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Welsh Government

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Guidance for Ratepayers

Non-Domestic Rates for Self-Catering Properties in Wales

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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About this Guidance

1. This guidance is intended to provide advice to ratepayers who are possibly liable to pay non-domestic rates on properties being commercially let for short periods as self-catering accommodation (“self-catering properties”). This guidance applies to self-catering properties in Wales only.
2. This guidance details the legislation which is used to determine how self-catering properties are rated for taxation purposes. This guidance accompanies The Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2016. It explains the criteria set out in the legislation and also provides other relevant advice for ratepayers. The guidance does not replace existing legislation.
3. Enquiries in relation to this guidance should be sent to:

By post:
Local Taxation Team
Local Government Finance Policy Division
Cathays Park 2
Cardiff
CF10 3NQ

By email:

LGFPolicy@wales.gsi.gov.uk

General information about non-domestic rates can be found on our Business Wales website via the following link:

[Business Wales - Non-Domestic Rates](#)

Introduction

How does the non-domestic rates system operate?

What are non-domestic rates?

Non-domestic rates, often known as business rates, are a tax on non-domestic property which contribute to the funding of local services. Any property that is used for commercial purposes is likely to be liable to pay non-domestic rates, although this depends on the exact nature of its use. The system applies to most forms of non-domestic premises, with some exemptions (eg. for agricultural land) and relief schemes (eg. for small businesses and charitable organisations) being applied.

What is a rateable value?

The Valuation Office Agency (VOA) is an Executive Agency of HM Revenues and Customs (HMRC) and has a statutory function to assess all business and non-domestic property in England and Wales to determine their rateable value and compile these in rating lists so non-domestic rates can be charged by relevant Local Authorities. The VOA is also responsible for the compilation and maintenance of the lists of domestic properties for Council Tax purposes.

The rateable value is a key factor in the calculation of non-domestic rates liability, and is a professional assessment of the annual rent a property would fetch at a set valuation date. The other key component is the multiplier which is set on an annual basis by Welsh Government, usually in line with inflation.

Usually every five years, the VOA carries out a revaluation of all rateable values in England and Wales to ensure that they reflect changes in the property market. The current valuation came into effect on 1 April 2010 and all properties have their rateable value assessed as at the valuation date of 1 April 2008.

A new rating list was scheduled to be compiled for 2015, however, a decision was taken by the Welsh Ministers to postpone the date of the next revaluation in Wales until 2017. The next revaluation therefore comes into effect on 1 April 2017 with a valuation date of 1 April 2015.

How are rates bills calculated?

Rateable values are a key factor in the calculation of non-domestic rates but they are not the rates bill. Local Authorities are responsible for calculating most rates bills and for collecting rates. The rateable value which is set by the VOA will be used to work out how much a ratepayer has to pay. The Local Authority will apply a factor called the multiplier, set annually by the Welsh Government, to the rateable value to give the non-domestic rates liability and any reliefs that may be available are then deducted. The multiplier for 2015-16 is 0.482.

For example:

| | |
|-------------------------------|---------------|
| Rateable value of property | £15,000 |
| Multiplier for 2015-16 | <u>0.482</u> |
| Rates bill for 2015-16 | £7,230 |

What factors will be taken into account to determine the rateable value?

When the VOA assesses the rateable value of properties such as shops, offices or industrial premises, there is plenty of rental evidence available to make appropriate comparisons. With self-catering property, assessments are still carried out in this way if possible. Gross receipts also have to be taken into consideration as a guide to the potential income the property can generate. This provides a sound basis to determine how much an operator would pay in rent for the property. This method is known as the 'receipts and expenditure' method of valuation.

For certain self-catering properties, such as holiday cottages or apartments, annual rental evidence may not always be available. In the absence of such evidence an analysis using the price per bed space of each individual property is applied, whilst also taking into account the property's type, size and location, to determine its rateable value.

