



Department for
Communities and
Local Government

Business Rates New Build Empty Property Relief

Summary of consultation responses and
Government response

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Introduction

1. The Government published a technical consultation document *Business Rates New Build Empty Property* on 12 June. This set out the Government's detailed proposals to 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 state aid limits.
2. The purpose of the proposal 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. The Government considers that bringing in this measure will incentivise commercial property projects to proceed with the knowledge that empty property rates will not be a major hindrance. The proposal does not replace existing legislation on empty property relief or any other relief.
3. 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.
4. The technical consultation document set out the proposals on how the exemption for newly built commercial property would operate and sought views on this. The focus of the consultation was specifically around the detailed and technical issues concerning the implementation of the exemption rather than the wider scope of the exemption. As such, the questions asked were limited to the workability of the definition of which properties will receive the relief.

Consultation Process

5. The technical consultation was open for six-weeks from 12 June 2013 until 26 July 2013. The consultation document was available on the Department's website and drawn to the attention of interested parties. The consultation related to properties in England only.
6. In total 143 written responses were received. The majority of responses came from individual business organisations and local authorities. Responses were also received from representative bodies such as the Special Group of Municipal Authorities (SIGOMA), British Council of Shopping Centres and the Northeast Chamber of Commerce as well as Members of Parliament who forwarded their constituents' responses. Breakdown of responses:

Type of Organisation	Number of responses
Local Authorities	45
Representative Bodies	10
Members of Parliament	15
Individual Business Organisations	73
Total	143

7. The consultation focused on the detailed and technical issues concerning the implementation of the policy rather than the wider scope of the exemption. Some respondents did not answer the questions and focused instead on wider issues as well as putting forward views around the scope of the exemption. Just over half of the responses received, mainly from related business organisations, contained identical or very similar comments.
8. Following consideration of the responses to the consultation, this document sets out a summary of the responses received and the Government's response to those comments. It sets out firstly a summary of the comments made in relation to the two specific consultation questions and then sets out a summary of more general comments made.
9. It is important to recognise that this document provides a summary of the key issues raised by respondents. In developing its detailed proposals, the Government has taken account of all of the responses submitted in response to its consultation process, and has taken account of all of the points made in each of those responses. However, as a summary, this paper does not attempt to capture each and every single point made in those responses.

Summary of Responses

10. This section sets out a summary of the responses received to the consultation along with the Government's decisions in light of the responses received.

Question 1 – Is the definition of which properties will benefit from the relief workable in practice?

11. 52 respondents specifically answered the question, of which 33 agreed that the definition of which properties will benefit from the relief was workable in practice and 19 did not agree, mainly on the basis that the definition required further clarity. The remaining responses did not answer the question directly.
12. There were a number of detailed comments about the workability of the definition and how local authorities will administer the relief.
13. Some local authority respondents felt that additional detail was needed around how to measure those properties that were 'mainly' comprised of qualifying new structures. In particular, questions were asked as to whether this should be measured in volume, area or rateable value. Some local authority respondents also felt that they would not hold the necessary information in order to determine whether a property comprised of qualifying new structures. A number of authorities also asked whether ratepayers would have a route of appeal where the relief was not given.
14. A number of local authority respondents raised the issue of whether the software companies would be able to make the changes needed to monitor the relief. Some local authorities suggested that the administration of the scheme would be time consuming, and taken together with software changes, the costs should be considered a new burden.
15. A few local authorities were concerned about the interaction of the relief with the business rate retention scheme, in particular around the safety net and levy, in terms of authorities' compensation for lost tax revenue. A couple of local authorities also asked how the relief would work in Enterprise Zones.
16. A number of local authorities were concerned about the administration of the state aid aspects of the proposals and in particular around determining whether a ratepayer had reached the state aid de minimis limits.

The Government Response

17. The Government is grateful for the responses it received. The Government has noted there was majority agreement that the definition is workable from those that answered the question and therefore intends to proceed with the definition.
18. However, the Government has noted the comments raised about how to measure those properties that are 'mainly' comprised of qualifying new structures. The

Government considers that local authorities should be able to make decisions which reflect the circumstances of each case. But we recognise the need to be clear of the parameters within which local authorities will make these decisions. 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. The Government will make this clear in the guidance.

