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 5. Business rates: expanded retail discount 2021 to 2022 - local authority guidance (<https://www.gov.uk/government/publications/business-rates-expanded-retail-discount-2021-to-2022-local-authority-guidance>)
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Guidance

Business rates: expanded retail discount 2021 to 2022 - local authority guidance

Published 4 March 2021

Contents

About this guidance

Introduction

Expanded Retail Discount

Annex A – eligibility for the Expanded Retail Discount

Annex B – eligibility for the Closed Cash Cap (£2 million)

Annex C: Calculation examples for 2021/22

Annex D: Sample paragraphs that could be included in letters to ratepayers about the Expanded Retail Discount and the cash cap

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About this guidance

1. This guidance is intended to support local billing authorities in administering the business rates expanded retail discount announced in the Budget on 3 March 2021. This guidance applies to England only.
2. This guidance sets out the criteria for the Expanded Retail Discount for 2021/22. The guidance does not replace existing legislation.
3. Enquiries on this measure should be addressed to: ndr@communities.gov.uk

Introduction

4. Since 2019/20 the government has provided a Business Rates Retail Discount for retail properties which for 2020/21 it expanded to include the leisure and hospitality sectors. On 3 March 2021 the government confirmed that the Expanded Retail Discount would continue to apply in 2021/22 at 100% for three months, from 1 April 2021 to 30 June 2021, and at 66% for the remaining period, from 1 July 2021 to 31 March 2022. The Government confirmed that there would be no cash cap on the relief received for the period from 1 April 2021 to 30 June 2021. From 1 July 2021, relief will be capped at £105,000 per business, or £2 million per business where the business is in occupation of a property that was required, or would have been required, to close, based on the law and guidance applicable on 5 January 2021.
5. This document provides guidance to authorities about the operation and delivery of the policy.

Expanded Retail Discount

How will the relief be provided?

6. As this is a measure for 2021/22 only, the government is not changing the legislation relating to the reliefs available to properties. Instead, the government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief. It will be 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. The 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.
7. As a short-term measure, authorities may consider rolling forward their 2020/21 scheme into the first three months of 2021/22. Under regulations made under section 47 of the Local Government Finance Act 1988 authorities must give at least 12 months of varying a rate relief scheme the effect of which would have been to increase rate bills. Therefore, authorities should be clear in their scheme, decision and determination that the 100% scheme is for three months only. Authorities should also ensure that their scheme from 1 April 2021 includes the option for ratepayers to refuse the discount (see paragraph 10(b) and 11 below). Billing authorities may also wish to consider issuing a letter to ratepayers providing notification of the award of the extended relief to all effected ratepayers. This should highlight that the 100% relief only applies for the first three months of the financial year and that a further relief scheme will be made in respect of the period 1 July to 31 March, when at 66% relief will apply to eligible ratepayers.
8. The government will reimburse billing authorities and major precepting authorities for their loss of income under the rates retention scheme as a result of awarding the relief that falls within the definitions in this guidance. Because billing authorities have completed their NNDR1s for 2021/22

already, payments to major precepting authorities will be unaffected by the award of relief. Therefore, billing authorities only will be provided with “on-account” s.31 payments covering the full amount of relief awarded, in order to ensure that their cashflow is not affected. In the first instance, payments will cover the first three months relief and will be based on existing data.

9. At the end of the year, billing authorities 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 2021/22. Each billing and major precepting authority’s loss of income from relief will be reconciled against the on-account payments made over the course of the year, and any difference paid or recovered. In addition, billing authorities should ensure that they are able to monitor and report the take up of scheme at Parliamentary constituency level.

Which properties will benefit from relief?

10. Hereditaments which benefit from the relief will be those which for a chargeable day in 2021/22:

a. meet the eligibility criteria at Annex A,

and

b. the ratepayer for that chargeable day has not refused the discount for the eligible hereditament. The ratepayer may refuse the discount for each eligible hereditament anytime up to 30 April 2022. The ratepayer cannot withdraw their refusal for either all or part of the financial year.

11. Local authorities should make it clear in their approved scheme that, for the purposes of section 47 of the 1988 Act, hereditaments where the ratepayer has refused the relief are outside of the scheme and outside of the scope of the decision of which hereditaments qualify for the discount and are therefore ineligible for the relief.

12. In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, billing authorities may not grant the discount to themselves or a precepting authority. A “precepting authority” includes fire, police and parish councils or a functional body, within the meaning of the Greater London Authority Act 1999.

How much relief will be available?

