



Students and the Council Tax

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1. Introduction

The council tax is a combination of a property and personal tax with an emphasis on property.

Each household is issued with a bill that is based upon the value of the property and the number of adults living there. Full-time students are in the vast majority of cases exempt from liability for the Council Tax. However, you will have to provide your local authority with evidence of your status, and some students can experience difficulty.

NB: Council tax does not apply to Northern Ireland.

2. Definitions of 'Full-time Student'

The subject of council tax liability and students can be complex. If you are a part-time student it is relatively simple as you are treated as any other citizen (ie you are liable to pay council

tax) and you can claim council tax benefit if you have a low income. However, full-time students as a rule are exempted from council tax.

There are three definitions of full-time students for council tax purposes:

a. Full-time students in further or higher education

A full-time course is defined as one that lasts for at least one academic year. You are normally required to attend for at least 24 weeks a year and at least 21 hours per week. This includes undertaking work experience, but only if the periods of study exceed the periods of work experience when aggregated over the whole course. If work experience exceeds study then it will not be treated as a full-time course of education.

Your college or university determines the number of hours. Colleges and universities are required by law to provide you with a certificate to demonstrate your student status if you ask for one while you are a student or up to a year after you leave the course. After that they may still give you a certificate but are not legally required to do so. The certificate must contain certain information:

- the name and address of the institution;
- your full name;
- your term-time address and home address (if known by the institution);
- a statement that you are (or were) a student – ie, that you are enrolled on a course requiring attendance of at least 21 hours a week over at least 24 weeks a year; and
- the date you became a student and the date your course ends.

Note that attendance does not necessarily mean attendance at the premises of the institution itself, and in most cases the local authority will accept without question the certificate from your college or university. If your local authority queries your status as a full-time student, you should seek advice from your students' union or institution's advice centre.

Postgraduate Students

Full-time postgraduate students are regarded as 'students' for Council Tax purposes in the same way as other full-time higher education students. Some postgraduate research students have had difficulty in securing Council Tax exemption during the thesis 'writing up' period after the formal end of the course. Whilst some local authorities are sympathetic and will extend student status after the end of the course in such situations, others have been known to regard such students as liable as they are no longer "within the period of their course". If this affects you, you should seek advice from your students' union or institution's advice centre.

b. Students under 20 in non-advanced education

For council tax purposes, you are said to be undertaking a 'qualifying course of education'. The main conditions are that you are under 20 years of age, studying on a course up to and including (but not above) A levels (or Highers in Scotland), Ordinary National Certificate or Ordinary National Diploma and you are normally required to study for 12 hours or more per week. The course itself should be for at least three months' duration, and cannot be a correspondence course nor undertaken as a result of your occupation or office.

c. Foreign language assistants

This requires you to be registered with the Central Bureau for Educational Visits and Exchanges.

In the case of the first two of these definitions, you should obtain a certificate from the educational institution to prove that you are a full-time student. This can be used in correspondence with the local authority, and is generally the only acceptable proof of student status.

In most cases full-time students are exempt from payment of the tax. However, full-time students are treated as a special group with regard to three distinct aspects of council tax liability. These are exempt properties, discounts and benefits. Each will be examined in turn.

3.Exempt Properties

Exemption from council tax liability relates to a property and not to a person. Thus there are exempt properties or dwellings. For students there are three categories of exempt dwellings:

a. Halls of residence

The council tax regulations use the term 'halls of residence' as a category of exempt property. The term is not defined - it applies to accommodation provided predominantly for students and which is either owned or managed by an educational institution or by a body established for charitable purposes only.

The regulations refer to accommodation provided predominantly for students. NUS' interpretation of this is that it would include accommodation provided for students and their families. Thus family accommodation that fulfils one of the other criteria above should be exempt from council tax liability.

b. Dwellings occupied only by students

This refers to property occupied by one or more residents, all of whom are students. Thus every house or flat where every adult resident is a student is an exempt dwelling. This applies during term-time and also during any vacation when you are a freeholder, leaseholder, tenant or licensee of the property and previously occupied it as term-time accommodation or intend to do so.

