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Chief Executives and Directors of Finance of Scottish Local Authorities
Chief Executive, Convention of Scottish Local Authorities (COSLA)

Our ref: A12676666
31 May 2016

Dear Sir / Madam,

**NON-DOMESTIC RATES RELIEF: INFORMATION FOR SCOTTISH LOCAL
AUTHORITIES**

1. Please see enclosed at Annex A information relating to current arrangements for non-domestic rates relief.
2. This is offered in light of recent changes to reliefs in respect of 2016-17, and the provisions relating to further reductions by local authorities in the Community Empowerment (Scotland) Act 2015.
3. The information was compiled with the involvement of officers from COSLA and from a number of local authorities representing the Institute of Revenues, Rating and Valuation (IRRV). The Scottish Government is grateful for this expert input.
4. I hope the document is useful, and would be happy to discuss any comments or queries. My contact details are above.

Yours faithfully,

DOUGIE MCLAREN

Local Government & Analytical Services Division

Non-domestic rates relief: information for Scottish local authorities

May 2016

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INTRODUCTION

Non-domestic rates relief

1. Non-domestic rates (NDR), often referred to as business rates, are levied on non-domestic properties, subject to statutory exemptions and reliefs. The NDR framework for Scotland is devolved to the Scottish Parliament and Scottish Government, and although broadly similar is different in detail from arrangements in the rest of the UK.
2. Valuation of non-domestic properties is undertaken independently by the Scottish Assessors, subject to statutory appeal processes, with all valuations freely accessible at www.saa.gov.uk. Scottish Ministers annually set a national poundage, which is applied to a property's rateable value (RV). Rating, including billing, collection, enforcement and determination of rates relief, is undertaken by local authorities. A ratepayer may appeal to the council on the grounds that they are being improperly charged¹.
3. Certain types of properties are statutorily exempt from business rates, either through exclusion from the valuation roll (e.g. agricultural land and buildings) or exemption from rating² (e.g. churches, lighthouses, fishings).
4. A number of reliefs are available for certain types of property nationally under Scottish law. These are subject where applicable to European Commission rules on State aid. Some reliefs are mandatory (i.e. they must be applied) and some are discretionary (i.e. local authorities have discretion as to their application).
5. Under the Community Empowerment (Scotland) Act 2015, local authorities now also have the power to offer further rates reductions in their area.

This document

6. Information in this document is provided by the Scottish Government, in conjunction with the Convention of Scottish Local Authorities (COSLA), to Scottish local authorities.
7. The document has no statutory basis, is offered without prejudice to relevant legislation and legal decisions, and does not constitute legal advice. There is no obligation on anyone to refer to it at any stage.
8. The document was developed by a working group of officers from the Scottish Government, COSLA and a number of local authorities representing the Institute of Revenues Rating and Valuation (IRRV). A draft was shared for comment with all local authorities ahead of finalising this version.
9. The document addresses certain issues with the purpose of informing a mutual understanding amongst local authority practitioners. It includes general information relating across the different reliefs, and specific information relating to each relief.

¹ under section 238 of the Local Government (Scotland) Act 1947

² Properties may be in the valuation roll but exempt from rating.

10. Given their responsibilities for managing public funds, it is up to local authorities to ensure procedures for administering relief, including reviewing and re-application processes, are suitably robust, including for audit purposes.
11. The relevant legislative provisions have changed over the years and may do so in future, and therefore this document is only intended to be accurate in relation to the time of publication. It may be revised in future, in light of any changes to the NDR framework.
12. This document refers to amended legislation rather than amending legislation. For example, The Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994 have to date been subject to a number of amendments – and reference is made to the 1994 Regulations as amended.

STATE AID

13. State aid is a European Commission (EC) consideration of public assistance, given to undertakings on a discretionary basis and having the potential to distort competition and affect trade between Member States of the European Union.
14. Relief from the payment of rates reduces an undertaking's current expenditure, and so can be regarded as State aid. Any measure intended partially or wholly to exempt firms in a particular sector from the charges arising from the normal application of the general system, where there is no justification for such exemption on the basis of the nature or general scheme of this system, can constitute State aid³. Therefore, where a tax measure, such as rates relief, distorts competition by favouring selected undertakings, for example by region or by sector, then it should comply with the State aid regulations.
15. Before the State aid tests can be applied it is necessary to determine the following two aspects :
 - (i) Is the beneficiary an undertaking? An undertaking is defined as any entity, regardless of its legal status, which is engaged in economic (commercial/competitive) activity relating to a market in comparable goods or services.
 - (ii) Is an undertaking engaged in economic activity? This is defined as offering goods and/or services on a given market and which could, at least in principle, be carried out by a private operator for remuneration in order to make profits.
16. Most recipients of rates relief are businesses and will be regarded as undertakings. However those recipients that deliver non-economic activity, i.e. not operating in a commercial market for goods and services, mainly serving a local area and whose objectives are, for example, religious, educational, social welfare, science, culturally based literature or arts, are not regarded as undertakings. The legal status of an organisation is not relevant for State aid purposes; only the activity that the public support relates to should be considered.

³ Case 173/73 Italy v Commission [1974] ECR 709

17. General measures applied to all enterprises do not constitute State aid (examples include general taxation measures or employment legislation).

