



BRIEFING PAPER

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The High Income Child Benefit Charge

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The [High Income Child Benefit Charge \(HICBC\)](#) provides for Child Benefit to be clawed back through the tax system from families where the highest earner has an income in excess of £50,000 and withdrawn completely at incomes of £60,000 or more.

The [HICBC](#), which was introduced in 2013, is collected through [self assessment](#), so that individuals who are liable to pay it are required to file an annual tax return if they do not already do so. Recently there have been concerns about the number of taxpayers who have been charged penalties for failing to register their liability and pay the charge through their tax return.

Rather than pay the HICBC, individuals who have been awarded Child Benefit may make an election not to receive this payment. There have also been concerns that some families have decided simply not to claim Child Benefit, without being aware of the potential impact this may have on their entitlement to contributory benefits.

This note gives a short background to the introduction of the HICBC, before looking at these two issues.

1. Introduction

The proposal to cap child benefit for those on higher incomes was first announced by the then Chancellor George Osborne in October 2010, and in the 2012 Budget the Chancellor confirmed the introduction of the High Income Child Benefit Charge (HICBC) from January 2013.¹

The HICBC provides for Child Benefit to be clawed back through the tax system from families where the highest earner has an income in excess of £50,000 and withdrawn completely at incomes of £60,000 or more. The tax charge is equal to 1 per cent of the total Child Benefit received for every £100 earned over £50,000. For those with an annual income in excess of £60,000, the tax charge is equal to 100 per cent of Child Benefit payments received. The Charge is collected through [self assessment](#). Individuals who are liable to pay it are required to file an annual tax return if they do not already do so.²

¹ [Budget 2012, HC 1853, March 2012 para 1.175-8](#); HMRC, [Budget 2012: Child Benefit Income Tax Charge](#), March 2012.

² HMRC, [Issue briefing: High Income Child Benefit Charge](#), 3 October 2018. The policy background to the introduction of the HICBC is discussed in, [Child Benefit for higher income families](#), Commons Briefing paper CBP6299, 16 April 2012.

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Statutory provision for the HICBC was made by [s8 & Schedule 1 of the Finance Act 2012](#). At the time it was estimated that this change would raise £185m in 2012/13, rising to £690m in its first full year.³

Rather than pay the HICBC, individuals who have been awarded Child Benefit may make an election not to receive this payment. There is a basic explanation of this process [on Gov.uk](#) – as well [as guidance on making this type of election](#). Someone can also decide to revoke this election, if say their circumstances change, and their income fell below £50,000.

The Low Incomes Tax Reform Group also publish [guidance on the HICBC](#), which underlines the point that “Provided you have claimed child benefit, you can re-start payments at any time while you still have your underlying entitlement. So, if circumstances change, for example income changes or partner moves in or out, tell HMRC to make sure any payments that you are entitled to or tax that you need to pay are correct.”⁴

2. Criticisms of the HICBC

A persistent criticism of this approach to withdrawing Child Benefit from those on higher incomes has been the way that it can impact different families. While a single earner couple earning £60,000 would have the whole of their Child Benefit clawed back, a dual earner couple each earning just under £50,000 – with a much larger combined household income – retain their Child Benefit in full. However, as the Government stated at the time the HICBC was introduced, the only way to get around the problem would be to introduce some sort of household means test for Child Benefit.

[In their report on the 2012 Budget](#), the Treasury Committee acknowledged that “the Government needs to take difficult decisions to tackle the budget deficit”, but went on to suggest that, “the Government’s latest proposals for reform of Child Benefit solve only one of the two main problems identified with its original policy”:

In the 2010 Spending Review, the Government announced that it would withdraw Child Benefit through the tax system for households with a higher rate taxpayer from January 2013. This proposal attracted criticism owing to the fact that it:

- presented a cliff-edge at the higher rate threshold where an increase in salary could lead to a decrease in income as the benefit was withdrawn, and
- meant that Child Benefit entitlement would depend only on the income of the higher-income person in the family. This led to the situation where a family with two incomes of £40,000 and therefore a joint income of £80,000 would receive the full benefit but a family with one income earning £45,000 would not receive the benefit at all.

... In the Red Book the Government amended its proposal so that:

- Child Benefit will be withdrawn through an income tax charge, and that the charge will only apply to households where someone has an income over £50,000 a year, and
- for households where someone has an income between £50,000 and £60,000 the charge will apply gradually, preventing a cliff edge effect. Only households where someone has an income in excess of £60,000 a year will no longer gain from Child Benefit.

³ *Budget 2012*, HC 1853, March 2012 p50 ([Table 2.1 – item 2](#))

⁴ LITRG, [Child benefit](#), 8 April 2019

... The Government has amended its policy to remove the cliff-edge problem but has not removed the bias against single-earner households being punished relative to two-earner households.

[In evidence to the Committee, Carl Emmerson, deputy director at the Institute for Fiscal Studies] said:

"In terms of how individuals lose their child benefit as their incomes rise there is now no cliff edge. It is not the case that people will find themselves worse off after getting a pay rise, which would have been true for some individuals under the original system. It is now the case, as long as you have fewer than eight children, that you will not face an effective withdrawal rate of over 100 per cent. So they have dealt with that problem. The other problem that people identified with the initial proposal was that one-earner households could be punished relative to two-earner households. You might not think that that is fair. Clearly there is still an issue, and people who were concerned about that before may well still be concerned about it."⁵

The Committee also noted that the Government's revised approach had "added to the administrative burden of Child Benefit":

HMRC has estimated that 500,000 more people will have to do self-assessment forms because of the child benefit changes, and that it will cost £100 million in staff over five years and £8 million in IT spending. [In evidence to the Committee, John Whiting, Tax Policy Director at the Chartered Institute of Taxation] made the point that, "The administrative load must not be underestimated. There is a big need for proper and careful communication, and for making sure that people do not get the wrong message about things such as having to give it up, or not staying on the register in case they lose their job. It is all an extra problem." ...

