

Cheshire West and Chester Council - Council Tax

Attachment of earnings orders guidance notes for employers

Introduction

This booklet has been written to give an employer advice about attachment of earnings orders for Council Tax, and includes the statutory information which the billing authority is obliged to send when issuing an order.

Enquiries

Please contact the Billing and Debt team on telephone number 0300 123 7022.

Payments

Please send payments to the following address quoting your employee's Council Tax account reference number: Cheshire West and Chester Council, Billing and Debt, PO Box 187, Ellesmere Port, Cheshire, CH34 9DB

- Cheques should be made payable to 'Cheshire West and Chester Council'.
- For payment by BACS our bank details are as follows:
Lloyds Bank PLC, Foregate Street, Chester, CH1 1XP
Sort Code: 30-91-92
Account Number: 02895329

Contact information

- Address: Cheshire West and Chester Council, Billing and Debt, PO Box 187, Ellesmere Port, Cheshire, CH34 9DB
- Telephone number: 0300 123 7022
- Email address: counciltax@cheshirewestandchester.gov.uk

1. A guide to attachable earnings

	The legislation governing Council Tax attachable earnings orders
Defines earnings as:	
Wages and salary	Yes
Pension	No
Redundancy pay	No
Statutory sick pay	Yes
Excludes:	
Disability pension	Yes
Statutory maternity, paternity and adoption pay	Yes
Sums payable by any public department of the Government of Northern Ireland or of a territory outside the UK	Yes
Armed forces pay	Yes
A tax credit	Yes
Wages payable to a person as a seaman	Yes
Guaranteed minimum pension	No
Defines residue as attachable after the following deductions:	
Income Tax	Yes
Pension, allowances or benefit payable under any enactment relating to social security	Yes
National Insurance contributions	Yes
Superannuation or pension contributions	Yes

Legislation

The powers to make Council Tax attachment of earnings orders are found in the Local Government Finance Act 1992.

The rules under which Council Tax attachment of earnings orders should be administered are set out in the Council Tax (Administration and Enforcement) Regulations 1992, SI No. 1992/613.

2. Attachment of earnings – Regulations 32 and 38, 39 to 42 and Schedule 4

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Administering Council Tax attachment of earnings orders

2.1 How does a Council Tax attachment of earnings order arise?

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.

If non-payment is proved, the court issues a liability order for 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.

If it considers attachment of earnings is the appropriate course, the authority will issue a Council Tax attachment of earnings order to the employer, whom it believes has the debtor in his employment, sending a copy of the order to the debtor.

2.2 What does a Council Tax attachment of earnings order look like?

The format of the order is prescribed in regulations to ensure consistency of presentation and is therefore expressed in a rather formal way. The order states the name and address of the debtor (your employee), the amount they owe and requires that deductions are calculated, in accordance with the regulations, from net earnings. The order must be sent with the prescribed deduction table and a copy of the regulations which will deal with Council Tax attachment of earnings orders.

2.3 What duties does a Council Tax attachment of earnings order place on the employer?

If you receive a Council Tax attachment of earnings order for someone who is no longer or has never been in your employment then you should inform the issuing authority within fourteen days in writing and your responsibility to do anything under the order will cease.

If the person who is the subject of the order is in your employment you should make deductions from their earnings. Sections 2.11 to 2.22 explain how you should calculate earnings and the deductions to be made. 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 19th day of the month following the month in which the deduction was made.

You must inform your employee in writing about each deduction, and of either the total deductions made under the order to date or the outstanding balance to be repaid to the authority, when they are given his pay statement. If no pay statements are usually given, you must inform them in writing as soon as possible after making the deduction. In each case you must include the amount you have deducted or will deduct towards your administrative costs for operating the order.

2.4 How should payments to the local authority be made?

You can pay by sending the local authority a cheque for each deduction or a lump sum cheque covering all orders in respect of your employees for an individual local authority. You should send a paper schedule with a lump sum cheque setting out the Council Tax attachment of earnings order reference number and amount of each individual deduction within the total payment. You are not required to list Council Tax attachment of earnings orders where no deduction is due; although you may wish to do so to demonstrate there has not been an accidental omission.

