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August 30, 1996

Dear Chief Finance Officer

This is the sixth council tax information letter. The issues covered in this letter are:

The Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996
Council tax information leaflets
Benham case
Deductions from income support and the Jobseekers Allowance
Consolidated regulations - liability
FLT - staff changes

The Local Authorities (Contracting Out of Tax Billing, Collection and Enforcement Functions) Order 1996

Many thanks to those who responded to the consultation paper on this order. Both Houses of Parliament have approved the order and it came into force on Thursday 18 July. Copies will be sent to all local authorities shortly.

Any enquiries to Tony Capp on 0171-276 3125.

Council tax information leaflets

Apologies to any authorities that experienced problems or delays with supplies of the replacement council tax information leaflets. These should all now be resolved but if you do have any outstanding problems, please let us know. Further copies of the leaflets can be obtained from:

Department of the Environment
Publications Despatch Centre
Blackhorse Road
London
SE99 6TT

Tel: 0181-691 9191
Fax: 0181-694 0099

The text of the leaflets is also available on floppy disk in the following formats: Wordperfect 5.1 or 6.0, Ami Pro, Excel, Word for Windows and Quatro Pro. Please contact Barbara Paterson on 0171-276 3124 for details.

Benham case

On 10 June the European Court of Human Rights gave its decision in the case of Stephen Benham, who was jailed in 1991 for non-payment of the community charge. The court ruled that his imprisonment was not unlawful, and he was not entitled to compensation. However, the court found that legal aid should have been available. The Lord Chancellor's Department (LCD) is considering the judgement.

At least one report also asserted that magistrates have been instructed not to imprison local tax debtors at all, but this is incorrect. The only guidance we are aware of was issued by the Magistrates' Association last year and copied to authorities under cover of Council Tax Implementation Letter 43 (24 March 1995). That guidance advised the justices only on the procedural aspects of the committal hearing and did not suggest a moratorium on the imprisonment of debtors.

Enquiries to Tony Capp on 0171-276 3125.

Deductions from income support and the Jobseekers Allowance

We reported in CTIL 4 (31 January 1996) that the jobseekers allowance will replace unemployment benefit and income support paid to the unemployed on 7 October 1996, and that authorities will be able to apply for deductions from the new allowance to recover unpaid council tax and community charge.

A number of authorities have asked about progress in this matter. The Department of Social Security will be making the regulations later in the summer, and minor amendments will be necessary to the council tax and community charge regulations to deal with the relationship between enforcement options. We are unlikely to have enough time to consult formally on the amending regulations, but we will notify authorities through a further information letter when these have been laid in Parliament.

Enquiries to Tony Capp on 0171-276 3125.

Consolidated regulations - liability

We have updated the consolidated liability regulations to take account of the amendments that came into force on 1 April 1996. Copies of the revised pages are enclosed .

FLT - staff changes

Michael Faulkner, who has headed the Finance Local Taxation Division for the last three years, has moved on and will be replaced by Nigel Dorling.

Within the council tax branch, Jeremy Ketley has taken over from Stephen Lowe on 0171-276 0512 and deals with liability, discounts and exemptions and policy on transitional relief. Tom Maunsell has also joined us, initially working mainly on administration and enforcement, and operating our attachments of earnings "hotline" on 0171-276 3023. A new FLT contact list is enclosed.

