



Council tax: members of the armed services

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Members of the armed forces, who are stationed away from the family home for long periods, may yet remain liable for council tax payable on that property. However, the Ministry of Defence does provide financial assistance to those serving abroad. This note provides further information on these issues.

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1 Council tax liability

Service personnel who own or rent property are liable to pay council tax (or, in Northern Ireland, rates) on their homes. Those living in Ministry of Defence accommodation are liable to pay contributions in lieu of council tax (CILOCT), or in Northern Ireland, contributions in lieu of rates (CILOR). Further information on CILOCT and CILOR is given in the next section.

The fact that a member of the armed forces is stationed away from home does not necessarily mean that his or her council tax liability is removed and that a spouse or partner who remains in the family home will be entitled to single person discount. *Sole or main residence* is an important concept in council tax - as it was under the community charge (poll tax) - but it is not defined in the legislation. Case law indicates that questions of residence cannot be decided exclusively with regard to the time spent in a property. If someone occupies a property purely in connection with their employment, while maintaining a permanent home to which they can return at any time, the local authority may not regard their work-based accommodation as their main residence.

Two of the leading cases on this subject were as follows: In *City of Bradford Metropolitan Council v Neil Anderton*,¹ a merchant seaman was found to have his main residence in England despite spending the majority of the year on his ship. Mr Justice Hutchison in the High Court found that even if a ship could constitute a person's residence (which it could not), Mr Anderton's sole or main residence was his house in England because:

- that is where his home is, where he has his settled and usual abode, which he leaves only when the exigencies of his occupation compel him to go to sea;
- Other matters are the fact that Mr Anderton regarded the house as his home, that his wife lived there, he spent his time there when not on the ship and that he has an interest in and security of tenure at the house.

In another case, *Doncaster BC v Stark and Stark*² (1998), the High Court considered the position of a married RAF serviceman who was required to spend most of his time living at an airbase rather than in the property which he owned jointly with his wife. The Court held that sole or main residence should not be determined solely by the length of time spent at a property, but should take into account factors such as:

- security of tenure;
- where Corporal Stark spent time when he was not on duty;
- where he would return to should his employment with the RAF be terminated.

A court of appeal judgement in a more recent case³, which involved job-related accommodation though not in the context of the armed services, established the principle that a person's main residence would be the dwelling that a "reasonable onlooker" with a knowledge of the facts would regard as that person's home at the time. This did not overturn the earlier judgements since the Court considered that a reasonable onlooker would have concluded in those cases that the person's main residence would have been the matrimonial

¹ RA (1991) 45

² RVR (1998) 80

³ *R (Williams) v Horsham District Council* CA (2004)

home.⁴ The judgement emphasised the fact that local authorities and valuation tribunals must consider all relevant aspects of a case when determining a question of sole or main residence. The CPAG's *Council tax handbook* states that: "Factors such as voter registration and registration for medical treatment have often been details used by valuation tribunals to determine sole or main residence."⁵ Nevertheless, the answer in each case will depend on the particular circumstances and will be a matter of fact and degree.

Information on how to appeal over a council tax bill can be found in a leaflet published by the Department for Communities and Local Government (DCLG)⁶ and on the website of the Valuation Tribunal Service.⁷

2 Contributions in Lieu of Council Tax (CILOCT)

Armed forces accommodation owned by the MOD is exempt from council tax under the *Council Tax (Exempt Dwellings) Order 1992*.⁸ The exemption covers barracks, messes and married quarters.

Although the local authority is not able to raise council tax on such properties it receives a "contribution in lieu of council tax" (CILOCT) from the Ministry of Defence, in line with an agreement with the then Department for the Environment, Transport and the Regions. The contribution paid is broadly equal to the council tax revenue that would have been collected on the properties. This is intended to ensure that other citizens in a local authority area are not subsidising armed forces accommodation through their own council taxes.

The costs incurred for occupied properties are recovered from individuals through CIL OCT according to type of property and are payable with accommodation charges. Those living in single accommodation also pay CIL OCT although their liability is much lower than those living in family accommodation because the rates for mess or barrack blocks are shared by all the occupants. The system allows a uniform payment wherever personnel are posted, including overseas. In Northern Ireland, a domestic rating system is in force and service personnel there pay contributions in lieu of rates (CILOR).

3 Second homes

The *Local Government Act 2003* and associated regulations⁹ changed the rules on council tax on second homes in England by allowing billing authorities the discretion to reduce the discount from the previously prescribed 50% to a minimum of 10%. However, the regulations contained provisions designed to ensure that authorities would not reduce the discount for a property owned by those persons, such as service personnel or ministers of religion, who are required by the terms of their employment to occupy another property. Thus, second homes

⁴ See Valuation Tribunal Service, *LPAC Newsletter issue 3*, p14, <http://www.valuationtribunal.gov.uk/Home.aspx>

⁵ Alan Murdie, *Council tax handbook*, Child Poverty Action Group, 7th ed, 2007, p71

⁶ DCLG, *Council tax: a guide to your bill*, October 2006, pp22-3, <http://www.local.communities.gov.uk/finance/ct.htm>.

