
COUNCIL TAX ON EMPTY PROPERTIES

1.0 SUMMARY

- 1.1 There have been a number of recent legislative changes to the rules in respect of council tax and non-domestic rates charges for empty premises which came into effect on 1 April 2013. The new legislation defines new categories of unoccupied properties which differ from the previous categories, and there are new discretions for charging council tax for these new categories. For 2013-14 the Council agreed to mirror the previous arrangements for charging as far as possible and to defer more significant changes to 2014-15 onwards. This would then allow reasonable notice of such changes to be given to council tax payers.
- 1.2 The council agreed in June 2013 to utilise the new discretions in order to provide an additional incentive to bring these long term empty properties back into use as this will bring significant benefits to our communities. The council agreed to charge double council tax on unoccupied properties which have been unoccupied for over 12 months for 2014-15 and onwards. For those properties which are being actively marketed for sale or for let, double council tax would only be charged after they have been continuously unoccupied for two years or more. It was recognised that there would be some instances where this would cause particular difficulties for owners, and that it might be necessary to give consideration to exemptions from the double council tax in certain restricted categories. This paper proposes a number of such categories for approval.

2.0 RECOMMENDATIONS

- 2.1 Council exercises its discretion under regulation 4 The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013 not to increase the council tax charge on unoccupied properties in the following circumstances as a transitional measure:
1. For a 6 month period from 1 April 2014 to 30 September 2014 where a council tax payer has an unoccupied property where a grant of confirmation has been obtained but the title has not yet passed to a named beneficiary and the property is being actively marketed for sale or let;
 2. For a 6 month period from 1 April 2014 to 30 September 2014 where a disabled council tax payer has an unoccupied property which they have previously vacated in order to move to a more suitable property;
 3. For a single 6 month period commencing on or after 1 April 2014 and finishing before 31 March 2016 whilst major repair works are under way to the property.

In these circumstances the property would benefit from a 10% long term empty discount for the relevant 6 month period.

3.0 DETAIL

- 3.1 The Local Government Finance (Unoccupied Properties etc.) (Scotland) Act 2012 received Royal Assent on 5 December 2012. This provided enabling powers for further regulations to modify council tax discounts such that there can be variations allowing for up to a doubling of the council tax charge. Further regulations were laid in February 2013 entitled The Council Tax (Variation for Unoccupied Dwellings) (Scotland) Regulations 2013.
- 3.2 In March 2013 Council agreed to mirror the previous arrangements for charging for 2013-14 as far as possible, to allow time to ascertain which properties fall within each of the new categories and to defer more significant changes to 2014-15 onwards.
- 3.3 The council tax section have since contacted all owners of properties classed as second homes to determine whether they meet the new requirement for a minimum of 25 days occupancy in the last 12 months. Further reminders were issued. A £200 civil penalty was applied to 175 accounts who still had not responded and these accounts were re-classified as unoccupied dwellings rather than as second homes.
- 3.4 In June, the Council agreed to charge double council tax on all long term empty properties (which term excludes second homes) from 1 April 2014 which have been unoccupied for more than 24 months. The Council also agreed to charge double council tax on all long term empty properties from 1 April 2014 which have been unoccupied for more than 12 months if they are not being actively marketed for sale or let under appropriate conditions. This means that if at 1 April 2014 they had been unoccupied since at least 1 April 2012, they would immediately be charged double council tax from 1 April 2014. If they are not being marketed for sale or let and have been unoccupied continuously since 1 April 2013, then they would also be charged double council tax from 1 April 2014.
- 3.5 In preparation for this new policy, the council tax section has also contacted all 972 property owners where the council tax bills are sent to a billing address which is different from the address of the property in order to ascertain if these should be classed as second homes or unoccupied properties, or to find out if someone was actually residing in them. 203 council payers failed to respond and were issued with a £500 penalty as agreed in June, and their properties were re-classed as unoccupied.
- 3.6 In mid November, 908 letters were then issued to all the owners of properties which would appear likely to be unoccupied for 24 months or more as at 1 April 2014. They were informed about the new double council tax charge and given details of assistance available from the council's empty homes officer. A further 408 letters were issued to those owners where the property would appear likely to be unoccupied for between 12 and 24 months as at 1 April 2014 and they were advised that double council tax would be chargeable from 1 April unless the property is being actively marketed for sale or let at appropriate conditions. We also contacted a further 199 owners who are currently in receipt of the 6 months empty and unfurnished exemption and may also be subject to the double council tax at some point next year after 1 April. In total, we now estimate that the double

council tax could be charged on between 900 and 1500 properties for some or all of next year.