ANN BLACKMORE

COUNCIL TAX LIABILITY, DISCOUNT AND EXEMPTION LEGISLATION

This note sets out consolidated texts of the legislative provisions covering council tax liability, discounts and exemptions, updated to include amendments which came into force in April 1995. The legislation covered includes certain parts of the Local Government Finance Act 1992, and the following Statutory Instruments:

SI 1992/

- 551 Council Tax (Liability for Owners) Regulations 1992
- 548 Council Tax (Discount Disregards) Order 1992
- 552 Council Tax (Additional Provisions for Discount Disregards) Regulations 1992
- 558 Council Tax (Exempt Dwellings) Order 1992
- 2941 Council Tax (Exempt Dwellings) (Amendment) Order 1992
- 2942 Council Tax (Additional Provisions for Discount Disregards) (Amendment) Regulations 1992

SI 1993/

- 149 Council Tax (Additional Provisions for Discount Disregards) (Amendment) Regulations 1993
- 150 Council Tax (Exempt Dwellings) (Amendment) Order 1993
- 151 Council Tax (Liability for Owners) (Amendment) Regulations 1993

SI 1994/

- 540 Council Tax (Additional Provisions for Discount Disregards) (Amendment) Regulations 1994
- 543 Council Tax (Discount Disregards) Order 1994
- 539 Council Tax (Exempt Dwellings) (Amendment) Order 1994

SI 1995/

- 619 Council Tax (Discount Disregards and Exempt Dwellings) (Amendment) Order 1995
- 620 Council Tax (Liability for Owners and Additional Provisions for Discount Disregards) (Amendment) Regulations 1995

SI 1996/

- 636 Council Tax (Discount Disregards) Amendment Order 1996
- 637 Council Tax (Additional Provisions for Discount Disregards) Amendment Regulations 1996

In the margins are notes on interpretation which, like all Government guidance, have no legal force. This consolidation supersedes Annexes B, D and E of Practice Note 2. It will be updated again in the light of any subsequent amendments to the legislation.

The text is believed to be free of errors, but authorities should refer to the Regulations published by HMSO for the definitive texts. Any corrections or suggestions for additional notes should be sent to Jeremy Ketley, Room N6/06, 2 Marsham Street, London SW1P 3EB (telephone 0171 276 0512).

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PART I: EXEMPT DWELLINGS

The classes of exempt dwelling are prescribed in SI 1992/558, as amended by SI 1992/2941, SI 1993/150, SI 1994/539 and SI 1995/619. This Part is set out as follows:

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THE SEVERELY MENTALLY IMPAIRED

Act: Schedule 1

2 - (1) A person shall be disregarded for the purposes of discount on a particular day if -

(a) on the day he is severely mentally impaired;

(b) as regards any period which includes the day he is stated in a certificate of a registered medical practitioner to have been or to be likely to be severely mentally impaired; and

(c) as regards the day he fulfils such other conditions as may be prescribed by order made by the Secretary of State.

Certificates of severe mental impairment issued before the introduction of the council tax are acceptable for paragraph 2(b) provided that they do not include any condition that they will only be used for some other purpose, for instance, exemption from the community charge, and provided that they are in respect of the day concerned.

The Department of Health has issued a circular to GPs including advice about certificates of severe mental impairment.

(2) For the purposes of this paragraph a person is severely mentally impaired if he has a severe impairment of intelligence and social functioning (however caused) which appears to be permanent.

(3) The Secretary of State may by order substitute another definition for the definition in sub-paragraph (2) above as for the time being effective for the purposes of this paragraph.

SI 1992/548 as amended by SI 1996/636

3.- (1) The condition prescribed for the purposes of paragraph 2(1)(c) of Schedule 1 to the Act is that the person in question is entitled to one of the qualifying benefits listed in paragraph (2) below or meets the requirements in paragraph (3) below.

(2) The qualifying benefits for the purposes of paragraph (1) are-

SI 1995/619
w.e.f 13.4.95

(a) an incapacity benefit under section 30A of the Social Security (Contributions and Benefits) Act 1992

(b) an attendance allowance under section 64 of that Act;

(c) a severe disablement allowance under section 68 of that Act;

(d) the care component of a disability living allowance under sections 71 of that Act, payable at the highest rate under section 72(4)(a) or the middle rate under section 72(4)(b) of that Act;

(e) an increase in the rate of his disablement pension under section 104 of that Act (increase where constant attendance needed);

