

Business Rates Policy 2019-20

The Award of Retail Discount

1 Introduction

- 1.1 The government in the Budget on 29 October announced that it recognises that changing consumer behaviour presents a significant challenge for retailers in our town centres and is taking action to help the high street evolve and stated 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 years 2019-20 and 2020-21. The value of discount will be one third of the bill, and must be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied. Where an authority applies a locally funded relief, for instance a hardship fund, under section 47 this is must be applied after the Retail Discount.
- 1.2 They have issued guidance on the implementation of the Retail Discount but on the basis that they have issued the changes under Section 47 of the Local Government Finance Act 1988 as amended; the local authority has to define a policy for the administration of the relief.
- 1.3 This policy therefore follows closely the government guidance for Retail Discount.

2. How the Retail Discount Relief will be provided?

- 2.1 As this is a measure for 2019-20 and 2020-21 only, the Government is not changing the legislation around the reliefs available to properties. Instead the Government will, in line with the eligibility criteria set out in this policy, reimburse local authorities that use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief.
- 2.2 It is for individual local billing authorities to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47. Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003). The Government expects local government to apply and grant relief to qualifying ratepayers from the start of the 2019/20 billing cycle.
- 2.3 Central government will reimburse Slough Borough Council as the billing authority for the actual cost under the rates retention scheme of the relief that falls within the definitions in this policy.
- 2.4 Slough Borough Council will be asked to provide an estimate of their likely total cost for providing the relief in our National Non-Domestic Rate Return 1 (NNDR1) for 2019-20 and 2020-21. Central government will provide payments to authorities to cover the local share, as per the usual payment process.
- 2.5 As a Local authorities we will also be asked to provide outturn data on the actual total cost for providing the relief, as per the usual process via the

National Non-Domestic Rate 3 (NNDR3) forms for 2019-20 and 2020-21. Any required reconciliations will then be conducted at these points.*

- 2.6 The Government expects local government to grant relief to qualifying ratepayers.

3. Who will be eligible for Retail Discount Relief?

- 3.1 Properties that will benefit from the relief will be occupied hereditaments with a rateable value of £51,000 or less, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments, defined as premises that are being used for the sale of goods to visiting members of the public:

- Shops
(such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, 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)
- Hair and beauty services
(such as: hair dressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- Tool hire
- Car hire
- Restaurants
- Sandwich shops
- Coffee shops
- Pubs
- Bars

*As required in the NNDR3 guidance notes, the former categories of discretionary relief prior to the localism act (i.e. charitable/CASC/rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and, therefore, before the retail discount.

- 3.2 To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.
- 3.3 The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses.
- 3.4 As the grant of the relief is discretionary, the government guidance is clear that authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the authority's wider objectives for the local area.
- 3.5 This policy follows closely the government guidance for Retail Discount, but also adds the following local exclusions from the Retail Discount
- takeaways (Defined as A5)
 - off licences (premises licensed to sell alcohol for consumption off the premises)
 - Licensed Sex Establishments
- 3.5. In addition the list below sets out the types of uses that government does not consider to be retail use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.
- Financial services
(e.g. banks, building societies, cash points, bureau 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 advisers, tutors)
 - Post office sorting office

Central government guidance has stated that It is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those above and, if so, to consider them not eligible for the relief under their local scheme. This will be determined on an individual basis.

- 3.6 The government does not consider other assembly or leisure uses beyond those listed at paragraph 3.1 to be retail uses for the purpose of the discount. For example, cinemas, theatres and museums are outside the scope of the scheme, as are nightclubs and music venues which are not similar in nature to the hereditaments described at paragraph 3.1 above. Hereditaments used for sport or physical recreation (e.g. gyms) are also outside the scope of the discount. Where there is doubt, Slough Borough Council will exercise their discretion with reference to the above and knowledge of their local tax base.

4. How much Retail Discount Relief will be available?

- 4.1 The total amount of government-funded relief available for each property for 2019-20 and 2020/21 under this scheme is one third of the bill, after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, excluding those where local authorities have used their discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants**. There is no relief available under this scheme for properties with a rateable value of £51,000 or more
- 4.2 Central government guidance states that Councils may use their discretionary powers to offer further discounts outside this scheme. However, where an authority applies a locally funded relief, sometimes referred to as a hardship fund, under section 47 this must be applied after the Retail Discount. (see Hardship Policy).
- 4.3 The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. The following formula will be used to determine the amount of relief to be granted for a particular hereditament in the financial year 2019-20

$$\text{Amount of relief to be granted} = \frac{V}{3} \quad \text{where}$$

V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs, excluding those where local authorities have used their discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants***.

- 4.4 This will be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.
- 4.5 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to State Aid De Minimis limits.
- 4.6 The relief will be applied to the new bills when they are dispatched where possible. The Council will apply the Retail Discount Relief to all new bills dispatched for 2019-20 where the information is available to them that the property will be eligible.
- 4.7 However if the information is not available, or the description of the use of the property does not fall under the above categories the Charge Payer will be expected to bring this to the notice of the Business Rates team and amendments will be made to the account when the information is available to the Business Rates section as necessary.

**As required in the NNDR3 guidance notes, the former categories of discretionary relief prior to the localism act (i.e. charitable/CASC/rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and, therefore, before the retail discount.