18. There are four key tests which need to be considered in order to establish whether a measure constitutes State aid. If an organisation is deemed an undertaking, then these tests must be applied to determine whether State aid applies. The tests are cumulative and all four must be met for State aid to be present:

- i. There has been an intervention by the State or through State resources which can take a variety of forms (e.g. grants, interest and tax reliefs);
- ii. The intervention gives the recipient an advantage on a selective basis, for example to specific companies or industry sectors, or to companies located in specific regions;
- iii. Competition has been or may be distorted; and
- iv. The intervention is likely to affect trade between Member States.

19. If aid is present, the cash grant equivalent of the aid needs to be calculated as the difference between the standard non-domestic rate liability and the reduced rate offered. The aid may then be able to be awarded compatibly using the de minimis regulation⁴.

20. The European Commission considers that public funding to a single recipient of up to €200,000 over a three-year period has a negligible impact on trade and competition, and does not require notification. The de minimis funding any single recipient can receive is therefore up to €200,000 (cash grant equivalent) over any three-year period. The sterling equivalent is calculated using the Commission exchange rate applicable on the written date of offer of the de minimis funding.

21. This ceiling takes into account all public assistance given as de minimis funding over the three-year period, which can take various forms (grants, loans, subsidised contracts, etc). Aid given under an approved scheme does not have to be cumulated with de minimis aid, provided any such de minimis aid is not awarded towards the same eligible costs as those supported via that approved scheme⁵.

22. When considering de minimis aid, councils should:

- ensure that the new award itself does not breach the relevant ceiling of the beneficiary over a three-year period;
- ask the prospective beneficiary about any de minimis aid received during the year for which aid is being considered and the previous two years, and then determine how much, if any, de minimis aid can be awarded without breaching the relevant ceiling; and
- inform the recipient explicitly that it is de minimis aid they are receiving, for their reference.

23. The European Court of Justice has ruled that all entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as a single undertaking. Individual subsidiaries or branches of such an undertaking cannot

⁴ see http://ec.europa.eu/competition/state_aid/legislation/de_minimis_regulation_en.pdf

⁵ see www.gov.scot/Topics/Government/State-Aid/if-its-aid/deminimis

therefore be treated as separate entities and awarded separate allocations of de minimis aid⁶.

24. The State aid position of each relief is covered in the respective sections of this document. In practice, given that NDR liability accrues on a daily basis, relief can end mid-year once the de minimis amount is reached and then be withheld until such time within a rolling three-year period that relief can again be awarded in line with the de minimis regulation.

GENERAL INFORMATION

25. Determination of each relief by the council is generally based on an application from the rateable occupier (for some reliefs an application is statutorily required). To determine the amount of relief to be awarded, local authorities should take steps as they see fit to ensure they have complete, accurate and up-to-date information on all properties occupied by the applicant in Scotland, i.e. across all local authority areas. Application is made to each local authority in whose area the business property for which relief is sought is located, and separate application made for each relief. Applicants should provide details of all non-domestic properties in Scotland which they own, lease or are entitled to occupy, regardless of whether they are occupied or vacant.
26. The applicant must be listed as the property's rateable occupier in the council's assessment roll, or authorised to apply on behalf of the rateable occupier.
27. An application for a relief to which State aid rules apply must declare all other public assistance received (see State aid section above). The local authority should consider undertaking due diligence. Any application not providing correct information may be considered fraudulent, in which case appropriate action may be taken against the applicant.
28. For some reliefs, such as Empty Property Relief or Charity Relief, the council may require the applicant to supply independent documentary evidence in support of their application. Generally, provision of a minimum of three pieces of supporting evidence in support of an application would be considered reasonable, unless council officials are satisfied no further evidence is required. Examples of documentary evidence required in support of applications for certain reliefs are at Annex A. A council may decide that a single letter, e.g. from a surveyor, agent, regulator or law-enforcement organisation, on its own is not sufficient evidence.
29. A completed application form signed and dated by the rateable occupier is necessary for the local authority to begin its consideration. A sample application for the Small Business Bonus Scheme is at Annex B. Local authorities may accept applications by email, and this is to be encouraged.
30. Recurrent annual applications are not necessarily required; for example, a re-application cycle may align with the revaluation cycle (generally five-yearly).
31. A property may be eligible to receive more than one form of rates relief. In such cases, when determining which rates relief to award, councils are encouraged to

⁶ see www.gov.scot/Topics/Government/State-Aid/if-its-aid/deminimis/DeMinimis-FAQ

award the relief that gives the greatest financial benefit to the ratepayer. For example, if an industrial property has been determined eligible for Empty Property Relief and has a rateable value between £10,001 and £12,000, the property would be eligible to receive 100% rates relief for the first six months of non-occupation, and 50% rates relief thereafter under the Small Business Bonus Scheme.

32. Relief applications relating to utilities valued under the designated assessors regime⁷ should be passed to the relevant billing authority as follows:

- electricity – South Lanarkshire Council
- water – Fife Council
- gas – West Dunbartonshire Council
- docks and harbours – Falkirk Council
- railways – Highland Council
- canals – Highland Council
- fixed-line telecommunications – Renfrewshire Council

33. Some reliefs are mandatory, i.e. if the applicant is deemed eligible then the relief must be awarded.

34. Some reliefs are discretionary, i.e. if the applicant is deemed eligible then the relief may be awarded. The cost of discretionary reliefs is generally 75% funded by the Scottish Government and 25% by the awarding council⁸. The discretionary reliefs are:

- Charity Relief ‘top-up’ from 80% to 100% for OSCR⁹-registered charities;
- Charity Relief of up to 100% for certain other not-for-profit organisations;
- ‘topping up’ Sports Club Relief from 80 to 100%;
- elements of Rural Relief
- Hardship Relief
- Stud Farms Relief

CHARITY RELIEF

35. The key legislation is Section 4 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962.

36. Properties that are either (i) occupied by a charity in the Scottish Charity Register¹⁰, or by trustees thereof, and used wholly or mainly for charitable purposes, or (ii) held on trust for use as an almshouse, may be entitled to 80% mandatory rates relief. The local authority also has discretion to ‘top up’ this relief to 100%.

