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FOR FURTHER INFORMATION CONTACT NEIL WRIGHT

tel:
07836 787878

skype:
neilwrightlegal

email:
nwright@excellolaw.co.uk

Excello Law Limited is regulated by the Solicitors Regulation Authority and its registered office is at Atlantic House, Imperial Way, Reading RG2 0TD

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COMMERCIAL PROPERTY

BUSINESS RATES - EMPTY PROPERTY RELIEF

From April 2011 the rateable value threshold for property owners to claim relief on empty properties will fall from £18,000 to £2,600. This will remove the available relief from a substantial number of properties.

This is hardly a surprise given the current economic climate though it will have a significant impact on the property market.

It is far less likely that commercial property developers will build speculatively if they face the prospect of having to meet the business rates until a buyer or tenant is found.

Those with property portfolios face increased cost at a time when there are fewer potential buyers and tenants due to the economic downturn. Many small investors who have placed their faith in property as a means of providing a pension will actually face annual costs if they have empty properties.

We can expect to see a spate of selling empty property to be rid of the burden as well as demolition of older empty property.

It seems unlikely that the relief will be re-appearing at any time in the near future making the ownership of commercial property less attractive than ever. Perhaps the only real winners will be prospective tenants who should see rents fall as landlords seek to find tenants at almost any cost in order to avoid the penalty of having empty property.

BUSINESS RATES – INSTALLMENT MORATORIUM

On 31 March 2011 the Non-Domestic Rating (Collection and Enforcement)(Local Lists)(Amendment)(England) Regulations 2011 (nice to see that the Government hasn't wasted money on a 'Snappy Title Czar'!) will come into force. The regulations are an extension of previous regulations which introduced a moratorium on the payment of installments of any backdated liability arising as a result of a retrospective alteration to the rating list.

The new regulations permit the ratepayer and billing authority to agree that the payments of any installments are deferred until on or after 1 April 2012. The regulations continue to require the additional liability to be discharged within 8 years of the earliest agreement between the parties.

As before, the regulations permit equal, interest free, installments in order to minimize the impact of the revised liability during these difficult economic times.

STAMP DUTY LAND TAX MITIGATION SCHEMES

HM Revenue & Customs (HMRC) has announced that it is to challenge the various mitigation schemes that are currently being used to reduce Stamp Duty Land Tax (SDLT)

HMRC intends comparing transactions reported to the Land Registry with returns made to HMRC and where there is a discrepancy they will consider a compliance check. Consideration is also being given to 'discovery assessments' in cases where the 9 month enquiry window has passed and the return does not fully disclose the details of the scheme used.

Purchasers face the prospect of receiving a determination if HMRC believes that there has been an under declaration. HMRC has also made it clear that it will 'relentlessly pursue those who deliberately bend or break the rules' and will, where appropriate, seek penalties which will, almost certainly, include fines and interest as well as the SDLT that ought to have been paid.

In the present economic climate none of this should come as a surprise. Perhaps the greatest surprise is that HMRC has allowed the schemes to operate almost unhindered for so long.

REASONS TO BE CHEERFUL?

Good news at last for the commercial property sector! According to research company Investment Property Databank Limited values of UK commercial property rose for the first time in four years during 2010. Average values of stores, offices and warehouses increased by 6.9%. The total return, including price gains and rental income, rose by 14.5% during the same period.

The London office market is the chief reason for the increases due largely to the lack of office building in central London creating competition for available space. Outside London the picture is not as rosy and it remains to be seen what impact the Government's spending cuts will have on the market.

It is difficult to say whether this is the end of the recession in the commercial property sector (in London at least) but it does represent an improvement on 2009 when the sector saw values drop by some 5.6%. Whether this is good news or bad news probably depends on whether you are a landlord or a tenant!

CAPITAL ALLOWANCES – ARE YOU GETTING ENOUGH?

Many commercial property owners are missing out on the Capital Allowances they may be entitled to even when they have sought advice from their accountants. There are now a number of companies specialising in the recovery of Capital Allowances with one waiving any charges in the event that it does not identify at least £25,000 of unused allowances. It is often possible to reclaim allowances retrospectively. We would recommend that commercial property owners consider carefully whether they can afford not to take specialist advice. Please contact us if you would like us to put you in touch with a specialist.