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5 State Aid

- 5.1 State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However Retail Discount Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013).
- 5.2 The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). Slough Borough Council is familiar with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)5) and the requirement to convert the aid into Euros. It is advised that businesses who receive a retail discount make themselves aware of the legislation also.
- 5.3 To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation).
- 5.4 The UK is scheduled to leave the EU on 29 March 2019. If there is an Implementation Period, the State Aid rules will continue to apply as now and will be subject to control by the EU Commission as at present. If the UK leaves the EU without a negotiated Withdrawal Agreement, the Government has announced its intention to transpose EU State Aid rules into UK domestic legislation, with only technical modifications to correct deficiencies with the transposed EU law to ensure the regime operates effectively in a domestic context, therefore State Aid rules will continue to apply, including De Minimis, to the relief for 2019/20 and 2020/21
- 5.5 Guidance on State Aid is available via the government web site at <https://www.gov.uk/government/publications/enterprise-zones-state-aid-and-business-rate-discounts>

6 Splits, mergers, and changes to existing hereditaments

- 6.1 The Retail Discount Relief will be applied on a day to day basis using the formula set out above. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, will be considered afresh for the relief on that day.

7 Administration

- 7.1 Slough Borough Council will administer the scheme under the policy set out in this document.
- 7.2 The Retail Discounts awarded will be administered by the Business Rates team who will provide monthly reports to the Section 151 officer for approval.
- 7.3 Slough Borough Council where possible will include details of the Retail Discount to be provided to eligible ratepayers for 2019-20 in their bills for the beginning of that year. There will be no need for an application if the above criteria is met.
- 7.4 However if the information is not available, or the description of the use of the property does not fall under the above categories and it appears that the criteria is not met no relief will be awarded. The Charge Payer will be expected to bring this to the notice of the Business Rates team and amendments will be made to the account when the information is available to the Business Rates section as necessary
- 7.5 It will be expected that companies who receive a Retail Discount and are aware that they are in excess of the State Aid Rules will inform the council as soon as possible.
- 7.6 The council will ensure where appropriate State Aid letters are dispatched if the council has the background information available to it.

Annex A: Calculation examples for 2019/20

The retail discount (one third) is always calculated after mandatory relief and other discretionary reliefs funded by section 31 grant.

Example 1: An occupied shop with a rateable value of £40,000

Gross rates (before any reliefs) = £40,000 x 0.491 = £19,640
Retail discount (1/3): = -£6,547
Rates due (after retail discount): = £13,093

Example 2: An occupied charity shop with a rateable value of £40,000

Gross rates (before any reliefs) = £40,000 x 0.491 = £19,640
Net rates after charity relief: = £3,928
Retail discount (1/3): = -£1,309
Rates due (after charity relief and retail discount): = £2,619

Example 3: An occupied shop with a rateable value of £13,500 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs) = £13,500 x 0.491 = £6,629
Net rates after SBRR (50%): = £3,314
Retail discount (1/3): = -£1,105
Rates due (after SBRR and retail discount): = £2,210

Example 4: An occupied shop with a rateable value of £10,000 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs) = £10,000 x 0.491 = £4,910
Net rates after SBRR (100%): = £nil
Rates bill is nil and, therefore, no retail discount applies

Example 5: An occupied shop with a rateable value of £40,000 eligible for Transitional Relief (TR) and receiving Revaluation Discretionary Relief

Gross rates (before any reliefs) = £40,000 x 0.491 = £19,640
Transitional Relief (say): = -£1,500
Net rates after Transitional Relief: = £18,140
Net rates after Revaluation Discretionary Relief (say): = £15,140
Retail discount (1/3): = -£5,047
Rates due (after TR, revaluation relief and retail discount): = £10,093

Example 6: An occupied shop with a rateable value of £18,000 previously paying nothing prior to revaluation 2017 and eligible for Supporting Small Businesses Relief (SSB)

Gross rates (before any reliefs) = £18,000 x 0.491 = £8,838
Supporting Small Businesses Relief (say): = -£7,038
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Net rates after SSB: = £1,800
Retail discount (1/3): = -£600
Rates due (after SSB and retail discount): = £1,200

Example 7: A shop with a rateable value of £40,000 (example 1) but only occupied until 30 September 2019

Gross rates (before any reliefs) = $£40,000 \times 0.491 = £19,640$

Retail discount (1/3): = $-£6,547$

Rates due p.a. (after retail discount): = $£13,093$

Daily charge while occupied (leap year): = $£35.77$ per day

Occupied charge 1/4/19 to 30/9/19 (183 days): = $£6,547$

Unoccupied property relief (1/10/19 to 1/1/20): = $£nil$

Unoccupied property rates (1/1/20 to 31/3/20),

$£19,640 \times 91/366 = £4,883$

Rates due for the year (after retail relief): = $£11,430$

Example 8: A shop with a rateable value of £40,000 (example 1) with a rateable value increase to £60,000 with effect from 1 October 2019

Gross rates (before any reliefs) = $£40,000 \times 0.491 = £19,640$

Retail discount (1/3): = $-£6,547$

Rates due p.a. (after retail discount): = $£13,093$

Daily charge while occupied (leap year): = $£35.77$ per day

Charge 1/4/19 to 30/9/19 (183 days): = $£6,547$

Daily charge on standard multiplier (1/10/19 to 1/1/20):

$(£60,000 \times 0.504)/366 = £82.62$ per day

Charge 1/10/19 to 31/3/20 (183 days): = $£15,120$

Rates due for the year (after retail relief): = $£21,667$