2.5 What about administrative costs?

You may deduct £1 towards your administrative costs from your employee's earnings each time you make a deduction under a Council Tax attachment of earnings order. This amount must be included when you notify your employee about deductions made. They can deduct the £1 if it takes the employee's income below their protected earnings rate - but not if it takes their income below the national minimum wage.

2.6 How long does a Council Tax attachment of earnings order last?

Deductions should be made each pay day until the total amount specified on the order has been paid over to the authority or until the order is discharged by them.

2.7 What happens if the debtor leaves my employment?

If your employee leaves your employment, the order will lapse from the pay-day coinciding with or following termination of employment. You must notify the local authority in writing within fourteen days of the debtor leaving your employment. 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 that will state the amount remaining to be deducted.

2.8 What happens if an employer doesn't comply with a Council Tax attachment of earnings order?

A Council Tax attachment of earnings order is a legal document and an employer could be liable for a fine if they:

- fail to comply with the order unless they can prove all reasonable steps were taken to comply
- fail to give all required notifications relating to the Council Tax attachment of earnings order
- in giving notification make a statement which they know to be false in a material particular or recklessly make a statement which is false in a material particular.

2.9 What about duties on employees?

Within fourteen days of being asked to do so, your employee must write to the local authority giving:

- the name and address of their employer
- the amount of their net earnings and anticipated net earnings
- their place of employment, the nature of their work, and any pay reference / works number
- your employee must also write to the local authority within fourteen days of leaving your employment, or becoming unemployed or re-employed.

Employees could be liable for a fine where they fail, without reasonable excuse, to supply information or make a statement that they know to be false in a material particular.

2.10 What about duties on local authorities?

An authority must tell the employer when the whole amount to which a Council Tax attachment of earnings order relates has been paid, including when the payment was not made by means of a Council Tax attachment of earnings order.

An authority may, on its own account, or on application by the debtor or the debtor's employer, make an order discharging the Council Tax attachment of earnings order. Where a Council Tax attachment of earnings order is discharged the authority should notify the employer.

Calculating deductions

2.11 What amount should an employer make a deduction against?

You should make a deduction against the total net earnings received by the employee.

2.12 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.

How to deal with advances and loans is covered below.

2.13 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:

- sums payable by public departments of the Government or Northern Ireland or of a territory outside the United Kingdom
- 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)
- benefit or allowances payable under any enactment relating to social security (this includes statutory maternity pay, statutory paternity pay and statutory adoption pay)
- tax credits
- allowances payable in respect of disablement or disability; and
- wages payable to a person as a seaman, other than as a seaman of a fishing boat.

2.14 How much should be deducted?

Once you have worked out your employee's net earnings, you should use the deduction tables on the last page of this document to calculate how much should be deducted.

Working out the correct amount to deduct from net earnings will usually be straightforward. You should simply find the attachable earnings range within which the employee falls in the first column of the deduction table (weekly or monthly as appropriate) and apply the appropriate percentage deduction rate from the second column.

If you pay your employee at intervals of whole months or weeks, but not each week or month, for example fortnightly, then you should simply divide the payment by the number of weeks or months to which it applies, calculate the deduction as normal and then multiply the resulting amount by the number of weeks or months to arrive at the total deduction to be paid over.

Example one - You have received a Council Tax attachment of earnings order and you pay your employee fortnightly:

- calculate your employee's attachable earnings, e.g. £600
- divide this by two to arrive at a weekly figure i.e. £300
- identify from Table 1 the correct percentage deduction rate i.e. exceeding £225 but not exceeding £355 = 12%
- calculate the amount to be deducted on a weekly basis. i.e. $300 \times 0.12 = £36$
- multiply this by two to arrive at the total amount to be deducted i.e. £72

This leaves £528

Now:

- send the deduction of £72 to the local authority
- deduct £1, if you wish, from the remainder for making the deduction
- pay your employee the remainder i.e. £527

2.15 What if an employee is not paid in whole weeks or months?

If an employee 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. The daily deductions table should then be used to work out the appropriate daily rate, which should then be multiplied by the number of days in the period.