⁷ The Non-Domestic Rating (Valuation of Utilities) (Scotland) Order 2005, as amended

⁸ An exception is sports clubs, for which discretionary relief is fully funded by the Scottish Government.

⁹ Office of the Scottish Charity Regulator

¹⁰ www.oscr.org.uk/charities/search-scottish-charity-register

37. The local authority determines whether occupation is wholly or mainly for charitable purposes. A trading arm of a charity, which is itself a separate entity that is not a charity, may not be eligible for mandatory relief. For charity shops to be eligible, their use must be wholly or mainly for the sale of goods donated to the charity and the proceeds of sale (after expenses) must be applied for the purposes of the charity. To inform this consideration, the relative proportion of new and donated goods sold on the premises may be requested from the occupier.
38. Properties occupied by certain other not-for-profit organisations are eligible to receive up to 100% relief at the discretion of the local authority. To qualify, the purpose of occupation must mainly be either:
- i. charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or
 - ii. recreation.
39. Local authorities may have their own policies for awarding discretionary relief. Some current examples of eligibility criteria are:
- premises does not hold a liquor or gaming licence;
 - premises is not used to carry out commercial operations;
 - the organisation benefits the community.
40. A separate application will normally be required for each rateable property. Joint occupation or use of the premises with another party that does not meet the criteria may affect eligibility. Full details must be provided or the application could be deemed fraudulent and action taken against the applicant. For organisations not registered with OSCR, the local authority may ask for details of their constitution. Where there is any doubt, local authorities may visit the premises.
41. The 80% mandatory relief appears to be available across the UK and could be regarded as a general measure and therefore unlikely to be State aid. Any discretionary relief applying to activity not economic in nature is also unlikely to be aid. For charity shops and other commercial activity, a State aid assessment will need to be made and the four tests applied. If State aid is found to be present, then relief may be able to be awarded as de minimis.

DISABLED RATES RELIEF

42. The key legislation is the Rating (Disabled Persons) Act 1978.

43. Up to 100% relief may be available where:

- residential accommodation is provided for the care or aftercare of people who are disabled,
- facilities are provided for the training of people who are disabled; or
- welfare services or workshops for disabled persons are provided.

44. The applicant will generally be asked to confirm the percentage of floor space used for the qualifying purposes. Floor plans relating to the qualifying area, or area for which relief is to be applied, may also be requested.

45. To determine the eligibility for care homes, the council may request confirmation of registration with Social Care and Social Work Improvement Scotland (otherwise known as the Care Inspectorate).
46. If the property is deemed eligible and the qualifying area has been confirmed at 100%, then the council will generally award 100% rates relief.
47. If the property is deemed eligible and the qualifying area has been confirmed at less than 100%, the council will generally request the Assessor to apportion qualifying parts of the property. The percentage of qualifying area will be used to calculate the percentage of relief to be awarded, provided the qualifying area is greater than 50%.
48. The 100% mandatory element appears to be available across the UK and could be regarded as a general measure and therefore unlikely to be State aid.

EMPTY PROPERTY RELIEF

49. The key legislation is sections 24 to 25 of the Local Government (Scotland) Act 1966 and the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994 as amended.
50. Unoccupied property meeting any of the criteria below is not liable for rates:
- property not comprising one or more buildings or a part of a building
 - listed buildings
 - subject of a building preservation order
 - rateable value under £1,700
 - owner in administration (or subject to an administration order)
 - owner is a company or limited liability partnership subject to a winding-up order made under the Insolvency Act 1986 or being wound up voluntarily under that Act
 - occupation prohibited by law
 - action taken by or on behalf of the Crown or any public authority with a view to prohibiting occupation or to acquisition (e.g. compulsory purchase order)
 - person entitled to possession only so entitled as a liquidator, as the trustee under a trust deed for creditors or an award of sequestration, or as the executor of a deceased person's estate
51. For properties prohibited by law from occupation, a rates exemption would be granted where legal action had been taken to prevent its use. However, if legal action had been taken to prevent one particular person or trade from using the property, then it would be unlikely to be exempt unless that person was the owner.
52. Unoccupied industrial property is eligible for 100% relief for the first six months since becoming unoccupied and thereafter 10% indefinitely. Other (non-industrial) unoccupied property is eligible for 50% relief for the first three months since becoming unoccupied and thereafter 10% indefinitely. A change of ratepayer does not affect the qualifying time period.

