

2016 No. 0000

INCOME TAX

CAPITAL GAINS TAX

**The Individual Savings Account (Amendment) Regulations
2016**

<i>Made</i>	- - - -	2016
<i>Laid before the House of Commons</i>		2016
<i>Coming into force</i>	- -	6th April 2016

The Treasury, in exercise of the powers conferred by sections 694, 695, 696 and 701(1) and (5) of the Income Tax (Trading and Other Income) Act 2005(a) and section 151(1) and (2) of the Taxation of Chargeable Gains Act 1992(b), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Individual Savings Account (Amendment) Regulations 2016 and come into force on 6th April 2016.

Amendment of the Individual Savings Account Regulations 1998

2. The Individual Savings Account Regulations 1998 (c) are amended as follows.

Amendment of regulation 2 (interpretation)

3. In regulation 2(1)(a) (interpretation) ,insert in the appropriate places the following definitions—

““first subscription”, in any year, means the first subscription into an account in that year which is not a subscription made in accordance with regulation 5D;”;

““flexible account” has the meaning given in regulation 5DDB;”;

““replacement subscription” has the meaning given in regulation 5DDB;”.

(a) 2005 c.5; sections 694 and 701 were amended by section 40 of the Finance Act 2011 (c.11), sections 695 and 696 were amended by paragraphs 131 and 132 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c.11), section 701(5) was inserted by section 40 of the Finance Act 2008 (c.9).

(b) 1992 c. 12; section 151 was amended by section 85 of the Finance Act 1993 (c.34), section 64(2) of the Finance Act 1995 (c.4), paragraph 436 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 and section 40(7) of the Finance Act 2011.

(c) S.I.1998/1870.

Amendment of regulation 2D (regulations that do not apply to junior ISA accounts)

4. In regulation 2D after “5DDA,” insert “5DDB,”.

Amendment of regulation 4(1B) (general conditions for accounts and subscriptions to accounts)

5. In regulation 4(1B), at the beginning of paragraphs (a) and (b), insert “except for a replacement subscription,”.

Amendment of regulation 4B (closure of cash accounts)

6. In regulation 4B, after paragraph (3), insert—
“(4) This regulation does not apply to a subscription to an account made in accordance with regulation 5D.”.

Amendment of regulation 5D (subscriptions disregarded for the purposes of the subscription limits in regulations 4ZA and 4ZB)

7. In regulation 5D after paragraph (2)(a)(ii), insert—
“(iia) a replacement subscription;”.

Amendment of regulation 5DA (defaulted cash account subscription)

8. In regulation 5DA, at the end of paragraph (b) insert “plus, in the case of a flexible account, in the year in which the default event occurred and before such event, the amount (if any) of cash withdrawn from the account which was not replaced by a replacement subscription”.

New regulation 5DDB (flexible account)

9. After regulation 5DDA insert—

“Flexible account

5DDB.—(1) The terms and conditions of an account (other than a junior ISA account) (“flexible account”) may provide for an account investor to be able to replace (in whole or part) a cash amount withdrawn by the account investor in any year by a replacement subscription of a cash amount (“replacement subscription”) made in that year.

(2) Subject to regulation 4(1B)(a) and (b), a replacement subscription in respect of the current year’s subscriptions may be made into any account of the account investor.

(3) A replacement subscription in respect of the previous years’ subscriptions may be made only to the account from which the withdrawal of a cash amount it is replacing was made.

(4) Any withdrawal of a cash amount in any year is to be deemed to be made first out of the current year’s subscriptions.

(5) Any replacement subscription is to be deemed to be a replacement first of any withdrawal of a cash amount made out of the previous years’ subscriptions.

(6) On any transfer under regulation 21 of the whole of the previous years’ subscriptions, the right of the account investor under paragraph (1) in relation to an account transferred is to cease in respect of a withdrawal of a cash amount from the account made before the transfer.

(7) Paragraph (6) does not apply where an account is transferred in a bulk transfer of accounts.

(8) For the purposes of this regulation—

“the current year’s subscriptions” means (other than the previous year’s subscriptions)–

- (a) subscriptions made to the account by the account investor in the year in which a replacement subscription is made, but before the replacement subscription;
- (b) subscriptions made to any other account by the account investor in the year in which a replacement subscription is made and transferred to the account before the replacement subscription; and
- (c) the qualifying investments and other proceeds (including income) representing the subscriptions in sub-paragraphs (a) and (b) of this definition;

“the previous years’ subscriptions” means–

- (a) subscriptions made to the account (or any other account or former personal equity plan) in any earlier year or years;
- (b) any replacement subscription of a withdrawal of a cash amount made out of those subscriptions; and
- (c) the qualifying investments and other proceeds (including income) representing the subscriptions in sub-paragraphs (a) and (b) of this definition.”.

