



Guidance on Students and Council Tax

Caveat

Please note that this document sets out the government's informal view of the legislation only and is not, or must not be considered, a definitive interpretation of the legislation. Definitive interpretation of any legislation is ultimately for the courts to decide.

Introduction

Following a public consultation the Government has announced changes to the treatment of full-time students for council tax purposes. The consultation and summary of responses can be found on the department's website at <http://www.communities.gov.uk/localgovernment/publications/consultations>

The Council Tax (Discount Disregards) (Amendment) Order 2011/948 amends the Council tax (Discount Disregards) Order 1992 ('the Discount Disregards Order').

The intention of the changes is:

- to allow persons who have a sole or main residence in England and Wales who are undertaking a full-time course of education with an educational establishment situated in any Member State of the European Union ('Member State') to be treated as students for council tax purposes; and
- to clarify the status of full-time students undertaking distance learning with an educational establishment in any Member State.

Reason for the changes

The legislation governing the treatment of students for council tax purposes is inflexible when applied to modern day methods of education. For example:

- there are a greater number of students undertaking full-time courses of education with educational establishments in other Member States of the European Union
- distance learning has increased and the advent of the internet has changed the way many distance learning courses are offered.

TREATMENT OF DISTANCE STUDENTS

The Government has amended the definition of a person undertaking a full-time course of education in paragraphs 3 and 4 of Schedule 1 to the Discount Disregards Order so that the **requirement for attendance in relation to a full-time course is replaced by a**

requirement to undertake such a course. The intention of the amended legislation is to clarify that students who are undertaking full-time courses of education, whether by physically attending the educational establishment or by other means, such as correspondence or on-line, and who meet the relevant qualifying requirements of the Discount Disregards Order are to be treated as full-time students for council tax purposes.

STUDENTS UNDERTAKING A FULL-TIME COURSE OF EDUCATION WITH AN ESTABLISHMENT SITUATED IN ANOTHER MEMBER STATE

The Government has amended the definition of 'prescribed educational establishment' in paragraph 1 of Part 1 of Schedule 2 to the Discount Disregards Order so that establishments are defined by their purpose (solely or mainly to provide courses of further or higher education) and their situation in a Member State. In addition, amendments have been made to paragraph 2 of Part 1 of Schedule 2 to the Discount Disregards Order to include new definitions of the terms 'further education', 'higher education' and 'relevant authority'. The intention of the amended legislation is to allow persons undertaking a full-time course of education at an establishment situated within any Member State, and who meet the relevant qualifying conditions of the Discount Disregards Order to be treated as students for council tax purposes.

PROVISION OF INFORMATION

The main practical issue arising from these amendments is how billing authorities will consider an application for student status from a person who is resident in England or Wales, but undertaking a full-time course of education with an educational establishment situated in another Member State.

Paragraph 5 of Schedule 1 to the Local Government Finance Act 1992 requires an educational establishment to provide a certificate, on request from the student. The information to be included in the certificate is prescribed in Article 5 of the Discount Disregards Order. This information includes name and address of establishment, student's full name, date of birth (in certain circumstances), a statement certifying the course has or is being followed by the student and the date when course has come or is expected to end. However, this duty applies only to establishments situated in England and Wales.

Billing authorities are entitled to request information from the applicant in order to satisfy themselves that the application meets the criterion set out in legislation.

Under the Council Tax (Administration and Enforcement) Regulations 1992 billing authorities are required to take reasonable steps to ascertain certain matters. They are also enabled to require certain information to be provided to them. In considering whether a person meets the relevant tests in the Discounts Disregards Order it is reasonable for billing authorities to request information including any of the following-

- copy of confirmation of acceptance on course
- enrolment details
- key details of course (duration, hours, syllabus etc)
- confirmation of payment for course - this may be an invoice
- contact name and details of the institute course administrator to whom the local authority can seek further information

In accordance with their statutory powers and obligations, billing authorities may also wish to request further information which is not listed above. It is generally good practise to use

a range of methods to properly investigate claims for student disregard. In addition to those listed above, other useful methods include contact with:

- other local authorities
- the relevant educational establishment directly (though their website (accessible in English)) or their UK/International liaison officer (often English speaking))
- Government organisations, for example the UK Border Agency.
- European/International organisations, for example the British Council

VERIFYING EDUCATIONAL ESTABLISHMENTS

To assist local authorities in ascertaining the credentials of a particular establishment DCLG has identified a list of institutes that hold an Erasmus Charter. The list covers more than 4000 institutions that represent the large majority of higher education institutions in the 33 countries of the European Union, including the UK, participating in Erasmus.

The Erasmus Programme (European Region Action Scheme for the Mobility of University Students), is a European Union education and training programme, enabling more than 180,000 students to study and work abroad each year, as well as supporting co-operation actions between higher education institutions across Europe. It also caters for professors and business staff who want to teach abroad and for university staff who want to be trained abroad.

The Erasmus University Charter provides the general framework for the European co-operation activities a higher education institution may carry out within the Erasmus programme. It is a prerequisite for higher education institutions to organise student mobility and teaching and other staff mobility, to carry out Erasmus intensive language courses and intensive programmes, and to apply for multilateral projects, networks, accompanying measures and to organise preparatory visits.

Billing authorities can access the list at

http://eacea.ec.europa.eu/llp/erasmus/erasmus_university_charter_en.php

Additional sources of information are:

- The British Council - the United Kingdom's international organisation for cultural relations and educational opportunities. More specifically the British Council manages the Erasmus programme and has useful resources available at <http://www.britishcouncil.org/erasmus>.
- The European Network of Information Centres and National Academic Recognition Information Centres, an initiative of the European Commission. This initiative provides information on educational establishments and education systems, including contact details for national education bodies, responsible for regulating education in each member state, which is available on their website at <http://www.enic-naric.net/>.

A 'member state' is a country which is a member of the European Union. Details of the relevant member countries is available on the Europa website at

http://europa.eu/abc/european_countries/index_en.htm.

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