⁷ <http://www.valuation-tribunals.gov.uk/>

⁸ SI 1992/558 Reg. 3, Class O

⁹ The *Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003* (SI 2003/3011), regulation 6 and schedule. See also the explanatory notes to the regulations.

in England owned by persons who are obliged to live in a class O exempt dwelling (i.e. accommodation provided by the Ministry of Defence) retain the full 50% discount.¹⁰

It should be noted that this does not apply to those posted abroad. Where the job-related dwelling is outside England, Wales or Scotland, the 50% discount cannot be applied because the overseas dwelling is not subject to council tax.¹¹

4 Financial help for those posted overseas

4.1 Background

As explained in section 1, a member of the armed forces who is stationed away from home for much of the year may still be liable for council tax on the family home if this is deemed by the local authority to be his/her sole or main residence. Chris Leslie, then Parliamentary Under-Secretary at the ODPM, confirmed in a parliamentary answer in 2003 that the spouse of someone posted abroad would not normally qualify for single person discount:

Mr. Flook: To ask the Deputy Prime Minister for what reasons the spouses of servicemen deployed overseas cannot claim the sole occupier discount for council tax. [106519]

Mr. Leslie: A full council tax bill assumes that at least two adults have their sole or main residence in a dwelling. There is a 25 per cent. discount for a dwelling that is the sole or main residence of only one person. Service personnel are treated in the same way as anyone else who is working away from home when determining their sole or main residence. When a person is employed overseas, the dwelling in which their spouse lives remains the main residence unless it can be shown that there has been a change of sole or main residence. A single person discount will not therefore apply.¹²

Nevertheless, in May 2005 a parliamentary answer indicated that officials at the MOD and ODPM (now the DCLG) were exploring the possibility of allowing a CT discount or exemption for service personnel posted overseas.¹³ Later parliamentary answers indicated that discussions had moved on to the possibility of providing financial help with CT costs of those stationed abroad.¹⁴

4.2 Government announcement

On 25 September 2007 at the Labour Party conference, Defence Secretary Des Browne announced at the Labour Party conference that troops serving in Iraq and Afghanistan would receive a “25% discount” on their council tax and that this would be extended over the next year to all those serving on overseas operations. The MOD press release explained:

All troops who pay council tax for a property in the UK [or CILOCT on service family accommodation] will receive financial support through a flat-rate rebate payment over a six month tour of £140 - worth 25 per cent of the average Band D Council tax bill. The rebate will be added to the tax-free Operational Allowance paid at the end of an

¹⁰ The practical effect of the 2003 regulations was that the discount was not retained where the main home was in Scotland and it was arguable as to whether it applied where the main home was in Wales. Amending regulations were passed (SI 2005/416) to clarify that it applied where the main home was anywhere in mainland Britain. See: DCLG, *Council Tax Information Letter 1/2005*, 8 March 2005, p1, <http://www.local.communities.gov.uk/finance/ctax/Ctil.htm>

¹¹ Information received from DCLG staff, 4 November 2009.

¹² HC Deb 2 April 2003 c711W

¹³ HC Deb 23 May 2005 c33W

¹⁴ See, for example, HC Deb 21 May 2007 cc1097-8W

operational tour in Afghanistan or Iraq. The new measures will be introduced from October and first payments will be made from 1 April 2008.¹⁵

On 28 January 2008, Des Browne confirmed the extension of the scheme to all personnel deployed on overseas operations. The MOD news article explained:

Troops who pay Council Tax for a property in the UK or Contributions in Lieu of Council Tax for Service Family Accommodation will receive financial support through a relief payment, based on the number of days in theatre, and worth some £140 over a six-month tour. The extension of the scheme will be effective from 1 April 2008, with payments backdated to 1 February 2008.¹⁶

4.3 Current arrangements

The scheme, known as the Council Tax Relief Scheme, has been summarised as follows:

The Council Tax Relief Scheme (CTR) is administered by the MOD and is for all eligible Regular and Reserve Service (Full or Limited Commitment) personnel who are deployed on operations either in Iraq, Afghanistan and other operational locations and who pay Council Tax for a property in the UK or who pay Contributions in Lieu of Council Tax (CILOCT) for Service Family Accommodation.

The CTR Scheme provides a payment based on 25% of the average Council Tax in England and is updated annually in line with council tax increases. It is set at 25% because this corresponds to the general Council Tax regime where one eligible adult is absent. Details of MOD's scheme were promulgated internally by Defence Instructions and are contained in our tri-service regulations for pay and charges (Joint Service Publication 754).

From 1 April 2009, the value of the CTR payment, which is tax free, was increased to some £145 for an average six month tour.

The CTR payment does not alter the amount which Service personnel will pay to their local authority. It is effectively a reimbursement made directly by the MOD to eligible personnel which is claimed on return from deployment.¹⁷

It should be emphasised that these arrangements did not involve any change in council tax legislation. This is a scheme run by the MOD which provides a degree of financial help to service personnel. Those seeking further information should approach the relevant branch of the armed services rather than a local authority.

¹⁵ "Council tax relief for troops on operations", 25 September 2007, <http://www.whitehallpages.net/modules.php?op=modload&name=News&file=article&sid=35444&topic=167&newlang=eng>

¹⁶ MOD, "Council tax relief extended to all troops on operations", *News article*, 28 January 2008, <http://www.mod.uk/DefenceInternet/DefenceNews/DefencePolicyAndBusiness/CouncilTaxReliefExtendedToAllTroopsOnOperations.htm>

¹⁷ Information received from MOD staff, 8 July 2009.