[In his evidence] the Chancellor defended the extra administrative costs associated with the changes to Child Benefit, saying that, "once you accept the premise—of course, there are some people who don't accept the premise—and take the decision to remove child benefit payments from better-off families, and we are talking here about the top 10 per cent of families by income, you then have to consider how best to do it. The alternative implied by your question would put 7 million or 8 million people into some form of household means test requiring a complicated form."⁶

Statutory provisions to introduce the HICBC were debated and agreed at the Committee stage of the Finance Bill on 19 April 2012, the day after the Treasury Committee's report was published.⁷

On this occasion Christopher Chope MP noted the issue had "been well covered by the Treasury Select Committee's recent report, as well as by the Chartered Institute of Taxation and other expert bodies. The fundamental issue is the proposals' lack of fairness, as between one family and another ... two people on £50,000 a year with children will not have to pay the high income child benefit charge, whereas a family with children with one person earning over £60,000 will have to pay it."⁸ Speaking for the Opposition on this occasion Cathy Jamieson made the same point: "some of the changes being proposed [in the Budget] might be small steps forward, but they do not change the fundamental unfairness ... A couple with children where one earner is on £60,000 and another is on £10,000 will lose all their benefit, whereas a dual-earner couple on £50,000 each will potentially keep it all."⁹

In response to these concerns Treasury Minister David Guake said, "For those who are in the tax credit system, we currently make an assessment of household income. If a person

⁵ Treasury Committee, *Budget 2012*, HC 1901-1, 18 April 2012 para 115, para 109, paras 111-2

⁶ *op.cit.* para 113

⁷ [HC Deb 19 April 2012 cc 602-629](#)

⁸ *op.cit.* cc604-5

⁹ *op.cit.* cc609-10

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is not in the tax credit system, we do not make an assessment of household income and so have information only on individual income. Were we to try to do this on the basis of household income—I understand the argument made by hon. Members that that is the right thing to do—we would have to accept that that would involve putting everybody claiming child benefit, all 8 million, into the tax credit system which would be a substantial administrative burden on the state and on those individuals.”¹⁰

The issue was also the subject of a Westminster Hall debate in May 2012; on this occasion Treasury Minister David Gauke set out the Government’s case as follows:

We propose to withdraw the financial gain from child benefit from those families where one partner has income of more than £60,000, and reduce the gains where one partner has income of more than £50,000. By applying a tax charge on those on high incomes using existing processes, we are doing it in the most efficient and pragmatic way. The charge will apply to an individual in receipt of child benefit, or their partner, where they are married or in a civil partnership, or living as if they are married or in a civil partnership. I hope that that answers the point about what a household is. It uses the current definitions of partners within social security legislation, and means that other adults living within the household do not affect the liability.

It will remain the case that two earners just below the threshold will not have their child benefit withdrawn. To introduce a new means test for family income would be complicated, costly and confusing—the very things that we wish to avoid. We would need to assess all of the 8 million households receiving child benefit, and we would need to do so each year.¹¹

The Minister went on to give details of how the HICBC would be collected in practice:

Let me turn to the mechanics behind the changes that we are introducing. First, the changes will not affect those receiving child benefit who have income under £50,000, or whose partner does. That will mean that 85% of families receiving child benefit need not be troubled by the changes—85% means more than 7 million families. Where an individual or their partner has income of more than £50,000, the charge will be tapered depending on their income. The equivalent of 1% of the child benefit award will be charged for every £100 increase over £50,000 in adjusted net income. That means that child benefit is fully withdrawn at an income of £60,000. Furthermore, the thresholds between which the taper operates are not dependent on the number of children.

Those affected—around 1.2 million taxpayers—will declare their liability through the income tax self-assessment process, though just over half are already within the SA system. Although we recognise that the charge will bring some taxpayers into self-assessment for the first time, using self-assessment means that the tax can be calculated on the basis of the amount of child benefit received, and the taxpayer’s actual income. That is preferable to including an estimate in a taxpayer’s PAYE code, only to discover an underpayment or overpayment of tax at the year end as actual income proves to be different from estimated income. Even as small a change as £100 will change the amount of tax due for an individual on the taper. As a third of taxpayers affected will benefit from a reduced liability as they are on the taper, using PAYE rather than self-assessment would generate large numbers of under and overpayments.

The changes will take effect from 7 January 2013, with individuals affected including information relating to the charge for the first time in their self-assessment returns for the tax year 2012-13. The first payments of the charge will be due by 31 January 2014 if a taxpayer chooses to pay in a lump sum. Otherwise, the amount due for 2012-13 will be collected through the tax code in 2014-15.¹²

¹⁰ *op.cit.* c616. [In the event the House divided](#), and approved of these provisions by 289 votes to 234.

¹¹ [HC Deb 22 May 2012 c21WH](#)

¹² [HC Deb 22 May 2012 cc21-2WH](#)

More recently there has been criticism of the fact that the £50,000 threshold has not been indexed in line with inflation.

In January 2019 the Institute for Fiscal Studies published a short brief, which noted that as a consequence of freezing the threshold, “around 36%, or 370,000, more families will lose some Child Benefit in 2019–20 than in 2013–14. Continuing the freeze would mean that, from April 2021, significant numbers of families who do not contain a higher rate income taxpayer will begin to lose some of their Child Benefit for the first time. Moreover, by 2022 more than one in five families with children are set to lose at least some of their Child Benefit - up from one in eight when the policy was introduced.”¹³

However, the Government’s consistent position has been that the HICBC remains the most effective way to cap child benefit:

Asked by Laura Smith : To ask the Chancellor of the Exchequer, whether the Government plans to abolish the high income child benefit tax charge.

Answered by: Elizabeth Truss : The High Income Child Benefit Charge came into force in January 2013 to help reduce the deficit and target support at those who need it most. It is a tax charge that applies to anyone with an adjusted net income over £50,000 who claims Child Benefit or whose partner claims it. The charge is tapered, increasing gradually for taxpayers with incomes between £50,000 and £60,000. For families where an individual has income over £60,000, the Child Benefit recipient can choose to either keep receiving Child Benefit payments and the highest earner pays the charge, or opt out of Child Benefit payments and not have to pay the charge. Around 1.1 million families are in scope of the charge, and over 0.5 million have opted out of receiving Child Benefit payments. The Government has no plans to abolish the High Income Child Benefit Charge, but keeps all policies under review.¹⁴

In answer to a more recent PQ the Minister said, “if total household income was taken into account, information on the incomes of everyone in each of the eight million households receiving Child Benefit would need to be collected and would effectively introduce a new means test. The Government’s approach withdraws Child Benefit from those on higher incomes, whilst having no impact on the majority of claimants.”¹⁵ In a second recent PQ the Minister addressed the fact that the £50,000 threshold has not been increased, saying, “the Government believes these are currently the correct level for the HICBC thresholds, but as with all elements of tax policy this remains under review as part of its annual Budget process.”¹⁶

3. ‘Failure to notify’ penalties

3.1 Introduction

When the HICBC was launched it was widely reported that some parents were unaware that they would have to start filing tax returns because of this change.¹⁷ At the time of the 2012 Budget HMRC estimated that 500,000 more people would need to complete self

¹³ Carl Emmerson, Robert Joyce and Tom Waters, *Stealthy changes mean that soon one in five families with children will be losing some Child Benefit*, Institute for Fiscal Studies, 7 January 2019. See also, Adam Corlett, *CB40: Happy 40th birthday to child benefit! But will it last another twenty?*, Resolution Foundation, 2 April 2019.

