

COUNCIL TAX ATTACHMENT OF EARNINGS ORDERS (AEOs) GUIDANCE FOR EMPLOYERS

Introduction

1. The Department for Communities and Local Government has prepared this note to help employers with the administration of Council Tax Attachment of Earnings Orders (CTAEOs). CTAEOs may be issued by local authorities following the granting of a liability order in respect of a council tax debt in accordance with the Council Tax (Administration and Enforcement) Regulations 1992 (SI No. 613), as amended. The note outlines the procedures involved and the roles of the employer, the debtor and the local authority. Some more detailed advice, in the form of questions and answers, is given in Annex A.

2. A CTAEO is a legal document and places certain duties on the employer and debtor alike. These duties are expanded in the note. Failure to carry these out could lead to a fine.

3. If this is the first CTAEO you have received you will note that while they follow the broad principles of AEOs arising from the Attachment of Earnings Act 1971 in that a regular deduction is to be made from net earnings, there are, however, a number of important differences. For instance, with CTAEOs the deduction is calculated by the employer rather than specified by the court. Annex B outlines the action to take when more than one such order has been served.

An Outline of the Procedure

4. The sequence of events leading to the issue of a CTAEO is as follows:

(a) When a local authority issues a council tax bill and a reminder but does not receive payment, it may apply to a Magistrates' Court for a summons directing a person to appear before the court to explain why the council tax has not been paid;

(b) If non-payment is proved, the court issues a liability order for the council tax payable, plus the costs incurred by the local authority in obtaining the liability order. Once it has obtained a liability order, the local authority has a number of options, including attachment of earnings, for recovering the amount stated in the liability order;

(c) If it considers attachment of earnings is the appropriate course the authority will issue a CTAEO to the employer whom it believes has the debtor in his employment, sending a copy of the order to the debtor. The order sets out the amount of council tax outstanding and requires that deductions are calculated in accordance with the regulations from net earnings. The order is a standard form prescribed in regulations to ensure a consistent presentation of information. It must include the prescribed deduction tables and a copy of the regulations which deal with CTAEOs. A copy of the order and the required enclosures is at Annex C.

What the employer must do

5. On receiving a CTAE0 the employer must:

- ✓ Seek to make deductions from the employee's net earnings under the CTAE0 as soon as possible (there is a definition of net earnings in Annex A);
- ✓ Calculate the deductions required using the tables in the regulations.
- ✓ Tell the employee the total deductions made under the order, normally at the same time as his pay statement is issued; and
- ✓ Pay the deductions to the local authority no later than the 18th day of the month following the month in which the deduction was made.

6. The employer may deduct an additional £1 from his employee's pay in respect of each deduction towards his own administrative costs.

Notifications

7. The employer is required to notify the local authority about certain matters, and may be fined for failing to do so. Where the employer receives an order relating to someone whom he does not employ he should, within 14 days, tell the local authority. Likewise he should tell the authority, when a debtor for whom a CTAE0 is in place, leaves his employment, again within 14 days. The employer should also tell the relevant local authority if anyone subject to a CTAE0 becomes his employee. This should be done within 14 days of the debtor becoming the employee or of the date when the employer becomes aware that an order is in force against the employee, whichever is latest.

What the debtor must do

8. A debtor must tell the authority which made the CTAE0 if he changes employment. In notifying such a change the debtor should give details, in so far as he is able, of his earnings; expected deduction from such earnings in respect of income tax, national insurance and superannuation; the name and address of the employer and his work or identity number. This information must be given within 14 days of the change of employment. Debtors could be subject to a fine if they fail to notify local authorities in this way.

What the authority must do

9. An authority must tell the employer when the whole amount to which a CTAE0 relates has been paid, including when the payment was not made by means of a CTAE0.

10. An authority may on its own account or on application by the debtor or the debtor's employer make an order discharging the AEO. Where a CTAE0 is discharged the authority should notify the employer.

More detailed advice

11. Annex A sets out some questions and answers which cover the handling of CTAE0s in more detail. If you have difficulties which cannot be resolved by the authority which has made the order, further advice can be obtained from the CTAE0 Helpline at Department for Communities and Local Government, Eland House, Bressenden Place, LONDON, SW1E 5DU (tel 0303 444 0000). Email contactus@communities.gsi.gov.uk

COUNCIL TAX ATTACHMENT OF EARNINGS ORDERS (CTAEO) QUESTIONS AND ANSWERS

1. WHAT IS A COUNCIL TAX ATTACHMENT OF EARNINGS ORDER?

Where there is non-payment of Council Tax the local authority can apply to a magistrates court for a liability order against the defaulter. If a court grants a liability order an Authority has a number of options for recovering the outstanding amount. One of these is a Council Tax AEO (CTAEO). The CTAEO will be in a form prescribed in regulations (copy at Annex C). It contains the name of the debtor, his payroll number (if known) and the local authority reference. It confirms that the named person is liable for Council Tax and specifies the amount of council tax that has still to be paid. Deductions in line with the order should be made as soon as possible after the order has been received.