13. Subject to the cash caps, the total amount of government-funded relief available for each property for 2021/22 under this scheme is:

- a. For chargeable days from 1 April 2021 to 30 June 2021 100% of the chargeable amount, and
- b. for chargeable days from 1 July 2021 to 31 March 2022, 66% of the chargeable amount.

14. The relief should be applied after mandatory reliefs and, other discretionary reliefs funded by section 31 grants have been applied, excluding those where local authorities have used their wider discretionary relief powers introduced by the Localism Act, which are not funded by section 31 grants^[footnote 1]. Councils may use their discretionary powers to offer further discounts outside this scheme or additional relief to hereditaments within the scheme. However, where an authority applies a locally funded relief, under section 47 this must be applied after the Expanded Retail Discount.

15. Subject to the cash cap, the eligibility for the discount and the discount itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2021/22:

Amount of relief to be granted = V x percentage Expanded Retail Discount as found at paragraph 13 above, 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^[footnote 2].

16. This should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

17. Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties subject to the cash caps explained below.

Instalments

18. The standard payment arrangement for business rates is for the liability for the year to be paid in 10 or 12 instalments^[footnote 3]. However, for those eligible for the Extended Retail Discount for 2021/22, this would mean those ratepayers having to make instalments in the first three months of the year when 100% relief is available. Therefore, authorities should ensure in line with this guidance and in accordance with Part 1, Schedule 1 of The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Regulations) 1989 (SI 1989/1058), as amended, that ratepayers eligible for the Extended Retail Discount are not asked to make an instalment in respect of 2021/22 for the three month period of 100% relief is available for. Billing authorities should provide an alternative installment arrangement for ratepayers which spreads the liability for the period from 1 July 2021 to 31 March 2022 over some or all of the remaining nine months of the year.

The cash caps

19. No cash caps will apply for the period between 1 April 2021 to 30 June 2021.

20. Under the cash caps, a ratepayer may only receive up to the following cash caps of Expanded Retail Discount in 2021/22 ignoring any relief for the period before 1 July 2021:

- a. £2 million for ratepayers meeting the eligibility for the closed cash cap test set out in Annex B (subject to paragraphs 21-23), or
- b. £105,000 for all other ratepayers (subject to paragraphs 21-23).

21. No ratepayer can in any circumstances exceed the £2 million cash cap across all of their hereditaments in England. Where a ratepayer eligible for the closed cash cap also occupies hereditaments which do not meet the criteria for the closed cash cap and the value of the discount on the closed hereditaments is less than £2 million then they may also claim the discount on other eligible hereditaments but only up to the cap of £105,000 in respect of those other eligible hereditaments. For example, such a ratepayer whose rate bill from 1 July 2021 onwards on hereditaments eligible for the closed cash cap is £1 million and also occupies other eligible hereditaments with a rates bill of £3 million is able to claim up to £1,105,000 in discount from 1 July 2021 onwards (£1million on their closed hereditament and then up to the £105,000 cash cap on their other eligible hereditaments).

22. Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers should be considered as one ratepayer for the purposes of the cash caps. A ratepayer shall be treated as having a qualifying connection with another:

- a. where both ratepayers are companies, and
 - i. one is a subsidiary of the other, or
 - ii. both are subsidiaries of the same company; or

b. where only one ratepayer is a company, the other ratepayer (the “second ratepayer”) has such an interest in that company as would, if the second ratepayer were a company, result in its being the holding company of the other.

23. In those cases where it is clear to the local authority that the ratepayer is likely to breach the cash caps then the authority should automatically withhold the discount. Otherwise, local authorities may include the discount in bills and ask the ratepayers, on a self-assessment basis, to inform the authority if they are in breach of the cash caps. Annex D of this guidance contains a sample cash cap ratepayer declaration, which local authorities may wish to use to discharge this responsibility.

Splits, mergers, and changes to existing hereditaments

24. The discount should 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, should be considered afresh for the discount on that day.

Annex A – eligibility for the Expanded Retail Discount

1. Hereditaments that meet the eligibility for Expanded Retail Discount will be occupied hereditaments which meet all of the following conditions for the chargeable day:

a. they are wholly or mainly being used:

- i. as shops, restaurants, cafes, drinking establishments, cinemas and live music venues,
- ii. for assembly and leisure; or
- iii. as hotels, guest & boarding premises and self-catering accommodation,

2. We consider shops, restaurants, cafes, drinking establishments, cinemas and live music venues 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 licences, 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. for theatre
- Dry cleaners
- Launderettes
- PC/TV/domestic appliance repair
- Funeral directors
- Photo processing
- Tool hire
- Car hire
- Employment agencies
- Estate agents and letting agents
- Betting shops

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 the 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^[footnote 4].