The price per single bed space is calculated by looking at the profitability levels of a range of similar self-catering properties. The VOA looks at the total income (excluding VAT) that a typical property generates and then deducts the associated costs such as:

- Maintenance for the property and garden
- Water rates
- TV licences
- Depreciation of fixtures.

The calculation does not include the cost of any loan or mortgage used to buy the property. This valuation methodology was used by the VOA for the 2010 valuation.

What can I do if I have reason to believe that the rateable value is wrong?

If you have reason to believe that the rateable value that has been allocated to your property is incorrect, you should contact your local Valuation Office who will be able to deal with your enquiry and respond to your questions. If you still feel that your rateable value is incorrect, a formal proposal may be made to the VOA to alter the list in which the rateable value is specified.

A proposal may be made in respect of a number of matters, including in relation to the rateable value and if the date on which a previous alteration of the list has come into force is wrong. A proposal cannot be made if a proposal in respect of the same property, on the same grounds and arising from the same event has already been made during the 'life' of the list. You can complete a proposal form online at www.voa.gov.uk, or you can obtain one from your local Valuation Office.

If an agreement cannot be reached with the VOA or you are not satisfied with the decision, the valuation officer must, free of charge, refer the matter as an appeal to the independent Valuation Tribunal for Wales. The following link provides their contact details:

<http://www.valuation-tribunals-wales.org.uk/contact-us.html>

How will my self-catering property be assessed for rates?

A property is domestic and therefore subject to council tax if it is used wholly for the purpose of living accommodation. However, from 1 April 2010 in Wales, property is non-domestic, and therefore liable for non-domestic rates, if the VOA is satisfied that:

- it will be available for letting **commercially** as self-catering accommodation for short periods totalling 140 days or more in the following 12 month period;
- the ratepayer's interest in the property enables them to let it for such periods;
- in the 12 months prior to assessment it has been available for letting commercially as self-catering accommodation for short periods totalling 140 days or more; **and**
- the short periods it has actually been commercially let total at least 70 days during that period.

Ratepayers must continue to satisfy the non-domestic rates criteria for each property, for each 12-month period. Otherwise, unless the property falls within any other category of non-domestic property, the property is likely to be considered "domestic" and would be subject to an assessment of liability to council tax.

The criteria set out in the bullets above are found in section 66(2BB) of the Local Government Finance Act 1988 ("the 1988 Act"). The criteria were inserted by the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2010 ("the 2010 Order"), which can be found at the link below:

<http://www.legislation.gov.uk/wsi/2010/682/contents/made>

From 1 April 2016 in Wales, the criteria above will continue to apply but there will be a new provision so that:

- businesses consisting of several self-catering properties at the same location or within very close proximity have the option to average the number of lettings days of the properties to meet the 70-day criterion where they are let by the same or connected businesses.

The criteria currently found in section 66(2BB) of the 1988 Act, as inserted by the 2010 Order, remain and the new 2016 Order simply amends the criterion relating to the number of days let from 1 April 2016.

The Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2016 ("the 2016 Order"), can be found at the link below: <http://www.legislation.gov.uk/wsi/2016/31/contents/made>

It is the responsibility of the VOA to maintain the non-domestic rating lists. Any change in circumstances, including failing to meet the criteria in section 66(2BB) of the 1988 Act, should be reflected in the lists. Once the VOA has assessed the property and has reached its determination, it is then responsible for notifying the relevant Local Authority in order for the appropriate charge to be raised.

To assist you in verifying whether you meet the criteria, a checklist with further information has been produced. This can be found in Annex 1.

How is 'commercial basis' defined?

To fall within the definition of non-domestic property by virtue of section 66(2BB) of the 1988 Act, properties must be let commercially. Section 66(8A) of the 1988 Act defines "commercially" for the purposes of section 66 as on a commercial basis, and with a view to the realisation of profits.

