

Business Rates Information Letter 8/2010

This is the eighth business rates information letter to be issued by the Department this year. Previous letters are available on the internet at:

<http://www.communities.gov.uk/localgovernment/localgovernmentfinance/businessrates/Busratesinformationletters/>

This letter covers:

- **the small business rate relief scheme**
- **legislation to cancel certain backdated business rates liabilities**

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Chief Finance Officers of English Billing Authorities

FOR THE ATTENTION OF THE BUSINESS RATES SECTION

Dear Chief Finance Officer

Business rates information letter (8/2010): Budget Announcement – Changes to the small business rate relief scheme and legislation to cancel certain backdated business rates

This is the eighth business rates information letter to be issued by Communities and Local Government this year. Previous letters are available on the internet at:

<http://www.communities.gov.uk/localgovernment/localgovernmentfinance/businessrates/Busratesinformationletters/>

1. This letter covers:

- **the small business rate relief (SBRR) scheme**
- **legislation to cancel certain backdated business rates liabilities**

Small business rate relief

2. The 22 June Budget confirmed that the Government is going ahead with the temporary measure announced in the March Budget - and set out in business rates information letter (6/2010) - to make small business rate relief more generous for one year, starting from 1 October 2010.

3. Eligible ratepayers will receive relief at 100 per cent on properties with rateable values up to £6,000 with a tapered relief of between 100 per cent and 0 per cent for properties with rateable values between £6,001 and £12,000. The new levels of relief will be available for 12 months from 1 October 2010 to 30 September 2011. There are no other adjustments to the scheme. The eligibility criteria will remain the same.

4. We have now laid the necessary statutory instruments before Parliament. They are:

- The Non-Domestic Rating (Small Business Rate Relief) (Amendment) (England) Order (SI 2010/1655), and the
- The Non-Domestic (Collection and Enforcement) (Local Lists) (England) (Amendment) (No.2) Regulations (SI 2010/1656)

5. The instruments can be found at:

<http://www.opsi.gov.uk/si/si201016>

6. We will shortly be issuing explanatory guidance to accompany the statutory instruments.

7. Ministers have a clear policy intention - no or reduced rates for eligible ratepayers from October 2010 to September 2011 - and ratepayers are expecting to receive that extra relief. It is now local authorities' responsibility to ensure timely implementation of the regulations.

8. For 2010-11, owing to the tight timescales, we have deliberately kept changes as simple as possible. We have restricted the changes to the new rates being applied to the relevant instalments. Local authorities should now liaise with their software suppliers urgently to ensure that the necessary changes are made in a timely manner, so that authorities can give effect to the policy intention.

9. We recognise that the changes to instalments required for 2011-12 are more complicated - however, there is more time to make the necessary software updates for the next financial year. Authorities and suppliers therefore have sufficient time for changes to systems and testing.

10. We will continue to work closely with the Local Government Association, Institute of Revenues Rating and Valuation, and the Chartered Institute of Public Finance and Accountancy, on the implementation of the scheme.

11. The Government will fund the net additional costs to local government as a whole associated with implementing the scheme in accordance with the policy on new burdens. We are currently assessing the impacts of the scheme on billing authorities and plan to announce allocations during the summer

Legislation to cancel certain backdated business rates liabilities

12. The Chancellor also announced the Government's intention to take primary legislation to cancel certain backdated business rates liabilities for those properties that meet the 'schedule of payments' criteria and incurred a backdated rates liability following a split from another rateable property, such as some based in ports.

13. This is important news that could benefit ratepayers in your area. The Communities and Local Government Minister, Bob Neill MP, announced that following the Chancellor's announcement, the Government intends to bring forward primary legislation at the earliest opportunity, to cancel certain backdated business rates liabilities and we will write further with details of the proposed legislative scheme in due course.

14. The Government anticipates that, subject to the passage of the legislation through Parliament, the cancellation will apply to certain backdated business rates liabilities that meet the 'schedule of payments' criteria AND were incurred following a split from another rateable property.