53. For this purpose, a property is treated as if it had been unoccupied during any period of occupation that ended within six weeks of when it started.
54. Any unoccupied property that is rateable is, for the purposes of determining charity relief eligibility, treated as if it is being used for the purpose for which it was used when last occupied.¹¹ It may not however be eligible for charity relief unless the proprietor (or the party entitled to occupation) also satisfies the relevant criteria (see charity relief section).
55. Part occupation¹²: if it appears to the council that part of a property is unoccupied but will remain so for a short time only, it may ask the Assessor to apportion the rateable value between the occupied and unoccupied parts. In that case, the Assessor must apportion accordingly, and the following applies. The rateable value for the whole property is taken for rating purposes to be the apportioned value of the occupied portion plus a percentage of the apportioned value of the unoccupied portion. That percentage is 0% for industrial property empty for up to six months; 90% for industrial property empty for over six months; 50% for non-industrial property empty for up to three months; 90% for non-industrial property empty for over three months.
56. Part occupation is generally considered when a ratepayer can clearly evidence that part of the property is empty. The start date for relief is the later of the date part occupation commenced or the start of the financial year in which the council's request was made to the Assessor. The end date is the earliest of: the end of the part occupation; the end of the financial year in which the council's request was made to the Assessor; a further apportionment being made; or the property become fully unoccupied. The council may extend the duration into the following financial year.
57. Plant and machinery can be kept on property without that being classed as occupation¹³.
58. Empty property relief could be regarded as a general measure and therefore unlikely to be State aid.

ENTERPRISE AREAS RELIEF

59. The key legislation is The Non-Domestic Rates (Enterprise Areas) (Scotland) Regulations 2016¹⁴.
60. Properties concerned with specific sectors in four defined Enterprise Areas, each of which comprises a number of defined geographic locations (see Table 1), may be eligible. Boundaries for each location are set out in a published series of maps¹⁵. Reliefs and thresholds are set out in Table 2.
61. Dundee Port, Nigg and part of Irvine are within the wider Enterprise Area strategic locations, but are not eligible for rates relief.

¹¹ under Section 24(4) of the Local Government (Scotland) Act 1966

¹² Section 24A of the Local Government (Scotland) Act 1966, and the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994 as amended

¹³ under Section 24B of the Local Government (Scotland) Act 1966

¹⁴ Eligibility is currently due to expire on 31 March 2020.

¹⁵ www.scotland.gov.uk/Topics/Economy/EconomicStrategy/Enterprise-Areas

Table 1: Enterprise Areas subject to rates relief (including local authority area)

Life Sciences	Low Carbon / Renewables North
<ul style="list-style-type: none"> • Irvine – part of site (North Ayrshire) • Forres (Moray) • Inverness Campus (Highland) • BioQuarter (Edinburgh) • BioCampus (Midlothian) • BioCity (North Lanarkshire) 	<ul style="list-style-type: none"> • Hatston (Orkney) • Arnish (Western Isles) • Scrabster (Highland) • Lyness (Orkney)
General Manufacturing & Growth Sectors	Low Carbon / Renewables East
<ul style="list-style-type: none"> • Creative Clyde (Glasgow City) • Prestwick International – Aerospace (South Ayrshire) • West Lothian – Food and drink manufacturing (West Lothian) 	<ul style="list-style-type: none"> • Leith (Edinburgh)

Table 2: Enterprise Areas reliefs and thresholds

Rateable Value	Rates relief
£120,000 or less	100%
Over £120,000 and up to £240,000	50%
Over £240,000 and up to £480,000	25%
Over £480,000 and up to £1,200,000	10%
Over £1,200,000 and up to £2,400,000	5%
Over £2,400,000	2.5%

62. Only businesses undertaking certain activity in each area, as defined at Annex C, are eligible. Only new-build properties (entered in the valuation roll after 1 April 2012) or properties which were vacant for at least a three-month period are eligible.

63. As the activity is commercial in nature and the recipients receive an advantage on a selective basis due to the geographic restrictions that apply, State aid is deemed to be present. The relief can be awarded only as de minimis.

FRESH START

64. The key legislation is Regulation 4 of The Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994¹⁶ as amended.

65. Mandatory relief of 50% is available for a period of up to 12 months, for certain occupied premises.

66. All the following criteria must be met:

- the property has been in receipt of empty property relief for a continuous period of at least 12 months immediately prior to the applicant's occupation;
- the property has a rateable value of up to £65,000; and
- when last occupied, the property was used as a shop, office, pub, hotel or restaurant regardless of what the intended future use is to be; or, where there was not a previous use, that the property is intended to be used as a shop, office, pub, hotel or restaurant.

67. Fresh Start relief cannot be awarded alongside other rates relief to the same property. However, if one of several properties with the same occupier is eligible for Fresh Start, then the others may be eligible for different rates relief.

68. As the activity is commercial in nature and the recipients receive an advantage on a selective basis due the sectoral restrictions that apply, State aid is deemed to be present and accordingly the relief can only be awarded as de minimis.

HARDSHIP RELIEF

69. The key legislation is section 25A of the Local Government (Scotland) Act 1966.

70. A local authority may award up to 100% relief if the applicant would otherwise sustain hardship, and if doing so was reasonable in light of the interests of council tax payers.

71. If the applicant's activity was commercial in nature, then relief would confer an advantage on a selective basis, and State aid would be deemed to be present, in which case the relief could only be awarded as de minimis. Please refer to the de minimis regulation for a definition of and the support available for firms in difficulty¹⁷.

MOBILE MASTS RELIEF

72. The key legislation is The Non-Domestic Rates (Telecommunication Installations) (Scotland) Regulations 2016.¹⁸

73. Relief is awarded to mobile masts or towers in three 'Mobile Masts Pilot Areas' (two in Arran and one in Cairngorm¹⁹) entered in the valuation roll on or after 1 April 2016.

¹⁶ Eligibility is currently due to expire on 31 March 2017.

¹⁷ http://ec.europa.eu/competition/state_aid/legislation/de_minimis_regulation_en.pdf

¹⁸ The Non-Domestic Rates (Telecommunications and Canals) (Scotland) Amendment Order 2016 provides that masts to which the relief applies receive separate entries in the valuation roll.

