

1. Council Tax Attachment of Earnings Guide for Employers (Version 4)

This guide is broken into three parts. The first (sections 1 to 11) explains how a council tax attachment of earnings order arises, what it looks like and how to deal with it. The second part (sections 11 to 22) explains how you calculate earnings and the appropriate deductions to make. The third part (section 23 and Annexes A to D) provides further useful information.

Administering Council Tax Attachment of Earnings Orders

2. 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 an AEO to the employer, whom it believes has the debtor in his employment, sending a copy of the order to the debtor.

3. What does an AEO 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 tables and a copy of the regulations which deal with AEOs. You can find a copy of the order at Annex A and the relevant regulations at Annex B at the end of this guide. A copy of the deduction table can be found at Annex C.

4. What duties does an AEO place on the employer?

If you receive an AEO for someone who is no longer or has never been in your employment, 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 12 to 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 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.

5. 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 AEO reference number and amount of each

individual deduction within the total payment. You are not required to list AEOs 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 and may send you payment slips or other documentation to send with each payment (see Annex D). 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 AEO reference number (you will find this on the order). This is particularly important if you are making a single payment for several orders.

6. What about administration costs?

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

7. How long does the AEO 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.

8. 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.

9. What happens if an employer doesn't comply with an AEO?

An AEO 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 AEO
- ◇ 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.

10. 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.

11. What about duties on local authorities?

An authority must tell the employer when the whole amount to which an AEO relates has been paid, including when the payment was not made by means of an AEO.

An authority may, on its own account, or on application by the debtor or the debtor's employer, make an order discharging the AEO. Where an AEO is discharged the authority should notify the employer.

Calculating deductions

12. What amount should an employer make a deduction against?

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

13. What are net earnings?

For the purpose of an AEO, 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 in section 21 and 22.

14. 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 a seaman of a fishing boat

15. How much should be deducted?

Once you have worked out your employee's net earnings, you should use the deduction table that the local authority will send with the AEO to calculate how much should be deducted (Annex C). Different levels of deductions apply depending on when the AEO was originally made. Annex C sets out the rates applicable for orders made after 1 April 2007. All the examples assume that the AEO was made on or after 1 April 2007.

Working out the correct amount to be deducted 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 AEO 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 an AEO 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 C) 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

16. 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 an AEO and you pay your employee on 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 C) 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

17. 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 an AEO and you pay your employee weekly and monthly.

- calculate your employee's weekly attachable earnings, e.g. £200
- identify from Table 1 (Annex C), 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

18. 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 an AEO 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. $£270 \text{ divided by } 9 = £30.00$, $£1,100 \text{ divided by } 11 = £100.00$ and $500 \text{ divided by } 10 = £50$
- identify the correct percentage deduction rate from Table 3 (Annex C), i.e. 7%; 17% on the first £72 and 50% thereafter; and 12% respectively.
- calculate the daily deduction rate i.e. $£30 \times 0.07 = £2.10$; $£72 \times 0.17 + 28 \times 0.50 = £26.24$; 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. $9 \times £2.10 = £18.90$; $11 \times £26.24 = £288.64$; and $10 \times £6.00 = £60.00$ respectively

19. 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 5: You have received an AEO. 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 C) 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. $0.20 \times £200 = £40$

20. 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 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 C) for the monthly salary payment i.e. exceeding £900 but not exceeding £1,420 = 12%
- calculate the deduction i.e. $0.12 \times £1,200 = £144$

21. 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 7: You have received an AEO. 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 C) 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 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 C) 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

22. 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 AEO was made:

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

Further Information

23. Further help and advice

You should contact the local authority that issued the AEO, as they will have a great deal of experience in the operation of AEOs, in the first instance. If your query is about the interpretation of the regulations concerning AEOs then 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

Annex A : Example of an Attachment of Earnings Order

[Name of billing authority]

Regulation 37 of the Council Tax (Administration and Enforcement) Regulations 1992

[Debtor's name and address] [Payroll/Works No.] [Billing authority's reference]

To any person who has in his employment the person named above.

On [date] the [name] magistrates' court made a liability order under regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992 against the person named above.

Under regulation 37 the authority which applied for the liability order, [name of authority] may make an attachment of earnings order to secure the payment of the appropriate amount, which under regulation 37 (1A) is the aggregate of -

(a) any outstanding sum which is or forms part of the amount in respect of which the liability order was made, and

(b) such additional sums and costs as are specified in regulation 37 (1A) (b).

Calculated in accordance with regulation 37 (1A) the appropriate amount in relation to this order is £[amount].

YOU ARE ORDERED by [name of billing authority] to make deductions from the net earnings (as defined in regulation 32 of those Regulations) of the person named above at the times and at the rate specified in regulation 38 of those Regulations. The first such deduction shall be made as soon as reasonably practicable after the service on you of a copy of this order. A copy of regulations 32 and 38, together with regulations 39 to 42 and Schedule 4, are set out at the end of this order.

YOU ARE ALSO ORDERED to pay each sum deducted to [name of billing authority and address for payments] within the period of 19 days beginning on the last day of the month in which the deduction was made.

Dated:.....

Proper officer of the authority :.....

*Endorsement on copy sent to person appearing to have the debtor in his employment

It appears to [name of billing authority] that you have the above-named debtor in your employment. You must notify [name of billing authority] in writing within 14 days of the date of service on you of this copy of the order if you do not have the debtor in your employment. You must also notify [name of billing authority] in writing within 14 days of the day on which the debtor leaves your employment. Failure to do so may render you liable to a fine.

*Endorsement on copy sent to debtor

This is a copy of an attachment of earnings order served on your employer. If you leave his employment or become employed or re-employed you must notify [name of billing authority] in writing within 14 days, giving the particulars specified in regulation 40(1) of the Regulations mentioned in the order. Failure to do so may render you liable to a fine.

Italics indicate words or figures to be inserted.

*Delete whichever endorsement is inapplicable.

Annex B : 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.

Annex C : Deduction tables for AEOs made on or after 1 April 2007

Table 1 - Deductions from weekly earnings	
(1) Attachable earnings	(2) Deduction rate (percentage)
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 2 - Deductions from monthly earnings	
(1) Attachable earnings	(2) Deduction rate (percentage)
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 3 - Deductions from daily earnings	
(1) Attachable earnings	(2) Deduction rate (percentage)
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

