



Department for
Communities and
Local Government

23 September 2014

COUNCIL TAX INFORMATION LETTER: COUNCIL TAX – DEFINITIONS OF EMPTY HOMES AND SECOND HOMES

Since April 2013, local authorities have had the discretion to charge between 50% and 100% council tax on properties which are unoccupied and substantially unfurnished, and are able to charge a premium of up to 50% on properties which have been unoccupied and substantially unfurnished for two years or more.

There has been a suggestion that taxpayers are avoiding paying the premium by installing furniture. This is notionally because property which is unoccupied but which is not 'substantially unfurnished', is a second home rather than an empty home, and the premium does not apply. However, DCLG has no evidence that billing authorities have difficulty applying the legislation, nor that they are experiencing difficulties with avoidance.

Notwithstanding, to assist local authorities and enhance the broader public scrutiny of this issue, this Information Letter outlines the current situation and the Department's informal view on these matters.

- The premium may be applied to properties which have been 'unoccupied' and 'substantially unfurnished' for two years or more. Periods of six weeks or less when the property is occupied/furnished are disregarded for the purposes of calculating the two-year period for the empty homes premium.
- The council tax system provides specific statutory exemptions for properties left empty for a specific purpose, for example when a person goes into care. Council tax is not levied on such properties.
- Under the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003, the Government has prescribed two classes of dwellings which are exempt from the premium. These are: (a) a dwelling which would otherwise be the sole or main residence of a member of the armed services, who is absent from the property as a result of such service and (b) a dwelling, which forms part of a single property that is being treated by a resident of that property as part of the main dwelling (i.e. annexes).
- DCLG has also published guidance on empty properties which are for properties for sale and letting.

- There is a misconception that the premium is easy to avoid by simply placing some furniture into a property. We do not have evidence that this is the case. 'Substantially unfurnished' is not defined in council tax legislation, but is used for the purposes of the empty homes discount regime and the empty homes premium (Section 11A & 11B of the Local Government Finance Act 1992).
- Local authorities will have formed their own views on the definitions for the purposes of administering both the discounts and the premium. A property which is substantially unfurnished is unlikely to be occupied or be capable of occupation. A property which is capable of occupation can reasonably be expected to contain some, if not all, items from both of the following categories: furniture such as bed, chairs, table, wardrobe or sofa, and white goods such as fridge, freezer or cooker.
- Where a property is said to be occupied it will be reasonable for the local authority to cross-check with the electoral roll , or ask for evidence, such as utility bills showing usage of services, driving licence as proof of address, or receipts or other proof of moving costs.
- It will ultimately be a matter of fact whether the property is unoccupied and substantially unfurnished. Local authorities will be aware that under Schedule 3 of the Local Government Finance Act 1992, civil penalties can be applied to a person who deliberately supplies false information. In addition, the provisions of the Theft Act 1968 apply to council tax. Where there is a question mark over occupation/furnishings it may be worth bringing this to the attention of residents and asking them to verify these facts in that light.

As mentioned above, this is the Department's informal view; interpretation of legislation is in the first instance, a matter for the local authority, with definitive interpretation the responsibility of the courts. If you have any queries please contact Peter Reilly at peter.reilly@communities.gsi.gov.uk

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