

**2017 No. 0000**

**INCOME TAX**

**CAPITAL GAINS TAX**

**The Individual Savings Account (Amendment No.XX)  
Regulations 2017**

|   |         |     |
|---|---------|-----|
| <i>Made</i>                             | - - - - | *** |
| <i>Laid before the House of Commons</i> |         | *** |
| <i>Coming into force</i>                | - -     | *** |

The Treasury make these Regulations exercising the powers in sections 62(4A), (4B) and 151 of the Taxation of Chargeable Gains Act 1992(a) and sections 694, 694A, 695, 696, 699 and 701(1) and (5) of the Income Tax (Trading and Other Income) Act 2005(b).

**Citation and commencement**

1. These Regulations may be cited as the Individual Savings Account (Amendment No.XX) Regulations 2017 and come into force on [xxxxxx] 2017.

**Amendment of the Individual Savings Account Regulations 1998**

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

3. In regulation 2(1)(a) (interpretation)—

(a) in the definition of “article 36H agreement” insert after “operator” where it appears second “or, in relation to a continuing deceased’s account, any person within the description of section 694A(2) of ITTOIA 2005 or referred to in section 694A(1) of that Act,”; and

(b) at the appropriate place insert—

““continuing deceased’s account” has the meaning given in regulation 2G;”.

4. After regulation 2F (special provision in respect of Looked After Children) insert—

- 
- (a) 1992 c.12; section 62(4A) and (4B) was inserted by section 27(3) of the Finance Act 2016 (c.24), 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, section 40(6) of the Finance Act 2011 and section 27(2) of the Finance Act 2016.
- (b) 2005 c.5; sections 694 and 701 were amended by section 40 of the Finance Act 2011 (c.11), section 694A was inserted by section 27(1) of the Finance Act 2016, 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).
- (c) S.I. 1998/1870; relevant amending instruments are: S.I.2007/2119, 2010/2597, 2011/1780, 2012/1871, 2013/1743, 2014/1450, 2015/869, 2016/16 and 2016/364 and 2016/977.

**“Continuing deceased’s accounts and administration-period investments**

**2G.**—(1) This regulation applies to a deceased’s account which is not a junior ISA account.

(2) Investments held in such an account after the death of the account investor in accordance with these Regulations (“continuing deceased’s account”), are to be administration–period investments as a result of section 694A(4) or (5) of ITTOIA 2005 for the period beginning on death and ending on the earlier of—

- (a) the completion of the administration of the deceased’s estate, and
- (b) the day falling on the third anniversary of the death.

(3) Notwithstanding the provisions of these Regulations—

- (a) no subscription or qualifying addition is to be made to a continuing deceased’s account, and
- (b) no transfer is to be made of a continuing deceased’s account otherwise than a transfer when regulation 17, 19 or 20 applies.

(4) In relation to a continuing deceased’s account and an administration-period investment, wherever the following expressions occur (unless the context otherwise requires)—

- (a) “investments”, “account investments”, “qualifying investments”, “investments under an account”, or any other description of an account investment, includes administration-period investments,
- (b) “account investor”, “applicant”, or any other description of an account investor, includes any person within the description of section 694A(2) of ITTOIA 2005 and, in the case of regulations 22 and 36(3), also any person referred to in 694A(1) of that Act, and
- (c) “account”, “Lifetime ISA”, or any reference to a scheme of investment, includes a continuing deceased’s account, notwithstanding that no subscription or qualifying addition can be made to it.

(5) The following provisions do not apply to a continuing deceased’s account—

- (a) regulations 4(6)(a) and (6)(f) (except in relation to a transfer when regulation 17, 19 or 20 applies), 12(3)(f) and (6)(a) and 12B(7)(a), and
- (b) in regulation 7(2)(h)(iii), the phrase “but have remained in the beneficial ownership of the participant”.

(6) The following regulations are to be read in relation to a continuing deceased’s account as follows—

- (a) in regulation 21(4D), as if after “made on a transfer”, there is inserted “and is a continuing deceased’s account”,
- (b) in regulations 21(6)(a), 21A(3)(a) and 31(3)(a)—
  - (i) in sub-paragraphs (i) and (ii), the information to be provided concerns any person within the description of section 694A(2) of ITTOIA 2005, and

(ii) in sub-paragraphs (iii) and (iv), the information to be provided concerns the deceased investor.”.

5. In regulation 5DDA (additional permitted subscription to an account other than a junior ISA account)—

(a) in each of paragraphs (3), (3A) and (3B) after “deceased’s death” insert “or on the account ceasing to be a continuing deceased’s account, in accordance with paragraph (4A) (as the case may require)”;

(b) after paragraph (4) insert—

“(4A) In the event that the period for an administration-period investment in a continuing deceased’s account with an account manager ends and S has not made a subscription under paragraph (1), the value of a subscription thereafter is to be determined in accordance with paragraph (3) but with “deceased’s death” substituted by “deceased’s death, or on the account ceasing to be a continuing deceased’s account, whichever is the higher.”.

6. In regulation 21(6)(b), (transfers relating to accounts other than junior ISA accounts), after sub-paragraph (i) insert—

“(ia) whether the account is a continuing deceased’s account;”.

7. In regulation 21A(3)(b) (further requirements relating to transfers between cash accounts) after sub-paragraph (iv) insert—

“(v) whether the account is a continuing deceased’s account; and”.

8. In regulation 31 (returns of information by account manager)—

(a) in paragraph (1) for “and (7A)” substitute “(7A) and (11)”;

(b) in paragraph (3)(a) after sub-paragraph (iv) insert—

“and

(v) where the account is a continuing deceased’s account, the date of death of the deceased investor; and”;

(c) after paragraph (10) insert—

“(11) The information specified in this paragraph is the total number of continuing deceased’s accounts.”.

9. After regulation 34 (Capital gains tax— adaptation of enactments) insert—

**“Capital gains tax—administration-period investment**

**34A.** For the purposes of capital gains tax—

(a) on the occasion when title to an administration-period investment is transferred from the personal representatives to a legatee, the legatee is to be treated as having acquired the investment on the death of the deceased investor and for a consideration equal to its market value at the date of the transfer;

(b) on the occasion when title to an investment is transferred after the end of the period in respect of which it was an administration-period investment, the legatee is to be treated as having acquired the investment on the death of the deceased investor and for a consideration equal to its market value on the most recent occasion of a deemed disposal and reacquisition by the personal representatives of the investment in accordance with regulation 34(1).”.

*Name*

Date

*Name*

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 ISA regulations”) to allow the savings of a deceased person in an Individual Savings Account to continue to benefit from tax advantages during the administration of the estate (regulations 4 and 9). They provide, as a consequence of the change, for the additional permitted subscription available to spouses and civil partners to be the higher of the value of investments held in a deceased’s account on the deceased’s death and on the account ceasing to be a continuing deceased’s account (regulation 5). They also provide for consequential changes to provisions relating to information and reporting requirements (regulations 6 to 8).

A Tax Information and Impact Note covering this instrument has been published on the HM Government website at: <https://www.gov.uk/government/publications/income-tax-extending-individual-savings-account-tax-advantages-after-the-death-of-an-account-holder>.

DRAFT