¹⁴ [PQ176607, 12 October 2018](#)

¹⁵ [PQ277264, 18 July 2019](#)

¹⁶ [PQ247129, 30 April 2019](#)

¹⁷ [“Over 100,000 parents face child benefits tax fine”, Daily Telegraph, 23 January 2014](#)

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assessment tax returns as a consequence of the HICBC.¹⁸ The fact that a significant number of taxpayers may have failed to notify HMRC of their liability to the new charge, and the consequences of their having done so, was raised in a series of linked PQs in October 2017 (**emphasis added**):

Asked by Lesley Laird : To ask Mr Chancellor of the Exchequer, what the average (a) annual and (b) total amount people have been required to repay after failing to register for a self-assessment for the high income child benefit charge.

Answered by: Mel Stride The High Income Child Benefit Charge (HICBC) was introduced in January 2013. HM Revenue and Customs (HMRC) took considerable steps to raise awareness and ran extensive communications campaigns when the tax charge was introduced. This included writing to around 800,000 families affected by the charge when it was launched. HMRC also ran a high profile advertising and media campaign over summer 2013 to prompt those who did not stop their payments to register for Self-Assessment in order to declare and pay the charge. HMRC continues to make information on the HICBC widely available, and include it in the packs for new parents telling them how to claim Child Benefit. HMRC also give guidance online on Gov.uk.

Individuals who are not in Self-Assessment and are liable for the charge should tell HMRC they are chargeable within 6 months of the end of the tax year. If they do not notify HMRC within 6 months, they should contact HMRC at the earliest opportunity. A penalty may be charged where someone fails to notify HMRC on time. For those who do not, HMRC uses existing compliance processes and penalties.

The rules on interest charged for late payment of the HICBC are the same as those applied to other taxes and duties. Interest is charged from the due and payable date of the tax. HMRC charges interest on penalties for failure to notify liability to tax which are being appealed against. HMRC charges interest where the penalty is paid late and will pay interest to the individual if the penalty is reduced or withdrawn.

HMRC Call Centre staff have been provided with guidance on HICBC since HICBC was introduced. All call centre guidance is reviewed and updated regularly. HMRC do not have data on the number of taxpayers who have failed to tell HMRC about their liability for HICBC, or the total number who have been required to register for SA each year since the charge was introduced.¹⁹

HMRC's guidance on 'Failure to Notify' penalties explains that a penalty is not charged "if all of the following apply":

1. you have a reasonable excuse for the failure
2. the failure was not deliberate
3. you told us without unreasonable delay after your reasonable excuse ended

...

A reasonable excuse is something that stopped you from meeting a tax obligation on time which you took reasonable care to meet. It might be due to circumstances outside your control or a combination of events. Once the reasonable excuse has ended, you must put things right without any unnecessary delay.

Whether you have a reasonable excuse depends upon the particular circumstances in which the failure occurred and your particular circumstances and abilities. This may mean that what is a reasonable excuse for one person may not be a reasonable excuse for someone else. If you think you have a reasonable excuse please tell us. If we accept that you have a reasonable excuse, we will not charge you a penalty.

¹⁸ HMRC, *Child Benefit: Income Tax Charge for Those on Higher Incomes – tax information & impact note*, 21 March 2012

¹⁹ [PO 108289, 25 October 2017](#)

If there was anything about your health or personal circumstances that made it difficult for you to notify us of your liability to tax, please tell the officer that is carrying out the check. Telling them will mean that they can take this into account when considering whether you had a reasonable excuse.²⁰

HMRC's [Compliance Manual](#) provides chapter and verse on 'Failure to Notify' penalties (from [para 7000](#)), including a more detailed explanation of what a 'reasonable excuse' is in these circumstances; an extract is reproduced below:²¹

Penalties for Failure to Notify: in what circumstances is a penalty payable: reasonable excuse

What is a reasonable excuse

A person will not be liable to a penalty if they have a reasonable excuse for failing to notify on time and they remedy that failure without unreasonable delay after the excuse ends.

There is no statutory definition of reasonable excuse, which "is a matter to be considered in the light of all circumstances of the particular case" (*Rowland v HMRC* [2006] STC (SCD) 536 at paragraph 18). For example, in *Anthony Wood trading as Propave v HMRC* (2011 UK FTT 136 TC 001010), the First Tier Tribunal applied this definition in their decision released on 23 February 2011.

HMRC consider reasonable excuse to be something that stops a person from meeting a tax obligation despite them having taken reasonable care to meet that obligation. It is necessary to consider what a reasonable person, who wanted to meet their obligation would have done in the same circumstances and decide if the action of the person met that standard as outlined by Judge Medd in *The Clean Car Company* (LON/90/138X)

'One must ask oneself: was what the taxpayer did a reasonable thing for a responsible trader conscious of and intending to comply with his obligations regarding tax, but having the experience and other relevant attributes of the taxpayer and placed in the situation that the taxpayer found himself at the relevant time, a reasonable thing to do? Put in another way which does I think alter the sense of the question; was what the taxpayer did not an unreasonable thing for a trader of the sort I have envisaged, in the position that the taxpayer found himself, to do?'

Whether a person has a reasonable excuse will depend on the particular circumstances in which the failure to notify and the abilities of the person who has failed. What is a reasonable excuse for one person may not be a reasonable excuse for another person.

An unexpected combination of events may together be a reasonable excuse.

If there is a reasonable excuse it must exist throughout the period of the default.

It is not possible to give a comprehensive list of what might be a reasonable excuse as each case will depend on the specific circumstances. [CH71560](#) gives some examples of what could be a reasonable excuse.

The law does however specify two situations that are not reasonable excuses. These are

1. shortage of funds, but see the exception in [CH71620](#), and
2. reliance on another person, but see the exception in [CH71640](#).²²

²⁰ HMRC, [Compliance checks: penalties for failure to notify – Factsheet CC/FS11](#), 10 July 2019 pp1-2. See also, Low Incomes Tax Reform Group, [Tax penalties](#), 12 June 2019

²¹ HMRC, [Compliance Manual para 71540](#), ret'd July 2019

²² HMRC's examples of what might constitute a reasonable excuse include bereavement, serious illness, and 'events outside your reasonable control' (HMRC, [Compliance Manual para CH71560](#), ret'd July 2019).