If you intermit or intercalate (ie take time away from your course) your status can cause some confusion, with some local authorities insisting that intercalating students should not be regarded as a student for the purposes of council tax. However, in an information letter written in 1996 the former Department of the Environment (then responsible for the Council Tax) stated:

"In our view a period of intercalation will remain within the period of a course...and therefore, provided that the person remains enrolled at the educational establishment, they will continue to fall within the definition of a full-time student."

Therefore any dwellings occupied only by students, including those intercalating, should be exempt.

c. Dwellings left empty by students

This refers to dwellings that are now empty and the 'owner', who holds the freehold, leasehold or has a tenancy of at least six months, is now a student. For example, if you have a disability and you have had a house specially adapted for your use, you might want to return to live in that property when you cease to be a student so it is left empty whilst you attend your course elsewhere. In order for the house to be included within this category of exemption you should have become a student within six weeks of the last day of occupation, and you should have continued to be a student throughout the period since then.

Given these various categories of exempt dwellings, most full-time students will not have to pay council tax. However, if you are or were living with non-students the situation becomes somewhat more complex, and it is possible that you will be required to pay council tax for periods prior to 1 April 2004.

4. Council Tax Liability

Whilst households consisting only of full-time students are exempt from payment of council tax, until 1 April 2004 an anomaly existed in England and Wales where full-time students

living with non-students became jointly and severally liable for the tax. This was resolved in the Local Government Finance Act 2003 but not retroactively and therefore if you were a full-time student living with a non-student before 1 April 2004 it is possible you could become liable for payment of council tax. This is explained below. Note that the law was changed in Scotland in 2000 and therefore the anomaly was resolved there at that point.

a. Hierarchy of Liability

If a local authority decides that a property is not exempt from council tax (eg because there are one or more non-students living there), the so-called 'hierarchy of liability' will determine legal liability for payment of the tax.

In England and Wales the hierarchy is as follows:

1. Residents with a freehold interest in the property.
2. Residents with a leasehold in the property, or the superior leasehold interest if there is more than one. This includes assured and assured shorthold tenancies.
3. Residents who are statutory or secure tenants.
4. Residents who are licensees.
5. Other residents, including squatters.
6. Non-resident owners.

In Scotland it is:

1. Resident owners of the whole or any part of the property.
2. Resident tenants of the whole or any part of the property.
3. Resident statutory tenants, resident statutory assured tenants or resident secure tenants of the whole or any part of the property.
4. Resident sub-tenants of the whole or any part of the property.
5. Residents of the property.
6. Any of the following:
 - i. the sub-tenant of the whole or any part of the property under a sub-lease granted for a term of six months or more;
 - ii. the tenant, under a lease granted for a term of six months or more, of any part of the property which is not subject to a sub-lease granted for a term of six months or more;
 - iii. the owner of any part of the property which is not subject to a lease granted for a term of six months or more.

The person or persons liable are those who match the earliest description. If there is more than one person who matches that description they are held to be jointly and severally liable

(see below for an explanation of this). If you as a student shared a lease with non-students before 1 April 2004 then this puts you on the same level of the hierarchy of liability and therefore liable to pay.

There are, however, some important exceptions to the hierarchy of liability, when the non-resident owners will be liable rather than residents. These include:

1. Residential care homes, nursing homes and some hostels. This could include some hostels that provide accommodation for students, but cannot be defined as 'halls of residence'.
2. Dwellings of religious communities.
3. Dwellings in multiple occupation. This is a very important category as regards students who find themselves liable for periods before 1 April 2004. If a house in multiple occupation is not exempt in that one or more 'non-students' live there, then liability to pay the council tax will fall to the owner. The definition of a dwelling in multiple occupation is: a dwelling which was originally built or adapted for occupation by persons who do not constitute a single household or is occupied by one or more persons, each of whom either is a tenant or licensee of only part of the dwelling or has a licence to occupy but is not liable to pay rent or licence fee in respect of the dwelling as a whole. Contact your local students' union for further information and help in this instance.