15. The criteria for entering into an agreement under the 'schedule of payments' remains the same. Please refer to BRIL 2/2009 (<http://www.communities.gov.uk/documents/localgovernment/pdf/178175.pdf>) and the regulation SI 2009/204 (http://www.opsi.gov.uk/si/si2009/pdf/uksi_20090204_en.pdf) for information on this.

Backdated liability

16. The Government anticipates that cancellation will only apply in respect of certain backdated liabilities and not for ongoing liabilities which must be discharged in the usual manner. The extent of backdated liability for each property is limited, in accordance with the original schedule of payment regulations (SI 2009 No.204), to the period up to the date of the initial alteration date (when a newly listed property was added to the ratings list).

17. A subsequent change to the existing property or a complete deletion with a subsequent further new property, replacing the original newly assessed property, being added to the ratings list may mean that the existing or subsequent further new property is then not entitled to an agreement under the 'schedule of payments' (as it does not meet all the criteria set out in SI 2009/No.204).

18. However, this **does not make** the existing schedule for the original newly listed property invalid in accordance with part 3 of SI 2009/204. The amount of backdated liability within the existing 'schedule of payments' agreement remains up to the initial alteration date and a business will still be able to have a schedule of payments for the extent of backdated liability that met the criteria set out in SI 2009/No.204.

Ongoing liability

19. A ratepayer is liable for their ongoing rates bill that accrues from the initial alteration date. For example where the initial alteration date was 31 March 2009, a ratepayer would be liable for their rates liability for the financial year that runs from 1 April 2009 to 31 March 2010.

20. In instances where there is a question mark over the assessment of liability, be it down to a dispute over the rateable value or even the size of the hereditament, the ratepayer is entitled to appeal. Where an appeal has been made against the rateable value or size of the property a ratepayer remains liable for their ongoing rates.

21. Of course, any subsequent changes that reduce the rates liability may then be backdated. If as a result of an incorrect assessment a ratepayer has overpaid, this can be credited against the eventual assessment, or they may be entitled to a refund.

22. Current collection and enforcement procedures will continue to apply to ongoing rates liabilities and backdated liabilities outside of the schedule of payment policy. You will be aware that the Government sets the general framework for the collection of rates and that a local authority's contribution to the central rates pool is calculated on the basis that they diligently collect business rates.

23. Authorities can only make deductions from their contribution to the central rate pool in accordance with the Non-Domestic Rating Contributions (England) Regulations 1992 ('the Contributions Regulations'). For example, although an authority is allowed to make a deduction from the gross amount payable to the pool for amounts which the authority considers to be bad debts (see paragraph 6 of Schedule 1 to the Contributions Regulations) this does not allow the authority to make a deduction for sums which it cannot recover because it has not made 'proper arrangements' to collect the bad debt (see paragraph 1 of Schedule 1 to the Contributions Regulations) in line with Parts 2 and 3 of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (SI 1989/1058) as amended.

24. A local authority is therefore legally obliged to make the required contributions to the central rates pool. However, as long as it continues to meet the appropriate payments to the pool, a local authority may collect outside of the prescribed usual manner and come to a separate agreement for the collection of ongoing rates with the ratepayer in accordance with paragraph 7 of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (SI 1989/1058) as amended.

25. However, it is for each local authority to satisfy itself as to whether it is acting lawfully and in accordance with existing legislation if it decides to enter into a flexible agreement with ratepayers for the collection of ongoing rates liabilities, outside of the usual collection processes in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (SI 1989/1058) as amended. Local authorities must though continue to meet their obligations to make payments of the appropriate amounts to the central rates pool.

Legislation

26. The bills cannot be cancelled until the legislation has received royal assent, which, subject to the progress of the legislation through Parliament, may not be until the end of 2011, at the earliest; therefore, once the current freeze in place expires (on 31 March 2011) the Government will consider whether another freeze should be implemented. Rules around the current freeze in place remain the same. Please refer to BRIL 7/2010

(<http://www.communities.gov.uk/documents/localgovernment/pdf/1601622.pdf>) for information on this.