3.2 Number of penalties issued

Although the Government has published figures for taxpayers paying the HICBC - showing a fall from 360,000 in 2012/13 to 279,000 in 2017/18²³ - in the past HMRC has not published estimates for the number of taxpayers who had failed to pay the charge on time.²⁴

Asked by Baroness Lister of Burtersett : To ask Her Majesty's Government, further to the Written Answer by Lord Bates on 6 March (HL13927), in how many cases there has been a failure by the claimant to pay the High Income Child Benefit Charge which the claimant had then been required to repay.

Answered by: Lord Bates : High Income Child Benefit Charge (HICBC) is part of the Self-Assessment (SA) process and is reflected in each individual's overall SA tax charge. This HICBC charge is included in the individual's annual SA tax return and, where HICBC is recoverable, will form part of the overall tax due by that person. It is therefore not possible to distinguish HICBC charges from other SA charges that may be included for that tax year. For SA overall, 8% of people did not pay by the due date, meaning the vast majority (92%) paid on time.

Nevertheless there have continued to be concerns about the numbers of parents that HMRC have had to notify of their failure to pay the charge:

Asked by Laura Smith : To ask Mr Chancellor of the Exchequer, what assessment he has made of the reasons for the time taken for HMRC to notify people affected by the high-income child benefit charge of the money to be repaid.

Answered by: Elizabeth Truss : The High Income Child Benefit Charge (HICBC) was introduced to ensure that support is targeted at those who need it most. It applies to anyone with an income over £50,000 who claims Child Benefit, or whose partner claims Child Benefit. The tax charge increases gradually for taxpayers with incomes between £50,000 and £60,000. Families in which at least one taxpayer has an income over £60,000 can choose not to receive the Child Benefit, which means that they do not have to pay the tax charge at all.

Those who continue to receive Child Benefit must register for Self Assessment to declare their Child Benefit payments and pay the tax charge through their tax return. HM Revenue and Customs (HMRC) encourages customers to contact it straightaway to pay the tax charge and the vast majority do so. Information on HICBC widely available, including in packs for new parents telling them how to claim Child Benefit, as well as on the Child Benefit claim form itself. Guidance is also available online on gov.uk. HMRC has a duty to apply tax legislation fairly and in an even-handed way, and takes every opportunity to make individuals aware of their responsibilities, including notifying of any taxes due.²⁵

3.3 Review of cases where penalties issued

In November 2018 HMRC announced that it was reviewing cases where a 'Failure to Notify' penalty was issued for the period 2013/14-2015/16, to customers who had not registered for the HICBC, and that it would issue penalty refunds if it found the customer had a reasonable excuse for not meeting their tax obligation:

HMRC has announced that it is reviewing cases where a 'Failure to Notify' penalty was issued for the tax years 2013 to 2014, 2014 to 2015, and 2015 to 2016, to customers who did not register for the High Income Child Benefit Charge.

The department will review cases for these years and issue penalty refunds if it finds the customer had a reasonable excuse for not meeting their tax obligation.

²³ [PO HL13927, 6 March 2019](#)

²⁴ [PO HL14460, 26 March 2019](#)

²⁵ [PO167778, 10 September 2018](#). See also, "Mother hit with £4,500 tax charge for child benefit", *Guardian*, 9 February 2019

A reasonable excuse is something that stopped someone from meeting a tax obligation which they took appropriate care to meet. Decisions on what constitutes a reasonable excuse are based on an objective assessment of individual circumstances.

Normally customers have to explain why they have a reasonable excuse, however following feedback HMRC is proactively reviewing these cases.

This will include families who made a claim for Child Benefit before High Income Child Benefit Charge was introduced, and where one partner's income subsequently increased to over £50,000 in or after the 2013 to 2014 tax year. This is because the higher earner in a household who pays the charge may not be the same person claiming Child Benefit on behalf of the household.

The review will not include anyone who received communications from HMRC about High Income Child Benefit Charge or claimed Child Benefit after the charge was introduced in 2012 to 2013.

Alongside this, HMRC is already writing to customers who might be liable to High Income Child Benefit Charge in 2016 to 2017 and 2017 to 2018, to help them meet their tax obligations in time to avoid paying a penalty.

An HMRC spokesperson said: "HMRC is listening to customers and stakeholders, and reviewing our approach to HICBC to ensure we are treating everyone fairly. Customers do not need to ask for a penalty refund or contact HMRC. We will issue the refunds, where due, over the next six months."²⁶

In June 2019 HMRC published details of the outcome of this review:

HM Revenue and Customs (HMRC) has completed its review into High Income Child Benefit Charge (HICBC) cases where a 'Failure to Notify' penalty was issued.

HMRC took the decision to review cases where a 'Failure to Notify' penalty was issued for the tax years 2013 to 2014, 2014 to 2015, and 2015 to 2016, to customers who had not registered for the HICBC. HMRC listened to customers and stakeholders, and changed its view of when some customers may have a reasonable excuse for failing to notify liability to HICBC. A reasonable excuse is something that stopped someone from meeting a tax obligation that they took appropriate care to meet.

Refunds

Refunds have been sent to families that claimed Child Benefit before HICBC was introduced, and where one partner's income subsequently increased to over £50,000, and to families where the liability to HICBC arose in the 2013 to 2014, 2014 to 2015, or 2015 to 2016 tax years as a result of the formation of a new partnership.

HMRC reviewed 35,000 cases where a 'Failure to Notify' penalty had been charged and cancelled the penalties of over 6,000 customers who had a reasonable excuse for not notifying their liability for the tax years 2013 to 2014, 2014 to 2015 and 2015 to 2016. Refunds were made in 4,885 cases and totalled £1.8 million.

All customers entitled to a refund will now have received one and do not need to contact HMRC.

