

**HOW DO YOU RATE THIS?**

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## HOW DO YOU RATE THIS?

### The Issue

Without a hint of irony as to the date, the Government has announced that from 1 April 2008 unoccupied commercial property in England and Wales will become liable for full business rates.

### The Consequences

There will be a concessionary period – 6 months for factories and warehouses 3 months for everything else. However, if the premises have already been vacant for that length of time prior to 1 April, full rates will become payable immediately.

Currently no business rates are payable on empty industrial buildings and 50% business rates are payable on empty commercial space and an initial 3 month concessionary period applies.

The Government believes this will encourage landlords to let empty space and tenants to assign leasehold properties they no longer occupy -thereby increasing the amount of vacant space in the market and driving down rents.

### The Solutions

There are a number of exemptions and exceptions which may be used to solve this problem albeit somewhat painful ones. These are as follows:

- occupy all or part of the property yourself for short periods or let it on short lets. A letting for as little as 6 weeks will refresh the exemption period, and the alternation between short let and period of exemption may continue indefinitely
- unusable buildings; however if the property is leasehold care will need to be taken to avoid action for breach of repairing covenants
- properties owned by or let to companies in liquidation or administration
- unfinished buildings in course of development; if a building is within 3 months of completion, the local authority may serve a completion notice requiring the developer to complete the building, but they have no power to do so if the works will take longer than 3 months



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- listed buildings remain exempt
- occupation prevented by law; rates may not be charged if the building is too dangerous to occupy, perhaps because of asbestos or fire regulations
- let the property to a charity at a concessionary rent; charities can get up to 100% discount on rates and will buffer the land owner or outgoing tenant from rates liability
- vacant land or agricultural buildings

So, there is a large number of possible solutions. Care should also now be taken when structuring surrenders and re-lettings to ensure the outgoing tenant is not let off the hook before the incoming tenant is on it. Meanwhile the British Retail Consortium have challenged the Government to promise that if the new tax fails in its aim of increasing the supply and reducing the cost of commercial property, it will revoke it. I suspect the Chancellor will simply turn the other cheek!

## To summarise

	Before 1 April 2008	After 1 April 2008
Unoccupied Retail Properties	100% relief for 1st 3 months of non occupancy, then 50% rates until occupancy	100% relief for 1st 3 months of non occupancy
Unoccupied Office Properties	100% relief for 1st 3 months of non occupancy, then 50% rates until occupancy	100% relief for 1st 3 months then 100% rates
Properties owned by Charities	10% rates (or lesser discretionary amount)	100% relief (provided the use continues on the next occupation)
Properties owned by Companies in Administration, or in Liquidation (or by Individuals in Bankruptcy)	Administration: No additional relief Liquidation/ Bankruptcy: 100% relief	No distinction between Administration and Liquidation/ Bankruptcy - 100% relief
Listed Buildings	Exempt from business rates	Position unchanged