Relief can be awarded between 1 April 2016 and 31 March 2021. An application to the council is required.

74. As the activity is commercial in nature and the recipients receive an advantage on a selective basis due to the sectoral restrictions that apply, State aid is deemed to be present and accordingly the relief can only be awarded as de minimis.

NEW START

75. The key legislation is Part 1A of the Schedule to the Non-Domestic Rating (Unoccupied Property) (Scotland) Regulations 1994 as amended.

76. Mandatory relief of 100% is available to certain newly built properties which are empty at the time of entry in the valuation roll and then empty for up to 15 months (this need not be a continuous period).

77. Relief can be awarded if the following criteria are all met :

- the property is first entered in the valuation roll between 1 April 2013 and 31 March 2017;
- the property is unoccupied at the time of entry on the roll;
- the new entry is not a result of a combination or division of a building already on the roll, and not a result of refurbishment or change of use of an existing building (including domestic property or other property exempt from rating); and
- application for relief is made to the council.

78. Relief can be awarded in respect of the period 2013-14 to 2018-19, and is applicable to a discontinuous period of up to 15 months, if the property moves in and out of occupancy. An application can be granted no later than 15 months after the property was entered on the roll or, if there was occupation during the initial 15-month period, no later than 15 months plus the periods of occupation after the property was entered on the roll.

79. Interaction with empty property relief depends on whether and when an application for New Start relief has been made. E.g. a property eligible for New Start relief may receive the full relief of 100% for 15 months and thereafter be eligible for empty property relief.

80. If the applicant's activity is commercial in nature, then relief could confer an advantage on a selective basis, and State aid could be deemed to be present, in which case the relief could only be awarded as de minimis.

RELIGIOUS EXEMPTION

81. The key legislation is section 22 of the Valuation and Rating (Scotland) Act 1956.

¹⁹ Maps accessible at <http://www.gov.scot/Topics/Economy/digital/Publications>.

82. Buildings occupied by a religious body for the purpose of religious worship or related administration, and halls used in connection with such buildings and their occupiers' purpose, are not rateable.
83. The council decides whether premises are used as a place of worship or related administration. Church halls may be ineligible if they are used mainly for non-religious purposes.
84. Although not a statutory requirement, some councils request applications for monitoring purposes.
85. As the activity is non-economic in nature, organisations would generally not be regarded as undertakings and State aid would not apply.

RENEWABLE ENERGY RELIEF

86. The key legislation is the Non-Domestic Rates (Renewable Energy Generation Relief) (Scotland) Regulations 2010 as amended.
87. Effectively there are two separate reliefs for 2016-17, one relating to community benefit and one relating to new-build. Both relate to property used solely for the generation of renewable heat or power (or both).
88. Eligibility for the renewables relief relating to community benefit requires arrangements which give at least 15% of the annual profit to a community organisation, in return for investment (or, failing that, so much of the annual profit as is attributable to 1 megawatt of the total installed capacity). Table 3 shows the sliding scale of applicable relief against total rateable value of all the qualifying properties in Scotland that the applicant occupies or (if vacant) is entitled to occupy.
89. Eligibility for the new-build renewables relief requires that the property must have been entered in the valuation roll on or after 1 April 2016. The applicable relief is either 10% where total rateable value (of all the qualifying properties in Scotland that the applicant occupies or (if vacant) is entitled to occupy) is £500,000 or less, or otherwise 1.5%.

Table 3: Renewable energy relief thresholds

Cumulative rateable value in Scotland	Relief (%)
up to £145,000	100
over £145,000 and up to £430,000	50
over £430,000 and up to £860,000	25
over £860,000 and up to £4 million	10
over £4 million	2.5

90. Relief is available for subjects solely concerned with the production of heat or power (or both) from the following sources:

- a. biomass
- b. biofuels
- c. fuel cells
- d. photovoltaics
- e. water (including waves and tides, but excluding production from the pumped storage of water)
- f. wind
- g. solar power
- h. geothermal sources

91. Any renewable energy relief determined must be awarded before award of other relief.

92. As the activity is commercial in nature and the recipients receive an advantage on a selective basis due to the sectoral restrictions that apply, State aid is deemed to be present and accordingly the relief can only be awarded as de minimis. Any such relief, together with any other public support such as Feed-in Tariffs (FITs), would need to fall within the de minimis allowance.

RURAL RELIEF

93. The key legislation is the Non Domestic Rating (Rural Areas and Rateable Value Limits) (Scotland) Order 2005 and Schedule 2 to the Local Government and Rating Act 1997.

94. Mandatory relief of 50% is available to certain properties indicated in Table 4 which are the only such property located in a settlement in the local authority's rural

settlement list. The council's determination of this is generally informed by local knowledge and the applicant's declaration.

Table 4: Rural relief thresholds

Qualifying subject*	RV threshold
Food store, general store or post office	£8,500
Petrol filling station, small hotel or public house**	£12,750

* *subject to legislative definitions*

** *ratepayer is not also the ratepayer for another property of the same type in Scotland*

95. Discretionary relief up to 100% can be awarded to properties in a rural settlement with rateable value up to £17,000, whose use is for purposes which benefit the local community, if such relief is reasonable with regard to the interests of council tax payers.

96. The rural settlement list is generally updated annually by the council in December to be in place for the start of the next financial year.