To fall within the definition of 'commercially' for the purposes of section 66 of the 1988 Act will usually mean the property being let at market rates and actively advertised for example using holiday cottage websites, estate agents, tourist board, Visit Wales web pages. It is recognised that reduced low season price lettings may produce little or no profit but this letting may still be treated as commercial depending on the specific circumstances, for example the receipts could help towards the cost of maintaining the property during quieter periods. On the other hand, lettings to friends or relatives at zero or nominal rents are not likely to be considered commercial and should not be taken into account when applying the criteria in section 66(2BB) of the 1988 Act to the property.

It is for the ratepayer to demonstrate to the satisfaction of the VOA that the property has met the necessary criteria to be classed as non-domestic property. Consequently, a property used wholly for the purposes of living accommodation is considered domestic and liable for Council Tax until such time as the ratepayer

provides sufficient evidence to the VOA that a particular property is being commercially let and in accordance with the requirements set out in section 66(2BB) of the 1988 Act.

What information will I need to submit to the Valuation Office Agency?

The Valuation Office Agency issue forms called 'Requests for information'. One of them – VO6048 – has been designed specifically for self-catering units and holiday cottages. The information provided on this form is used to help ensure that the assessment of rateable values is correct.

The form asks a variety of questions about the way a ratepayer manages the letting of the property. The answers provided are intended to ensure that the VOA are able to take into account not only gross receipts but differences in tariffs, marketing, levels of service, or quality of furnishings and provision of other non-rateable items when assessing the rateable value of the property.

The form determines:

- the potential receipts from the property, if it is let as a business for self-catering purposes;
- the expenses that are reasonably likely to be incurred in achieving those lettings; and
- the balance between receipts and expenses. The return the proprietor would expect for running the business and the amount available to pay rent and/or expenses for the property is considered.

You may be asked to, or wish to, consider providing supplementary evidence to support the data supplied on the form, for example in the form of financial accounts of your business, your marketing of the property, or evidence of lettings such as a guest book or calendar bookings.

A link to the Requests for Information form VO6048 can be found in the link below:

<https://www.gov.uk/government/publications/request-for-rental-information-self-catering-holiday-homes>

If you are in any doubt about what information is required by the VOA, you should contact your local office, either online via the link below or by telephone on 03000 505505.

<https://www.gov.uk/valuation-offices-business-rates>

If you receive a request for information from the VOA, it is important you return the form within 56 days from the day you receive it. If you do not return the form within 56 days, you will be liable to a penalty of £100. Failure to pay the £100 penalty within 21 days will result in a further £100 penalty with a subsequent £20 penalty for each day the original penalty remains unpaid up to a maximum of £500 or the rateable

value of the property, whichever is the greatest. These penalties are set out in paragraph 5A of Schedule 9 to the 1988 Act as outlined in the following link:

<http://www.legislation.gov.uk/ukpga/1988/41/schedule/9>

It is also important to note that the non-return of requested information within the required deadlines could also lead to the re-classification of your property from non-domestic to domestic for rating purposes as you will have failed to provide evidence of having met the criteria. This means the property will be assessed for Council Tax from the date it is deemed to have been a domestic dwelling and could result in you receiving a backdated Council Tax bill.

There are also consequences of providing false information. If a ratepayer makes a statement which they know to be false in a material particular or recklessly makes a statement which is false in a material particular, they are guilty of an offence and are liable to imprisonment for a term not exceeding three months or to a fine not exceeding £1000, or both. The supply of false statements to the Valuation Office Agency could lead to prosecution. Offences under the Fraud Act 2006 (fraud by false representation and fraud by failing to disclose information) may also be relevant in certain circumstances. A person guilty of an offence of fraud under section 1 of the Fraud Act 2006 is liable to imprisonment of up to ten years or to a fine, or both.

What about submission of information if I own multiple properties?

The Valuation Office Agency's Rating Contact (VORC) Scheme is tailor-made for owners or occupiers of multiple sites. It is designed specifically to make it easier for you to submit property details and rental information to the VOA, by aiming to remove the need for completion of individual paper based forms. The scheme will assist businesses by saving time and money in supplying information electronically for all their properties at one time.