Informing customers

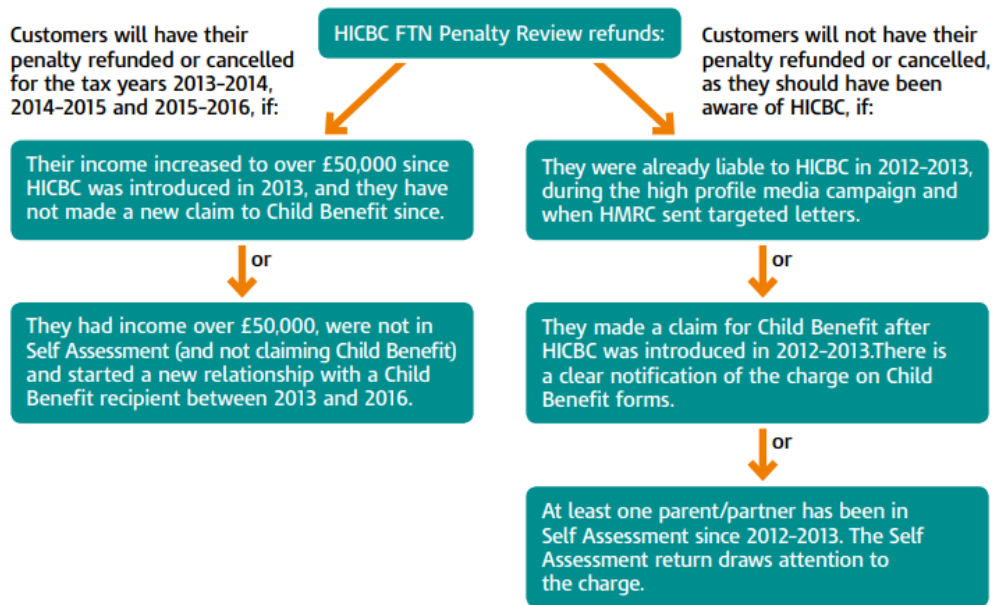
HMRC checks each year and where all the relevant information is held, writes to customers explaining what they need to do to pay HICBC and avoid penalties. HMRC is also improving Child Benefit forms, guidance and communications, setting out options to pay the charge or to claim Child Benefit but elect not to receive payments. In this way the claiming parent can continue to receive non-monetary benefits, such as National Insurance credits, that may preserve entitlement to the state pension, without having to pay HICBC.

²⁶ HMRC press notice, [HMRC to review High Income Child Benefit Charge penalty cases](#), 1 November 2018. See also, Low Incomes Tax Reform Group press notice, [High Income Child Benefit Charge – HMRC to review penalties, 8 November 2018](#); "HMRC to refund child benefit fines for higher earners", *Financial Times*, 1 November 2018

To find out more, see [HICBC customer flowchart](#) [copied below]

High Income Child Benefit Charge (HICBC) penalty refund

This explains circumstances where we issued cancellations and refunds of 'Failure to Notify' (FTN) penalties for the High Income Child Benefit Charge (HICBC). These refunds were issued for the tax years 2013 to 2014, 2014 to 2015 and 2015 to 2016. Penalties have been cancelled and refunded where families made their claim for Child Benefit before HICBC was introduced, and where one partner's income subsequently increased to over £50,000 in or after the 2013 to 2014 tax year.



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Alongside this, HMRC published three research reports related to Child Benefit and the HICBC ...

- [Child Benefit Customer Survey: HMRC Research Report 470](#), 6 June 2019, which explored customers' views, experience and overall levels of satisfaction with the Child Benefit service, and the importance of Child Benefit to customers and how they used the payments.
- [Customer research into the Child Benefit claim form: HMRC Research Report 532](#), 6 June 2019, which looked at the impact of HMRC's redesign of this claim form, "to communicate key information more effectively about the HICBC ... [and] to better communicate information about the non-financial benefits of claiming Child Benefit."
- [High Income Child Benefit Charge: awareness, understanding and decision-making processes: HMRC Research Report 533](#), 6 June 2019, to explore "Child Benefit claimants' understanding of the HICBC, benefits of claiming and reasons why some people don't claim."

... and updated figures on the numbers of taxpayers paying the HICBC, as well as the numbers who have opted out of receiving Child Benefit, and the numbers who have been penalised, either for not registering with HMRC or initially paying the wrong amount:²⁸

Where an individual is currently receiving Child Benefit they can either:

²⁷ HMRC press notice, [Review for High Income Child Benefit Charge penalty cases concludes](#), 6 June 2019

²⁸ HMRC, [High Income Child Benefit Charge: FOI release](#), 6 June 2019

- carry on getting Child Benefit payments and pay any charge at the end of each tax year via Self Assessment
- choose not to receive Child Benefit payments and not have to pay the tax charge - sometimes known as 'opting out'

These tables provide the numbers of customers who paid the HICBC and the number who opted out of receiving Child Benefit.

	2013-14	2014-15	2015-16	2016-17	2017-18
Number of people paying the High Income Child Benefit Charge	366,000	319,000	296,000	290,000	293,000

	2013	2014	2015	2016	2017
Families that have opted out of receiving Child Benefit payment at August of each year	397,000	476,000	492,000	504,000	516,000

If someone is claiming Child Benefit for the first time, they should still claim Child Benefit for their child or children, as it can help to protect state pension contributions and will make sure the child or children receive a National Insurance number. They can then choose to either receive the payments or pay the charge, or stop the payments and not pay the charge.

Penalties for not paying the charge

HMRC checks each year and, where HMRC holds all the relevant information, writes to customers who may need to register for Self Assessment to pay HICBC. In 2018 HMRC wrote to 126,000 customers asking them to contact HMRC early to either avoid or reduce their penalty.

Since the introduction of HICBC in January 2013 until the end of March 2018 HMRC has carried out over 160,000 compliance checks with customers who either did not register for Self Assessment in order to pay the charge or paid the incorrect amount on their Self Assessment tax return.

The below table provides a breakdown of the number of compliance checks by the tax year they were opened.

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Customers who have not registered for Self Assessment	0	22	8,815	1,811	4,090	39,158
Customers who have returned the incorrect amount	0	1	12,465	36,394	33,804	25,326

Of the customers contacted, 88% agreed that tax was owing.

HMRC issued 97,475 penalty assessments to 37,406 customers, amounting to £14,937,294.17. This table below provides a breakdown of the penalties issued by the tax year they relate to:

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Number of penalties	10,982	22,500	32,726	28,480	599	2,188
Value of penalties	£539,822	£3,839,792	£5,470,908	£4,420,376	£76,053	£589,407

4. Implications of not claiming Child Benefit

One other issue has been the subject of some recent debate in relation to the HICBC – the potential impact that someone’s decision not to claim Child Benefit may have on their entitlement to contributory benefits.

