



## Council Tax Information Letter 5/2005

The topics covered in this letter are:

- Council tax revaluation
- Deductions from state pension credits
- Class G exemption and planning restrictions preventing occupancy
- Civil Partnership Act 2004: Consequential changes to council tax legislation
- Non-British spouses of students
- Failure to supply information

### **Council Tax Revaluation**

As you'll all be aware the Government has extended Sir Michael Lyons' inquiry into local government funding, so that he can consider issues relating to the wider functions of local government and its future role, and in the light of this the council tax revaluation in England has been postponed.

The full text of the announcement and the extended terms of reference for the Lyons Inquiry can be found at:

[http://www.odpm.gov.uk/pns/DisplayPN.cgi?pn\\_id=2005\\_0193](http://www.odpm.gov.uk/pns/DisplayPN.cgi?pn_id=2005_0193)

Thanks to those of you who have contributed to the project planning for revaluation. We'll make sure that what we have done and learnt is not lost for the future.

### **Deductions from State Pension Credits**

Following our advice in Council Tax Information Letter 4/2005 that deductions can be made from state pension credits, we've had a few queries about whether this applies to both the 'guarantee credit' and the 'savings credit' elements. The Department for Work and Pensions advise that deductions can indeed be made from both elements.

### **Class G Exemption and Planning Restrictions Preventing Occupancy**

Following the advice in CTIL 4/2005 that it was ODPM's view that the Class G exemption does not currently apply where a planning restriction prevents occupancy, we have become aware that this is an area where there is confusion.

Ministers have therefore given their approval for us to consult shortly on a proposed amendment which would clarify that dwellings are exempt under Class G where a planning restriction prevents occupancy.

## Civil Partnership Act 2004: Consequential Changes to Council Tax Legislation

A summary of the responses to the consultation on the consequential changes to council tax legislation following from the Civil Partnership Act can be found at:

<http://www.local.odpm.gov.uk/finance/ctax/civpart04.pdf>

There was general agreement to the proposed changes.

Local authorities should note however that the provisions in paragraph 140 of schedule 27 of the Civil Partnership Act itself, amending section 9 of the Local Government Finance Act 1992, will come into force on 5 December 2005, not 1 April 2006 as proposed in the consultation. This means simply that local authorities will be able from this date to enforce a council tax bill against both civil partners or those who are living as if they were civil partners, even if one has a lesser legal interest in the property than the other.

Our intention remains that the technical amendments to secondary legislation should come into force on 1 April 2006, so that local authorities need to do no re-billing in year, in respect of the minor changes to discounts and exemptions that these amendments will entail.

The regulations will be laid before Parliament very shortly and a copy will then be sent to local authorities. They will also be found, along with an explanatory note, at the following link:

<http://www.opsi.gov.uk/stat.htm>

Broadly the effect of the regulations is that:

- surviving civil partners are treated in the same way as widows/widowers in relation to the calculation of net earnings for the purpose of attachments of earnings orders, so for example annuities paid to a surviving civil partner will not be included in the calculation of net earnings.
- recovery of council tax debt from surviving civil partners (and those living together as if civil partners) is allowed in the way as from opposite sex couples
- non-British civil partners of students are treated in the same way as non-British spouses of students as regards the council tax discount disregard. So those who are prevented from taking paid employment or from claiming benefits are disregarded for the purposes of a discount.

- civil partners are put in the same position as married couples as regards the council tax discount disregard for carers. This means that a person providing care to their civil partner or someone with whom they are living as if they were civil partners will not be disregarded for the purposes of a discount.
- equivalent provision for civil partners is made as already exists for spouses in relation to the job related dwellings concession on the second homes discount. This means that the second homes of those in civil partnerships or living as if they were civil partners with someone who is required to occupy a dwelling by reason of their employment will be entitled to a 50% second homes discount.
- persons linked by civil partnership are included in the definition of “relative” as regards the Class W exemption for occupied annexes. So for example if a person (A) is living in an annexe to a dwelling occupied by (B), the nephew of his late civil partner, and (A) is dependant on (B), the annexe would qualify for an exemption from council tax.
- a person’s civil partner is included in the definition of “relevant person” as regards the Class N exemption (Dwellings occupied only by students, by school or college leavers or by certain spouses or dependants of students).

Local authorities will note that these changes are likely to be applicable in only a small number of circumstances. Given the limited number of people we anticipate will be affected by these changes and the difficulty of making a reliable estimate, we shall not expect billing authorities to make any adjustment when calculating their council tax bases for 2006/07 in this respect, although this is of course a matter for billing authorities to decide. The impact of the Civil Partnerships Act on the administration of council tax benefit is of course much more significant. Advice is set out in the Department for Work and Pensions bulletin of September 2005 which can be found at

<http://www.dwp.gov.uk/hbctb/circulars/2005/a16-2005.pdf>

## Non-British Spouses of Students

Statutory Instrument 1995/620 introduced a discount disregard for the spouses or dependants of students who are not British Citizens and who are prevented by the terms of their leave to enter or remain in the United Kingdom from taking paid employment or from claiming benefits. Statutory Instrument 1995/619 extended the category of 'relevant persons' in Class N of the Council Tax (Exempt Dwellings) Order 1992/558 in the same way.

We have been asked for clarification of these provisions and would therefore remind authorities of our advice contained in CTIL 3 of 12 September 1995 which stated:

In our opinion it is sufficient for the purposes of the discount for the person either to be prevented from claiming benefit or be prevented from taking paid employment. However, as with any other provision the interpretation of legislation is a matter for local authorities and ultimately the courts.

## Failure to Supply Information

ODPM understands that HM Revenue and Customs have received a challenge under the Human Rights Act to legislation which allows a penalty to be imposed on personal representatives of deceased tax payers for non-completion of tax returns by the deceased. There is a similar provision in council tax legislation under Regulation 58 (1)(c) of the Council Tax (Administration and Enforcement) Regulations 1992.

Should the HMRC provision be repealed then ODPM will need to omit regulation 58(1)(c). We would like to hear from authorities how much this provision is used at present and whether its repeal would cause difficulties in practice.

## Contact Us

We hope to see and hear from a number of you at the IRRV conference in Manchester from 18-21 October. Otherwise, if you have any queries about anything in this letter, please contact Ronnie Gasper on 020 7944 4208, David McDonald on 020 7944 4206, Patrick Owen on 020 7944 4263 or email [council.tax@odpm.gsi.gov.uk](mailto:council.tax@odpm.gsi.gov.uk)

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