

ADMINISTRATORS HAVE A VERY TAXING TIME

The High Court has recently given Councils a lifeline to charge administrators for Business Rates as an expense of an administration.

In the Recent case of Trident Fashions Plc (In Liquidation) between Exeter City Council v Bairstow & ors. Mr Justice David Richards handed down his judgement that non-domestic rates are due for the period of the administration and should be paid as an expense of the administration under Rule 2.67(1) (f) of the Insolvency Rules 1986.

Billing Authorities have previously not enforced collection of Business Rates on companies in administration, as business rates were considered non-preferential debts and hence fell by the wayside.

In making this decision, Mr Justice David Richards reviewed two recent House of Lord decisions which considered whether Rates were an expense of a liquidation, or not.

In his summing up he also stated that Empty Property Rates should be payable on all empty properties owned by companies in administration, as there is no statutory exemption for companies in administration to reduce their liability. (N.B. Certain classes of property have statutory relief from empty property rates outside of insolvency legislation).

Councils will now see this as an opportunity to charge Business Rates to companies in administration. The case has effect on all administrations entered into after the 15th September 2003 (the date the Insolvency rules were amended) and so large retrospective demands could be received. When managing businesses with multiple sites e.g. retailers, this could leave many administrators out of pocket due to the business rate costs.

As Business Rates will have to be paid prior to the Administrators' expenses, reducing the Rating Liability during the period of the administration will reduce the overall expense payable out of the administration assets and therefore could impact upon the administrators' remuneration.

With experts in insolvency and turnaround situations who work alongside Business Rate specialists, Sanderson Weatherall is well positioned to offer advice on minimising the rating liabilities administrators' will now be responsible for by providing the following services -

Rating Appeals – detailed recommendations on whether appeals should be lodged as well as advice on alterations to hereditaments that would minimise the rates liability. Submitting appropriate appeals and entering into negotiations with the Valuation Officer, agreeing reductions in rateable value where possible, and reporting the outcome. When reporting we will advise on the calculation of the rates demands along with savings achieved.



Should agreement with the Valuation Officer not be reached, we will make recommendations as to whether to take the matter further to the Valuation Tribunal, and if appropriate, Lands Tribunal.

Rates Management – Checking and verifying rates demands and authorising them for payment and reporting promptly for the client to make the appropriate payment. Providing detailed advice on how your rate liability can be minimised on both occupied and empty properties. Incorrect demands can be challenged with the Billing Authority. Providing budget estimates for future liabilities.

Rates Audit – an audit is not purely a mathematical exercise, but we will examine the principles behind why each rate demand has been raised whilst looking for missed opportunities to reduce rate liabilities.

Based on the information provided to us, we will recreate the liability for each assessment and compare it to the rate demands received to verify their accuracy, with the differences being closely examined.

Sanderson Weatherall has set up a Helpline to provide advice on the implications on this recent judgement. For advice on –

Rating Liability, contact Graham Isle on 0113 369 6119 or email graham.isle@sandersonweatherall.com.

Corporate Recovery contact Mark Swiers on 0113 369 6096 or email mark.swiers@sandersonweatherall.com or Edward Dry on 0161 615 7021 or email edward.dry@sandersonweatherall.com

Rating Appeals, contact Robert Brown on 0113 369 6120 or email robert.brown@sandersonweatherall.com

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Rating consultancy services

Qualified advice

RICS and IRRV qualified surveyors. Senior staff are all members of the Rating Surveyor's Association.

Rent returns

Completion of Notices Requiring a Return of Rental Information for Rating Purposes.

Forecasting

Provision of rates forecasts for budgeting purposes.

Payment

Checking and authorisation of rates demands and advice on the complex transitional arrangements (phasing). Payment of bills.

Investigation

Retrieval and thorough investigation of Valuation Office Agency (VOA) rating assessments.

Surveys

Professional rating surveys using the latest laser measurers.

Appeals

Advice on and submission of valid appeals against VOA assessments.

Negotiations

Professional negotiations with the VOA and local billing authorities.

Litigation

Expert witness appearances as necessary at Valuation Tribunal and Lands Tribunal.

Refunds and interest

Rates refunds and tracking and advice on interest due on rates overpayments.

Plant and machinery

Specialist advice on rateable plant and machinery.

Insolvency / turnaround

Advice in receivership and corporate recovery situations.

Reliefs and exemptions

Strategic advice on portfolio occupation, including empty rates and available reliefs and exemptions.

Sanderson Weatherall offer a range of advice

- Valuations of property for development appraisal, accounting, loan security, stock exchange and general purposes
- Landlord and Tenant advice in respect of rent reviews and lease renewals
- Property asset and facilities management
- Acquisition and disposal of commercial and residential property and land including high value and complex sites
- Building consultancy, building design and project management
- Rating and compulsory purchase
- Planning and development
- Investment valuation, marketing and brokerage
- Insolvency / turnaround services
- Plant and machinery valuation and disposal
- Residential land and property
- Licensed and leisure

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