STATUTORY INSTRUMENTS

2003 No. 2747

INCOME TAX

The Individual Savings Account (Amendment) Regulations 2003

Made - - - -	*27th October 2003*
Laid before the House of Commons	*27th October 2003*
Coming into force - -	*17th November 2003*

The Treasury, in exercise of the powers conferred upon them by section 333 of the Income and Corporation Taxes Act 1988(**a**), section 151 of the Taxation of Chargeable Gains Act 1992(**b**) and section 75 of the Finance Act 1998, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Individual Savings Account (Amendment) Regulations 2003 and shall come into force on 17th November 2003.

(2) Regulations 3, 4, 5(c) and 7 of these Regulations, and the provisions inserted by regulation 6 of these Regulations (so far as those provisions relate to regulation 7(2)(ga) of the principal Regulations), shall have effect from the coming into force of these Regulations.

(3) These Regulations shall otherwise have effect from 6th April 2004.

2. The Individual Savings Account Regulations 1998 ("the principal Regulations")(**c**) are amended as follows.

3. In regulation 2(1)(b)—

(a) insert at the appropriate places the following definitions—

"a "Chapter 5 UCITS" means a UCITS complying with Chapter 5 of the Collective Investment Schemes Sourcebook;"

""the Collective Investment Schemes Sourcebook" means the sourcebook of that name made by the Financial Services Authority under the Financial Services and Markets Act 2000;";

(b) in the definition of a "relevant UCITS" omit the words following paragraph (ii);

(c) in the definition of "units in, or shares of, a relevant UCITS" omit "relevant" in both places it appears.

(**a**) 1988 c.1; section 333 was amended by section 70 of the Finance Act 1991 (c. 31) and by sections 75 and 123(7) of, and Part 3(15) of Schedule 27 to, the Finance Act 1998 (c. 36).
(**b**) 1992 c. 12; section 151 was amended by section 85 of the Finance Act 1993 (c. 34), by section 64(2) of the Finance Act 1995 (c. 4) and by section 75(6) of the Finance Act 1998, and was extended by section 123(7) of the Finance Act 1998.
(**c**) S.I. 1998/1870; relevantly amended by S.I. 1998/3174, 2000/2079, 3112, and 2001/3629.

4. In regulation 6(1ZA)(**a**) omit the definition of "the Collective Investment Schemes Sourcebook".

5. In regulation 7(2)—

(a) in both sub-paragraphs (e) and (g) for the words from "scheme satisfies" to the end substitute "units or shares satisfy the condition specified in paragraph (15)";

(b) in sub-paragraph (f) for the words from "UCITS satisfies" to the end substitute "units or shares satisfy the condition specified in paragraph (15)";

(c) after sub-paragraph (g) insert—

"(ga) units in, or shares of, a Chapter 5 UCITS, in circumstances where the units or shares satisfy the condition specified in paragraph (15);";

(d) insert at the end—

"(l) investments which—

(i) were held under the stocks and shares component on 6th April 2004; and

(ii) immediately before that date, fell within sub-paragraphs (e), (f) or (g), or sub-paragraph (ha) so far as the relevant investments (within the meaning in the definition of "depositary interest") fell within any of those sub-paragraphs."

6. At the end of regulation 7 add—

"(14) Qualifying investments for a stocks and shares component falling within sub-paragraph (ha) of paragraph (2), so far as the relevant investments (within the meaning given in the definition of "depositary interest") fall within any of sub-paragraphs (e), (f), (g) or (ga) of that paragraph, must satisfy the condition specified in paragraph (15).

(15) The condition specified in this paragraph is that, during the period of five years from the date on which the qualifying investments in question were first held in the account, there was no time when—

(a) the contract under which the investments were acquired, or any other transaction entered into at any time by the account investor or any other person, or

(b) the nature of the underlying subject matter of the investments,

had the effect that the account investor was not exposed, or not exposed to any significant extent, to the risk of loss from fluctuations in the value of the investments exceeding 5% of the capital consideration paid or payable for the acquisition of those investments.

(16) In this regulation references, in relation to qualifying investments, to—

(a) the underlying subject matter are references to or to the value of the investments, currencies or other matters to which, or to the value of which, those qualifying investments or their value is referable;

(b) the capital consideration paid include the incidental costs of acquisition; and

(c) the value are to be construed applying regulation 6(2), but deducting the incidental costs that would be incurred by a disposal.".

7. In regulation 8(2) add at the end—

"(g) investments falling within sub-paragraphs (e), (f), (g) or (ga) of regulation 7(2), in circumstances where the units or shares do not satisfy the condition specified in regulation 7(15);

(h) a depositary interest (with the references in that definition to a stocks and shares component and to regulation 7(2)(a) to (h) being replaced with references to a cash component and to regulation 8(2)(a) to (g)).".

8. In regulation 31(4)—

(**a**) Inserted by S.I. 2001/3629.

(a) in sub-paragraph (a) after paragraph (vi) insert—

"(via) units in, or shares of, a Chapter 5 UCITS, which satisfy the condition in regulation 7(15);";

(b) in sub-paragraph (b) after paragraph (i) insert—

"(ia) units in, or shares of, a Chapter 5 UCITS, which do not satisfy the condition in regulation 7(15);".

Jim Murphy
Nick Ainger

27th October 2003 Two of The Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations further amend the Individual Savings Account Regulations 1998 (S.I. 1998/1870). The principal effect of the amendments is to allow shares or units of UCITS schemes operating under the widened investment powers in the UCITS Amending Directive (2001/108/EC) within the stocks and shares component of Individual Savings Accounts. This is subject to a 5 year test that the investor is not certain (or near certain) of the return of 95% of his initial investment (the "95% test"). If the test is not met the shares or units can fall within the cash component.

Regulation 1 provides for citation, commencement and effect.

Regulations 2 to 8 amend S.I. 1998/1870. Regulations 3 and 4 deal with definitions in those Regulations. Regulation 5(a), and (b) provide for the replacement of an existing test for securities schemes, warrant schemes, fund of funds schemes and foreign UCITS, by the 95% test, with effect from 6th April 2004 (the position for existing investments on that date is preserved by regulation 5(d)). Regulations 5(c), 6 and 7 allow shares or units in UCITS schemes operating under Chapter 5 of the Financial Services Authority CIS Handbook (containing the widened UCITS investment powers referred to above) within the ISA, and introduce the 95% test. Shares or units of securities schemes, warrant schemes, fund of funds schemes, foreign UCITS and UCITS schemes operating under Chapter 5 are eligible for the stocks and shares component, or cash component, dependent on that test.

Regulation 8 makes consequential amendments to the reporting requirements for ISA managers.

A Regulatory Impact Assessment for these Regulations is available on the Inland Revenue website www.inlandrevenue.gov.uk.or by post from Room 135, New Wing, Somerset House, Strand, London WC2R 1LB.

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