b. Owner Occupiers

There remains one situation where a student may still be liable for the council tax. If you live with one or more non-students, but you are higher on the hierarchy of liability than the non-students (eg you are the owner of the property, or the only person named on the tenancy agreement), the property ceases to be exempt from council tax, but, because you are higher up on the hierarchy of liability, you and not the non-students in the property, would be liable for the council tax. In this case you may, nevertheless, be entitled to a discount on the bill or to CTB, depending on your circumstances.

From April 2006 it may be possible to get a 100 per cent discount on the bill if the non-student or non-students you live with do not pay you rent and all receive income support, jobseeker's allowance or pension credit. You should seek advice if this is the case.

c. Joint and Several Liability

Joint and several liability means that in legal terms a person can be held liable for any part or all of the bill. This means that the local authority would be within their rights to pursue as many or as few people for payment of the bill as they like, regardless of how many liable residents are in the property.

Example: Amy was a full-time student who shared a house in the 2003/04 academic year with two other students – Binda and Caroline. The property was regarded as exempt from Council Tax. Amy decided to leave her course in January 2004, and entered full-time employment. The house then ceased to be exempt from council tax liability, and as joint residents, all three women became jointly and severally liable for the tax due between January and 1 April 2004. No tax was paid. In May 2004, when the three moved to other residences, the local authority pursued payment of the outstanding Council Tax. It had no contact details for Amy or Binda, so sent the full bill for that period to Caroline. Legally, Caroline was required to pay the total amount. However, for the period between 1 April and the date the three moved out, the only person liable was Amy.

In practise, local authorities will try to bill as many of those who are liable as possible, but in the event they cannot contact all of those who would be liable, those they can contact can be required to take on the total debt between them.

d. Expected Contribution

Despite the anomaly of joint liability having been resolved NUS is aware of some cases where students are still expected to contribute to payment on the premise that all household bills are split equally, and as such non-students may consider that students should therefore pay a proportion of any levied tax regardless of their actual legal status. In this case, contact your local students' union for advice. You may also be able to get some assistance from the Access to Learning Fund.

5. Discounts

The system of discounts is based on the number of adult residents in a property.

The full council tax bill assumes that there are two adults living in the dwelling. You get a discount of 25 per cent if there is only one person living there. You get a discount of 50 per cent if there is no one living there.

There are circumstances in which a property containing more than one adult can be eligible for the single person discount. Certain groups of people can be 'disregarded for the purposes of discount', which means that their presence as residents of a property will be ignored. Included within such groups are full-time students, student nurses, youth training trainees and apprentices.

Therefore if you are a full-time student and there is only one non-student in your household they should receive a 25 per cent discount on their bill.

In the case of bills for periods before 1 April 2004, the presence in a property of anyone in the above groups will only be ignored for the purpose of providing the single household discount. What it does not imply is that if you are a full-time student you cannot still be held to be jointly and severally liable for any council tax bill that is issued for that period.

From April 2006 students who are liable can get 100 per cent discount if the people they share with do not pay them rent and all receive income support, job seekers allowance and/or pension credit.

6. Council Tax Benefit

Council Tax Benefit (CTB) is a means-tested benefit designed to help those on low incomes pay their council tax. As with most benefits, student eligibility for CTB remains limited. Those groups of students who are able to claim Housing Benefit (which includes single parents, students with disabilities and student couples with a dependent child or children) are able to claim CTB. If you are not in one of those categories and are a full-time student, including an intercalating student (ie taking time away from your course but still registered at your institution), you are not entitled to claim CTB, regardless of your liability for the tax.

However, if you are a part-time student or the partners of a full-time student, you are entitled to claim it. It should be noted that the definitions of "students", and "full-time" and "part-time" status are slightly different in law when referring to eligibility for CTB compared to those used when referring to liability for council tax. For CTB, a student is simply someone attending a course of study at an educational establishment. Full-time further education students are defined as those who have at least 16 "guided learning hours" per week, but there is no set definition of "full-time" for students in higher education. If in doubt about your status, check with the college or university registry.