2. WHAT DUTIES DOES THIS ORDER PLACE ON AN EMPLOYER?

This order is a legal document and places certain duties on an employer, so it is important that you know the governing principles. Details of the statutory duties are set out at paragraph 13 below. If the person who is the subject of the order is in your employment you should make deductions from his or her earnings as explained below. These deductions should begin as soon as possible after the receipt of the order. The amount deducted should then be forwarded to the authority by the 18th day of the month following the month in which the deduction was made.

As well as the amount to be deducted and paid to the authority you may also deduct £1 per transaction from your employee towards your administrative costs.

With each deduction made a written statement of the cumulative amount deducted, including any E1 deducted from your employee in respect of your administrative costs, should be supplied to your employee. This can normally be done when a pay statement is issued, but, if this is not convenient, may be done as soon as possible after the deduction is made.

If the employee has moved on or has never been in your employment you should inform the issuing authority within 14 days and your liability to do anything under the order will cease.

3. HOW LONG DOES THIS ORDER LAST?

Deductions should be made each pay day until the total amount specified on the order has been paid over to the authority, until the person has left your employment, or until the order is discharged by the authority. When the employee leaves your employment and you have notified the local authority nothing further is required of you. The local authority will have to serve a copy of the order on the new employer which will state the amount remaining to be deducted.

4. HOW MUCH SHOULD BE DEDUCTED?

The amount to be deducted is dependent on the total net earnings received by the employee. Annex C includes tables which specify the percentage to be deducted according to the amount of net earnings and the frequency of the pay period.

5. WHAT ARE NET EARNINGS?

For the purposes of these orders net earnings means earnings after the deduction of income tax, primary Class 1 national insurance contributions, superannuation contributions and any deduction with a higher priority. Earnings do not include Working Tax Credit. See paragraph 10 if an employee receives holiday Pay.

6. WHAT ARE EARNINGS?

Earnings are defined as sums payable by way of:

- ✓ wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary payable under a contract of service).
- ✓ statutory sick pay

Earnings do not include:

- X Sums payable by public departments of the Government of Northern Ireland or of a territory outside the United Kingdom;
- X Pay and allowances of members of the armed forces (other than that paid by an employer to a person as a special member of a reserve force);
- X Benefit or allowances payable under any enactment relating to social security; (this includes maternity Pay);
- X Allowances payable in respect of disablement or disability; and
- X Wages payable to a person as a seaman, other than as a seaman of a fishing boat.

7. ARE YOUTH TRAINING ALLOWANCES EARNINGS?

No.

8. HOW DO I USE THESE TABLES IN ANNEX C?

Column 1 of each table details pay bands which correspond to net earnings. Column 2 details the percentage of earnings to be deducted. Locate the earnings band in column 1 and then read across to column 2 to find the percentage and then calculate the amount to be deducted.

9. HOW DO I KNOW WHICH TABLE TO USE?

Since the majority of people are paid at regular intervals this should normally be straightforward but there will be cases of irregular payment. The examples listed below may help you to decide which deductions should be made.

Weekly

If the person is paid weekly then deductions should be made in line with Table A.

Monthly

If the person is paid monthly then deductions should be made in line with Table B.

Other weekly intervals

If the person is paid at intervals of a whole number of weeks then the net earnings should be divided by the number of weeks in the pay period. Table A should then be used to work out the appropriate weekly deduction and the resulting amount multiplied by the number of weeks in the period.

More than one month

If a person is paid at intervals of a whole number of months the net earnings should be divided by the number of months in the pay period. Table B should then be used to work out the appropriate monthly deduction and the resulting amount multiplied by the numbers of months in the period.

Regular intervals - not whole weeks or months

If a person is paid at regular intervals, but not at intervals of a whole number of weeks or months then net earnings should be divided by the number of days. Table C should then be used to work out the appropriate daily rate, which should then be multiplied by the number of days in the period.

Two or more series of payments at regular intervals

If the person is paid in two or more series and payments are made in regular intervals, then select the series with the shortest interval between payments and use the tables as described above. In addition, deduct 20% of the net earnings payable in every other series. If the person is paid in two or more series and all the intervals are the same length, then select one of these, make deductions as described above, and in addition deduct 20% of the net earnings payable in every other series.

Example

An Employee's net pay is £150 weekly and £600 monthly.

A deduction of £7.50 is made for the weekly pay and £120 for the monthly pay (ie 20% of £600).

Irregular intervals

If the person is paid at irregular intervals the net earnings should be divided by the number of days since the last payment and Table C should be used to work out the appropriate daily deductions, which in turn should be multiplied by the number of days in the period.

