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COUNCIL TAX INFORMATION LETTER 2/2004

This is Council Tax Information Letter 2/2004. The topics covered in this letter are:

- **The Council Tax (Administration And Enforcement) (Amendment) (England) Regulations 2004**
- **The Council Tax (Prescribed Classes of Dwellings) (Amendment) (England) Regulations 2004**
- **Civil Partnership Bill**
- **Determining which property is the main residence and which the second home**
- **Additional £100 for pensioners**

Please note that this information letter should not be considered as a definitive interpretation of the legislation. Authorities should seek their own legal advice, as appropriate.

The Council Tax (Administration and Enforcement) (Amendment) (England) Regulations

The Council Tax (Administration and Enforcement) (Amendment) (England) Regulations 2004 are the remaining regulations in the package consulted on last autumn to implement the changes arising out of Part 6 of the Local Government Act 2003.

These regulations were laid on 1 April and will come into force on 22 April. We will circulate copies of the new regulations shortly.

As mentioned in Council Tax Information Letter 1/2004, the regulations will not include Regulations 7 and 8 of the consultation draft which concern the supply of information by bailiffs. We have decided to review these proposals in the light of the responses to the consultation exercise.

The Council Tax (Prescribed Classes of Dwellings) (Amendment) (England) Regulations 2004

Council Tax Information Letter 1/2004 mentioned that amending regulations were being made to ensure that the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 (SI 2003/3011) carried out the policy intention that where clergy have a "job related dwelling" and a second home in England, then the new local discretion to reduce the 50% discount on the second home would not apply.

The amending regulations were laid on 1 April and will come into force on 22 April. We will circulate copies of the new regulations shortly.

Civil Partnership Bill

The Civil Partnership Bill, which was introduced in the House of Lords on 31 March, will provide for a legally binding form of partnership for same sex couples. This has a number of implications for council tax legislation. As a matter of policy, the Government has decided that civil partners are to be treated in the same way as married people for the purposes for council tax legislation. This requires amendments to both primary and secondary legislation.

The Civil Partnership Bill amends two sections of the Local Government Finance Act 1992:

- section 9(1)(a) - to provide that civil partners will be jointly and severally liable for council tax in the same way as married couples.
- section 18(1)(b) - to provide a regulation making power to deal with a case where a civil partner dies who was liable as a civil partner to pay council tax. A regulation making power already exists in section 18(1)(b) in relation to a person who dies who was liable as a spouse under section 9 of the Act to pay council tax.

Secondary legislation which refers to spouses, etc will be amended once the Bill is in force to provide that civil partners are treated in the same as married couples for council tax purposes. Subject to parliamentary approval, it is envisaged that these changes will take effect in autumn 2005.

Determining which property is the main residence and which the second home

Council Tax Information Letter 1/2004 drew attention to the case of Regina (Williams) v Horsham District Council. Unfortunately, the findings of the Court of Appeal stated in the letter were actually the findings of the High Court. The Court of Appeal judgement can be found at [2004] EWCA Civ 39.

The Court of Appeal dismissed the council's appeal and held that the work related dwelling was the Williams' sole or main residence - any reasonable onlooker would say that that house was their home. The court held that the words "sole or main residence" refer to the dwelling at which the taxpayer actually resides.

Additional £100 for pensioners

In his Budget statement on 17 March the Chancellor announced that all households containing someone aged 70 or over would receive an additional £100. We understand this is likely to be paid in autumn 2004. The Department for Work and Pensions is responsible for administering this.

Contact

If you have any enquiries about anything in this letter, please contact Rai Tind on 020 7944 4187, Brian Entwistle on 020 7944 4186 or David McDonald on 020 7944 4206 or fax to 020 7944 4179. Email: council.tax@odpm.gsi.gov.uk

A handwritten signature in black ink that reads "Stephen Benton". The signature is written in a cursive, slightly slanted style.

STEPHEN BENTON