

Gloucester City Council

Business Rates – Retail Discount 2020/21

Background

The Government made an announcement in the October 2018 budget that it will provide a business rates Retail Discount scheme for occupied retail properties with a rateable value of less than £51,000 in each of the two years 2019-20 and 2020-21. The discount applied will be one third of the bill for the 2019/20 year. In a written ministerial statement on 27 January 2020 the Government announced it would extend the value of the Retail Discount from one third to 50% in 2020/21.

Central Government is not changing the legislation surrounding reliefs available to properties as the measure is a temporary one for 2019-20 and 2020-21 only. Instead the Government will reimburse local authorities that use their discretionary relief powers to grant Retail Discount relief, and will fully reimburse local authorities.

Legal Provision

Section 47 of the Local Government Finance Act 1988 (as amended by the Localism Act 2011) gives discretionary powers to Local Authorities to grant relief to reduce business rates bills. The cost of relief to the Local Authority can be recovered from the Government by way of grant under section 31 of the Local Government Act 2003.

To access the funding, the Local Authority is required to establish a discretionary scheme for administering the relief under Section 47.

Providing discretionary relief is likely to amount to State Aid and as such any decision is subject to the European rules on State Aid. The relief should be awarded in accordance with the De Minimis Regulations, allowing an undertaking to receive a maximum of €200,000 De Minimis aid in a three year period.

Eligibility Criteria

Properties that will benefit from the retail discount relief will be occupied hereditaments with a rateable value of less than £51,000, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments, cinemas and live music venues which are considered to mean:

i) Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licenses, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Post Offices
- Furnishing shops / display rooms (such as: carpet shops, double glazing, garage doors)
- Car caravan show rooms
- Second hand car lots
- Markets
- Petrol Stations
- Garden Centres
- Art Galleries (where art is for sale/hire)

ii) Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs / key cutting
- Travel agents
- Ticket Offices e.g.f or theatre
- Dry cleaners
- Launderettes
- PC/TV/domestic appliance repair
- Funeral directors
- Photo Processing
- Tool hire
- Car hire

iii) Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

iv) Hereditaments which are being used as cinemas

v) Hereditaments that are being used as live music venues:

- Live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect that fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).
- There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead the playing of recorded music. Although we would expect this would be clear in most circumstances, guidance on this may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003.

To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, café or drinking establishment, cinema or live music venue. The relief is based on use of the premises, rather than occupation of the premises.

The preceding lists are not exhaustive as it is impossible to list the many varied retail uses in existence, but is a guide and any retail business considered by Gloucester City Council as broadly similar in nature to those listed above will be considered as eligible for the Retail Discount.

Ineligibility Criteria

The Government has given a list of types of uses that it does not consider to be retail and thus, these properties will not benefit from the retail discount relief

i) Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, bureaux de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents, financial advisors, tutors)
- Post office sorting offices

The list of ineligible properties is also not exhaustive and Gloucester City Council will consider any properties offering services broadly similar to those listed above to be not eligible for retail discount relief.

ii) Hereditaments that are not reasonably accessible to visiting members of the public

It is salient to note that the Government does not consider other assembly or leisure uses (other than those specifically listed in the eligible criteria category) to be 'retail' for the purpose of the retail discount relief. For example, cinemas, theatres and museums are not eligible, nor are nightclubs. Hereditaments used for sport or physical recreation (e.g. gyms) are also not eligible for the retail discount relief.

Business Rates Retail Discount

The Business Rates Retail Discount is effective from 01 April 2020

Businesses that meet the eligibility criteria will automatically be awarded the Retail Discount relief AFTER mandatory reliefs and other discretionary reliefs have been applied to the account

The only exception to this is if a locally relevant hardship payment is made. In these cases Retail Discount will be applied BEFORE the hardship payment.

Ratepayers that occupy more than one property will be entitled to Retail Discount Relief for each of their properties subject to State Aid De Minimis limits. State Aid law is the means by which the European Union regulates state funded support to businesses. The De Minimis

Regulations currently allow a business to receive up to €200.000 of De Minimis aid in a three year period (consisting of current financial year and the two previous financial years)

Whilst the UK left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the Government and the EU provides that during an implementation period State aid rules will continue to apply as now and will be subject to control by the EU Commission as at present.

Gloucester City Council will discharge this responsibility by issuing a 'De Minimis declaration' to all businesses who are eligible for the Retail Discount Relief.

Application Process and Administration

Civica Revenues and Benefits on behalf of Gloucester City Council will identify qualifying businesses using the criteria as set out above. Where there is a clear eligibility to Retail Discount Relief it will be applied to eligible business's rates bill. When the annual bills are issued the qualifying business will also be sent the 'State Aid' declaration letter. Any businesses over which there may be an uncertainty about eligibility will be issued with an application to apply for the Retail Discount Relief and a State Aid declaration form.

Review of Decision / Appeals

Should there be any dispute over eligibility then an appeal can be made to the Section 151 Officer at Gloucester City Council. The appealing business must clearly outline their reasons for the appeal and supply any documentation in support of their appeal.

The decision on eligibility and Retail Discount Relief will be made by the Section 151 officer within 14 days of any appeal and the business will be notified in writing of the decision.