If you own or occupy a large number of properties and would like to take advantage of the benefits of the VORC scheme, which is free and confidential, please contact the VOA Market Information Team at the following email address:

vorc@voa.gsi.gov.uk.

What happens if I decide to let my self-catering property on a long-term tenancy?

If you let the property on a long-term basis (normally regarded by the VOA as 60 days or more) so that it becomes, for example, someone's sole or main residence, then it will no longer be liable for a rating assessment because it has become domestic property. If it is assessed for rating purposes, the entry will be deleted from the rating list and it will be 'banded' for Council Tax from the date when it became a domestic dwelling.

If I let my self-catering property for less than 70 days in the year, is the property still non-domestic and therefore liable for non-domestic rates?

No, if the property was available for letting for 140 days or more, but was only let for 69 days or less, then the property is domestic and a Council Tax band will be applicable for the property and the ratepayer will be liable for Council Tax.

The only exception to this is where a ratepayer lets a number of self-catering properties situated at the same location or within very close proximity to each other as part of the same or connected businesses. In such circumstances the ratepayer has the option to average the number of lettings days across their properties to meet the 70-day criterion for the business as a whole but the commerciality criteria must still be met in respect of every property.

From what date will the rateable value be effective?

A new or existing property that becomes available for letting as a self-catering property will initially be allocated a Council Tax band. To be classed as non-domestic under section 66(2BB) of the 1988 Act a property must first satisfy the criteria set out in that provision. There will be a date at which the property has been commercially available for 140 days, and a date on which it has been let for 70 days in the previous 12 months. Providing it will continue to be commercially available for 140 days in the following 12 months, the start date will be from the later of these two dates. This is called the 'effective date'. If these criteria are not met, the property will remain banded in the Council Tax list.

What happens when a property stops being classified as a self-catering property?

Subject to the standard assessment by the Valuation Office Agency, this can happen in a number of ways. These may include:

- a property is sold and the new owner intends to use the property as a domestic dwelling
- a property is used for private occupation
- the property has not been made available for short term lets for at least 140 days within the past year
- the property is not to be available for short term lets totalling at least 140 days during the following year
- the property has not been actually let for 70 days within the past year
- the business is closed.

In such cases, the premises would be assessed as domestic and therefore revert to Council Tax for rating purposes and will be assessed accordingly. In the scenario where a property is sold as a going concern, provided that the property in the 12 months prior to sale and the 12 months following sale satisfied the relevant

conditions, the property would continue to be treated as non-domestic and therefore subject to non-domestic rates.

Please note that it is the ratepayers' responsibility to notify the VOA if there has been a change of circumstances such as those listed above. Failure to do so could result in a large backdated Council Tax bill.

Local Authorities currently have the discretion to apply Council Tax discounts of up to 50% on second homes, but also have the discretion to remove the discount, ie. to charge full Council Tax. Your Local Authority will be able to provide advice on what its policy is regarding Council Tax on second homes.

The National Assembly for Wales has recently passed the Housing (Wales) Act 2014 which will give Local Authorities discretionary powers to charge a Council Tax premium of up to 100% of the standard rate of Council Tax on second homes in their area. It is currently the intention that Local Authorities will be able to charge the premium in their areas from April 2017. As these powers are discretionary, Local Authorities will be able to consider their local needs and circumstances before deciding whether or not to charge the premium.

What if my property does not meet the criteria due to exceptional circumstances?

If your property is unavailable to let for 140 days or not actually let for 70 days due to adverse or unforeseen circumstances, such as flooding, which has resulted in damage to the building, this could result in your property being classed as domestic and therefore subject to an assessment for Council Tax.

A property classed as a domestic property would be subject to all the exemptions and discounts available in relation to Council Tax. For example, article 3 of the Council Tax (Exempt Dwellings) Order 1992 provides for circumstances where a dwelling is to be exempt from Council Tax. Class A provides that a dwelling that is vacant, substantially unfurnished and requires or is undergoing major repair work or structural alteration is exempt for a period of 12 months. Class C provides an exemption for properties which have been empty for a continuous period of less than six months and are substantially unfurnished.

