

BUSINESS RATES GUIDANCE 2012

1. WHAT ARE BUSINESS RATES?

BUSINESS rates are a tax on non-residential property. The amount payable on a property is based on its 'rateable value' and a 'multiplier' that is set by the government each year. Unless you are a registered or exempt charity, this is entirely at their discretion and willingness to do so varies greatly between authorities. Business rates are also known as 'non-domestic rates'. It is the responsibility of local government to collect business rates. Although their function is to fund the services provided by local authorities, business rates are initially handed over to central government, which then shares funds out amongst local authorities based on their demographic data.

With a few statutory exemptions, all UK properties should have a rateable value and will appear on either a list of residential buildings (liable for 'council tax'), or on a list of non-domestic buildings (liable for business rates). The alternative name for business rates, 'non-domestic rates' is arguably a better term, as it makes it clear that they apply to any use of a non-residential building, not just its use by a profit-seeking venture. It is usually the responsibility of a building's occupier to pay business rates. However, if a building becomes empty, liability then falls to its owner after a three-month exemption period (six months for industrial buildings such as factories and warehouses).

In England and Wales, the rateable value of a building is set by the Valuation Office Agency. For most premises, such as offices and factories, this is calculation is based on the useable area of the building in relation to the rental value of a property. However, calculating the rateable value of retail premises also takes into account factors such as window frontage; and calculating the rateable values of licenced premises is affected by business turnover. If

you are considering taking on premises that have been rated as retail or licenced, then is essential to check this with the Valuation Office Agency and discuss any implications before signing a lease. The Valuation Office is a central government agency, responsible for assessing the value of properties. They are not involved in the collection of business rates, nor directly connected to the local authority that is. This makes them a good source for advice on a specific property at the initial stages of a studio project.

A small number of building uses are statutorily exempt from business rates, including: places of public religious worship and church halls; most farmland and farm buildings; public parks; and buildings used exclusively for the training and welfare of the disabled. Because these buildings are exempt, they may never have been assessed or given a rateable value. As such, the Valuation Office Agency should be contacted as early as possible when planning to take on previously exempt buildings as studios.



EAST STREET ARTS, UNION 105 STUDIOS, LEEDS

EAST STREET ARTS

EAST STREET ARTS is a contemporary arts organisation, and registered charity, whose mission focus is the development of artists. The organisation pursues this goal through an events programme, membership activities, professional development and studio/facility provision.

Founded initially in 1993, East Street Arts entered its current phase when it opened Patrick Studios in Leeds in 2003. Subsequently, East Street Arts has opened two other permanent buildings in the city (Barkston House and Union 105), in addition to running a number of temporary studio and project spaces elsewhere in the city and beyond.

Prior to taking on Patrick Studios the organisation had already achieved charitable status, and the process of applying for the mandatory 80% charitable business rate relief on the building proved straightforward, simply a matter of filing out the mandatory relief form. For the second permanent building, Barkston House, where the city council was also the landlord, and the most recent building, Union 105, the approach was the same and the process equally straightforward.

Where East Street Arts has encountered more complicated situations is in taking on

[continued on page 2](#)

East Street Arts continued

spaces on temporary tenancies. Temporary tenancies can be open to abuse by unscrupulous landlords – as means of trying to avoid business rates, or in an attempt to inappropriately reset the temporary empty buildings exemption – so local authorities are usually keen to ensure that a tenancy is legitimate. For the first few temporary spaces taken on by East Street Arts the rates department sent out an auditor, who each time went away satisfied, but needed first to confirm what use the spaces were being put to, and that they were occupied and in use.

When the temporary scheme was extended further in Leeds, a meeting was held with the rates department and the head of business rates, to talk through the plans for the scheme. It was explained that various temporary premises would be coming on to the scheme for varying periods, before leaving when landlords brought them back into commercial use or redeveloped the sites. In order to reassure the council, it was agreed that they could send in auditors at any time to ensure that the spaces were in proper use, and that they would be kept informed of premises starting up and leaving the scheme through a report, every three months, detailing the status of each space including its arts projects and studio use.

2. REDUCING YOUR STUDIO'S LIABILITY FOR BUSINESS RATES

AS business rates are a significant cost for building-based projects, studios should take action to minimise their liability for paying them where possible. Registered charities are entitled to 80% mandatory rate relief on buildings that are used for their charitable purposes. Charities may then also apply to their local authority for the remaining 20% as discretionary relief (see 2.1 Charities). Non-profit organisations can also apply to their local authority for discretionary relief (see 2.2).