To give a little context, individuals who are not in work, paying Class 1 National Insurance contributions (NICs) on their earnings, can maintain their contributions record in one of two ways. First they may choose to pay voluntary Class 3 NICs – which count toward their entitlement to the state pension, as well as bereavement benefits. Rather than being based on the level of one’s earnings, voluntary Class 3 NICs are set at a fixed rate per week (£15.00 for 2019/20). Second, individuals may be ‘credited’ with having made Class 1 contributions or with Class 3 contributions. Individuals may be eligible for NI credits in a variety of situations – such as looking for work, or being in receipt of maternity pay – and, depending on the circumstances, they may receive credits automatically, or have to make a claim for them. Parents and carers may be eligible for Class 3 credits, and, Class 3 credits are awarded automatically to a parent registered for Child Benefit for a child under 12.²⁹

There is a basic outline of NI credits [on Gov.uk](#), and more detailed guidance in HMRC’s online [Manual on National Insurance – para 41256](#) covers the provision of credits for those awarded Child Benefit. In this context it is worth underlining that the legislation underpinning Child Benefit sets a strict time limit for any claim. Normally a claim for Child Benefit can only be backdated for a maximum of three months.³⁰

As noted, the statutory test for NI credits refers to someone being *awarded* Child Benefit. As noted in the Child Poverty Action Group’s *Welfare Benefits and Tax Credits Handbook*, “if you elect not be paid (rather than just not claiming child benefit, or ending or withdrawing your claim), your underlying entitlement to child benefit continues. This means that you (or someone with whom you live or who cares for your child) may still qualify for NI credits.”³¹ The Low Incomes Tax Reform Group has also published guidance on this question on their site:

If you are aged 16 or over and claim child benefit for looking after a child under the age of 12, you may automatically receive Class 3 National Insurance credits that count towards your state pension and some bereavement benefits. If you qualify, these credits are still given automatically, even if you have elected not to receive any payments because you or your partner are subject to the HICBC.

If you are in a household affected by HICBC and decide you want to stop receiving child benefit payments to avoid the tax charge, you still remain entitled to child benefit and so your National Insurance credits will be protected. This is particularly important if you are a low earner or have no income, despite the fact your partner falls into the high income charge. If you have another child, you should still claim child benefit for them even if you choose not to receive payments. This again is to protect your National Insurance record through the award of National Insurance credits as explained on GOV.UK.³²

There have been concerns that a number of parents may have decided not to claim child benefit, without being aware of the implications for their entitlement to NI credits. In

²⁹ Statutory provision for parent and carer credits is made by s23A of the [Social Security Contributions and Benefits Act \(SSCBA\) 1992](#); subsection 3(a) provides for credits to be awarded to someone “awarded child benefit for any part of that week in respect of a child under the age of 12.”

³⁰ under reg 6(1) of the *Child Benefit and Guardian’s Allowance (Administration) Regulations 2003/492*

³¹ CPAG, *Welfare Benefits and Tax Credits Handbook*, 2019/20 ed. p595

³² LITRG, [High Income Child Benefit Charge – should you make a claim for Child Benefit?](#), 20 July 2017

November 2018 Steve Webb, one-time Pensions Minister, launched a petition for the Government to allow backdated claims to cover this eventuality.³³ However, in answers to PQs at this time, Ministers stated that the Government did not think the 3 month deadline for claiming child benefit should be changed:

Asked by Dr Rosena Allin-Khan : To ask the Chancellor of the Exchequer, what recent representations he has received on parents who have mistakenly omitted to claim child benefit and as a result lost out on national insurance state pension credits; and what steps his Department is taking to help those people.

Answered by: Mel Stride : The Government has always urged families to claim Child Benefit to help protect their future right to the State Pension. Child Benefit claimants on a high income can then opt not to receive payments so they do not have to pay the High Income Child Benefit Charge. Families should still complete the Child Benefit claim form in order to qualify for National Insurance Credits and thus build qualifying years towards the State Pension. Parents are advised to do this on the Child Benefit claim form (which is included in Bounty Packs that go to new parents), through the HMRC helpline, online at GOV.UK and through partners such as Citizen's Advice. The Government is continuously looking at ways in which communications can be improved further, both at the birth of a child and for existing Child Benefit claimants.³⁴

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Asked by Dr Rosena Allin-Khan : To ask the Chancellor of the Exchequer, pursuant to the Answer of 23 October 2018 to Question 179286, whether the Government plans to make back payments of child benefit to those parents who have mistakenly omitted to claim that benefit and as a result lost out on national insurance state pension credits.

Answered by: Elizabeth Truss : The Government has always urged families to claim Child Benefit to help protect their future right to the State Pension. The legislation sets out that claims for Child Benefit (and the accompanying National Insurance credit) can only be backdated for three months. Successive governments have considered that three months is a fair and reasonable time in which to allow those wishing to claim Child Benefit to do so. Even though there may be no question that some parents would have been entitled to Child Benefit had they claimed earlier, such certainty is not obvious in every case. The longer the delay, the harder it is to establish entitlement, given the need to verify evidence and ensure consistent treatment.³⁵

The Treasury Committee has also raised concerns over this issue,³⁶ and in correspondence with the Committee in summer 2018, HMRC's Permanent Secretary, Jon Thompson, [said the Department](#) would review the scale of the problem.³⁷ In turn HMRC wrote to the Committee in January 2019; part of their response is copied below:

HMRC's administrative data on Child Benefit does not contain information on the identity of both parents, only the Child Benefit claimant. This means it is not possible for us to produce a robust estimate of this population from our data sources. However, to assist the Committee, I asked my analysts to undertake further investigation of additional data sources.

Using the Department for Work and Pensions Family Resources Survey (a detailed annual survey of over 19,000 UK households) analysts have produced an estimate of the number of households in the position described above. The Committee should note that as this estimate is sample-based, it is subject to a high degree of

³³ "Webb launches petition for pension credits", *Financial Times Adviser*, 16 November 2018

³⁴ [PQ179286, 23 October 2018](#)

³⁵ [PQ192115, 23 November 2018](#)

³⁶ Treasury Committee, [Letter from the Chair to the Financial Secretary to the Treasury and Paymaster General](#), 16 March 2018; [Letter from the Financial Secretary to the Treasury regarding High Income Child Benefit Charge and State Pension entitlement](#), 28 March 2018

³⁷ Treasury Committee, [Correspondence from the Permanent Secretary of HMRC regarding Child Benefit](#), 29 August 2018

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uncertainty. Published National Statistics relating to August 2017 show that the number of UK Child Benefit claimants, including those who have opted out of receiving payments, was around 7.9 million. Our work suggests there may be around 3% of households claiming Child Benefit and not benefitting from NI credits because the Child Benefit is claimed by the higher earner in the household. This only arises where there is a child under 12 and the actual claimant's partner is earning below the lower earnings limit and is not receiving NI credits from another source.