- 3.7 A number of these owners have been in touch. Whilst they understand fully the purpose of the policy intention, some of them find themselves in difficulty in letting or selling these properties. This was anticipated and council agreed to consider further whether there should be certain classes of properties where these should not be subject to the double council tax.
- 3.8 There are 3 classes where it is suggested that extra time should be given to owners affected by these proposals as a transitional measure. The cases are as follows:

Buildings under repair

- 3.9 There are a number of properties where owners have been undertaking major repair works themselves, and with limited funds. The normal buildings under repair exemption is limited to a period of 12 months since the date of last occupation and that period may well have expired before they actually bought the property. In those circumstances, the owner just gets a 50% discount for up to 6 months, and then 10% discount for 6 months, and again this period may have passed at 1 April 2014. In many cases they would immediately be subject to the double council tax charge at 1 April 2014. It is unlikely that these properties could be actively marketed for sale or let because of the need for the major repairs work to be completed. The council wishes to encourage owners to complete these works as that is a pre-requisite to bringing them back into use.
- 3.10 As a transitional measure, it is therefore proposed to grant these properties the 10% discount (instead of the double council tax charge) for a further 6 months provided that building warrants (and planning permission where necessary) have been obtained, there is a schedule of works, and assurances are received that these works are being actively carried out. This would be for up to a 6 month period provided the property remains unoccupied. The 6 month period can start at any time on or from 1 April 2014 provided that it ends on or before 31 March 2016. 6 months should be a reasonable period to allow major repair works to be completed and the property to be marketed.

Inherited properties

- 3.11 There is full exemption from council tax whilst grant of confirmation is obtained and for up to 6 months afterwards. In a number of cases, properties are not transferred into the names of the eventual beneficiaries immediately after grant of confirmation is obtained as a decision is taken to sell the property and distribute the proceeds. The 6 month period may not be sufficient to sell the property in the current climate. Many of these properties will have been unoccupied by well over 24 months and would be immediately subject to double council tax on 1 April 2014. It could be considered unfair to burden the estate unexpectedly with this liability. It is therefore proposed to offer a transitional exemption from the double council tax from 1 April 2014 to 30 September 2014 for all properties in the names of "the Exes of the deceased person" where the normal deceased exemption has already expired provided the property is being actively marketed for sale or let at appropriate conditions.

Disabled persons

- 3.12 In a number of cases a disabled person finds they need to move into a more suitable property which better meets their needs and they are left with an unadapted property which they have difficulty selling or letting. These people have

moved for very sound reasons, but now find themselves faced with unexpectedly high bills for the second property. As a transitional measure, it is proposed to offer a transitional exemption from the double council tax from 1 April 2014 to 30 September 2014 for all owners where they are in receipt of middle or high band Disability Living Allowance or Personal Independence Payment, or where they receive disabled band relief at their new property.

Implementation

- 3.13 If the above changes are approved, letters will be issued to owners who are likely to qualify for these transitional protections. This would be done in time to ensure as many records are updated as possible prior to council tax annual billing in mid February 2014.
- 3.14 Members are reminded that a further mailshot is planned in early January to all properties which are likely to be unoccupied for over one year by April 2014 but under two years, to see if they should be exempted from double council tax on the grounds that they are being actively marketed for sale or let with appropriate conditions. Owners will then need to provide appropriate evidence to avoid being charged double council tax immediately from 1 April 2014.

4.0 IMPLICATIONS

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| 4.1 | Policy: | This proposes the council exercises its discretion to remove the 100% increase in council tax in certain restricted circumstances as a transitional measure. |
| 4.2 | Financial: | This would reduce the potential increase in recurring council tax income previously estimated at £0.7m to £1.55m. It is not possible to quantify the level of reduction at present. |
| 4.3 | Legal: | Proposals are in accordance with new legislation for council tax which came into effect from 1 April 2013 |
| 4.4 | HR: | None |
| 4.5 | Equalities: | Owners of unoccupied property are not expected to fall disproportionately into any particular equalities group. |
| 4.6 | Risk: | This should reduce the potential for non-payment of the increased charge. |
| 4.7 | Customer Service: | Will give certain owners of long term unoccupied property more time to plan for the increased charge. |
- Appendix 1: Overview of impact on council tax charges by type of property prior to consideration of these proposed transitional protections

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Background papers

Council tax on empty properties: Council 27 June 2013

Council tax and non-domestic rates on empty properties: Council 21 March 2013

Appendix 1: Overview of impact on council tax charges by type of property

Type of property	Position	0 to 6 months	7 to 12 months	13 to 24 months	Over 24 months
Unoccupied and unfurnished, not being marketed for sale or let	Current	100% Exemption	10% discount		
	Proposed	100% Exemption	10% discount	100% increase	
Unoccupied and unfurnished, being actively marketed for sale or let	Current	100% Exemption	10% discount		
	Proposed	100% Exemption	10% discount		100% increase
Unoccupied and furnished, not being marketed for sale or let	Current	10% discount			
	Proposed	10% discount		100% increase	
Unoccupied and furnished, being actively marketed for sale or let	Current	10% discount			
	Proposed	10% discount			100% increase
Unoccupied and undergoing major repairs. Occupied prior to start of works	Current	100% exemption for duration of works up to 12 months, then 10% discount		10% discount	
	Proposed	100% exemption for duration of works up to 12 months, then 10% discount		100% increase	
Unoccupied property purchased by new owner which needs major repairs.	Current	50% discount	10% discount		
	Proposed	50% discount	10% discount	100% increase	
Second home occupied for at least 25 days p.a.	Current	10% discount			
	Proposed	10% discount			
Purpose built holiday homes, or job related accommodation or 2 nd homes of those living in job-related accommodation	Current	50% discount			
	Proposed	50 % discount			