

## **REGULATORY APPRAISAL**

### **COUNCIL TAX, WALES**

#### **THE COUNCIL TAX (ADMINISTRATION AND ENFORCEMENT) (AMENDMENT) (WALES) REGULATIONS 2007**

##### **Purpose and intended effect of the measure**

1. There are a number of financial limits in council tax secondary legislation that have not been updated for a number of years. This Instrument is intended to ensure that the financial limits reflect changes in the value of money since they were last increased.
2. This Instrument will amend existing Regulations relating to certain financial thresholds that apply in setting the amount of deductions from earnings when applying an Attachment of Earnings Order to recover unpaid council tax. The Regulations will increase the earnings thresholds and protect council taxpayers who are now paying a greater proportion of their income to pay off council tax debt than was the case when the financial thresholds were last increased in 1998.
3. Once a liability order has been granted, billing authorities can instruct employers to recover unpaid council tax directly from an employee's wages. The amount that employers should deduct from an employee's wages under an Attachment of Earnings Order (AEO) is set out in tables at Schedule 4 to the Council Tax (Administration and Enforcement) Regulations 1992. The percentage that is deducted depends on the level of the employee's net earnings. The Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2007 will increase those limits in line with the increase in the Average Earnings Index. The proposed earnings limits are detailed at Annex A and apply to new AEOs made on or after 1 April 2007.
4. These Regulations are scheduled for consideration by the Assembly concurrently with two other Statutory Instruments in order to ensure that the original policy intention of the legislation is effective and up-to-date and that the financial limits in respect of the legislation reflect changes in the value of money since they were last increased on 1 April 1998. The other two Statutory Instruments are:
  - Council Tax (Discount Disregards) (Amendment) (Wales) Order; and
  - Council Tax (Additional Provisions for Discount Disregards) (Amendment) (Wales) Regulations 2007.
5. These two Statutory Instruments will, respectively, increase the earnings limits that apply to apprentices and carers. Apprentices and carers who fall below the earnings threshold, as set out in the relevant order, will be disregarded when looking at the number of adults in a dwelling to determine whether a discount should apply.

6. These three Statutory Instruments update financial limits in line with inflation and are accordingly presented together to be made at the same time. As they relate to the same subject matter, it is sensible that they take effect at the same time.

### **Risk Assessment**

7. These Regulations are required in order to keep financial limits and thresholds at a level that is fair and equivalent to those in place when they were first introduced.
8. These changes are being introduced in England from 1 April 2007. Failure to introduce these Regulations would mean that some of the least affluent taxpayers in Wales would be disadvantaged compared with their counterparts in England. In addition, employers would be required to apply different levels of deductions from earnings for employees in Wales from those in England, adding to their administrative costs.

### **Options**

#### Option 1: Do Nothing

9. Failure to make these Regulations would mean no change to financial limits and thresholds. This would mean that those who have had problems meeting their council tax liability would be required to pay a larger proportion of their earnings to repay the debt than would be the case if the Regulations were made.

#### Option 2: Make the Legislation

10. This will raise financial limits and thresholds in line with average earnings and protect council taxpayers who are now paying a greater proportion of their income to pay off council tax debt than was the case when the financial thresholds were last increased in 1998.

### **Benefits**

11. These Regulations will benefit those who are subject to an Attachment of Earnings Order by increasing the financial limits and thresholds that apply. They will also keep the deductions and earnings consistent across England and Wales – a benefit to employers who employ workers in both countries.

### **Costs**

12. There are no direct costs for the Assembly or local authorities as a result of these Regulations. The number of Attachment of Earnings Orders (AEOs) in operation within local authorities is unknown and is not a stable figure. It is fair to assume that local authorities may suffer a marginal loss of revenue but this will only be correcting for inflation since the limits were last increased. Where larger employers use software to administer an Attachment of Earnings Order there will be some initial outlay to update this, but, as we are introducing these changes at the same time as they are being introduced in England, employers will be saved the cost of implementing two different rates of deduction from earnings.

13. It is not possible to quantify costs as the changes will be administered differently according to the system that the employer uses. Most small businesses administer Attachment of Earnings Orders (AEOs) manually, so there will be no increase in costs. It will simply be a matter of applying a different rate of deductions for new AEOs.
14. Larger employers who usually use computerised systems to administer the deductions will need to adjust these systems to take account of the changes. The outlay will vary according to the size of the business and the software system they use.