97. As the activity is commercial in nature and the recipients receive an advantage on a selective basis due to the geographic restrictions that apply, State aid is deemed to be present and accordingly the relief can generally only be awarded as de minimis. A case could perhaps be made that the four tests have not been fulfilled if the service is of a purely local nature and will not affect intra-community trade.

SMALL BUSINESS BONUS SCHEME (SBBS)

98. The key legislation is the Non-Domestic Rates (Levying) (Scotland) Regulations 2016²⁰.

99. Occupiers of property located in Scotland (or those entitled to occupy it) with combined rateable value (RV) of £35,000 or less may be eligible for relief. Table 5 outlines reliefs and thresholds.

²⁰ Eligibility is currently due to expire on 31 March 2017.

Table 5: Relief thresholds for SBBS

Rateable value	Relief
Up to £10,000	100%
Over £10,000 up to £12,000	50%
Over £12,000 up to £18,000	25%
Over £18,000 up to £35,000	25% on each property with RV up to £18,000

100. Multiple properties linked to one business (e.g. a chain of shops) may be eligible for relief if their combined RV does not exceed £35,000.
101. Multiple properties occupied respectively by different businesses (e.g. with separate accounts, premises, employees, suppliers, leases, marketing and websites), which nonetheless seem to be linked, may be considered by the local authority as if they were occupied by separate occupiers, subject to State aid rules.
102. Where there may be links between businesses occupying different properties, the onus is on the applicant to provide sufficient evidence that the businesses are run independently of each other.
103. Payday lenders ceased to be eligible for SBBS from 2014-15. To determine eligibility, local authorities may, for example, adapt their application form to request a lender's applicable interest rate, visit the property to establish whether payday lending is taking place, or use local knowledge.
104. If backdated relief is applied for, local authorities will need to establish whether the applicant has been liable for the property's rates for the period in question (they may request supporting evidence from the applicant), and also the applicable relief legislatively provided for relating to different time periods. There is no statutory time limit for which the award of SBBS can be backdated, other than the commencement of the respective legislative provisions.
105. If the applicant's activity is commercial in nature, then relief could confer an advantage on a selective basis, and State aid could be deemed to be present, in which case the relief could only be awarded as de minimis.

SPORTS CLUB RELIEF

106. The key legislation is section 4(2) of the Local Government (Financial Provisions etc.) (Scotland) Act 1962.
107. Properties occupied by a Community Amateur Sports Club (CASC) registered with HM Revenue and Customs²¹, for the purposes of that club²², may be entitled to

²¹ www.gov.uk/government/publications/community-amateur-sports-clubs-casc-registered-with-hmrc--2

²² or for the purposes of that club and of other clubs which are, or are entitled to be, registered as a Community Amateur Sports Club

80% mandatory rates relief. A council also has discretionary powers to top this relief up to 100% (for example, if the premises is unlicensed).

108. Sports clubs not registered with HMRC may be eligible for Charity Relief. For example, some local authorities award discretionary relief for sports recognised by Sports Scotland²³.
109. If the activity is non-economic in nature, organisations would not be regarded as 'undertakings' and State aid would not apply. However, if activity is deemed economic or commercial, a case could be made that at least one of the four tests have not been fulfilled if the activity is of a purely local nature and will not affect intra-community trade.

STEEL RELIEF

110. The key legislation is The Non-Domestic Rates (Steel Sites) (Scotland) Regulations 2016.
111. Mandatory relief is applicable for steel manufacturing at two sites only (Dalzell and Clydebridge steelworks in Lanarkshire) in respect of 2016-17.
112. As the activity is commercial in nature and the recipients receive an advantage on a selective basis due to the sectoral restrictions that apply, State aid is deemed to be present and accordingly the relief can only be awarded as de minimis.

STUD FARMS RELIEF

113. The key legislation is the Valuation (Stud Farms) (Scotland) Order 2005 and Paragraph 4(2B) of Schedule 2 to the Local Government and Rating Act 1997²⁴.
114. Councils may award relief to qualifying stud farms with rateable value up to £7,000.²⁵
115. As the activity is commercial in nature and the recipients receive an advantage on a selective basis, State aid is deemed to be present and accordingly the relief can generally only be awarded as de minimis.

LOCAL REDUCTIONS

116. As well as the statutory reliefs covered in this document, local authorities can now apply further NDR reductions. The key provision is section 3A of the Local Government (Financial Provisions etc.) (Scotland) Act 1962²⁶, the effect of which is to give councils substantially greater control over NDR.

²³ www.sportscotland.org.uk/sport-a-z.aspx

²⁴ as inserted by section 28(4)(c) of the Local Government in Scotland Act 2003.

²⁵ NB. this relief is separate from the de-rating provision under section 7B of the Valuation and Rating (Scotland) Act 1956.