Example two: You have received a Council Tax attachment of earnings order and you pay your employee on the 10th, 20th and last day of each month. The pay period is 21 to 28 February

- calculate your employee's attachable earnings for the pay period, e.g. £560
- find the daily attachable earnings i.e. £560 divided by 8 days = £70
- identify from Table 3 the correct percentage deduction rate, i.e. exceeding £52 but not exceeding £72 = 17%
- calculate the amount to be deducted i.e. $70 \times 17\% = £11.90$
- multiply the deduction by eight = £95.20

2.16 What if more than one series of regular payments is made to an employee?

You may, for example, pay earnings to a salesperson on a weekly basis and pay them commission monthly. If this is the case, you should apply the appropriate table to work out the deduction for the series with the shortest interval between payments. This means, that if they are paid on a weekly basis but also receive a regular monthly sum, you should apply Table A to their weekly earnings. In addition you should deduct 20% of the attachable earnings payable on a monthly basis.

Example three: You have received a Council Tax attachment of earnings order and you pay your employee weekly and monthly

- calculate your employee's weekly attachable earnings, e.g. £200
- identify from Table 1 the correct percentage deduction rate, i.e. exceeding £185 but not exceeding £225
- calculate the amount to be deducted, i.e. $200 \times 7\% = £14$
- calculate your employee's monthly attachable earnings, e.g. £500
- calculate the appropriate deduction i.e. $£500 \times 20\% = £100$
- add the £14 and £100 together for payment to the local authority, deduct £1 for each deduction and pay the remaining amount to your employee

2.17 What if an employee is not paid at regular intervals?

If you pay your employee at irregular intervals, you should divide their attachable earnings by the number of calendar days since the last payment. You should then use table C to work out the appropriate daily deductions, and multiply this figure by the number of days in the period.

Example four: You have received a Council Tax attachment of earnings order and you pay your employee at irregular intervals

- calculate your employee's attachable earnings for each pay period e.g. £300 (1 April to 9 April); £700 (10 April to 20 April); £500 (21 April to 30 April)
- calculate the daily rate of attachable earnings for each pay period, i.e.
£300 divided by 9 = £33.33
700 divided by 11 = £63.64 and
500 divided by 10 = £50
- identify the correct percentage deduction rate from Table 3, i.e. 7%, 17% and 12% respectively.
- calculate the daily deduction rate i.e. $£33.33 \times 0.07 = £2.33$
 $£63.64 \times 0.17 = £10.82$ and
 $£50 \times 0.12 = £6.00$ respectively
- multiply by the number of days in the pay period to find the total deduction, i.e.
- $9 \times 2.33 = £20.97$
 $11 \times £10.82 = £119.02$
and $10 \times £6.00 = £60.00$ respectively

2.18 What if an employee receives both regular and irregular payments?

You should apply the appropriate table to regular payments made to your employee. If you also make an irregular payment to your employee but not on the same pay day as the regular payments, you should deduct 20% of the irregular payment.

Example five: You have received a Council Tax attachment of earnings order. You pay your employee their regular monthly salary on 30 November and a Christmas bonus payment on 10 December

- calculate your employee's attachable earnings e.g. £1,000 for the November salary and £200 for the Christmas bonus
- identify the correct percentage deduction rate from Table 2, for the monthly salary payment, i.e. exceeding £900 but not exceeding £1,420 = 12%
- calculate the deduction on the monthly salary, i.e. $0.12 \times £1,000 = £120$
- calculate the deduction on the Christmas bonus, i.e. $0.20 \times £200 = £40$

2.19 What if a regular and irregular payment to an employee fall on the same day?

If both a regular payment and an irregular payment fall due on the same pay-day, you should combine the two payments for the purpose of calculating a deduction and treat the combined payment as if it were a single payment made on the regular pay-day, applying the appropriate table to the whole sum.

Example six: Facts as in example five above except now the Christmas bonus is paid on 20 December at the same time as the regular monthly salaries for December

- calculate your employee's attachable earnings e.g. £1,200 for the December and Christmas bonus together
- identify the correct percentage deduction rate from Table 2, for the monthly salary payment, i.e. exceeding £900 but not exceeding £1,420 = 12%
- calculate the deduction, i.e. $0.12 \times £1,200 = £144$

2.20 How should advances for holiday pay be treated?

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 amounts advanced had been paid on the normal pay day or days.

