

COVID-19 Business Support for 2020/21

'Business Rates Holiday' - The 12-month Business Rates Holiday for all Retail, Hospitality and Leisure Businesses **does NOT apply to Empty Properties**

Business Rates

Expanded Retail Discount 2020/21: Coronavirus Response – Local Authority Guidance



The advertisement features a background image of a modern, empty office or commercial building with large windows and a high ceiling. The text is centered and uses a mix of bold red and blue fonts. At the top and bottom, the Crusader logo is displayed, which consists of a stylized knight's helmet above the word 'CRUSADER'. The main message is 'GUARANTEE NO EMPTY PROPERTY RATES PAYABLE' in large, bold red letters. Below this, it states '2020/21 BUSINESS RATES ACCOUNTS ISSUED AND PAYMENTS DEMANDED DO NOT PAY EMPTY PROPERTY RATES ACCOUNTS' and 'ACHIEVE COMPLETELY LEGAL SAVINGS OF UP TO 93%' in bold blue letters. Contact information includes an email address, a phone number, and a website. Logos for BPF (British Property Federation) and East Lancashire Chamber of Commerce are also present.

CRUSADER
GUARANTEE
NO EMPTY PROPERTY RATES PAYABLE
2020/21 BUSINESS RATES ACCOUNTS ISSUED AND PAYMENTS DEMANDED
DO NOT PAY EMPTY PROPERTY RATES ACCOUNTS
ACHIEVE COMPLETELY LEGAL SAVINGS OF UP TO **93%**

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EMPTY PROPERTY RATES AVOIDANCE

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East Lancashire Chamber of Commerce Making Your Business Successful

"Indeed, as is the case with most honest tax avoidance schemes, the intention of the parties was to enter into transactions which are valid and have their purported effect."
- Lord Justice Baker (Rossendale Borough Council v Hurstwood Properties (A) Ltd, 2019, EWCA Civ 364) - <http://www.bailii.org/ew/cases/EWCA/Civ/2019/364.html>

Contents

About this guidance	4
Introduction	4
Expanded Retail Discount	4
How will the relief be provided?	4
Which properties will benefit from relief?	5
State Aid	9
Splits, mergers, and changes to existing hereditaments	9
Annex A: Calculation examples for 2020/21	10

About this guidance

1. This guidance is intended to support local authorities in administering the business rates expanded retail discount announced first in a Written Ministerial Statement on 27 January 2020 and expanded in the Budget on 11 March. This guidance applies to England only.
2. This guidance sets out the criteria which central government considers for this purpose to be eligible for the Expanded Retail Discount. The guidance does not replace existing legislation.
3. Enquiries on this measure should be addressed to:
ndr@communities.gov.uk

Introduction

4. The Government announced in the Budget on 29 October 2018 that it would provide a Business Rates Retail Discount, to apply in the years 2019/20 and 2020/21. In response to the coronavirus, in the Budget on 11 March the Government announced that it would increase the discount to 100% and extend it to include the leisure and hospitality sectors.
5. This relief will apply to occupied retail, leisure and hospitality properties in the year 2020/21. There will be no rateable value limit on the relief.
6. This document provides guidance to authorities about the operation and delivery of the policy.

Expanded Retail Discount

How will the relief be provided?

7. As this is a measure for 2020/21 only, the Government is not changing the legislation relating to the reliefs available to properties. Instead the Government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief. It will be for individual local billing authorities to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47. Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).
8. Central government will reimburse billing authorities and major precepting authorities for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance. Local authorities will have completed their NNDR1 for 2020/21 already. Therefore, billing authorities will shortly be asked to provide a further and separate estimate of their likely total cost

for providing the 100% extended relief in 2020/21. The Government will provide payments to authorities to cover the local share, as per the usual process.

9. Local authorities will also be asked to provide outturn data on the actual total cost for providing the relief, as per the usual process, via the National Non-Domestic Rate 3 (NNDR3) forms for 2020/21. Any required reconciliations will then be conducted at these points.¹

Which properties will benefit from relief?

10. Properties that will benefit from the relief will be occupied hereditaments that are wholly or mainly being used:

- a. as shops, restaurants, cafes, drinking establishments, cinemas and live music venues,
- b. for assembly and leisure; or
- c. as hotels, guest & boarding premises and self-catering accommodation.

11. We consider shops, restaurants, cafes, drinking establishments, cinemas and live music venues to mean:

i. Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc)
- 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)

ii. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc)

¹ As required in the NNDR3 guidance notes, the former categories of discretionary relief prior to the Localism Act (i.e. charitable/CASC/rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and, therefore, before the retail discount.

- Shoe repairs/key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/TV/domestic appliance repair
- Funeral directors
- Photo processing
- Tool hire
- Car hire

iii. Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

iv. Hereditaments which are being used as cinemas

v. Hereditaments that are being used as live music venues:

- live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).
- There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music. Although we would expect this would be clear in most circumstances, guidance on this may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003.²

² The statutory guidance can be accessed here: <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

12. We consider assembly and leisure to mean:
- i. **Hereditaments that are being used for the provision of sport, leisure and facilities to visiting members of the public (including for the viewing of such activities).**
 - Sports grounds and clubs
 - Museums and art galleries
 - Nightclubs
 - Sport and leisure facilities
 - Stately homes and historic houses
 - Theatres
 - Tourist attractions
 - Gyms
 - ii. **Hereditaments that are being used for the assembly of visiting members of the public.**
 - Public halls
 - Clubhouses, clubs and institutions
13. We consider hotels, guest & boarding premises and self-catering accommodation to mean:
- i. **Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:**
 - Hotels, Guest and Boarding Houses
 - Holiday homes
 - Caravan parks and sites
14. To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purposes. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief. For the avoidance of doubt, hereditaments which have closed temporarily due to the government's advice on COVID19 should be treated as occupied for the purposes of this relief.
15. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that the Government considers for this purpose to be eligible for relief. Authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

16. The list below sets out the types of uses that the Government does not consider to be an eligible use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

i. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, bureaux de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
- Post office sorting offices
- Casinos and gambling clubs

ii. Hereditaments that are not reasonably accessible to visiting members of the public

17. In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, billing authorities may not grant the discount to themselves, a precepting authority, or a functional body, within the meaning of the Greater London Authority Act 1999.