It does not mean that these individuals will miss out on State Pension entitlements. This is because the analysis is a snapshot in time and they may build up sufficient qualifying years over their working life (most individuals under the age of 50 will get a full state pension with 35 qualifying years). It is also possible that some of these individuals will be receiving NI credits if they have been transferred from their partner.³⁸

In turn the Chair of the Committee issued a press notice, saying the following:

"The Treasury Committee has long-warned the Government of the risk that for families with one earner and one non-earner, that if the sole-earner claims Child Benefit, the non-earner, with childcare commitments, forgoes National Insurance credits and, potentially therefore, their entitlement to a full future State Pension. New figures today from HMRC show that over 200,000 parents may be in this situation, and therefore missing out on their pension. Now we have an idea of the scale of this problem, the Government needs to pull its finger out and make sure people are aware of the issue and know how to put it right."³⁹

Treasury Minister Elizabeth Truss gave some details of HMRC's actions to improve taxpayers' understanding of this link between the HICBC and NI credits in answer to a PQ the following month:

Asked by Tommy Sheppard : To ask the Chancellor of the Exchequer, what steps his Department has taken to improve public understanding of the link between national insurance credits and child benefit; and what assessment his Department has made of the effect on the pension income of stay-at-home parents who do not claim child benefit of the high-income child benefit tax charge.

Answered by: Elizabeth Truss : The government has always encouraged families to claim Child Benefit to receive the associated National Insurance credits and help protect their future right to the State Pension.

Parents are advised to do this on the Child Benefit claim form (which is included in Bounty Packs that go to new parents), through the HMRC helpline, and online at GOV.UK.

From April 2019 the Child Benefit claim form and accompanying notes will further emphasise the non-monetary benefits a Child Benefit award provides: in particular, the associated National Insurance credits which protect their State Pension.

In addition, HMRC is developing social media content and material that can be distributed to external partners, to further promote the importance of claiming.

Most parents are able to qualify for the new State Pension, even if there are gaps of up to 15 years in their National Insurance records. This means that those parents who have not claimed Child Benefit still have the opportunity to achieve the full State Pension.⁴⁰

³⁸ Treasury Committee, [HMRC to Chair re Child Benefit](#), 23 January 2019

³⁹ Treasury Committee, [Over 200,000 parents could be missing out on State Pension](#), 23 January 2019

⁴⁰ [PQ214595, 4 February 2019](#)

5. Recent debate of the HICBC

On 3 September the HICBC was the subject of a debate in Westminster Hall, initiated by Craig Mackinlay MP.⁴¹ In his speech Mr Mackinlay raised a series of concerns about the design of the HICBC, the method of its collection, the growing number of taxpayers liable to pay the charge and the number charged penalties for having failed to register with HMRC, as well as the potential consequences for parents who decided not to claim child benefit. A few extracts from the Member's speech are reproduced below:

[The HICBC] is a salutary lesson in how not to withdraw a universal benefit through the tax system. What we have on the statute book, which runs to many tens of pages of tax law, is the truly mad basis of trying to claw back a benefit. It is not related to overall family income, which many people describe as one of the real drawbacks of the system ...

I feel that this situation has led to an inherent unfairness in the system ... My other concern is the means of collection ... The real madness in the system—we should have tax systems that make things easier—is that the implementation of these measures forced 500,000 more people into the requirement to fill in a self-assessment tax return. It is a huge bureaucratic cost to taxpayers, and managing the system must also be a significant cost to Her Majesty's Revenue and Customs ...

Many PAYE employees have had never had to touch the tax system or fill in a self-assessment return. Luckily for them, they have been merrily ignorant of anything to do with tax. It is all done at source by their employers—if they have no further complicated tax affairs, they need do no more. The current situation has been a particular hardship for these taxpayers. They might not have spotted the advertising that was fairly extensive at the time. They perhaps received less than £50,000 at the time, but over the years their income has crept over that figure due to wage rises and better business ...

Of the constituents who have been found not to have done what they should have done ... they have been, well, not happy, but comfortable enough ... that they should pay the money back. They are quite happy with that. However, many of these people have faced a tax-geared penalty under section 97 of, and schedule 24 to, the Finance Act 2007. That penalty has generally been at the lowest rate of 15% under the careless but prompted regime, under HMRC's fines regime. However, they have also faced statutory interest, which is currently at 3.75%. Many people understand that, if they have been in receipt of child benefit for a few years and should not have been, they should pay it back, but they feel particularly aggrieved about a 15% penalty and the statutory interest ...

I am very surprised that the House did not pick up at the time on the fact that the system completely blows away the independent status of taxation for couples ... The system blows that away because one partner now needs to ask the other, "What do you earn, because I need to determine whether it is you or I who pays the high income child benefit tax charge?" The partner in receipt of the child benefit might not be the one paying the charge; it always falls on the higher earner. Whereas before there was decent independence and secrecy between partners should they so wish, that was blown away by the legislation, and I do not feel that could ever be right ...

At the start of my speech, I mentioned the concept of adjusted net income, which is income from PAYE, rents, dividends and whatever else one might receive. Changes to buy-to-let allowability of mortgage interest, however, have had an unforeseen impact. Years ago, rental income less expenses and mortgage interest would give a net figure, which would form the top end of the tax return and be part of the creation of the relevant net income. With the gradual restriction of the allowability of mortgage interest ... the tax return looks different. Net relevant income for rental purposes does not include the deduction for mortgage interest, which now comes at the bottom part of the tax return. Instantly, the net relevant income at the top part of the tax

⁴¹ [HC Deb 3 September 2019 cc60-76WH](#)

return is now bigger for many people with mortgage interest, even though the net effect for cash flow and everything else might be the same. There is now some relief for mortgage interest at the bottom part of the tax return, by way of a credit of tax.

I did not see the full shortcomings of that piece of legislation at the time, even though, at that Budget statement some years ago, I raised concerns about changing the whole deductibility regime, which is fundamental to tax. That legislation has caused another group of families, who are doing nothing particularly exotic, to be dragged into the high income child benefit tax charge, as their income has pitched into the £50,000-plus bracket because of the deductibility of mortgage interest, even though nothing has changed ...

Earlier I described what people might do when they have a new baby. If they have earnings of more than £60,000, they might think, "I just can't be bothered to fill in the form. I'm not going to get anything; why would I bother?" The CH2 form is not unreasonable or too complex—it is actually quite free flowing and easy to understand—but a lot of people do not bother at all.

The other choice they have, by filling in form CH2, is to take the child benefit and then pay it back annually through their self-assessment return, or to register for a nil award so that they are in receipt of child benefit but at nil value. That is really important for those who do not follow that route. They do not want the hassle of a self-assessment return, so they decide to do nothing. The partner in that relationship, who is perhaps not working, will not be building up a national insurance record, because if someone fills in form CH2 and decides not to take any child benefit, they will at least be crediting up a national insurance contribution under class 3. My concern is that people do not know that this is there for them and are saying, as many of us do, "I can't be bothered to fill in another form. I don't think I will get anything. I won't do it."