Example seven: You have received a Council Tax attachment of earnings order. In addition to their weekly salary you are paying your employee two weeks' holiday pay in advance

- calculate your employee's attachable earnings excluding the advance, e.g. one week at £200
- apply from table A the appropriate percentage deduction rate i.e. exceeding £185 but not exceeding £225 = 7%.
- calculate the deduction, i.e. $0.07 \times £200 = £14$
- calculate your employee's monthly attachable earnings relating to the advance, e.g. £400 for two weeks
- divide this total equally between the future pay periods for which the advance is given, i.e. £400 divided by 2 = £200
- apply from table one the appropriate percentage deduction rate i.e. exceeding £185 but not exceeding £225 = 7%
- calculate the deduction, i.e. $0.07 \times £200 = £14$
- multiply the weekly deduction by the number of weeks in the advance pay period, i.e. $£14 \times 2 = £28$
- pay over to the local authority the total deduction, i.e. $£14 + £28 = £42$
- Note that since you are making a deduction from a single payment, only £1 may be deducted for administration costs

2.21 How should other loans be treated?

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.

The way that repayments of such loans are treated in calculating a deduction depends on the date that the Council Tax attachment of earnings order was made:

- for calculating a deduction under a Council Tax Attachment of earnings Order made on or after 1 April 1995, the Council Tax Attachment of earnings Order deduction should be based on net earnings before any loan repayment
- for Council Tax Attachment of earnings Orders made before 1 April 1995, net earnings should be reduced by the amount of the repayment made to the employee

2.22 Further help and advice

You should contact the local authority that issued the Council Tax attachment of earnings order, as they will have a great deal of experience in the operation of Council Tax attachment of earnings Orders, in the first instance. If your query is about the interpretation of the regulations concerning Council Tax attachment of earnings orders they you may also want to contact the council tax policy team in the Department for Communities and Local Government at council.tax@communities.gsi.gov.uk.

3. Priority of orders

3.1 What do you do if you receive more than one order for the same employee?

You may be sent more than one order for the same employee. Whether you should apply more than one order against the earnings of your employee is determined by the type of order. Which order you apply first is determined by the priority status of the order.

3.2 How do you know which order takes priority?

In England, Wales and Northern Ireland priority depends on the type of order and the date it was made. In Scotland priority depends on the type of order and the date you received the order.

The orders, which you should apply first, to your employee's attachable earnings are explained in paragraphs 3.4 to 3.5.

3.3 Operating more than one order of different types

When you apply orders of different types to your employee's earnings, you will need to take care that you apply the correct type of attachable earnings (the elements may vary depending on the type of order (see page two)). You must not include in the

available attachable earnings a deduction made under a prior order, but you should include any money set aside as 'protected earnings' under a prior order

Employers in England and Wales

3.4 What type of order might you receive?

You could receive any of the following types of order:

- an Attachment of earnings order (AEO)
- a Child Support deduction from earnings Order (DEO)
- a Council Tax attachment of earnings order (CTAEO).

Note: Orders made under the attachment of earnings Act 1971 fall into two categories

- Orders for maintenance or a fine (commonly known as priority AEOs)
- Orders for civil debts (commonly known as non-priority AEOs)

The copy of the order sent to you by the court should identify which type of attachment of earnings order you are being asked to operate.

3.5 Which orders take priority?

- Attachment of earnings orders for civil debts take precedence over each other by date of issue.
- An Attachment of earnings order for civil debt, student loan or a Scottish current maintenance arrestment always gives way to an attachment of earnings order for maintenance or a fine; a Child Support deduction from earnings order and a Council Tax attachment of earnings orders.
- Earnings arrestments should be treated as priority orders and taken in date sequence.
- Attachment of earnings order for maintenance or fines, Child Support deduction from earnings orders and Council Tax attachment of earnings orders take precedence over each other by date of issue. You should apply the later order(s) to any remaining attachable earnings after you have made the deduction under the first order.

Important

- Only two Council Tax attachment of earnings orders for the same billing authority may be in operation against the earnings of an employee at any given time. Where you are operating two Council Tax attachment of earnings orders against the earnings of an employee you must ensure deductions are made concurrently i.e. you are required to make two separate deductions.

- We would request that when making payments you quote the Council Tax account number and the amount being paid for each liability order so that payments can be allocated correctly.
- If you are sent a third Council Tax attachment of earnings orders, you cannot apply it and you should return it to the Authority that sent it to you.

Deductions tables for Council Tax attachment of earnings orders made on or after 1 April 2007

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 B – Deductions 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 C – Deductions based on daily earnings

(3) Net earnings	(4) 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.