How much relief will be available?

18. The total amount of government-funded relief available for each property for 2020/21 under this scheme is 100% of the bill, after mandatory reliefs and, with the exception of the 2020/21 pubs discount, other discretionary reliefs funded by section 31 grants have been applied, excluding those where local authorities have used their wider discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants.³ The 2020/21 pubs discount should be applied after the Expanded Retail discount.

19. The eligibility for the discount and the discount itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2020/21:

Amount of relief to be granted = V, where

³ As required in the NNDR3 guidance notes, the former categories of discretionary relief prior to the localism act (i.e. charitable/CASC/rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and, therefore, before the retail discount.

V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs, excluding the pubs discount and those where local authorities have used their discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants.⁴

20. This should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.
21. Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties.

State Aid

22. Whilst the UK left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the Government and the EU provides that during a transition period State aid rules will continue to apply as now and will be subject to control by the EU Commission as at present.
23. The Government has notified the EU of its intention to bring forward an immediate change to the UK's tax treatment of non-domestic property, in response to the ongoing Covid-19 emergency, and to seek clearance under Article 107(3)(b) of the Treaty on the Functioning of the European Union. Subject to this approval, the Expanded Retail Discount scheme will become a notified State aid. Authorities should prepare to award the discount ignoring de minimis limits and MHCLG will inform them of the outcome of the notification as soon as it is known.

Splits, mergers, and changes to existing hereditaments

24. The discount should be applied on a day to day basis using the formula set out above. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, should be considered afresh for the discount on that day.

⁴ As required in the NNDR3 guidance notes, the former categories of discretionary relief prior to the localism act (i.e. charitable/CASC/rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and, therefore, before the retail discount.

Annex A: Calculation examples for 2020/21

The Expanded Retail discount is always calculated after mandatory relief and other discretionary reliefs funded by section 31 grant. The multiplier used here is provisional.

Example 1: An occupied shop with a rateable value of £40,000

Gross rates (before any reliefs) = £40,000 x 0.499:	= <u>£19,960</u>
Expanded Retail Discount (100%):	= -£19,960
Rates due (after Expanded Retail Discount):	= £nil

Example 2: An occupied shop with a rateable value of £100,000

Gross rates (before any reliefs) = £100,000 x 0.512:	= <u>£51,200</u>
Expanded Retail Discount (100%):	= -£51,200
Rates due (after Expanded Retail Discount):	= £nil

Example 3: An occupied charity shop with a rateable value of £40,000

Gross rates (before any reliefs) = £40,000 x 0.512	= £20,480
Net rates after charity relief:	= <u>£4,096</u>
Expanded Retail Discount (100%):	= -£4,096
Rates due (after charity relief and Expanded Retail Discount):	= £nil

Example 4: An occupied shop with a rateable value of £13,500 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs) = £13,500 x 0.499	= £6,737
Net rates after SBRR (50%):	= <u>£3,368</u>
Expanded Retail Discount (100%):	= -£3,368
Rates due (after SBRR and Expanded Retail Discount):	= £nil

Example 5: An occupied shop with a rateable value of £10,000 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs) = £10,000 x 0.499	= £4,990
Net rates after SBRR (100%):	= £nil
Rates bill is nil and, therefore, no Expanded Retail Discount applies	

Example 6: An occupied shop with a rateable value of £40,000 eligible for Transitional Relief (TR) and receiving Revaluation Discretionary Relief

Gross rates (before any reliefs) = £40,000 x 0.499	= £19,960
Transitional Relief (say):	= -£1,500
Net rates after Transitional Relief:	= £18,460
Net rates after Revaluation Discretionary Relief (say):	= <u>£15,460</u>
Expanded Retail Discount (100%):	= -£15,460
Rates due (after TR, revaluation relief and Expanded Retail Discount):	= £nil

Example 7: An occupied shop with a rateable value of £18,000 previously paying nothing prior to revaluation 2017 and eligible for Supporting Small Businesses Relief (SSB)

Gross rates (before any reliefs) = £18,000 x 0.499	= £8,982
Supporting Small Businesses Relief (say):	= -£6,582
Net rates after SSB:	= <u>£2,400</u>
Expanded Retail Discount (100%):	= -£2,400
Rates due (after SSB and Expanded Retail Discount):	= £nil

Example 8: A shop with a rateable value of £40,000 (example 1) but only occupied until 30 September 2020

Gross rates (before any reliefs) = £40,000 x 0.499	= £19,960
Expanded Retail Discount (100%):	= -£19,960
Rates due p.a. (after Expanded Retail Discount):	= <u>£nil</u>
Daily charge while occupied (leap year):	= £nil per day
Occupied charge 1/4/20 to 30/9/20 (183 days):	= £nil
Unoccupied property relief (1/10/20 to 1/1/21):	= £nil
Unoccupied property rates (1/1/21 to 31/3/21), £40,000 x 0.512 x 91/365	= £5,106
Rates due for the year (after Expanded Retail Discount):	= £5,106