We are potentially building up a problem of people—let us be frank, it is probably predominantly women—who will find in the future that they do not have the national insurance record that they thought they had. When they get their DWP statement with details of the award they will receive with the new state pension some six months before retirement age, they will find it is rather less than they thought.⁴²

In concluding his remarks Mr Mackinlay acknowledged, "I like a debate to end with a solution, but there is no easy solution to this one":

The easier option would be to restore the universality of child benefit. Nothing is simpler than that—everyone gets it without means testing or complication—but the Government and the Treasury understandably want to claw back that benefit from people in receipt of higher income. A complicated solution—or, rather, a politically difficult one—would be to reduce the personal allowance for those with children. They would get their full child benefit but pay a little more in tax. At least that could be coded out—they need not worry about the self-assessment system—and for the PAYE taxpayer with simple affairs, things would be just as they are. However, that would be a difficult way to do it.

It would be simpler, perhaps, to make a higher universal child benefit payment, which this year is £20.70 for the first child and £13.70 for subsequent children, subject to the benefits cap. Any increased child benefit, however, should be made a taxable benefit. Therefore, through coding, the Government could claw back 20% from a basic rate taxpayer, and 40% from a 40% taxpayer. For those with complicated tax affairs, adding the layer of clawing back the high income child benefit tax charge is no great difficulty. Something similar happens already. The retired have a simple coding adjustment for private pensions to reflect the level of their state pension.

We need a new and elegant solution, and to learn the lesson that whenever Governments in future claw back benefit, they should not do it in this way, through the tax system. It has created bureaucracy and angst, and I am worried that normal,

⁴² *op.cit.* cc60-64WH. For more details on the change the Member mentions to the tax-deductibility of mortgage interest see, [Tax relief on landlords' finance costs: s24 of Finance \(No.2\) Act 2015](#), Commons Briefing paper CBP6361, 15 March 2019.

law-abiding taxpayers now feel that they have done something very wrong because of those levels of penalties.⁴³

Speaking for the Opposition on this occasion Anneliese Dodds noted that “the Labour party has consistently objected to the removal of the universal nature of child benefit”, adding that “there are also practical reasons why the high-income charge is unfit. It has added unnecessary complications, many of which we have already heard about, and it has had a significant impact by requiring up to around half a million people to engage in self-assessment, which is not an easy process”:

It is important that the Minister explains what is being done to deal with the long-term problem of people inadvertently becoming unable to accrue state pension credits because they do not qualify for national insurance contributions or indicate that they want to be part of the system. Obviously, that disproportionately discriminates against women ... It would also be useful to understand any possible disincentive effects of this measure ... Obviously, I hope the whole high-income child benefit charge is abandoned. I do not expect him to make quite as dramatic an announcement here, but I hope he rules out any reduction in the availability of other universal benefits, given the kinds of issues we have discussed and the impact on equity.⁴⁴

Ms Dodds also noted the impact of ‘fiscal drag’ on the numbers liable to pay the charge:

New research on the high-income child benefit charge indicates that much larger numbers of people are being drawn into the system than were initially. The Institute for Fiscal Studies indicated that since the £50,000 threshold has not shifted upwards, about 36% more people—370,000 more families— will lose child benefit in 2019-20 than in 2013-14.⁴⁵

In his response the Financial Secretary to the Treasury Jesse Norman argued that, given the constraints placed on the Government, the design of the HICBC reflected the best course of action:

Here we have one of those difficult decisions for the Government about what is the right thing to do. The judgment made in 2013 was that it was better to take that approach than to base a charge on household incomes, because that would require HMRC to assess annually both household composition and the incomes of everyone in the 8 million or so households eligible for child benefit, which would effectively introduce a new means test, creating a substantial administrative burden on both the state and families. That is the dilemma.

The effect of the charge is to introduce a high marginal tax rate. That is an unattractive aspect of the policy; we should be clear about that. If I may say so, it is not a salutary lesson in how not to withdraw a benefit, because the alternatives of not levying the charge at all or levying it on a cliff edge rather than by gradual withdrawal are worse. It is open to others to take the view that one of the alternatives is better, and my hon. Friend may do so, but not subject to the fiscal constraints in which we have operated.⁴⁶

The Minister went on to note the efforts made by HMRC to alert parents as to the importance of claiming child benefit ...

Information on the charge is included in packs for new parents telling them how to claim child benefit. The front page of the child benefit application form includes a prominent message about the charge to help people make a decision on whether they should claim and be paid child benefit, about the importance of claiming even if they do not receive payments, and about the important issue of eligibility, which was rightly highlighted in the debate. Guidelines are available online formally through gov.uk and through innumerable organisations and groups.

⁴³ *op.cit.* c65WH

⁴⁴ *op.cit.* c70WH, c71WH

⁴⁵ *op.cit.* c70WH

⁴⁶ *op.cit.* c73WH

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... and its review of the penalties issued for taxpayers' failure to notify:

Individuals who pay the charge need to make a self-assessment tax return and may face a failure to notify penalty if they do not. I think he will know that HMRC announced a review of cases where a failure to notify penalty was issued for three tax years. It reviewed 35,000 cases and responded by reviewing the amount for over 6,000 people.⁴⁷

The Minister also picked up on Ms Dodd's mention of the fact that the HICBC threshold had not been increased in line with inflation: "The hon. Member for Oxford East mentioned fiscal drag. That is an important issue, but I do not think she is right that the charge has removed the universal nature of child benefit; it merely allows for a charge against it."⁴⁸

Closing the debate Mr Mackinlay said he was "pleased to receive a degree of assurance from the Financial Secretary to the Treasury":

He accepted that the charge was a measure of its time, when urgent measures were needed to respond to the state of the country's finances. It has not been part of my argument that such a clawback should not exist. My observation has been that, if we are to have methods of clawback, we need to design systems that are more elegant than this one.

I hope he will pass on to HMRC my issues regarding the penalty regime. Perhaps this can be the last of it, with people made aware that, yes, if they do wrong in the future, a penalty regime may apply. However, I would like to see a softer touch, given the modest amounts involved, for those stuck in cases at the moment.⁴⁹

⁴⁷ *op.cit.* cc73-4WH

⁴⁸ *op.cit.* c74WH

⁴⁹ *op.cit.* cc74-5WH

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