²⁶ inserted by section 140 of the Community Empowerment (Scotland) Act 2015

117. This power to set rates, in accordance with a scheme made by the local authority, came into force on 31 October 2015²⁷, and can be applied back to 1 April 2015.
118. A scheme could be based on category of property, area, activity, or by reference to such other matters as a scheme specifies; e.g. a scheme could provide for a general reduction across all rateable properties, or for a single property. Local authorities will wish any schemes to have clear, practicable and robust criteria for practitioners and ratepayers.
119. Any such reduction is fully funded by the local authority, and in exercising the power it must have regard to its income & expenditure and the interests of persons who are liable to pay council tax. A local authority may determine when a reduction is to cease, but it will always cease when there is a change in occupation of the property (although it could then be applied anew if that accords with the scheme).
120. The level of NDR income reported in councils' returns to the Scottish Government would not be affected by any such schemes (i.e. the council would fully fund the cost of rates remission or reduction under any scheme). However, councils' NDR income returns to the Scottish Government could potentially be used as a means of collecting information on the level of relief awarded under this power.
121. A council cannot use section 3A to supplement rates liability.
122. During passage of the Community Empowerment (Scotland) Bill, the power was promoted in relation to supporting "Town Centre Investment Zones"; however, this is just one possible focus.
123. Revaluation takes effect on 1 April 2017. Local authorities will not know draft valuations until later in 2016, which will be a factor they would want to consider in budgeting for any schemes from 2017.
124. Existing statutory reliefs are unaffected. In developing a scheme, councils may wish to endeavour to understand the net rates liability of the properties in question, accounting for statutory mandatory and discretionary reliefs. For example, councils may wish to 'top up' any partial relief under the Small Business Bonus or Fresh Start schemes.
125. There is a risk of economic displacement associated with the power, as rates reductions under a council scheme could relocate economic activity, either within or across local authority boundaries.
126. There is also a risk of wider consequences, in that reductions to a business's rates liability could in turn affect its other tax liabilities, and could also affect market rents.
127. As with statutory reliefs, councils must consider and comply with State aid rules. Any materially or regionally selective rates relief could be capped under State aid rules at de minimis of €200k per entity over a rolling three-year period. Any other public support provided under the de minimis regulation must be counted within this allowance. Linked enterprises are considered together as one undertaking in respect of the de minimis regulation.

²⁷ The Community Empowerment (Scotland) Act 2015 (Commencement No. 1) Order 2015

128. There is no statutory requirement for councils to require an application process for any relief (e.g. councils could reduce or remit rates in the initial rates bill). However, using application forms to request information about other public support would assist councils in determining the State aid position.
129. A council scheme could potentially be State aid compatible (i.e. relief not capped at de minimis), if relief was available across the local authority area and was not materially selective. The Scottish Government's State Aid Unit could advise councils on any proposals²⁸.

FURTHER INFORMATION

130. Further information on State aid is available on the Scottish Government website²⁹. The Government's State Aid Unit can be emailed at stateaid@scotland.gsi.gov.uk.
131. If further information on rates relief is required, please email the Scottish Government at BusinessRatesGeneralEnquiries@scotland.gsi.gov.uk. Please note that the Scottish Government cannot offer legal advice or intervene in relation to individual cases.

Scottish Government
May 2016

²⁸ Stand-alone guidance is available here: www.gov.scot/Resource/0049/00494975.pdf.

²⁹ www.gov.scot/Topics/Government/State-Aid/SAU

ANNEX A – EXAMPLE OF SUPPORTING DOCUMENTARY EVIDENCE

Relating to whether a property is unoccupied:

- actual utility bills (not an estimated bill showing zero or minimum consumption – where minimum consumption is shown, previous actual bills should be requested for comparison)
- dated receipts or invoices for work carried out in the refurbishment of the property, showing the date of the work and the subject address
- dated receipts for materials purchased for the refurbishment of the property, showing that the materials were delivered to the subject address
- copy of a 'To Let' advert, showing the date of publication and the subject address of the property
- copy of the invoice for the 'To Let' advert showing the date of the publication and the address of the property
- signed statement or dated marketing brochure from a letting or property agent (if the agent completes the application form, no documentary evidence is necessary)
- signed and dated statements from two or more neighbouring businesses or residents, including details of the unoccupied period, the address in question and the names, addresses and contact telephone number of both neighbours (councils may accept one such statement submitted by the applicant's solicitor, provided that their premises are in the vicinity of the applicant's); the signatories should be identifiable on either the valuation roll or valuation list relating to the address and time period in question
- photographs showing both the inside and outside of the property, and demonstrating the date taken

Relating to properties prohibited by law from occupation:

- written confirmation that the property is unfit for occupation from either the council's building control section or its environmental health section
- written confirmation from Police Scotland or the Scottish Fire and Rescue Service in the event the property does not meet regulation standards or in the case of fire damage

ANNEX B – SAMPLE APPLICATION FORM

<i>Who should apply?</i>	
<p>The Small Business Bonus Scheme provides relief of rates to ratepayers, who occupy a non-domestic property with a rateable value of £18,000 or less, and where they occupy more than one non-domestic property their combined rateable value is £35,000 or less, may be eligible for a discount between 25% and 100%. You must complete this form, sign the Declaration and return the application to the Business Rates Team so we can assess the level of relief you are entitled to. The relief available is detailed below:-</p>	
Rateable Value of Business Property	% Relief (from 1 April 2014)
Up to £10,000	100%
£10,001 to £12,000	50%
£12,001 to £18,000	25%
Upper limit for cumulative (RV) £35,000	25% on each property with a RV of £18,000 or less

<i>Your Details</i>			
Rates Reference (from your Rates bill)			
Ratepayer Name			
Correspondence Address			
		Post Code	
Email Address		Telephone No.	

<i>From what date do you wish to claim Small Business Bonus?</i>	
--	--

<i>Your Properties</i>			
Please list below all the non-domestic properties in Scotland for which you are the liable ratepayer, whether occupied or unoccupied.			
Reference	Property Address	Rateable Value (£)	Start date of liability

Have you been awarded any other Rates relief on any of the above properties by another Council?		Yes <input type="checkbox"/>	No <input type="checkbox"/>
If Yes, please indicate which property and specify the type of relief			
Please submit a copy of your latest Rates bill for any properties that are outside the ...Council area.			