(f) a disability working allowance under section 129 of that Act for which the qualifying benefit is one falling within subsection (2)(a)(i) or (ii) of that section, or is a corresponding Northern Ireland benefit;

(g) an unemployability supplement under Part I of Schedule 7 to that Act;

(h) a constant attendance allowance under-

(i) article 14 of the Personal Injuries (Civilians) Scheme 1983; or

(ii) article 14 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (including that provision as applied, whether with or without modifications, by any other instrument);

(i) an unemployability allowance under-

(i) article 18(1) of the Personal Injuries (Civilians) Scheme 1983, or

(ii) article 18(1) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (including that provision as applied, whether with or without modifications, by any other instrument);

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Paragraph (j) added by SI 1994/543: w.e.f 1 April 1994.
Paragraph (k) and article 3(3) added by SI 1996/636 w.e.f 1 April 1996

(j) income support where the applicable amount includes a disability premium in respect of which the additional condition in paragraph 12(1)(b) of Schedule 2 to the Income Support (General) Regulations 1987 is satisfied.

(k) incapacity benefit under sections 40 and 41 of the Social Security Contribution and Benefit Act 1992(d)

(3) The requirements in this paragraph are -

(a) that the person in question has reached pensionable age as defined for the purposes of Parts I to VI of the Social Security Contributions and Benefits Act 1992(c), and

(b) that had he not reached pensionable age he would have been entitled to one of the benefits listed in paragraph (2) above.

Students on full time courses count as students for the purposes of class N exemptions.

STUDENTS: FULL TIME COURSES

SI 1992/548 Schedule 1 Part II amended by SI 1996/636

3. A person is to be regarded as undertaking a full time course of education on a particular day if-

(a) on the day he is enrolled for the purpose of attending such a course, with a prescribed educational establishment within Part I of Schedule 2 to this Order, and

(b) the day falls within the period beginning with the day on which he begins the course and ending with the day on which he ceases to undertake it, and a person is to be regarded as ceasing to undertake a course of education for the purpose of this paragraph if he has completed it, abandoned it or is no longer permitted by the educational establishment to attend it.

4.- (1) A full-time course of education is, subject to subparagraphs (2) and (3), one-

(a) which subsists for at least one academic year of the educational establishment concerned or, in the case of an educational establishment which does not have academic years, for at least one calendar year,

(b) which persons undertaking it are normally required by the educational establishment concerned to attend (whether at premises of the establishment or otherwise) for periods of at least 24 weeks in each academic or calendar year (as the case may be) during which it subsists, and

(c) the nature of which is such that a person undertaking it would normally require to undertake periods of study, tuition or work experience which together amount in each such academic or calendar year to an average of at least 21 hours a week during the periods of attendance mentioned in paragraph (b) above in the year.

2) In determining whether a course falls within the definition in sub-paragraph (1)-

(a) in applying paragraph (c) of that definition, a person is to be treated as undertaking work experience at any time if, as part of the curriculum of the course

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i) he is at a place of employment of his and is providing services under his contract of employment, or

(ii) he is at a place where a trade, business, profession or other occupation which is relevant to the subject matter of the course is carried on, and he is there for the purposes of gaining experience of that trade, business, profession or other occupation, and references in sub-paragraph (3) below to periods of work experience shall be construed accordingly;

(b) in applying paragraphs (b) and (c) of that definition, the first calendar year shall be treated as beginning with

For definition of "prescribed educational establishment" see pages 60-61.

Paragraph 3(b) amended by SI 1996/636 w.e.f. 1 April 1996

the day on which the course begins, and subsequent calendar years (if any) as beginning on the anniversary of that day;

(c) in applying those paragraphs to a course which begins part-way through an academic year of the educational establishment concerned, the academic year shall be treated as beginning at the beginning of the academic term in which the course begins, and subsequent academic years (if any) as beginning at the beginning of the equivalent term in those years; and

(d) in applying those paragraphs to a course which subsists (or is treated as subsisting) for other than a number of complete academic or calendar years (as the case may be), any last part year of the course shall be disregarded.

