprises qualifying new structures. Annex A sets out some examples.

Change of ownership

16. The relief will run with the property rather than the owner. So if a developer initially owns a hereditament that qualifies for the relief he/she will be able to sell/lease the property with the benefit of the remaining term of the relief, subject to the ratepayer’s State Aid de minimis limits.

Properties built before 1 October 2013

17. Properties that are completed before 1 October 2013 will not benefit from these proposals. However, hereditaments comprising such properties will not be subject to empty property rates for the first 3 or 6 months they are empty, in the normal way.

How much relief will be available?

18. The Government will fund authorities to provide 100% relief in the prescribed circumstances, up to State Aid de minimis limits.

¹ Section 46A of the 1988 Act provides that references to a new building in that section “include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes part of, a different hereditament or different hereditaments.” There will be situations where a “new building” within the meaning of s46A will not be eligible for our relief.

19. State Aid refers to financial support from a public or publicly-funded body given to organisations, which has the potential to distort competition and affect trade between member states of the European Union. Providing discretionary relief to ratepayers might, depending on the circumstances, amount to State Aid.
20. 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 exceed a prescribed limit. Currently, funding over a three year period must not cumulatively exceed €200,000.
21. In order to avoid potential State Aid issues, authorities should treat relief granted in the prescribed circumstances in accordance with the de minimis rules. Government will not fund any relief that would lead to the de minimis limit being exceeded with respect to any ratepayer. Local authorities will need to administer the relief in such a way to ensure the de minimis rules are complied with.
22. State Aid Guidance available at:
<https://www.gov.uk/government/publications/enterprise-zones-state-aid-and-business-rate-discounts>

How long is the relief for?

23. The policy is for the new build empty property exemption 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.
24. The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 provide that empty property rates are not payable until a non-industrial property has been empty for 3 months or an industrial property has been empty for 6 months
25. So in practice, an unoccupied new build property would benefit from the relief for periods that rates are payable – i.e once the initial 3 or 6 month rate free period has expired, subject to the State Aid limit.
26. 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 the 2008 Regulations and then would benefit from 15 months new build empty property relief provided through section 47 of the Local Government Finance Act 1988.
27. However, we anticipate that properties may switch between being occupied and unoccupied. As we do not want to discourage property owners from trying to find an occupier for their property, even if it is only on a short term basis, we intend that the ratepayer would be able to benefit from the relief for any relevant period in the 18 months. The application of this is complicated by the initial rate free periods when the property becomes empty. 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 in the normal way)
- 3 months – no rates payable
- 3 months – new build empty property relief

28. At the end of the 18 month period, the funding of the relief will end. If the property continues to be unoccupied (and no further relief is granted by the authority) rates will be payable in accordance with section 45 of the Local Government Finance 1988 and the Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008.
29. If a hereditament has been subject to apportionment under section 44A of the Local Government Finance Act 1988 (partly occupied hereditaments), the same principles may be applied to the unoccupied portion – although we expect cases where relief would be payable in such circumstances to be rare.

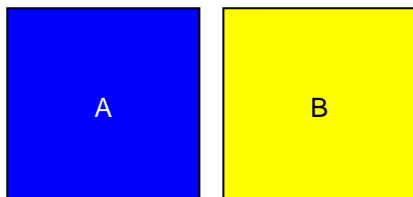
How will the relief work in Enterprise Zones?

30. Where a property is eligible for Enterprise Zone relief, that relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, New Build property relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Finance Act 1988.

Section 2:

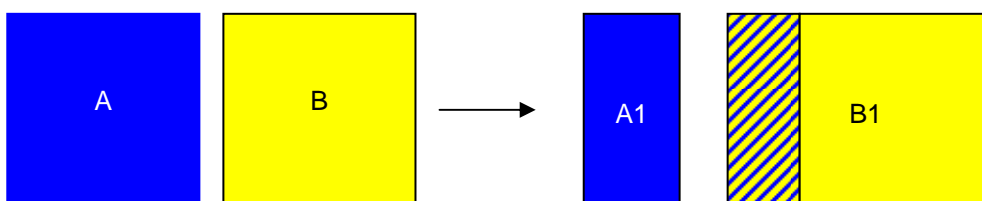
Examples of qualifying properties

Example 1 – A new build property and an existing property



31. Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built in the late 1990s.
32. All of Property A's structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed on 1 April 2014. The structures would be considered 'new' until 30 September 2015 and as such the hereditament would be eligible for relief for any period for which empty property rates are payable up to then.
33. None of Property B's structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed in the late 1990s and as such, the hereditament would not be eligible for this relief.