You can claim backdated council tax benefit if you receive a council tax bill for a past period on the grounds that the council have only just notified you of liability.

Note that if you are an international student with an immigration restriction stating that you have 'no recourse to public funds,' you are not eligible for CTB and you could risk jeopardising your stay in the country if you try to claim it. See section 8 for more details.

For more information on students and social security benefits please see NUS Information Sheet 20.

7. Second Adult Rebate

Assuming certain criteria are fulfilled, all students – including those international students without a 'no recourse to public funds' restriction on their passport – are entitled to claim second adult rebate. This is sometimes known as **Alternative Maximum Council Tax Benefit**.

This applies where a second adult – such as a grown-up child, relative or friend - dwells within a property but does not pay rent and is not disregarded for the purpose of discount. This rebate will reduce the council tax bill by as little as 7.5 per cent or as much as 100 per cent, depending upon the income and status of the second adult. However, the rules relating to this rebate are complex and advice should be sought from your local students' union or citizens' advice bureau.

8. Reductions For People With Disabilities

In order for reductions to apply, somebody (not necessarily the claimant) who lives within the property must be 'substantially and permanently disabled'. In addition, the property must contain one or more of the following special facilities: a room needed by the person with the disability; a second bathroom or kitchen required by the person with the disability; sufficient space for the person with the disability to use a wheelchair. The reduction is achieved by reducing the bill to the level of the valuation band below the current allocation or (in the case of dwellings in bands A and B) to five ninths of the original bill.

9. International Students

If you are an international student you are treated in exactly the same way as home students when it comes to liability for council tax. However, any non-student spouse or adult dependants who live with you will be treated as a 'relevant person' for council tax purposes and, so long as no other non-student adults are resident, the property will be exempt.

If you have entered the UK with an immigration restriction stating that you have 'no recourse to public funds' you are not entitled to claim council tax benefit, and this applies equally to any partner or dependants. However, even if no such restrictions are attached to your entry into the UK (eg you are a national of an EU member state), entitlement to council tax benefit would only be considered if you qualified as being 'vulnerable', ie you are a single parent or have a disability.

Asylum seekers are not eligible for council tax benefit. However, as you should have your accommodation and other essential needs provided for you under section 95 of the

Immigration and Asylum Act 1999, you are not expected to pay council tax; this liability falls upon the owner of the accommodation.

10. What can I do if there is a problem?

If you dispute the decision of the local authority on a Council Tax issue, or you need help in determining if or how much Council Tax you have to pay you should first contact the local authority immediately, usually by calling the number on your Council Tax bill, and discuss the issue with them.

Should you still have difficulties then the advice service at your institution or students' union, or local Citizens' Advice Bureau, can usually help with Council Tax problems. You can get details for your local CAB at www.adviceguide.org.uk

11. Useful Sources of Information

Department for Communities and Local Government (DCLG)

26 Whitehall, London SW1A 2WH

Tel: 020 7944 4400 **Fax:** 0207 944 9622

Website: www.odpm.gov.uk

The DCLG is the government department responsible for the Council Tax in England and Wales.

Scottish Executive

Finance and Central Services Department, St Andrews House, Regent Road, Edinburgh, EH1 3DG

Tel: 08457 741741 **Minicom:** 0131 244 1829 **Fax:** 0131 244 8240

E-mail (Enquiries): ceu@scotland.gov.uk **Website:** www.scotland.gov.uk

The Scottish Executive has responsibility for the Council Tax in Scotland.

Whilst NUS has taken care to ensure that all information was accurate at the time of writing, readers are advised to check legislative provision before action.

NUS provides information on student finance and other student-related welfare issues and can be contacted at:

NUS HQ, 2nd Floor, Centro 3, 19 Mandela Street London NW1 0DA

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