EXAMPLE

An employee's net pay:

- (a) £100 (from 1 April to 9 April - 9 days)
- (b) £120 (from 10 April to 19 April - 10 days)
- (c) £231 (from 20 April to 30 April - 11 days)

The deductions to be made would be:

- (a) $100/9 = £11.11$. Daily deduction = $£11.11 \times 3\%$ ie $£0.33$.
Deduction to be made for period = $9 \times £0.33 = £2.97$.
- (b) $120/10 = £12$. Daily deduction = $£12 \times 3\%$ ie $£0.36$.
Deduction to be made for period = $10 \times £0.36 = £3.60$.
- (c) $231/11 = £21$. Daily deduction = $£21 \times 5\%$ ie $£1.05$.
Deduction to be made for period = $11 \times £1.05 = £11.55$.

Regular and irregular intervals

If on the same pay day the person is to be paid regular period earnings and irregular period earnings these amounts should be added together and treated as earnings payable at the regular interval, the appropriate table being used.

Example

An employee receives £250 as normal net weekly pay. In addition, £350 is received every 15 days for a different task. The deductions to be made would be for weekly earnings (table A) of $£250 + £350 = £600$. The deduction rate for £600 is 17% of the first £505 plus 50% of the remainder ie $£85.85 + £47.50 = £133.35$

10. WHAT DO I DEDUCT IF THERE IS AN ADVANCE FOR HOLIDAY PAY?

The amount to deduct is the aggregate of:

- (a) The amount that would have been deducted on the pay day if there had been no advance of pay; and
- (b) The amounts that would have been deducted if the amount advanced had been paid on the normal pay day or days.

Example

An employee receives £800 on the pay day. This comprises £300 for the week in which the pay day falls and includes overtime of £100; and £500 for 2 weeks holiday advance ie two weeks of standard pay at £250 per week. The amount to be deducted is:
 $(12\% \text{ of } £300 = £36.00) + (12\% \text{ of } £250.00 \times 2 = £60.00) = £96.00$

11. HOW SHOULD I DEAL WITH LOANS MADE FOR OTHER PURPOSES?

Loans made, for example, for the purchase of a season ticket or for helping with moving house, are not advances of pay and should not be counted as earnings.

12. WHAT DO I DO IF THERE IS AN ATTACHMENT OF EARNINGS ORDER ALREADY IN FORCE?

See Annex B for full details of how to deal with multiple orders. The following examples will, however, cover most situations.

(a) If there is already a CTAE0 in place the new CTAE0 is still applied, in date sequence, with the later order being applied to the residue of earnings. However, if there are already two or more CTAE0s in payment from the same billing authority, then no further CTAE0 can be actioned for that authority and they should be notified accordingly.

(b) If there is already a community charge AEO (CCAEO) in place then the new CTAE0 is still applied, in date sequence, with the later order being applied to the residue of earnings. Please note that up to two CTAE0s can still be actioned irrespective of the number of CCAEOs, or other non-council tax orders, already in force.

(c) Any 1971 Act non-priority orders are to be applied (in date order) after all other orders.

13. STATUTORY DUTIES PLACED ON EMPLOYERS

A CTAE0 is a legal document and places certain duties on employers and debtors. A summary of these legal duties is below:

An employer could be liable for a fine if he:

(a) Fails to comply with the order unless he can prove all reasonable steps were taken to comply;

(b) Fails to give all required notifications relating to the Council Tax CTAE0;

(c) In giving notification makes a statement which he knows to be false in a material particular or recklessly make a statement which is false in a material particular.

14. STATUTORY DUTIES PLACED ON DEBTORS

Debtors could be liable for a fine for:

(a) Failure, without reasonable excuse, to supply information.

(b) Making a statement which they know to be false in a material particular.

SCHEDULE 4**DEDUCTIONS TO BE MADE UNDER ATTACHMENT OF EARNINGS ORDER****TABLE A**DEDUCTIONS FROM **WEEKLY** EARNINGS

(1) Net earnings	(2) Deduction rate %
Not exceeding £75	0
Exceeding £75 but not exceeding £135	3
Exceeding £135 but not exceeding £185	5
Exceeding £185 but not exceeding £225	7
Exceeding £225 but not exceeding £355	12
Exceeding £355 but not exceeding £505	17
Exceeding £505	17 in respect of the first £505 and 50 in respect of the remainder

TABLE BDEDUCTIONS FROM **MONTHLY** EARNINGS

(1) Net earnings	(2) Deduction rate %
Not exceeding £300	0
Exceeding £300 but not exceeding £550	3
Exceeding £550 but not exceeding £740	5
Exceeding £740 but not exceeding £900	7
Exceeding £900 but not exceeding £1,420	12
Exceeding £1,420 but not exceeding £2,020	17
Exceeding £2,020	17 in respect of the first £2,020 and 50 in respect of the remainder

TABLE CDEDUCTIONS BASED ON **DAILY** EARNINGS

(1) Net earnings	(2) Deduction rate %
Not exceeding £11	0
Exceeding £11 but not exceeding £20	3
Exceeding £20 but not exceeding £27	5
Exceeding £27 but not exceeding £33	7
Exceeding £33 but not exceeding £52	12
Exceeding £52 but not exceeding £72	17
Exceeding £72	17 in respect of the first £72 and 50 in respect of the remainder