

## SCHEDULES

### SCHEDULE 1

Section 8

#### HIGH INCOME CHILD BENEFIT CHARGE

##### *The high income child benefit charge*

1 In Part 10 of ITEPA 2003 (social security benefits), after Chapter 7 insert—

#### “CHAPTER 8

#### HIGH INCOME CHILD BENEFIT CHARGE

##### **681B High income child benefit charge**

- (1) A person (“P”) is liable to a charge to income tax for a tax year if—
  - (a) P’s adjusted net income for the year exceeds £50,000, and
  - (b) one or both of conditions A and B are met.
- (2) The charge is to be known as a “high income child benefit charge”.
- (3) Condition A is that—
  - (a) P is entitled to an amount in respect of child benefit for a week in the tax year, and
  - (b) there is no other person who is a partner of P throughout the week and has an adjusted net income for the year which exceeds that of P.
- (4) Condition B is that—
  - (a) a person (“Q”) other than P is entitled to an amount in respect of child benefit for a week in the tax year,
  - (b) Q is a partner of P throughout the week, and
  - (c) P has an adjusted net income for the year which exceeds that of Q.

##### **681C The amount of the charge**

- (1) The amount of the high income child benefit charge to which a person (“P”) is liable for a tax year is the appropriate percentage of the total of—
  - (a) any amounts in relation to which condition A is met, and
  - (b) any amounts in relation to which condition B is met.For conditions A and B, see section 681B.
- (2) “The appropriate percentage” is—
  - (a) 100%, or
  - (b) if less, the percentage determined by the formula—

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$$\frac{ANI - L}{X}\%$$

Where—

ANI is P's adjusted net income for the tax year;  
 L is £50,000;  
 X is £100.

(3) If—

- (a) the total of the amounts mentioned in paragraphs (a) and (b) of subsection (1), or the amount of the charge determined under that subsection, is not a whole number of pounds, or
- (b) the percentage determined under subsection (2)(b) is not a whole number,

it is to be rounded down to the nearest whole number.

#### **681D Extension of charge in cases where child not living with claimant**

(1) This section applies where—

- (a) a person (“R”) is entitled to an amount in respect of child benefit for a child for a week in a tax year by virtue of section 143(1)(b) of SSCBA 1992 or section 139(1)(b) of SSCB(NI)A 1992 (persons contributing to the cost of providing for a child),
- (b) neither R, nor any person who is a partner of R throughout that week, is liable for a charge to income tax in respect of that amount under section 681B, and
- (c) there is another person (“S”) who, for the purposes of section 143(1)(a) of SSCBA 1992 or section 139(1)(a) of SSCB(NI)A 1992 (persons with whom child is living), is a person who has the child living with him or her in that week.

(2) Section 681B applies as if S were entitled to the amount of child benefit mentioned in subsection (1)(a).

(3) Where there is more than one person to whom subsection (1)(c) applies in relation to an amount of child benefit for a week, subsection (2) applies only to the one with the highest adjusted net income for the tax year.

(4) For the purposes of subsection (1)(a), an amount of child benefit to which R is entitled for a week is to be ignored if—

- (a) the period (which includes that week) for which R is entitled to child benefit by virtue of section 143(1)(b) of SSCBA 1992 or section 139(1)(b) of SSCB(NI)A 1992 in respect of the same child does not exceed 52 weeks, and
- (b) R is entitled to child benefit in respect of the child for the week immediately before and the week immediately after that period by virtue of section 143(1)(a) of SSCBA 1992 or section 139(1)(a) of SSCB(NI)A 1992.

(5) In this section “child” means—

- (a) a child within the meaning of section 142 of SSCBA 1992 or section 138 of SSCB(NI)A 1992, or

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- (b) a qualifying young person within the meaning of either of those sections.

### **681E Special cases**

- (1) The following amounts are to be disregarded for the purposes of this Chapter—
  - (a) amounts to which a person is entitled but in respect of which an election under section 13A of the Social Security Administration Act 1992 or section 11A of the Social Security Administration (Northern Ireland) Act 1992 (election for payment of child benefit not to be made if high income child benefit charge would be triggered) has effect;
  - (b) amounts to which a person is entitled by virtue of section 145A of SSCBA 1992 or section 141A of SSCB(NI)A 1992 (entitlement to child benefit after death of child or qualifying young person).
- (2) Subsection (3) applies if—
  - (a) a person (“T”) is entitled to an amount in respect of child benefit for a week in a tax year or is treated as so entitled by virtue of section 681D(2),
  - (b) two or more other persons are partners of T throughout the week, and
  - (c) two or more of those persons would, apart from subsection (3), each be liable to a charge under section 681B(1) in relation to that amount.
- (3) Only one of those persons is liable, namely the person with the highest adjusted net income for the tax year.