State Aid
You should note that the Small Business Bonus Scheme for which you are applying is being granted as <i>de minimis</i> aid for State Aid purposes. There is a ceiling of €200,000 (approximately £XXX,000) of <i>de minimis</i> aid that can be granted over a 3-year period, and if you consider that you have already received in excess of, or close to, this sum over the past 3 years, please provide details:-

Declaration			
I declare that the information supplied on this form is true, complete and correct to the best of my knowledge and that I will notify the Council of any change which might affect my entitlement to relief. I understand that any relief awarded as a result of misleading statements deliberately given on this form will be recovered in full. I understand that to deliberately provide false information is a criminal offence and may result in prosecution.			
Signed		Date	
Name (Block Capitals)		Position (e.g. Owner, Director)	

Data Protection Act 1998
The information provided on this form will be processed by... in accordance with the Data Protection Act 1998. The data you provide will be used for the purposes of assessing entitlement to relief. Your information may be shared within... or with other councils and public sector agencies in order to verify its accuracy and to prevent and detect fraud.

ANNEX C – ACTIVITIES ELIGIBLE FOR ENTERPRISE AREAS RELIEF

1. In the life sciences enterprise area:
 - a. Bioinformatics and health informatics
 - b. Deployment of information and communications technology to persons engaged in hospital, medical, dental, residential care and other human health activities
 - c. Drug development
 - d. Experimental and translational medicine and clinical research
 - e. Industrial biotechnology
 - f. Manufacture of basic pharmaceutical products
 - g. Manufacture of electronic components and boards
 - h. Manufacture of instruments and appliances for measuring, testing and navigation
 - i. Manufacture of irradiation, electromedical and electrotherapeutic equipment
 - j. Manufacture of medical and dental instruments and supplies
 - k. Manufacture of optical instruments and photographic equipment
 - l. Manufacture of pesticides and other agrochemical products
 - m. Manufacture of pharmaceutical preparations
 - n. Medical technologies
 - o. Pharmaceutical services, including contract research
 - p. Research and development into, and the manufacture of, medical devices and pharmaceuticals
 - q. Research and experimental development on natural sciences and engineering
 - r. Stem cells and regenerative medicine
 - s. Veterinary medicine
 - t. Wholesale of pharmaceutical goods
2. In the low carbon/renewables enterprise areas:
 - a. The design, fabrication, manufacture and assembly of components required for the generation of renewable energy by the technologies described in Schedule 2 of the Renewables Obligation (Scotland) Order 2009(1), including foundations and substructures (fixed or floating), towers, blades and nacelles, and research and development connected to those activities.
3. In the general manufacturing and growth sectors enterprise area:
 - i. Creative Clyde
 - a. Activities involved in the programming, production, post-production, digital distribution or broadcasting of motion picture, video, television, radio, computer games, internet channels or websites
 - b. Architectural design
 - c. Digital animation

- d. Digital design
- e. Digital publishing of books, magazines, journals, periodicals, computer games or music
- f. Production of digital advertising or digital marketing materials
- g. Software development
- h. Sound recording or reproduction of sound recording
- ii. Prestwick International
 - a. Manufacture of aircraft or spacecraft or related machinery
 - b. Repair or maintenance of aircraft or spacecraft or related machinery
 - c. Manufacture of aircraft parts or components
 - d. Repair or maintenance of aircraft parts or components
 - e. Distribution of aircraft parts or components
 - f. Design or development of aircraft, aero-engines or aircraft components
 - g. Certification of aircraft, aero-engines or aircraft components
 - h. Manufacture of aircraft, aero-engines or aircraft components
 - i. Manufacture of electronic systems used on aircraft, spacecraft or related machinery
 - j. Repair or maintenance of electronic systems used on aircraft, spacecraft or related machinery
 - k. Design or development of electronic systems used on aircraft, spacecraft or related machinery
 - l. Design or development of aerospace-related software
 - m. Provision of aerospace-related logistics services
 - n. Research and development into aerospace-related materials or aerostructures
 - o. Design or development of aerospace-related design systems or manufacturing systems
 - p. Manufacture of aerospace-related design systems or manufacturing systems
 - q. Other aerospace or aviation-related equipment development, manufacture or maintenance activities
- iii. West Lothian
 - Food Manufacture
 - a. Manufacture of breakfast cereals or cereals-based food
 - b. Manufacture of edible oils, margarine or fats
 - c. Manufacture of fruit juice or vegetable juice
 - d. Manufacture of milk products
 - e. Manufacture of pasta, noodles, couscous or similar farinaceous products
 - f. Manufacture of pastry, biscuits or cake products
 - g. Manufacture of prepared feeds for farm animals or prepared pet food

- h. Manufacture of prepared meals or dietetic food, including specially prepared low calorie food or food prepared for specific dietary requirements
- i. Manufacture of sugar, cocoa or chocolate, or of confectionery based on any of these products
- j. Processing and preserving of fruit or vegetables
- k. Processing and preserving of meat, poultry, fish, crustaceans or molluscs
- l. Production of meat, poultry or fish products
- m. Production of coffee or coffee substitutes
- n. Production of liquid milk, cream, butter or cheese
- o. Grain milling
- p. Tea processing
- Beverage Manufacture
 - q. Distilling, rectifying or blending of spirits
 - r. Manufacture of malt, wine, beer, cider or other non-distilled fermented beverages
 - s. Manufacture of soft drinks
 - t. Production of bottled water