



Empty Rates

The Non Domestic Rating (Unoccupied Property) (England) Regulations 2008 brought about changes to the Empty Rate Legislation.

Following the vacation of a property 3 months empty rate relief will be allowed (6 months in the case of storage or industrial properties) following which full rates become payable.

The leading case of Makro Self Service Wholesalers Limited v Nuneaton & Bedworth Borough Council (advised upon by Gareth Buckley of Avison Young) determined that a ratepayer is entitled to manage his liability for the payment of empty rates by going into occupation for a short statutory period so as to generate an occupied liability. The court determined that the process could be repeated to maximise relief when the property was vacated at the end of this period.

All Councils accept that the strategy is legitimate but key to ensuring that relief is generated is to persuade them that the property has been legitimately occupied. This has become the latest battleground and some Councils are challenging the occupation by

putting the onus of proof on the ratepayer at forensic levels to prove that the occupation is of value to them or in rating parlance: "beneficial".

Many ratepayers will use the property for storage purposes and it is important that a full documentary record is kept of the storage taking place, to include an inventory and records to prove how and when the property was occupied and vacated.

Councils that are employing this strategy are raising the evidential threshold in a bid to frustrate the strategy. Most Councils are accepting of the "Makro" strategy difficult then it is important that the ratepayer keeps proper records of the occupation and they must ensure that the occupation is not just to provide a semblance of occupation.

For more information please speak to:



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