Amendment of regulation 5DF (information required by regulation 5D)

10. In regulation 5DF–

- (a) after paragraph (1)(a)(i) insert–
 - “(ia) in the case of a flexible account, in the year in which the default event occurred and before such event, the amount of cash withdrawn from the account which was not replaced by a replacement subscription;”; and
- (b) in paragraph (2)(a) after “subscriptions” insert “(other than a subscription to the account made in accordance with regulation 5D)”.

Amendment of regulation 10 (qualifying individuals who may invest under an account that is not a junior ISA account)

11. In regulation 10 (2)–

- (a) in paragraphs (b) and (c) after “who,” insert “except for a replacement subscription,”;
- (b) in paragraph (d) (iii) omit the full stop and substitute“; or”;
- (c) after paragraph (d) (iii) insert–
 - “(iv) who, where the terms and conditions of a flexible account allow for it, though not resident in the United Kingdom, makes a replacement subscription in respect of a withdrawal of a cash amount from that account.”.

Amendment of regulation 12 (conditions for application to open an account that is not a junior ISA account)

12. In regulation 12 (3)–

- (a) after paragraph (a), insert–
 - “(aa) if such be the case, the application is to open a flexible account;”; and
- (b) in paragraphs (d) and (e), after “applicant” insert “,except for a subscription made in accordance with regulation 5D”.

Amendment of regulation 21 (transfers relating to accounts other than junior ISA accounts)

13. In regulation 21, at the end of paragraph (6)(b)(iii), insert–

“disregarding a subscription made in accordance with regulation 5D(2)(a)(i),(ii),(iii) or (iv), less, in the case of a flexible account, the amount of any cash withdrawn from it during that period.”.

Amendment of regulation 21A (further requirements relating to transfers between cash accounts)

14. In regulation 21A, at the end of paragraph (3)(b)(ii), insert –

“disregarding a subscription made in accordance with regulation 5D(2)(a)(i),(ii),(iii) or (iv), less, in the case of a flexible account, the amount of any cash withdrawn from it during that period.”.

Amendment of regulation 31 (returns of information by account manager)

15.—(1) In regulation 31(3)(c)–

(a) after “as regards each such account” omit from “, to which” to “a year”;

(b) after paragraph (ia), insert–

“(ib) whether the account is a flexible account,”;

(c) in paragraph (ii) after “total amount” omit “of cash”; and

(d) after paragraph (ii), insert–

“(iia) in place of the provision in paragraph (ii) in the case of a flexible account, in the year or part of the year for which the return is made, disregarding a subscription made in accordance with regulation 5D(2)(a)(i),(ii),(iii) or (iv), the total amount subscribed to the account less the amount of any cash withdrawn from it and if the result is in the negative, the amount to be reported is nil,”; and

(e) in paragraph (iii), after “subscription” insert “, if any”.

(2) In regulation 31(7)–

(a) in paragraph (b), after “the total amount of ”, omit “cash”; and

(b) insert after paragraph (b)(iv)–

“In the case of a flexible account, in the year or part of the year for which the return is made, there is to be disregarded a subscription made in accordance with regulation 5D(2)(a)(i),(ii),(iii) or (iv) and there is to be deducted from the total amount subscribed the amount of any cash withdrawn from the account and if the result is in the negative, the amount to be reported is nil.”.

Name

Name

Date

Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Individual Savings Account Regulations 1998 (S.I. 1998/1870) (“the principal regulations”).

The regulations amend the principal regulations to provide for the terms and conditions of an account (“flexible account”) to allow a saver to replace cash they have withdrawn from their account earlier in the year, without this replacement (“replacement subscription”) counting towards their annual subscription limit which is currently £15,240 under regulation 4ZA of the principal regulations (“annual subscription limit”). The provision for a flexible account does not

apply to junior ISA accounts (defined in the principal regulations), which generally do not permit withdrawals to be made until the account matures.

Regulation 3 amends regulation 2 of the principal regulations relating to interpretation.

Regulation 4 amends regulation 2D of the principal regulations by adding new regulation 5DDB (making provision for the new flexible account, inserted into the principal regulations by these regulations) as a regulation which does not apply to junior ISA accounts.

Regulation 6 amends regulation 4(B) of the principal regulations, so that subscriptions under regulation 5D of the principal regulations which are to be disregarded for the purpose of the annual subscription limit are also to be disregarded for the purposes of regulation 4B.

Regulation 7 amends regulation 5D of the principal regulations so that replacement subscriptions are to be disregarded for the purposes of the annual subscription limit .

Regulation 9 inserts new regulation 5DDB into the principal regulations to provide for flexible accounts.

Regulation 11 makes an amendment to regulation 10(2) of the principal regulations to enable a non-resident to make a replacement subscription.

Regulation 15 amends regulation 31 in relation to the returns of information required from an account manager relating to flexible accounts, so that, for example, the 'net' (rather than total) subscriptions made to the account are required to be reported and certain payments that do not count towards the annual subscription limit are excluded from the reporting requirement.

Regulations 5,8,10 and 12 to 14 make further minor consequential amendments to the principal regulations.

A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.