

COVID-19 Business Rates in the UK – another relief may be available

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In March 2020, the UK Government announced that there would be a 12 month business rates holiday for occupiers of commercial premises engaged in the retail, hospitality and leisure businesses sectors from those premises for the 2020-2021 tax year. In order to qualify for this relief the property must be being used wholly or mainly for retail, hospitality or leisure.

Occupiers of commercial premises which did not fall within these categories of businesses, were disappointed that this relief did not apply to them.

However, property owners and occupiers of properties that do not fall within these categories of businesses may also be entitled to a separate relief from their business rates liability.

Regulation 4(c) of The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 states that a property “whose owner is prohibited by law from occupying it or allowing it to be occupied” is not liable for business rates for that period.

The Courts have previously held that properties that did not have a fire certificate, or were vacant pending the removal of asbestos following service of a notice under the Health and Safety Act, were not liable for business rates for the period of non-occupation since these circumstances fell within Regulation 4(c) – the occupiers were prohibited by law from occupying their properties until the identified issue was resolved.

Many properties were forced to close, and remain closed, due to the coronavirus regulations and could not be used for the use they were valued.

While there have been no cases as yet on this point, our view is that occupiers that were required to close due to The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 are in a comparable situation and should also benefit from relief from business rates under Regulation 4(c) The Non-Domestic Rating (Unoccupied Property) (England) Regulations 2008 for the period that they were required to close.

Authored By



Isaac Bordon
Senior Associate | Real Estate
London
+44 20 7184 7359
isaac.bordon@dechert.com

Other Key Contacts – Real Estate Team



David Gervais
Counsel | Real Estate
London
+44 20 7184 7670
david.gervais@dechert.com



Edward Johnson
Counsel | Construction
London
+44 20 7184 7424
edward.johnson@dechert.com



Elizabeth Le Vay
Counsel | Real Estate
London
+44 20 7184 7892
elizabeth.levay@dechert.com



John Qualtrough
Legal Consultant, Planning
London
+44 20 7184 7000
john.qualtrough@dechert.com