EAST STREET ARTS, INTERIOR OF PATRICK STUDIOS, LEEDS

2.1. CHARITIES

AS discussed in the previous section, registered charities are entitled to 80% business rate relief on premises used for their charitable purposes. They can also apply for the remaining 20% at the discretion of the local authority. This is often a strong incentive for artists' studios to consider trying to become charities. If you are thinking of applying for charitable status, please read NFASP's guidance on the Charities Act, and contact us to discuss your specific situation.

Empty properties owned or controlled by a charitable organisation, where the next intended use is for charitable purposes, receive 100% rate relief while they remain empty. Empty properties of low rateable value may also be exempt.

2.2. NON-PROFITS

IN theory, local authorities can offer up to 100% discretionary rate relief to non-profits and community organisations that are not charities. In practice however, how much relief they are prepared to offer (if any at all) will depend on their policy and strategic objectives. Discretionary relief can also be withdrawn if local authority policy changes, so it is important to also consider the implications of full rates liability when making financial plans.

Local authorities also administer central government's *small business rate relief* scheme. So long as it occupies only single premises, any organisation in a property

with a rateable value below a certain threshold (£18,000 in England, rising to £25,500 for Greater London) is entitled to small business rate relief. Rates for properties valued below these thresholds are calculated using a lower *small business rates multiplier*. Additionally there is also a sliding scale for a further percentage reduction as the rateable value of the building decreases between £11,999 and £6,001, with properties valued below £6000 receiving an additional 50% relief on top of the small business rates multiplier.

3. TEMPORARY SPACES AND BUSINESS RATES

A building becomes liable for business rates as soon as it is occupied or put into use. This is true even for short-term temporary projects. The only exception to this is retail premises when only the shop window front is used.

Temporary projects risk being caught between the conflicting interests of landlords and the local authority. When a building becomes empty it automatically gains a three-month exemption from business rates (six months for industrial property such as factories and warehouses), after which the building's owner becomes liable (unless its rateable value is below £2,600, in which case it remains exempt as long as it is empty). When it seems unlikely that a premises will be let again commercially in the near future, landlords can be keen on artists making temporary use of the space. This benefits the landlord because it is the occupier who is liable for business rates. Also, if the space is in active use again for sufficient time, it may 'reset' the empty property business rates exemption. Local authorities however, are interested in ensuring that landlords do not find technical loopholes to avoid paying business rates on their properties. For this reason a local authority may particularly scrutinise a charity's activities in a property to ensure that the proposed activity fully

CASE STUDY: Business Rates Guidance 2012

meets their charitable aims. Likewise, non-profits may find it harder to get discretionary relief on temporary spaces if local authorities believe that the temporary use is primarily a cover for a landlord trying to avoid business rates.

Charities should be particularly careful to ensure that a short-term tenancy guarantees them enough time to complete their project. As a charity gets a 100% exemption for any empty property they control (when the property's next use will be charitable) there is an incentive for landlords to handover responsibility for a building to a charity as quickly as possible. The building can then remain empty for longer than the three or six month exemption period without being liable for rates. However, if a landlord were then to take back control of the property before the 'next charitable use' has been made, the local authority might then view the whole thing as an attempt at rates avoidance. The charity could then end up with the full rates bill for the entire time the property was in their name, even though they got no practical use out of it.

4. ENGLAND & WALES

WHILE there are a great many similarities between the business rates legislation in England & Wales, Scotland and Northern Ireland, there are also a number of important differences in terminology and interpretation. The information presented so far has been phrased in the terminology that applies in England & Wales. English and Welsh business rates legislation is almost identical; the only difference is in the banding categories and percentage entitlements for small business rates relief.

Information about all aspects of business rates in England & Wales, including the differences in small business rate relief system, can be found on the Business Link website (<http://www.businesslink.gov.uk/>) under: Tax, payroll and company information > Business rates.



INTERIOR OF QUEEN STREET STUDIOS, BELFAST

“When it seems unlikely that a premises will be let again commercially in the near future, landlords can be keen on artists making temporary use of the space. This benefits the landlord because it is the occupier who is liable for business rates.”

