

Laura Raby, a solicitor at Dudley-based law firm Hawkins Hatton, and Ian Roberts, the specialist rating surveyor at the Wolverhampton office of Towler Shaw Roberts, examine ways in which owners of empty commercial property can reduce the cost of business rates

Tackle the burden of business rates

The number of empty commercial properties in the Black Country has increased tremendously over the past year, whilst in the current economic climate tenants have struggled to pay rent and landlords have faced difficulties in letting their properties.

Since April 1, 2008, owners of empty commercial properties have faced paying full business rates after only a short period of vacancy.

The result is that owners of industrial units only have relief from business rates for the first six months of the property being vacant. For owners of other commercial properties this is reduced to only the first three months, with full business rates then becoming payable.

The Government implemented these plans which reportedly generated £1 billion per annum of extra tax revenue to increase the supply of premises available to let, thereby reducing business rents and improving competitiveness. However, given the problems landlords have experienced in finding tenants who can afford a viable rent it is not surprising that these changes have led to considerable backlash.

Working with Ian Roberts from the Wolverhampton office of Towler, Shaw, Roberts Hawkins Hatton can advise clients on reducing their business rates liability and here we look at some of the options.

Exemptions

Payment of business rates becomes exempt in some cases such as vacant listed buildings, properties where companies are in liquidation or administration, and vacant properties with a rateable value under £15,000 (rising to £18,000 in the financial year 2010/11).

If your property does not fall into any of these categories there are other ways to mitigate your rates liability:

Intermittent Occupation: Intermittent occupation applies when owners of commercial premises are able to let their properties out on a casual basis for at least six weeks. In doing so the property is treated as having been occupied and the owner is given the benefit of another six month rate-free period (or three months depending on the type of property) when the property becomes vacant again. Business rates could therefore be avoided indefinitely if an owner lets their property out on a six week basis every six (or three) months. It is crucial however that any short-term letting is documented in writing in order to avoid granting the tenant security of tenure.

The Government have their concerns about this avoidance tactic and as such are considering extending the six week period.



Ian Roberts of Towler Shaw Roberts

Owner Occupation: Owners may also consider occupying the property themselves for the six week period, e.g. for storage purposes. Although in this situation the owner would be liable for the business rates for the first six weeks, they would then receive six (or three, as applicable) months relief on vacating the property. This may however not be a practical option for many owners.

Properties in poor condition: If an owner considers the property to be in poor condition and is unable to economically repair it, the local authority can be asked to remove it from the rating list, thereby effectively avoiding payment. There are however anti-avoidance regulations in place to prevent owners deliberately damaging their properties.

Occupation by a charity: Another way to avoid business rates is to let the property to a charity as organisations with charitable status are only liable to pay 20 per cent of business rates. Although it may be difficult to find charities that are willing to rent properties in an economic downturn many are well aware of the benefits of taking empty commercial properties at a low rent to enable landlords to avoid paying rates.

Prohibition by law: If the law prohibits owners from occupying a property or allowing it to be occupied then business rates are not payable. A property with a dangerous structure or containing a seriously high amount of asbestos, are two examples where this could apply.



Laura Raby of Hawkins Hatton

Appeals against rateable value: Owners may attempt to reduce their liability by appealing against the rateable value of the property. In order to do so the owner must lodge an appeal at the local authority. There is however no guarantee that the rateable value will be reduced and it may even lead to a larger liability.

Rating revaluation 2010: From 1 April this year, all non-domestic properties are to be re-valued for rating purposes, with new rateable values (RV's) taking effect. In many instances, rates bills are due to fall, but across the country RV's are due to rise by 19 per cent overall.

With the rate in the pound falling by only 14 per cent there is a five per cent gap. With a Government commitment to generate no more than an inflationary annual increase in rates liability, the Government is clearly factoring in a significant proportion of successful appeals against these new RV's.

With so many empty commercial properties in the Black Country, business rates are a particularly topical issue. This article highlights some ways of mitigating the burden.

For further information on how to mitigate the burden, contact Laura Raby of Hawkins Hatton solicitors on (01384) 216840 or lraby@hawkinshatton.co.uk, or Ian Roberts of Towler Shaw Roberts chartered surveyors on (01902) 390830 or ian.roberts@tsrsurveyors.co.uk.