19. Whilst the policy is not intended to capture properties that have been refurbished, 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. It will be for local authorities to seek the necessary information from ratepayers in order for them to determine whether the criteria have been met.
20. In relation to appeals, the Government does not intend to introduce any new rights of appeal. Local authorities have discretion whether or not to grant the relief, but if they unreasonably refuse to do so they may be challenged in the normal way.
21. In the case of cost for software changes or other administrative costs associated with implementing the relief, the Government is not proposing additional funding as the Government believes such changes are encompassed within the existing allowance for the costs of collection.
22. In terms of compensating authorities for the loss of tax revenue, we are exploring whether there are technical issues regarding the interaction with compensating local government for this relief and the levy and safety net in the business rates retention scheme. These issues are being considered in the local authority rates retention implementation working group. The Government will ensure, if necessary through amendments to the levy and safety net regulations, that those authorities which are paying a levy or are in safety net are still correctly compensated for the financial implications of this relief.
23. The Government has considered comments about state aid; both in regard to the level of state aid and its administration. State aid de minimis levels are governed by European Union rules and the Government does not have discretion to independently change state aid rules in this area. Tracking and administering the state aid implications of relief should be carried out by authorities in the normal course of administration of discretionary business rates relief. However, the Government will reissue guidance provided previously in connection with relief in enterprise zones which authorities may find helpful.

Question 2 - Does the definition deal adequately in relation to splits, mergers and changes to existing hereditaments?

Are there any scenarios for which the definition will not work as intended?

24. The question attracted 48 responses, of which 31 responses agreed that the definition dealt adequately in relation to splits and mergers and changes to existing hereditaments and 17 responses did not agree. The remaining responses did not answer the question.

25. Many of the concerns raised were those set out in relation to question 1, including concerns from local authorities around the complexities of administering the relief and establishing whether a property was mainly comprised of new structure. A specific concern was raised by authorities a number of times was that the first an authority would know about a split, merger or other change would be when the ratings list was altered by the Valuation Office. Authorities felt that eligibility for the relief would have to be considered retrospectively and that, combined with the issue mentioned above around having sufficient information to be able to do determine eligibility, would make dealing with splits, mergers and other changes difficult.

The Government Response

26. The Government is grateful for the responses it received in the consultation and has considered responses to this section. In light of the responses the Government considers that the definition deals adequately in relation to splits, mergers and changes to existing hereditaments.
27. The Government has considered authorities' concerns around dealing with determining eligibility at the point where the ratings list is altered. However, Government considers that local authorities deal with such issues in the normal course of business and that it is for them to determine whether they have sufficient information to determine eligibility for granting the relief.

Other comments:

28. Many business organisations and some local authorities felt that the use of a discretionary relief mechanism to deliver the proposal would not provide the certainty that developers needed to proceed.
29. Many business organisations and some local authorities felt that the maximum relief up to state aid de minimis was not sufficient to encourage development or would have little effect for large developments proceeding when compared to their overall rates liability.
30. A good number of respondents, including many business organisations, felt that the scope of the exemption should be widened to include empty properties that were subject to refurbishment or were brought back into use.
31. Many business organisations suggested increasing the threshold below which empty properties are not liable for unoccupied property rates from £18,000 to £2,600. Others suggested that empty property rates should return to the pre 2008 position.

The Government Response

32. The Government is grateful for the comments received in respect of the proposal.
33. The Government is using authorities' discretionary powers to deliver this temporary measure to avoid the need for complex legislation. Although the power to grant the

relief is discretionary, as central government will be fully funding the relief it is very difficult to envisage reasons why any authority would not grant the relief. In addition the tax relief will serve to encourage the construction of new build, so councils will therefore benefit from such new build through local rate retention.

34. This measure was an Autumn Statement decision specifically aimed at supporting new builds. However, it was helpful to have respondents' views on the scope of the measure as these can be taken into account in future spending decisions.