KEY TIPS

Each local authority approaches business rates and their collection differently here are some key points to consider:

- Before approaching your local authority regarding any aspect of business rates, you should contact NFASP to discuss your studios' specific situation.
- Read up on your local authority's policy and strategic objectives; think about where you might fit into this.
- Talk to other local studios at the earliest opportunity to find out about their organisational models and any successes they have had in achieving discretionary rate relief. If they have had success, and are working on a similar model to you, then you should also present your studios to the local authority in a comparable way.
- Queries or issues that relate to the rateable value or status of a specific building should be addressed to the Valuation Office Agency.
- It is also possible to register the 'use class' of the building with the agency as not-for-profit or community use. Whilst

this has no direct statutory implication, it may help to make a discretionary relief case to the local authority if this use class fits in with their strategic objectives for the local area.

- When you are ready to deal directly with the local authority, try to work on building a long-term relationship with them. Be honest and transparent about what you are trying to achieve, but present it in a way that helps them see the benefit to the local community.
- Be wary of using the language of the creative industries. While this may impress some parts of the local authority, the rates collection department will see this as a clear sign that you are running a regular business.
- If a building requires structural or major building works then it may be entitled to exemption from business rates for the duration of these works. You should discuss the possibility of this with the Valuation Office Agency and your local authority.

BOW ARTS TRUST

BOW ARTS TRUST is an arts organisation and registered charity, whose mission is to support community renewal in East London by delivering arts and creative services through a financially sustainable model. As part of this mission and model, the organisation provides artists' studios and live/work spaces.

Bow Arts was established in 1995 when the organisation took on two adjoining buildings on Bow Road, in Tower Hamlets, with the intention of converting them into studio space. Very early on in this process they approached the Valuation Office Agency, the central government body responsible for setting the rateable value of buildings. Both buildings had been unused for many years and, in addition to being run down, the agency didn't have full records for their rateable value. This necessitated an extensive site survey to draw up plans of the site, taking several months to complete. However, the Valuation Office Agency were also very helpful and informative, explaining not only the valuation process, but also the business rates system as a whole and suggesting how Bow Arts should approach the local authority, who are responsible for collecting business rates.

During this time, Bow Arts were also in the process of becoming a registered educational charity and a company limited

by guarantee. When this was achieved in 1996 it immediately entitled the organisation to 80% mandatory business rate relief. The Trust then started to talk to the local authority about applying for the additional 20% discretionary relief and was successful in being granted the full dispensation.

This situation continued for many years, with Bow Arts continuing to keep the local authority informed and promptly updating its claims when necessary. However eventually, prompted by a shake up of charity legislation, the borough began to look for ways to try to remove exemptions from local charities. Bow Arts took a proactive stance and put themselves forward to be a test case and a benchmark of charitable activity for similar organisations. In demonstrating the organisation's charitable value to the local community they retained both the mandatory and discretionary relief.

When Bow Arts Trust decided also to open studios in Southwark, they began first by talking to other providers in the borough and building a relationship with the local authority there. Southwark doesn't currently award the 20% discretionary relief to charities, so this extra cost has to be factored into the costs of operating there.



BOW ARTS TRUST, ANNUAL SUMMER OPEN STUDIOS EVENT , LONDON



INTERIOR OF THE BRIGGAI, WASPS STUDIOS, GLASGOW

5. SCOTLAND

As mentioned above, the information presented so far has been phrased in the terminology that applies in England & Wales. While the aims and general principles of business rates legislation are very similar in Scotland; England & Wales, the terminology, history and legally responsible bodies are different.

In Scotland it is the role of the Scottish Assessors Association to set the rateable value of a property. The level of rates payable each year is based on this value and a 'poundage' (rather than multiplier) set by the Scottish Government. The Scottish equivalent of small business rate relief is known as the 'small business bonus scheme' and – as in Wales – operates using different banding categories and percentages. Charities in Scotland are registered and regulated by the Office of the Scottish Charity Regulator, but the 80% mandatory relief and option to apply to the local authority for discretionary relief is the same as in England & Wales.

Information about all aspects of business rates in Scotland can be found on the Business Gateway website (<http://www.business.scotland.gov.uk/>) under: Tax, payroll and company information > Business rates.

