

technical factsheet 178

High income child benefit charge

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1. INTRODUCTION

The child benefit charge on 'high income' families is now part of our legislation. Section 8 and Schedule 1 to the Finance Act 2012 introduced a new Chapter 8 (sections 681B – 681HI) into Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003), which is the part of the Act that taxes social security benefits. The new legislation comes into effect for 2012/13, although it only applies from 7 January 2013. The charge will be based on the adjusted net income for 2012/13. Thus, the final charge is not known until after the end of the year. Self-employed individuals must be aware of this legislation, as the charge may be based on their current earnings.

The new tax is an income tax charge intended to ensure that child benefit is effectively removed from persons with income in excess of £50,000. It is controversial, because it only applies if one person in a household partnership has annual adjusted income in excess of £50,000. Thus, a single parent with income in excess of £50,000 is within the scope of the charge, whereas if both parties were to receive £45,000 each, the family are outside the scope of the charge.

The charge is the 'appropriate percentage' of the total child benefit received by either partner in the fiscal year. Where the adjusted net income is £60,000, the appropriate percentage is 100%: [section 681C] and the total benefit is clawed back. The important thing to note is that it is not the child benefit, nor necessarily the recipient that is subject to the child benefit charge, it is the member of the family partnership with the highest income who is subject to the tax.

2. WHAT IS A PARTNER?

Taxpayers are partners if:

- they are a man and a woman who are married to each other and are neither separated under a court order, nor separated in circumstances where the separation is likely to be permanent
- they are man and a woman, who are not married to each other but are living together as man and wife
- the persons are two men, or two women, who are civil partners of each other and are neither separated under a court order, nor separated in circumstances in which the separation is likely to be permanent
- the persons are two men, or two women, who are not civil partners of each other but are living together as if they were civil partners.

3. ADJUSTED NET INCOME

Adjusted net income is defined in section 58 Income Tax Act 2007. It is net income after deduction of gift aid (grossed up), pension scheme contributions and Income Tax losses. It will therefore include dividends, income from property including holiday homes, interest on savings, pensions as well as self-employment and casual work. Those who are

self-employed should bear in mind when preparing their accounts that they need to make use of all available deductions, such as capital allowances. They should also maximise their pension contributions if necessary.

As the charge is by reference to weeks, it will apply only to those weeks of a fiscal year for which a partnership exists.

A week means a period of 7 days beginning with a Monday; it is in a tax year if, and only if, the Monday with which it begins is in the tax year.

Example

On 6 April 2013 Frances is a sole parent entitled to child benefit of £33.70 per week for her two children. Her annual adjusted net income is £55,000.

$$\text{Percentage charge: } \frac{\pounds 55,000 - \pounds 50,000}{100} = 50\%$$

Frances is liable to a charge of 50% x £1752 (after rounding down). The charge would be £876. Note that this is the actual tax charge, not the assessable amount.

If child benefit is being paid, and a couple start living together, the charge will arise from the time the couple live together.

If a partnership breaks up the higher earning partner will only be liable from 6 April until the date the partnership breaks up.

This could cause problems where people enter into serial partnerships, since HMRC are proposing to monitor the situation on a weekly basis! Questions may need to be included within standard Self Assessment return procedures.

There is an exemption if one partner had previously claimed child benefit on the basis that they were living with the child and after a period of less than 52 weeks, resumed the claim on the same basis. This would occur when a parent moves away temporarily for work purposes and leaves the child with a family member until they return.

Example:

Vicky and Andy are married, with three sons. Vicky receives child benefit for Ashley (£20.30), Daniel and Josh (£13.40 each). From 7 January to April, she receives (20.30 x 13) = £263.9 + (£13.4 x 2 x 13) = £348.4: rounded down to £263 + £348 total £611.

Andy earns £55,000 and Vicky earns £5,000.

$$\text{Percentage charge: } \frac{\pounds 55,000 - \pounds 50,000}{100} = 50\%$$

Andy is liable to a charge of 50% x £611 (after rounding down).

The charge would be £305.

One of the major problems with this legislation is the requirement for both partners to disclose their income. This caused a lot of difficulties prior to the introduction of separate assessment in 1990/91. It is an added complication, since the income of both partners is under scrutiny and many people may regard it as an intrusion into their privacy. The only way to avoid this would be to disclaim the child benefit.