3. We consider assembly and leisure to mean:

i. Hereditaments that are being used for the provision of sport, leisure and facilities to visiting members of the public (including for the viewing of such activities).

- Sports grounds and clubs
- Museums and art galleries
- Nightclubs

- Sport and leisure facilities
- Stately homes and historic houses
- Theatres
- Tourist attractions
- Gyms
- Wellness centres, spas, massage parlours
- Casinos, gambling clubs and bingo halls

ii. Hereditaments that are being used for the assembly of visiting members of the public.

- Public halls
- Clubhouses, clubs and institutions

4. We consider hotels, guest & boarding premises and self-catering accommodation to mean:

i. Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

- Hotels, Guest and Boarding Houses
- Holiday homes
- Caravan parks and sites

5. To qualify for the discount the hereditament should be wholly or mainly being used for the above qualifying purposes. 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. For the avoidance of doubt, hereditaments which have closed due to the government's advice on COVID19 should be treated as occupied for the purposes of this relief.

6. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that the government considers for this purpose to be eligible for relief. Authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

7. The list below sets out the types of uses that the government does not consider to be an eligible use for the purpose of this discount. 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 discount under their local scheme.

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, short-term loan providers)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers)
- Post office sorting offices

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

Annex B – eligibility for the Closed Cash Cap (£2 million)

1. Ratepayers that meet the eligibility criteria for the closed cash cap will be ratepayers who for a chargeable day occupy one or more hereditaments whose use on the chargeable day would, based on the law and guidance applicable on 5 January 2021, have meant that the business or activity would have been mandated to close by the government.
2. For the avoidance of doubt, hereditaments which have closed due to the government's response to coronavirus should be treated as occupied for the purposes of the closed cash cap.
3. If, under this eligibility test, a person would have been required to close its main, in-person service but could have adapted its business to operate takeaway, click and collect or online with delivery services, it will be considered closed and be eligible for the closed cash cap because its substantive business would have been mandated to close.
4. In cases where hereditaments would have remained open to provide services that can continue as they are exempt from the regulations (e.g. post office services, food banks) the ratepayer may still be eligible for the closed cash cap, because they would have been unable to provide their main in-person service.
5. The following hereditaments do not meet eligibility for the closed cash cap:
 - a. Hereditaments occupied by businesses and other ratepayers that would have been able to conduct their main service because they do not depend on providing direct in-person services from premises and can operate their services effectively remotely (e.g. accountants, solicitors).
 - b. Hereditaments whose occupiers may have chosen to close but not been required to.

Annex C: Calculation examples for 2021/22

The Expanded Retail discount is always calculated after mandatory relief and other discretionary reliefs funded by section 31 grant. Ignoring cash caps.

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

Gross rates (before any reliefs) = £40,000 x 0.499:	= £19,960
Expanded Retail Discount (100% from 01/04/21 to 30/06/21), £19,960 x 91/365	= -£4,976
Expanded Retail Discount (66% from 01/07/21 to 31/03/22), £19,960 x 0.66 x 274/365	= -£9,889
Rates due (after Expanded Retail Discount):	= £5,094

Example 2: An occupied shop with a rateable value of £100,000

Gross rates (before any reliefs) = £100,000 x 0.512:	= £51,200
Expanded Retail Discount (100% from 01/04/21 to 30/06/21), £51,200 x 91/365	= -£12,765
Expanded Retail Discount (66% from 01/07/21 to 31/03/22), £51,200 x 0.66 x 274/365	= -£25,367
Rates due (after Expanded Retail Discount):	= £13,068

Example 3: An occupied charity shop with a rateable value of £40,000

Gross rates (before any reliefs) = £40,000 x 0.512	= £20,480
Net rates after charity relief (80% discount):	= £4,096
Expanded Retail Discount (100% from 01/04/21 to 30/06/21), £4,096 x 91/365	= -£1,021
Expanded Retail Discount (66% from 01/07/21 to 31/03/22), £4,096 x 0.66 x 274/365	= -£2,029
Rates due (after charity relief and Expanded Retail Discount):	= £1,045

Example 4: 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 0.499	= £6,737
Net rates after SBRR (50%):	= £3,368
Expanded Retail Discount (100% from 01/04/21 to 30/06/21), £3,368 x 91/365	= -£840
Expanded Retail Discount (66% from 01/07/21 to 31/03/22), £3,368 x 0.66 x 274/365	= -£1,669
Rates due (after SBRR and Expanded Retail Discount):	= £860