Example 2 – A new build property splits and merges with an existing property

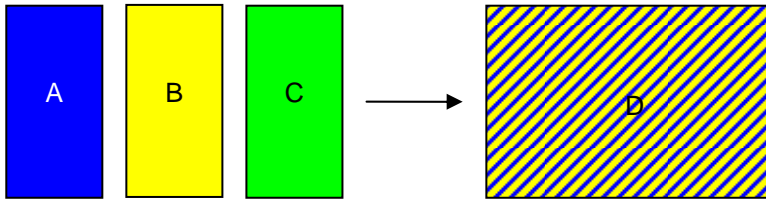


34. Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built in the late 1990s.
35. Part of property A splits and merges with property B. Two new hereditaments are formed on 1 October 2014 – A1 and B1.
36. All of Property A1's structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed on 1 April 2014. The structures would be considered 'new' until 30 September 2015 and as such the

hereditament would be eligible for relief for any period for which empty property rates are payable up to 30 September 2015.

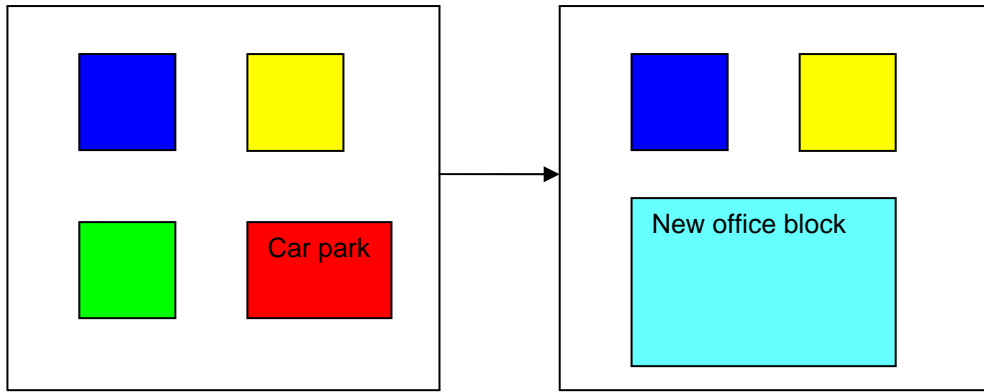
37. Some of Property B1's structures comprise qualifying new structures – as some of the foundations, permanent walls and permanent roof were completed on 1 April 2014. However as more than half of the hereditament's structures were completed in the late 1990s, the hereditament would not be eligible for this relief.

Example 3 – three new build properties (with different completion dates) merge



38. Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built from scratch, completed on 1 May 2014. Property C is an office block built from scratch, completed on 1 June 2014.
39. The properties subsequently merge to form a new hereditament on 1 July 2014 – property D. The structures of properties A, B and C equally make up Property D's structure.
40. Until 30 September 2015 property D comprises *wholly* of qualifying new structures as the structures were completed less than 18 months previously, as well as being completed after 1 October 2013 and before 30 September 2016. Between 1 October 2015 and 31 October 2015 property D comprises *mainly* of qualifying new structures as two thirds of the structures were completed less than 18 months previously, as well as being completed after 1 October 2013 and before 30 September 2016. From 1 November 2015 property D *does not* comprise wholly or mainly of qualifying new structures as only one third of the structure was completed more than 18 months previously. On that basis Property D would be eligible for relief for any period for which empty property rates are payable up to 31 October 2015.

Example 4 – a single hereditament comprising a large site with 3 separate small single storey properties and a car park is redeveloped. One of the small properties is demolished and a new large office block is built on the site of the small property and the car park. The site continues to be a single hereditament.



41. The foundations, permanent walls and permanent roof of the new office block were completed on 1 April 2014 and comprise more than the aggregate amount of foundations, permanent walls and permanent roofs of the two remaining small properties. On that basis the hereditament would be eligible for relief for any period for which empty property rates are payable up to 30 September 2015.