## **Consultation**

### With Stakeholders

15. A full consultation was carried out on the policy proposals from 29 August 2006 to 20 October 2006. The full list of consultees were:

- Finance Directors/ Treasurers of County and County Borough Councils in Wales;
- Chief Executives of County and County Borough Councils in Wales;
- The Welsh Local Government Association (WLGA);
- The Chartered Institute of Public Accountancy and Finance;
- The Institute of Revenues, Rating and Valuation;
- The Valuation Office Agency;
- The Valuation Tribunal Service for Wales;
- TUC Wales;
- CBI Wales;
- Citizens Advice Bureaux (Wales);
- The Public Service Ombudsman for Wales;
- The Federation of Small Businesses in Wales;
- Members of the Local Government and Public Services Committee; and
- Assembly Members.

16. In all, 12 consultation responses were received and all but two supported this amendment to the Regulations. One local authority objected on the grounds that it would reduce the amount the authority would collect in council tax. The

Institute of Revenues, Rating and Valuation made the point that, because of the length of time since the last increase (in 1998), there was now a need to increase the limits by a large amount (36%) in order to keep pace with average earnings. This would affect local authorities' collection rates. The Institute, therefore, called for smaller, more regular increases. No changes were made as a result of the consultation but the need to undertake more regular reviews of the earnings thresholds that apply to Attachment of Earnings Orders (AEOs) was recognised. A list of the responses is attached at Annex B. This summary of responses to the consultation will be published on the Welsh Assembly Government web-site by 31 January 2007.

#### With Subject Committee

17. These Regulations were first notified to the Local Government and Public Services Committee, via the list of forthcoming legislation, on 21 September 2006 (LGPS(2)-12-06 (p.3), item no: LG.097) and have remained on the list ever since. The Regulations were not identified for detailed scrutiny.

#### **Review**

18. These Regulations are concerned with increasing financial thresholds in line with average earnings and will be reviewed by the Welsh Assembly Government in five years time.

#### **Summary**

19. The Regulations would have the effect of raising existing financial thresholds in line with the increase in average earnings and will benefit those employees who are subject to an Attachment of Earnings Order to recover council tax debt from their wages. There are no significant cost implications for the Assembly, local authorities or employers as a result of these changes.

**ATTACHMENT OF EARNINGS ORDERS  
COMPARISON TABLES - CURRENT RATES/AVERAGE EARNINGS**

**DEDUCTIONS FROM WEEKLY EARNINGS**

<b>Net earnings (current position)</b>	<b>Uprated by average earnings</b>	<b>Current and proposed deduction rate % (ie no change)</b>
Not exceeding £55	Not exceeding £75	0
£55 - £100	£ 75 - £135	3
£100 - £135	£135 - £185	5
£135 - £165	£185 - £225	7
£165 - £260	£225 - £355	12
£260 - £370	£355 - £505	17
Exceeding £370	Exceeding £505	17 for first £505, then 50% on rest

**DEDUCTIONS FROM MONTHLY EARNINGS**

<b>Net earnings (current position)</b>	<b>Uprated by average earnings</b>	<b>Current and proposed deduction rate % (ie no change)</b>
Not exceeding £220	Not exceeding £300	0
£220 - £400	£300 - £550	3
£400 - £540	£550 - £740	5
£540 - £660	£740 - £900	7
£660 - £1,040	£900 - £1,420	12
£1,040 - £1,480	£1,420 - £2,020	17
Exceeding £1480	Exceeding £2,020	17 for first £2,020, then 50% on rest

**DEDUCTIONS BASED ON DAILY EARNINGS**

<b>Net earnings (current position)</b>	<b>Uprated by average earnings</b>	<b>Current and proposed deduction rate % (ie no change)</b>
Not exceeding £8	Not exceeding £11	0
£8 - £15	£11 - £20	3
£15 - £20	£20 - £27	5
£20 - £24	£27 - £33	7
£24 - £38	£33 - £52	12
£38 - £53	£52 - £72	17
Exceeding £53	Exceeding £72	17 for first £72, then 50% on rest

**Council Tax (Administration and Enforcement) (Amendment) (Wales)  
Regulations 2007**

**Summary of responses to the proposal to increase the earnings thresholds  
applied to Attachment of Earnings Orders**

<b>Summary of Response</b>
Agrees earnings limit should increase, but by a lower amount.
No comment on this proposal
Supports the proposal
Disagrees with the proposal because the Authority would receive less in repayments.
Supports the proposal
Supports the proposal but calls for more regular reviews of earnings limits. Would like to have the ability to apply an attachment of earnings order at an earlier stage, before court proceedings which add an additional cost to the debt.
Supports the proposal but Tax Credits should be taken into account when calculating net earnings. Financial limits should be reviewed annually.
Supports the proposal
Supports the proposal
Supports the proposal
Supports the proposal
The large increase that will apply to the earnings limits in the first year will slow the collection of council tax and may encourage the use of more costly methods of debt recovery, such as distress and committal. Any increase should be limited to no more than 5% above the rates applied in the previous year.