

News in brief and recent deals



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Celia joined the Real Estate team as a senior paralegal in 2018. She assists the team with all aspects of its work, having previously worked for both a charity and a regional law firm.

Capital Gains Tax update on commercial property

From April 2019 all chargeable gains made on property in the UK will be taxable for non-UK residents the same way as UK residents; this includes capital gains on disposals of assets where 75% of their value is made on land in the UK. Previously commercial entities have used overseas registered companies to utilise this tax relief as UK registered companies are liable to pay CGT.

Business tenancies code of practice: service charges in commercial property

The Royal Institution of Chartered Surveyors has released its code of practice relating to service charges. The code states that any costs that are not specifically noted in the lease agreed by the parties will not be recoverable by the landlord from the tenant. The guidance paper aims to create transparency for service charge provisions and reduce the rise in unforeseen costs to tenants. The full consultation can be found here: <http://www.rics.org/globalassets/rics-website/media/upholding-professional-standards/sector-standards/real-estate/service-charges-in-commercial-property-1st-edition/>

MEES Regulations 2015: Draft amendment regulations 2018 published to improve clarity for landlord investment

On the 29 November 2018 the Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2018 (Draft) was published to amend the MEES Regulations 2015. The new regulations will apply on the grant of a new tenancy to a new tenant or existing tenant, and will:

- Increase the cap of landlord contributions in improvements made to property energy efficiency from £2,500 to £3,500 (inclusive of VAT)
- Remove the 'no cost to the landlord' provisions
- Introduce a new 'high cost' exemption which will be available where a property cannot be improved to an energy performance rating of E for £3,500 or less.

The amendments have been published with an explanatory memorandum that can be found here: <http://www.legislation.gov.uk/ukdsi/2018/9780111175217/memorandum/contents>

Business rates: staircase tax where a business operates across multiple floors or units that are unconnected

The Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 which came in to force on 1 November 2018 reverses the staircase tax established in *Woolway v Mazars* [2015] UKSC 53 so that one rating assessment will be applied to neighbouring floors or units occupied by the same business, so long as they are contiguous and not used for wholly different purposes.

The Act is retrospective as far back as 1 April 2010 to rectify the implications of the staircase tax which left some business which occupied multiple floors having to pay separate rate bills per floor occupied. Businesses that were affected will be able to request recalculation of any backdated values. <http://www.legislation.gov.uk/ukpga/2018/25/contents/enacted/data.htm>

Recent deals

BWB worked with Everybody Sport and Recreation to exchange an agreement for lease for the construction of a new leisure centre at Alderley Park, Cheshire at the former home of Astra Zeneca and, subsequently, the grant of a lease to the charity. Everybody has 15 leisure centres throughout Cheshire East since spinning out from local authority in 2014.

BWB advised a financial services client on the real estate, tax and construction aspects of the pre-let of its new City headquarters, cumulating in the recent exchange of the agreement for lease.

BWB recently completed a lease of the Marlowe Theatre and an agreement for lease of the Marlowe Kit (a museum and playhouse) for The Marlowe Trust, a charity which has spun out of Canterbury City Council to run the theatre and museum in Canterbury.