WASPS

WASPS (Workshop and Artists' Studio Provision Scotland Ltd.) is a company limited by guarantee and a registered Scottish charity. WASPS provide good quality, affordable studio space to artists and arts charities, recognising that whilst art and artists give great value to society, artists themselves often still struggle to make ends meet. WASPS is one of the larger studio organisations in the UK and currently houses 750 visual artists and 22 arts charities at 19 sites from the Scottish Borders to the Shetland Islands.

Having operated in many local authority areas in Scotland over the past 34 years, WASPS has significant experience of differing local authority policy. Historically, it was once the case that while – as a registered charity – WASPS received the 80% mandatory business rate relief in both the west and east of the country, it only received the additional 20% discretionary relief in the west. As this represented a significant cost for about a third of its buildings, WASPS set about the process of convincing the eastern local authorities. The matter was discussed with each local authority in turn. Initially, efforts were first put most into convincing the local authority considered most likely to be persuaded. Once this goal was achieved, focus shifted on to the next most likely, and so on. Eventually, the final local authority could also be won around with the argument that they were now the only local authority in Scotland not giving 100% rate relief. WASPS were successful in this undertaking, but the whole process took two years from start to finish, having won around three or four local authorities.

A key element in convincing local authorities was describing the studios' activities in the right language to the right person, stressing the advancement of education and the advancement of the arts, and comparing the organisation's activities with others already getting full remission. When opening a new building in a new local authority area, WASPS' experience has been that it is always better to build a relationship with the local authority from the outset, setting out the case for why rate relief is essential for a project's viability, rather than going to them afterward when a studio is already up and running.

Problems can be created in situations where studios have part occupancy by creative practices that local authorities might see as businesses, so WASPS is very careful to draw a clear distinction between what qualifies as commercial and non-commercial use.

6. NORTHERN IRELAND

IN Northern Ireland business rates are collected on behalf of the Northern Ireland Executive and district councils by the Land & Property Services. This differs from the system in England & Wales where this is the responsibility of local authorities. A further difference is that Land & Property Services are also responsible for setting the Net Annual Value of a property (equivalent to its 'rateable value' in English & Welsh terminology) and so also perform the function of the Valuation Office Agency.

Similarly to Scotland, in Northern Ireland the term 'poundage' is used to describe the multiplier used to work out a property's annual business rates bill. Unlike Scotland however, the poundage is the total of two separate rates, one set by central government at a regional level and the other set by the relevant district council. The small business rate relief scheme also runs in Northern Ireland and relief should be automatically available for properties with a Net Annual Value of less than £5,000.

A 100% charitable exemption from business rates is available to registered charities and non-profit organisations using a building entirely for charitable purposes. HMRC are currently responsible for registering charitable organisations, however, this function is soon to be passed over to the newly created Charity Commission of Northern Ireland, as charity legislation in Northern Ireland is brought more in line with the rest of the UK.

Information about all aspects of business rates in Northern Ireland can be found on the NI Business Info website (<http://www.nibusbusinessinfo.co.uk/>) under: Tax, payroll and company information > Business rates.

This case study is available in a range of formats from nfasp.

For more information on nfasp and examples of other case studies visit <http://www.nfasp.org.uk>

Or contact
NFASP
70 Cowcross Street
London EC1M 6EJ
Tel: 020 7251 9395



EXHIBITION TALK AT QUEEN STREET STUDIOS, BELFAST

QUEEN STREET STUDIOS

QUEEN STREET STUDIOS is a single-building studio provider, situated in Belfast, Northern Ireland. The studios support the development of artists through affordable studio space, a supportive environment and professional development. The studios are a registered charity and a company limited by guarantee.

The studios began life in 1984 as a small informal association called the Arts Collective of Northern Ireland, situated in a smaller part of the same building that Queen Street Studios occupy today. As time has gone by the studios have expanded within the building and they now occupy the entire top floor as well as part of the third, providing 22 studio spaces.

Having already become a company limited by guarantee, Queen Street Studios formally became a charity in 1994, when they were recognised as such by HM Revenue and Customs (currently responsible for registering charitable organisations in Northern Ireland) and Land & Property Services, the collection authority. The studios receive 100% rate relief. Once the studios' charitable status was in place, its business rate relief situation has remained largely unchanged over the intervening years. Charities in Northern Ireland are now regulated by the Charity Commission of Northern Ireland and starting later in 2012, charitable registration will take place through this new commission rather than through HMRC.



OPENING EXHIBITION EVENT AT QUEEN STREET STUDIOS, BELFAST