### **681F Alteration of income limit etc by Treasury order**

- (1) The Treasury may by order—
  - (a) substitute another amount for the amount for the time being specified in section 681B(1)(a) and defined as “L” in section 681C(2), or
  - (b) substitute another amount for the amount defined as “X” in section 681C(2).
- (2) An order under this section has effect for tax years beginning after the order is made.
- (3) A statutory instrument containing an order under this section which increases any person’s liability to income tax may not be made unless a draft of it has been laid before and approved by a resolution of the House of Commons.

### **681G Meaning of “partner”**

- (1) For the purposes of this Chapter a person is a “partner” of another person at any time if any of conditions A to D is met at that time.
- (2) Condition A is that the persons are a man and a woman who are married to each other and are neither—
  - (a) separated under a court order, nor

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- (b) separated in circumstances in which the separation is likely to be permanent.
- (3) Condition B is that the persons are a man and a woman who are not married to each other but are living together as husband and wife.
- (4) Condition C is that the persons are two men, or two women, who are civil partners of each other and are neither—
  - (a) separated under a court order, nor
  - (b) separated in circumstances in which the separation is likely to be permanent.
- (5) Condition D is that 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.

### **681H Other interpretation provisions**

- (1) This section applies for the purposes of this Chapter.
- (2) “Adjusted net income” of a person for a tax year means the person’s adjusted net income for that tax year as determined under section 58 of ITA 2007.
- (3) “Week” means a period of 7 days beginning with a Monday; and a week is in a tax year if (and only if) the Monday with which it begins is in the tax year.”

### *Consequential amendments*

- 2 In section 7 of TMA 1970 (notice of liability to income tax and capital gains tax), in subsection (3), for the words from “his total income” to the end substitute “—
  - (a) the person’s total income consists of income from sources falling within subsections (4) to (7) below,
  - (b) the person has no chargeable gains, and
  - (c) the person is not liable to a high income child benefit charge.”
- 3 After section 13 of the Social Security Administration Act 1992 insert—

### **“13A Election not to receive child benefit**

- (1) A person (“P”) who is entitled to child benefit in respect of one or more children may elect for all payments of the benefit to which P is entitled not to be made.
- (2) An election may be made only if P reasonably expects that, in the absence of the election, P or another person would be liable to a high income child benefit charge in respect of the payments to which the election relates made for weeks in the first tax year.
- (3) An election has effect in relation to payments made for weeks beginning after the election is made.
- (4) But where entitlement to child benefit is backdated, an election may have effect in relation to payments for weeks beginning in the period of three months ending immediately before the claim for the benefit was made.
- (5) An election may be revoked.

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- (6) A revocation has effect in relation to payments made for weeks beginning after the revocation is made.
- (7) But if—
- (a) P makes an election which results in all payments, in respect of child benefit, to which P is entitled for one or more weeks in a tax year not being paid, and
  - (b) had no election been made, neither P nor any other person would have been liable to a high income child benefit charge in relation to the payments,
- P may, no later than two years after the end of the tax year, revoke the election so far as it relates to the payments.
- (8) Subsections (2) to (7) are subject to directions under subsection (9).
- (9) The Commissioners for Her Majesty’s Revenue and Customs may give directions as to—
- (a) the form of elections and revocations under this section, the manner in which they are to be made and the time at which they are to be treated as made, and
  - (b) the circumstances in which, if child benefit is not being paid to a person at the full rate or the Commissioners are satisfied that there are doubts as to a person’s entitlement to child benefit for a child, an election or revocation is not to have effect or its effect is to be postponed.
- (10) For the purposes of this section—
- “child” includes a qualifying young person;
  - “first tax year”, in relation to an election, means the tax year in which the first week beginning after the election is made falls;
  - “week” means a period of 7 days beginning with a Monday; and a week is in a tax year if (and only if) the Monday with which it begins is in the tax year.”