4. ELECTION NOT TO RECEIVE CHILD BENEFIT

Another potential problem arises from the election not to receive child benefit. If a partner's income is in excess of £60,000, it may be preferable to disclaim the benefit in order to avoid the charge. The election takes effect in relation to weeks beginning after the election is made.

If the claimant decides to elect not to receive the benefit, because the expected income is over £60,000 and the higher income partner finds that this is not the case, the claimant can revoke the election.

The legislation provides that this can only be backdated up to two years, provided there would be no high-income child benefit charge (because the income was less than £50,000). Therefore, if a partner's income falls between £50,000 and £60,000, they would be worse off if they had elected not to receive the child benefit.

The mechanism for electing not to receive the benefit is via the new section 13A of the Social Security Administration Act 1992:

- the person entitled to receive Child Benefit may elect not to receive the benefit for one or more of their children
- this can only be done where the person reasonably expects that if the benefit were paid, they or another person would be subject to the claw back charge
- the election only applies for weeks after it has been made
- where entitlement to child benefit is backdated the election may be made in respect of any child benefit payments in the period ending three months before the claim was made
- the election can be revoked
- the revocation has effect for payments made for weeks beginning after the revocation was made.
- If a person has revoked the election on the grounds they believed it would be subject to claw back but one did not in fact arise, the election not to receive child benefit can be revoked within two years.
- A child is defined as including somebody who is a qualifying young person for the purposes of the child benefit regulations.

5. THE PRACTICALITIES

Child benefit should be claimed, normally when a child is born, fostered or adopted. This provides the entitlement to child benefit. Making the claim, even if the parents plan to elect not to receive the payments, is important if the parent wishes to obtain the National Insurance credits for state pension entitlement. It also guarantees that the child will be issued with a National Insurance number once they reach the age of around 15.

New claimants will be told about the new high-income child benefit charge when they make their claim, to enable them to decide whether to make an election not to receive the child benefit and avoid the charge.

Existing claimants and their partners are not so easy to identify. HMRC need to get in touch with everyone who may be in the over £50,000 income bracket and either be a claimant or in a relationship with a claimant.

Those who disclaim the charge should review their situation whenever their circumstances alter. It would be advisable to install a system to record this within the tax file.

6. THE CHARGE

Child benefit itself is not liable to tax and the amount that can be claimed is unaffected by the new charge. The charge is levied upon the member of the household with the highest income.

Example

On 6 April 2013 Lisa is a sole parent entitled to child benefit of £47.40 for her three children. Her annual adjusted net income is £55,000.

On 6 January 2014, Lisa lives with Johnny as man and wife. Johnny's adjusted net income is £200,000.

For the period 6 April to 5 January, the child benefit received by Lisa will be subject to a claw back charge by reason of her income. As there are 39 weeks in that period, the total child benefit would be £1848.60. As her income at £55,000 is between £50,000 and £60,000 there will be a charge to pay. This will be 50% x £1848, i.e. £924.

From 6 January, she is in partnership with Johnny and the benefit charge will be levied on him. This would be 100% x 13 x £47.4 = £616.20.

In certain circumstances, a person can claim child benefit even though the child is not living with them. This would occur if the person is paying for the child's maintenance at least to the extent of the child benefit claimed.

Section 681D ITEPA 2003 includes the requirement to charge another person who has the child living with them that week. In these conditions that person will be subject to the claw back charge by reference to their income or if they have a partner. This will be the partner with the higher earnings whether or not they receive any child benefit, for example a guardian or grandparent.

As stated above partners need to discuss the new rules and how they could affect the family's finances. They need to know if either person has income in excess of £50,000. If they cannot or will not ascertain their partner's income, HMRC is willing to help. It will try to provide the minimum information to enable them to establish whether either has a higher income.

They need to know about 'individual income' and this will include not only earnings, but also other income and deductions eg pension contributions and gift aid must be taken into account. Expected income, or prospective projects must be considered, as this may lead to the income exceeding the limit.

7. EXEMPTIONS

Exemptions apply:

- when an election has been made to disclaim child benefit
- after the death of the child.

8. TAX RETURNS

Those liable to the charge will have to declare the liability on their tax returns. It is important to make sure that the partners have all the information to hand, particularly if they have not previously submitted a tax return. HMRC estimates that this legislation will bring another 500,000 individuals within the self-assessment regime. Now is the time to get the paperwork in order. Paper tax returns must be submitted by 31 October 2013 and online returns by 31 January 2014.