SI 1995/619
w.e.f 1.4.95

Changes to Initial Teacher Training courses to increase the amount of classroom based training will mean that periods of work experience will exceed periods of study for many ITT students. This would have made them ineligible for a student disregard.

(3) Except in the case of a course for the initial training of teachers in schools a course is not to be treated as a full time course of education if the aggregate for the course as a whole of all the periods of work experience normally required to be undertaken as part of it exceeds the aggregate of all the periods of study or tuition not constituting work experience normally so required (taking account for this purpose of any period of study, tuition or work experience in a part year which, might otherwise fall to be disregarded under sub-paragraph (2)(d)).

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SI 1992/552 Schedule Part II as amended by SI 1994/540 and SI 1996/637

3. The requirements set out in this Part of this Schedule are that the person is-

The person receiving care need only receive one of the benefits listed at (i) - (iv).

(a) providing care to a person who is in entitled to

(i) a higher rate attendance allowance under section 65 of the Social Security Contributions and Benefits Act 1992;

(ii) the highest rate of the care component of a disability living allowance under section 72(4)(a) of that Act;

(iii) an increase in the rate of his disablement pension under section 104 of that Act by an amount which is the highest amount determined in accordance with paragraph (a) of regulation 19 of the Social Security (General Benefit) Regulations 1982 or, in a case to which paragraph (b) of that regulation applies, the amount determined in accordance with that paragraph; or

(iv) an increase in a constant attendance allowance under the proviso to Article 14 of the Personal Injuries (Civilians) Scheme 1983, or under Article 14(1)(b) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (including that

provision as applied, whether with or without modifications, by any other instrument);

(b) resident in the same dwelling as the person to whom he is providing care;

(c) providing that care for at least 35 hours a week on average; and

(d) not a disqualified relative of that person.

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4.- (1) For the purposes of paragraph 3 above, a person is a disqualified relative of another if-

(a) he is the spouse of the other or they live together as husband and wife; or

(b) he is the parent of the other, who is a child below the age of 18 years.

FINANCE LOCAL TAXATION DIVISION CONTACT LIST

COUNCIL TAX AND COMMUNITY CHARGE BRANCHES:

Head of Branch	Ann Blackmore	0171 276 4769	N6/06
	<i>Assisted by:</i>		
(a) Liability, discounts, exemptions and reductions for disability.	Tony Capp - (b) & (c)	0171 276 3125	N6/06
(b) Administration, collection, and enforcement.	Jeremy Ketley (a) & (d)	0171 276 0512	N6/06
(c) Contracting out of revenue services.	Tom Maunsell (b) & (e)	0171 276 3023	N6/06
(d) Transitional relief.			
(e) Attachment of earnings help line			

Head of Branch	Tony Anderson	0171 276 3095	N6/04
Council tax banding and valuation appeals	<i>Assisted by:</i> Vacant	0171 276 3153	N6/05

NON-DOMESTIC RATES BRANCH

Head of Branch	Mark Barnett	0171 276 3098	N6/03A
(i) Rating valuation. Plant and machinery review. Prescribed assessment.	<i>Assisted by:</i> Nick Cooper (i)	0171 276 3737	N6/05A
(ii) Payments into the NNDR pool, Transition	John Sullivan (iii)	0171 276 3122	N6/03
(iii) Billing, collection and enforcement. Duty to consult ratepayers. Interest payments.	Michelle Rawlings (iv)	0171 276 3156	N6/09
(iv) Exemptions and relief. Unoccupied property rating. Disabled persons rate relief. Domestic/non-domestic boundary.	Geoff Salvatore (ii)	0171 276 3118	N6/03

If writing, please quote the room number. Our full address is: Department of the Environment, 2 Marsham Street, London SW1P 3EB.

Our fax number is 0171 276 3089