Example 5: 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 0.499	= £4,990
Net rates after SBRR (100%):	= £nil
Rates bill is nil and, therefore, no Expanded Retail Discount applies	

Example 6: 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 0.499	= £19,960
Transitional Relief (say):	= -£1,500
Net rates after Transitional Relief:	= £18,460
Net rates after Revaluation Discretionary Relief (say):	= £15,460
Expanded Retail Discount (100% from 01/04/21 to 30/06/21), £15,460 x 91/365	= -£3,854

Expanded Retail Discount (66% from 01/07/21 to 31/03/22), £15,460 x 0.66 x 274/365	= -£7,660
Rates due (after TR, revaluation relief and Expanded Retail Discount):	= -£3,946

Example 7: 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 0.499	= £8,982
Supporting Small Businesses Relief (say):	= -£6,582
Net rates after SSB:	= £2,400
Expanded Retail Discount (100% from 01/04/21 to 30/06/21), £2,400 x 91/365	= -£598
Expanded Retail Discount (66% from 01/07/21 to 31/03/22), £2,400 x 0.66 x 274/365	= -£1,189
Rates due (after SSB and Expanded Retail Discount):	= -£613

Example 8: A shop with a rateable value of £40,000 (example 1) but only occupied until 30 September 2020

Gross rates while occupied (before any reliefs) = £40,000 x 0.499 x 183/365	= £10,007
Expanded Retail Discount (100% from 01/04/21 to 30/06/21), £10,007 x 91/183	= -£4,976
Expanded Retail Discount (66% from 01/07/21 to 30/09/21), £10,007 x 0.66 x 92/183	= -£3,320
Net rates while occupied	= £1,711
Gross rates while unoccupied (before any reliefs) = £40,000 x 0.512 x 182/365	= £10,212
Unoccupied property relief (100% from 01/10/21 to 31/12/21), £10,212 x 92/182:	= -£5,162
Net rates while unoccupied	= £5,050
Rates due for the year (after empty property relief and Expanded Retail Discount):	= £6,760

Annex D: Sample paragraphs that could be included in letters to ratepayers about the Expanded Retail Discount and the cash cap

At the Budget on 3 March 2021, the Chancellor announced that eligible ratepayers will receive a discount on their business rates bills for the year 2021/22 of 100% for the first three months and 66% for the remainder of the year.

Relief will be provided to eligible occupied retail, hospitality and leisure properties in 2021/22. Your current rates bill includes this discount.

In line with the conditions set by the government for the funding of this relief, ratepayers may for the period from 1 July 2021 onwards only claim up to £2 million of Expanded Retail Discount in 2021/22 for hereditaments which based on the coronavirus rules at 5 January would have been required to closed and £105,000 for other eligible properties (up to a cap of £2 million for all properties). This cash cap applies at a Group company level (so holding companies and subsidiaries cannot claim up to the cash cap for each company) and also to organisations which, although not a company, have such an interest in a company that they would, if they were a company, result in its being the holding company. Find further details of the cash cap (<https://www.gov.uk/government/publications/business-rates-expanded-retail-discount-2021-to-2022-local-authority-guidance>).

If you (or if appropriate a company in your Group) have received Expanded Retail Discount on any other property then you should return the attached declaration to this authority including any other Expanded Retail Discount you are being granted for premises other than the one to which this bill and letter relates, and confirming that the award of Expanded Retail Discount does not exceed the cash cap for 2021/22. If this applies to you, please complete the declaration at Form A and return it to the address above.

If you have exceeded the cash cap on other properties and wish to refuse to receive the Expanded Retail Discount granted in relation to the premises to which this bill and letter relates, please complete the attached Form B and return it to the address above. You do not need to complete the declaration at Form A. This may be particularly relevant to those premises that are part of a large chain, where the cumulative total of Expanded Retail Discount received could exceed the cash cap.

The government and [name of local authority] will not tolerate any business falsifying their records or providing false evidence to gain this discount, including claiming support above the cash cap. A ratepayer who falsely applies for any relief, or provides false information or makes false representation in order to gain relief may be guilty of fraud under the Fraud Act 2006.

If you have not received any other Expanded Retail Discount for premises other than the one to which this bill and letter relates, you do not need to complete or return either form.

-
1. 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.
 2. 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. The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1988 regulation 7.
 4. The statutory guidance can be accessed here:
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

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