Maidstone Borough Council

Council Tax Attachment of Earnings

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MAIDSTONE
Borough Council

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 (CTAEO) to the employer, whom it believes has the debtor in his employment, sending a copy of the order to the debtor.

What does a CTAEO 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 last known 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 tables and a copy of the regulations, which deal with CTAEOs.

What duties does a CTAEO place on the employer?

If you receive a CTAEO 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 (see 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 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 their 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.

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 CTAEO reference number and amount of each individual deduction within the total payment. You are not required to list CTAEOs where no deduction is due; although you may wish to do so to demonstrate there has not been an accidental omission.

The local authority will tell you if you can pay in any other way, ie by bank transfer, payment card. This will enable the local authority to process the payment more quickly and will ensure that the correct account is credited. Although you are not obliged to use such documentation if it is not convenient, you should always quote the amount deducted under each order and the CTAEO reference number (you will find this on the order). This is particularly important if you are making a single payment for several orders.

What about administration costs?

You may deduct £1 towards your administrative costs from your employee's earnings each time you make a deduction under a CTAEO. This amount must be included when you notify your employee about deductions made.

How long does the CTAEO 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.

What happens if the debtor leaves my employment?

If your employee leaves your employment, the order will lapse from the payday 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.

What happens if an employer doesn't comply with a CTAEO?

A CTAEO 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 CTAEO
- 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.

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.

What about duties on local authorities?

An authority must tell the employer when the whole amount to which a CTAEO relates has been paid, including when the payment was not made by means of a CTAEO. An authority may, on its own account, or on application by the debtor or the debtor's employer, make an order discharging the CTAEO. Where a CTAEO is discharged the authority should notify the employer.

What amount should an employer make a deduction against?

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

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. Net earnings are referred to as 'attachable earnings' in the examples throughout this section.

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 of 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.

How much should be deducted?

Once you have worked out your employee's net earnings, you should use the deduction tables that the local authority will send out with the CTAEO to calculate how much should be deducted. Different levels of deductions apply depending on when the CTAEO was originally made.

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 tables (weekly or monthly as appropriate) that the local authority will send you with the CTAEO 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 1: You have received a CTAEO 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 (Annex E) 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 x 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

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 2: You have received a CTAEO and you pay your employee on the 10th, 20th and last days of each month. The pay period is 21 – 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 (Annex E) the correct percentage deduction rate i.e. exceeding £52 but not exceeding £72 = 17%
- calculate the amount to be deducted i.e. 70 x 17% = £11.90
- multiply the deduction by eight = £95.20

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 1 to their weekly earnings. In addition, you should deduct 20% of the attachable earnings payable on a monthly basis.

Example 3: You have received a CTAEO and you pay your employee weekly and monthly.

- calculate your employee's weekly attachable earnings, e.g. £200
- identify from Table 1 (Annex E), the correct percentage deduction rate, i.e. exceeding £185 but not exceeding £225
- calculate the amount to be deducted i.e. £200 x 7% = £14
- calculate your employee's monthly attachable earnings, e.g. £500
- calculate the appropriate deduction i.e. £500 x 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

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 3 to work out the appropriate daily deductions, and multiply this figure by the number of days in the period.

Example 4: You have received a CTAEO and you pay your employee at irregular intervals.

- calculate your employee's attachable earnings for each pay period e.g. £270 (1 April to 9 April);£1,100 (10 April to 20 April); £500 (21 April to 30 April)
- calculate the daily rate of attachable earnings for each pay period, i.e.
    - £270 divided by 9 = £30.00
    - £1,100 divided by 11 = £100.00 and
    - £500 divided by 10 = £50

- identify the correct percentage deduction rate from Table 3 (Annex E), i.e. 7%; 17% on the first £72 and 50% thereafter; and 12% respectively.
- calculate the daily deduction rate i.e.
  - £30 x 0.07 = £2.10;
  - £72 x 0.17 +28 x 0.50 = £26.24; and
  - £50 x 0.12 = £6.00 respectively
- multiply by the number of days in the pay period to find the total deduction, i.e.
  - 9 x £2.10 = £18.90;
  - 11 x £26.24 = £288.64; and
  - 10 x £6.00 = £60.00 respectively

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 payday as the regular payments, you should deduct 20% of the irregular payment.

Example 5:

You have received a CTAEO. 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 (Annex E) 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 x £1,000 = £120
- calculate the deduction on the Christmas bonus, i.e. 0.20 x £200 = £40

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 payday, 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 payday, applying the appropriate table to the whole sum.

Example 6: Facts as in Example 5 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 salary and Christmas bonus together
- identify the correct percentage deduction rate from Table 2 (Annex E) for the monthly salary payment i.e. exceeding £900 but not

exceeding £1,420 = 12%

- calculate the deduction i.e. 0.12 x £1,200 = £144

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 payday 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 payday or days.

Example 7: You have received a CTAEO. 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 1 (Annex E) the appropriate percentage deduction rate i.e. exceeding £185 but not exceeding £225 = 7%
- calculate the deduction, i.e. 0.07 x £200 = £14
- calculate your employee's 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 1 (Annex E) the appropriate percentage deduction rate i.e. exceeding £185 but not exceeding £225 = 7%
- calculate the deduction, i.e. 0.07 x £200 = £14
- multiply the weekly deduction by the number of weeks in the advance pay period, i.e. £14 x 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

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 CTAEO was made:

- for calculating a deduction under a CTAEO made on or after 1 April 1995, the AEO deduction should be
- based on net earnings before any loan repayment
- for CTAEOs made before 1 April 1995, net earnings should be reduced by the amount of the repayment made to the employer.

Further help and advice

You should contact the local authority that sent the CTAEO if you have a query on the Council Tax Attachment of Earnings Order. If your query is about the interpretation of the regulations concerning CTAEOs then you may contact the Council Tax policy team in the Department for Communities and Local Government at council.tax@communities.gsi.gov.uk

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. These have however been amended on a number of occasions, most significantly by SI No. 1998/295 to update the deduction tables for orders made on or after 1 October 1998 and SI No. 2006/3395 to update the deduction tables for orders made on or after 1 April 2007. SI No. 2007/501 corrects a typographical error in SI No. 2006/3395 and makes a minor amendment to the form of the attachment of Earnings Order.

Deduction tables for CTAEOs made on or after 1 April 2007

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

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

Table 3 - Deductions based on daily earnings	
Net earnings	Deduction rate (percentage)
Not exceeding £11	0
Exceeding £11 but not	3
Exceeding £20 but not	5
Exceeding £27 but not	7
Exceeding £33 but not	12
Exceeding £52 but not	17
Exceeding £72	17 in respect of the first £72 and 50% in respect of the remainder