4 After section 11 of the Social Security Administration (Northern Ireland) Act 1992 insert—

**“11A Election not to receive child benefit**

- (1) A person (“P”) who is entitled to child benefit in respect of one or more children may elect for all payments of the benefit to which P is entitled not to be made.
- (2) An election may be made only if P reasonably expects that, in the absence of the election, P or another person would be liable to a high income child benefit charge in respect of the payments to which the election relates made for weeks in the first tax year.
- (3) An election has effect in relation to payments made for weeks beginning after the election is made.
- (4) But where entitlement to child benefit is backdated, an election may have effect in relation to payments for weeks beginning in the period of three months ending immediately before the claim for the benefit was made.

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- (5) An election may be revoked.
- (6) A revocation has effect in relation to payments made for weeks beginning after the revocation is made.
- (7) But if—
- (a) P makes an election which results in all payments, in respect of child benefit, to which P is entitled for one or more weeks in a tax year not being paid, and
  - (b) had no election been made, neither P nor any other person would have been liable to a high income child benefit charge in relation to the payments,
- P may, no later than two years after the end of the tax year, revoke the election so far as it relates to the payments.
- (8) Subsections (2) to (7) are subject to directions under subsection (9).
- (9) The Commissioners for Her Majesty’s Revenue and Customs may give directions as to—
- (a) the form of elections and revocations under this section, the manner in which they are to be made and the time at which they are to be treated as made, and
  - (b) the circumstances in which, if child benefit is not being paid to a person at the full rate or the Commissioners are satisfied that there are doubts as to a person’s entitlement to child benefit for a child, an election or revocation is not to have effect or its effect is to be postponed.
- (10) For the purposes of this section—
- “child” includes a qualifying young person;
- “first tax year”, in relation to an election, means the tax year in which the first week beginning after the election is made falls;
- “week” means a period of 7 days beginning with a Monday; and a week is in a tax year if (and only if) the Monday with which it begins is in the tax year.”

- 5 (1) ITEPA 2003 is amended as follows.
- (2) In section 1 (overview of contents of Act)—
- (a) in subsection (1)(c), after “see” insert “Chapters 1 to 7 of”, and
  - (b) in subsection (3), after paragraph (a) insert—
    - “(aa) makes provision for the high income child benefit charge (see Chapter 8 of Part 10).”.
- (3) In section 655 (structure of Part 10), in subsection (1), at the end insert—
- “Chapter 8 makes provision for the high income child benefit charge.”
- (4) In section 684 (PAYE regulations), in subsection (2), after Item 2 insert—
- “2ZA Provision—
- (a) for deductions to be made, if and to the extent that the payee does not object, with a view to securing that income tax payable for a tax year by

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- the payee by virtue of section 681B (high income child benefit charge) is deducted from PAYE income of the payee paid during that year,
- (b) for repayments to be made in a tax year, if and to the extent that the payee does not object, in respect of any amounts overpaid on account of income tax under that section for that tax year, and
  - (c) as to the circumstances and manner in which a payee may object to the making of deductions or repayments.”

- (5) In section 685 (tax tables), in subsection (2)(b), after “2” insert “, 2ZA”.
- (6) In section 717 (orders and regulations made by Treasury or Commissioners), in subsection (4), after “companies” insert “or to which section 681F(3) (variation of income limit etc for high income child benefit charge: orders increasing liability to tax) applies”.
- (7) In Part 2 of Schedule 1 (index of defined expressions), insert at the appropriate places—

“adjusted net income (in Chapter 8 of Part 10)	section 681H”
“partner (in Chapter 8 of Part 10)	section 681G”
“week (in Chapter 8 of Part 10)	section 681H”

- 6 (1) ITA 2007 is amended as follows.
  - (2) In section 1 (overview of the Income Tax Acts), in subsection (1)(a), after “social security income” insert “and makes provision for the high income child benefit charge”.
  - (3) In section 30 (additional tax), in subsection (1), after “section 809ZO (tainted charity donations by trustees: charge to tax),” insert—

“Chapter 8 of Part 10 of ITEPA 2003 (high income child benefit charge),”.

### *Commencement*

- 7 (1) The amendments made by this Schedule have effect for the tax year 2012-13 and subsequent tax years.
  - (2) In relation to the tax year 2012-13, references in section 681B of ITEPA 2003 (as inserted by paragraph 1) to an amount to which a person is entitled in respect of child benefit for a week in the tax year do not include any amount to which the person is entitled in respect of child benefit for a week beginning before 7 January 2013.
  - (3) In sub-paragraph (2), “week” means a period of 7 days beginning with a Monday.