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20 ways to reduce your empty property business rates liability

Updated November 2026: the 48th Street judgment, Budget 2026 and the new business rates General Anti-Avoidance Rule

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What's new in this edition

This edition updates our 2024 guide. Since then, a court judgment and Budget 2026 have changed the empty property landscape in England more than anything in the past decade.

1. **The Court of Appeal has closed the 'box-shifting' route.** In *City of London Corporation v 48th Street Holdings Ltd* (2026), the Court held that placing items in an empty building, where the only purpose is to restart empty rate relief, is not rateable occupation. An earlier decision accepting this kind of scheme was found to be wrongly decided.
2. **A General Anti-Avoidance Rule (GAAR) is coming.** In Budget 2026 on 28 October the Government confirmed it will introduce a business rates GAAR at the earliest opportunity, after consulting businesses and local partners on its design this winter.
3. **Support for councils testing the law.** From 1 April 2027 the Government will reimburse local authorities' reasonable external legal costs where they lose an avoidance case that tests a point of law.
4. **The empty rate rules themselves have not changed.** Budget 2026 made no change to empty property relief. The Government says it will engage further on how to encourage reoccupation of empty buildings.

Our position is unchanged and now more important than ever: ratepayers should pay what the law requires, no more and no less. Every option in this guide is a lawful route grounded in the legislation and case law. Where an option carries heightened risk after 48th Street or the GAAR, it is marked in red.

Key changes to the 20 ways

- **Way 4** (short-term occupation) rewritten to require a genuine use, value or benefit beyond the rates saving.
- **Way 5** (owner's own use) and **Way 12** (charitable occupation) flagged for heightened scrutiny.
- **Way 20** updated: Valuation Tribunal fees for rating appeals in England are to be abolished.
- New sections: what 48th Street decided, what the GAAR means and a review checklist for existing arrangements.

The 48th Street judgment

The facts

48th Street Holdings held unoccupied offices at America Square in the City of London. Once its initial empty property relief ran out, it granted a short lease to Principled Offsite Logistics Ltd (POLL). POLL placed boxes of redundant contents in the building for around six weeks. The lease then ended, the boxes were removed and a fresh period of empty rate relief was claimed. The cycle could then be repeated.

What the Court of Appeal decided

- Occupation that has no use, value or benefit other than saving rates is not occupation for the purposes of the unoccupied property rating scheme.
- The Court asked what the legislation is for, encouraging owners to bring empty buildings back into use and whether the arrangement, viewed realistically, fell within it. A storage arrangement whose only purpose was the rates saving did not.
- The earlier decision that POLL's model amounted to rateable occupation should be regarded as wrongly decided.
- There was no commercial or business purpose to the arrangement other than rate mitigation.

What the judgment did not decide

- It did not overrule genuine self-storage occupation, as accepted in *Makro Properties Ltd v Nuneaton and Bedworth BC* and *PHE v Harlow DC*.
- It did not overrule occupation by Bluetooth-enabled devices, as accepted in *Sunderland CC v Stirling Investment Properties LLP*.
- It did not define where a 'commercial or business purpose' begins. A nominal fee paid by an occupier, for example, may not be enough on its own.

Is it final?

Not yet. 48th Street Holdings has applied to the Supreme Court for permission to appeal. Until the position is settled, ratepayers should treat the Court of Appeal's reasoning as the law in England and Wales.

What this means for owners. Going forward, any occupation-based arrangement needs a genuine use, value or benefit for the occupier beyond the rates saving. If you have an arrangement in place or are considering one, we can check it against the Court's reasoning. See page 7.

The business rates GAAR

What has been announced

Budget 2026 confirmed a new General Anti-Avoidance Rule for business rates in England. The Government will consult businesses and local partners on its design this winter and will introduce it at the earliest opportunity after that. No draft wording, scope or start date has been published yet.

Alongside the GAAR, two further measures take effect from April 2027:

- The Government will reimburse councils' reasonable external legal costs where they lose an avoidance case that tests a point of law. Guidance on eligible costs is to follow.
- Vape shops and adult gaming centres lose access to the lower retail, hospitality and leisure multipliers and vape shops also lose Small Business Rates Relief.

What it is likely to mean in practice

A GAAR typically lets an authority look past the legal form of an arrangement to what it actually achieves and counteract the advantage where the main purpose is to avoid the charge. Until the detail is published, we expect the following:

- Arrangements with a real commercial purpose, such as a genuine letting to a tenant who uses the space, should be unaffected.
- Arrangements that exist mainly to restart relief, or to move liability to an entity that will not pay, are the likely targets, whether or not they survive 48th Street on their facts.
- Exemptions and reliefs that Parliament has given directly (listed buildings, insolvency, charities using a building for their purposes, properties incapable of occupation) should remain available on their own terms.
- Scotland already has powers of this kind. The 2024 consultation suggested English councils could be given similar ones.

Respond to the consultation. The design of the GAAR will decide where the line falls between lawful planning and avoidance. Dunlop Heywood will be responding. If you would like your experience reflected, please get in touch.

20 ways to reduce your liability

These options apply in England unless stated. Rules and timeframes differ in Wales, Scotland and Northern Ireland and every property should be reviewed on its own facts.

Liability and rateability

1

Confirm who is actually liable

Empty rates fall on the 'owner', the person entitled to possession. That can be a landlord, or a tenant who has vacated but cannot surrender or assign the lease. Check the lease position before accepting a bill.

2

Check the property is rateable at all

Only property capable of beneficial occupation is rateable. A building that cannot be occupied in its actual state, allowing for repairs a reasonable landlord would carry out, may not attract liability.