Local Authorities also have discretionary powers under section 13A(1)(c) of the Local Government Finance Act 1992 to award hardship relief in respect of Council Tax liabilities. You should contact your Local Authority in this instance who can advise if you are eligible for such a Council Tax exemption, discount or discretionary relief.

If your property comes back into use as a self-catering let and you can provide evidence to support 140 days available to let and 70 days of actual lettings in the previous 12 months, then you can apply to the Valuation Office Agency to be re-assessed for non-domestic rating purposes.

I am being assessed as having a domestic dwelling although my property only has planning permission to be used as a self-catering business. Why is this?

Planning and Local Taxation regimes operate completely independently of each other and therefore use differing criteria so it is possible to be rated for Council Tax as a domestic property but to be classed as a self-catering property for planning purposes. Therefore, it is important for you to seek to meet the 70-day and 140-day criteria if you wish to be rated for non-domestic rates.

What support is available for self-catering businesses?

There are a number of reliefs available to assist businesses, including the Small Business Rates Relief scheme. Full details of this scheme and other types of relief available can be found here:

<http://business.wales.gov.uk/running-business/tax-corporation-tax-allowances-business-rates-vat/business-rates-relief-in-wales>

Rates reliefs only apply to properties which are classed as non-domestic so such schemes would not apply if your property reverts to a domestic dwelling because the necessary criteria are no longer met.

Ratepayers may also in certain circumstances ask for their rates bills to be split over 12 months rather than the normal 10 months. This is also available for properties which have been assessed as liable for Council Tax. Further information can be obtained from your Local Authority.

Local Authorities also have discretionary powers to grant discounts and will be able to advise how you can apply for such a discount. You should contact your Local Authority for further details. These powers are granted under Section 47 of the 1988 Act.

Help and support for businesses in Wales can be found on our Business Wales website, the link to which is attached below:

<http://business.wales.gov.uk/>

In terms of assistance in promoting and marketing your property, Visit Wales offers support to owners of self-catering properties by offering a booking service and marketing tool via the Visit Wales webpages.

More information and frequently asked questions can be found in the link below:

<http://www.visitwales.com/working-with-us>

Annex 1 – Self-catering checklist for ratepayers

Checklist of the criteria that must be met for a property to be classed as non-domestic

Your property must satisfy the conditions in the following order if a letting is to qualify to be assessed for non-domestic rates. Please note that to be considered for the purposes of conditions (2) and (3), the relevant letting days must satisfy the first condition.

1) The commerciality condition

In the first instance, the property must be let on a commercial basis with a view to making a profit. Any non-commercial lettings, for example lettings to family and friends for nominal amounts, would not count towards commercial lettings.

2) The availability criteria

The property must have been available for commercial letting in the 12 months prior to assessment for short periods totalling 140 days or more. In addition, the ratepayer must intend for the property to be available for letting commercially for short periods totalling 140 days or more in the following 12-month period.

3) The letting criteria

In the 12-month period prior to assessment, the property is let commercially for at least 70 days.

Averaging

From 1 April 2016, if you have more than one property and they are at the same location or within very close proximity of each other for the same or connected businesses, eg. a farm with a number of outbuildings converted for self-catering accommodation use, then the 'averaging' method may provide some assistance if you have a property which meets the letting criteria in some years but not others. An example is given below.

Worked example – averaging

| | Number of days commercially let |
|--------------|--|
| Property 1 | 120 |
| Property 2 | 125 |
| Property 3 | 112 |
| Property 4 | 64 |
| Total | 421 |

Average $421/4 = 105$

Using the averaging method allows all four properties located within close proximity of each other to meet the letting criteria. Without averaging, Property 4 would not meet the criteria in that year and would be classes as domestic. Please note that even with the averaging option, the commerciality criteria must be met. For example, if a property has only been let for ten days, this might meet the average requirement but not be considered as a commercial letting.