Exemptions and reliefs

3

Use the initial exemption periods in full

Empty commercial property is exempt for the first three months; industrial and warehouse property for six. Make sure the correct period has been applied and the start date is right.

4

Genuine short-term occupation

A period of genuine occupation lasting 13 weeks or more can restart the exemption period. Occupation of less than 13 weeks is disregarded.

2026 update: after 48th Street, occupation must give the occupier a real use, value or benefit beyond the rates saving. Arrangements designed only to restart relief are no longer reliable and are a likely target of the GAAR.

5

The owner's own temporary use

Genuine use of the property by the owner, for example for storage it actually needs, can count as occupation.

2026 update: the same test applies. Document the business reason for the use, what is stored and why.

6

Properties below the rateable value threshold

Empty properties with a rateable value below the statutory threshold (£2,900 at the time of our last edition; check the current figure) are exempt.

7

Listed buildings

Empty buildings that are listed or scheduled ancient monuments are exempt for as long as they remain empty.

8

Occupation prohibited by law

Where occupation is prohibited by law, for example by a prohibition notice, the property is exempt while the prohibition applies.

9

Personal representatives, trustees and bankrupts

Empty property held by personal representatives of a deceased owner, by a trustee in bankruptcy, or in similar capacities is exempt within the conditions set by the regulations.

10

Companies in liquidation or administration

Empty property of a company being wound up, or in administration, is exempt within the conditions set by the regulations.

2026 update: insolvency used mainly to move liability to a company that will not pay is exactly what the GAAR is expected to address. Genuine insolvencies are unaffected.

11

Charities and community amateur sports clubs

Where it appears that the next use of an empty property will be wholly or mainly for charitable purposes, or by a CASC, the empty rate can be zero.

12 Charitable occupation

Charities in occupation receive 80% mandatory relief, with up to 100% at the council's discretion, but the property must be used wholly or mainly for charitable purposes. Several cases have failed on this test.

2026 update: arrangements where a charity occupies only nominally are high risk after 48th Street and under a GAAR.

13 Partly occupied property

Councils can apportion liability where part of a property is temporarily empty. Apply promptly and keep records of the empty part.

New and altered buildings

14 Challenge completion notices

A new building only enters the list once complete. Check every completion notice: the date and the works assumed must be right and an appeal must be lodged within four weeks.

15 Shell-stage buildings and customary fit-out

A building at shell stage may be treated as complete only when the works customarily done for that type of property have been carried out. Make sure the completion date reflects this.

16 Beyond economic repair

If repairs needed to make the property occupiable would be uneconomic, it may be valued at a nominal figure. The courts apply a three-stage test (from *Newbigin*) and distinguish repair from renewal.

17 Programmes of works

While a property is undergoing a genuine programme of alteration or modernisation that makes it incapable of occupation, it may be removed from the list or reduced in value. Notify the VOA when works start.

18 Fire, flood and serious damage

Serious damage can justify a temporary reduction or removal from the list. Report it to the VOA promptly.

19 Demolition and redevelopment

Where a building is being demolished or redeveloped, it may be deleted from the list. Plan the sequence of works so liability ends as early as the law allows.

The rateable value itself

20 Challenge the rateable value

Empty rates are only as accurate as the rateable value. Over-supply or a lack of demand in the locality can justify a reduction, though vacancy alone rarely does. Check, Challenge, Appeal remains open on the 2026 list.

2026 update: the Government will abolish Valuation Tribunal fees for rating appeals in England, for the 2026 list onwards, with fees already paid refunded. The start date has not been confirmed.

Reviewing your current arrangements

If you use, or are considering, an occupation-based arrangement, it is worth checking it against the Court's reasoning. Our indicative view of the main arrangements is below. It is a general guide, not advice on any specific property.

Arrangement	Position after 48th Street	Risk
Box-shifting / token storage purely to restart relief	Not occupation. Earlier contrary decision wrongly decided.	**High**
Genuine self-storage with a real occupier need	Not overruled (*Makro*; *PHE v Harlow*).	**Moderate**
Bluetooth / connected-device occupation	Not overruled (*Sunderland v Stirling*), but untested against the new reasoning.	**Moderate to high**
Nominal charitable occupation	Wholly or mainly test already strict; likely GAAR target.	**High**
Liability moved to an SPV that is then wound up	Likely GAAR target.	**High**
Genuine letting of 13 weeks or more	Lawful.	**Low**
Statutory exemptions and list deletions (ways 6 to 9, 14 to 20)	Unaffected.	**Low**

A four-point check

- **List your current arrangements** across your empty portfolio, with the parties and dates.
- **Test the purpose.** For each, record the occupier's genuine use, value or benefit beyond the rates saving.
- **Plan new arrangements carefully.** Talk to us before entering any new occupation-based arrangement, particularly while the GAAR is being designed.
- **Make full use of lawful routes.** Statutory exemptions, list deletions, completion notice challenges and rateable value appeals are unaffected and often overlooked.

Talk to our empty rates team

Every empty property is different. For a no-obligation review of what applies to yours, contact:
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Sources: *City of London Corporation v 48th Street Holdings Ltd* [2026] EWCA Civ 970; HM Treasury and MHCLG, Budget 2026 business rates package (28 October 2026). This guide is for general information only and does not constitute advice. The law is stated as at 2 November 2026 and may change, including following the outcome of the Supreme Court permission application and the GAAR consultation. Please contact our team before acting on any matter covered here.