

2008 No. 704

INCOME TAX

**The Individual Savings Account (Amendment) Regulations
2008**

<i>Made</i> - - - -	<i>12th March 2008</i>
<i>Laid before the House of Commons</i>	<i>13th March 2008</i>
<i>Coming into force</i> - -	<i>6th April 2008</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 694 to 701 of the Income Tax (Trading and Other Income) Act 2005(a) and section 151 of the Taxation of Chargeable Gains Tax Act 1992(b).

Citation and commencement

1. These Regulations may be cited as the Individual Savings Account (Amendment) Regulations 2008 and shall come into force on 6th April 2008 immediately after the Individual Savings Account (Amendment) Regulations 2007(c).

Amendment of the Individual Savings Account Regulations 1998 (S.I. 1998/1870)

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

Amendment of regulation 2 (interpretation)

3.—(1) Amend regulation 2 as follows.

(2) Amend regulation 2(1)(a) as follows—

(a) for the definition of “approved employee share ownership plan”(e) (and the other expressions defined with that expression) substitute—

““approved SAYE option scheme” shall be construed in accordance with the SAYE code (see section 516(3) of ITEPA 2003(f));

“approved SIP” shall be construed in accordance with the SIP code (see section 488(3) of ITEPA 2003);”;

(a) 2005 c. 5; sections 695, 696, 698, 699 and 700 were amended by paragraph 132 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11) to replace references to the Commissioners of Inland Revenue with references to the Commissioners for Her Majesty’s Revenue and Customs.

(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) and paragraph 436 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5).

(c) S.I. 2007/2119.

(d) S.I. 1998/1870; relevant amending instruments are S.I. 1998/3174, 2000/2079, 2001/908 and 3629, 2002/453 and 3158, 2003/2747, 2004/1677 and 2996, 2005/2561 and 3350, 2006/3194 and 2007/2119.

(e) The definition of “approved employee share ownership plan” was inserted by S.I. 2000/2079.

(f) Section 516 was amended by paragraph 605 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005.

- (b) after the definition of “building society bonus”(a) insert—
 - ““ceasing to be subject to the plan”, in relation to plan shares under an approved SIP, shall be construed in accordance with the SIP code (see section 488(3) of ITEPA 2003);”;
 - (c) in the definition of “deposit-taker” for “section 481(2) of the Taxes Act” substitute “section 853 of ITA 2007”;
 - (d) omit the definition of “income tax quarter”;
 - (e) after the definition of “investment trust” insert the following definitions—
 - ““ITA 2007” means the Income Tax Act 2007(b);
 - “ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003(c);
 - “ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005(d);”;
 - (f) in the definition of “investment trust” omit the words from “, and references” to the end of that definition;
 - (g) after the definition of “open-ended investment company” insert—
 - ““participant”, in relation to an approved SIP, shall be construed in accordance with the SIP code (see section 488(3) of ITEPA 2003);”;
 - “plan shares”, in relation to an approved SIP, shall be construed in accordance with the SIP code (see section 488(3) of ITEPA 2003) except that—
 - (a) paragraph 87(6) of Schedule 2 to ITEPA 2003 (meaning of the word “shares” in the context of company reconstructions) shall not apply, and
 - (b) in paragraph 88(2) of that Schedule (treatment of shares acquired under rights issue) the words “or securities or rights” shall be treated as omitted;”;
 - (h) in the definition of “relevant authorised person” for “section 333A(12) of the Taxes Act” substitute “section 697(2)(b) of ITTOIA 2005”;
 - (i) in the definition of “relevant European institution” for “section 326A(10) of the Taxes Act” substitute “section 697(2)(a) of ITTOIA 2005”;
 - (j) omit the definition of “savings-related share option scheme”.
- (3) Amend regulation 2(1)(b) as follows—
- (a) in the definition of “authorised fund”(e) omit the words following “investment company”;
 - (b) for the definition of a “Chapter 5 UCITS”(f) substitute—
 - “a “Chapter 5 UCITS” means a UCITS complying with Chapter 5 of the Collective Investment schemes sourcebook;”;
 - (c) omit the definitions of “the first condition”, “the second condition”, “fund of funds scheme”, “money market scheme” and “the New Collective Investment Schemes Sourcebook”(g);
 - (d) for the definition of “open-ended investment company” substitute—
 - ““open-ended investment company” means a company incorporated in the United Kingdom to which section 236 of the Financial Services and Markets Act 2000(h) applies;”;

(a) The definition of “building society bonus” was inserted by S.I. 2006/3194.

(b) 2007 c. 3.

(c) 2003 c. 1.

(d) 2005 c. 5.

(e) The definition of “authorised fund” was inserted by S.I. 2001/3629.

(f) The definition of “Chapter 5 UCITS” was substituted by S.I. 2004/1677.

(g) The definitions of “the first condition” and “the second condition” were inserted by S.I. 1998/3174; the definitions of “fund of funds scheme” and “money market scheme” were substituted for the definitions of “fund of funds” and “money market fund” respectively by S.I. 2001/3629; and the definition of “the new Collective Investment Schemes Sourcebook” was inserted by S.I. 2004/1677.

(h) 2000 c. 8.

- (e) in the definition of “non-UCITS retail scheme”(a), in paragraph (a), omit “New”;
- (f) in the definition of “qualifying units in or shares of a non-UCITS retail scheme”(b), in paragraph (a), omit “New”;
- (g) omit the definitions of “securities scheme”(c) and “the 1997 Regulations”;
- (h) in the definition of “umbrella scheme”—
 - (i) in paragraph (i) of that definition for the words following “Taxes Act,” substitute “and sub-paragraphs (6) and (7) of regulation 7 of the Authorised Investment Funds (Tax) Regulations 2006(d) shall apply for the purposes of these Regulations as they apply for the purposes of those Regulations, and”, and
 - (ii) in paragraph (ii) of that definition for the words following “in accordance with” substitute “subsection (4) of section 468A of the Taxes Act(e), and sub-paragraphs (2) and (3) of regulation 7 of the Authorised Investment Funds (Tax) Regulations 2006 shall apply for the purposes of these Regulations as they apply for the purposes of those Regulations;”;
- (i) for the definitions of “unit holder” and “unit trust scheme” substitute—
 - ““unit holder” means a person entitled to a share of the investments subject to the trusts of a unit trust scheme;
 - “unit trust scheme” has the meaning given by section 237 of the Financial Services and Markets Act 2000;”;
- (j) omit the definition of “warrant scheme”(f).

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

4. In regulation 4(6), in each of sub-paragraphs (c) and (d), for “regulation 8(2)(c) and (d)” substitute “paragraphs (g), (h), (k), (l) and (m) of regulation 8(2)”.

Amendment of regulation 6 (general investment rules)

5.—(1) Amend regulation 6(g) as follows.

(2) In paragraph (1)(a) for “rule 15.4.4 of the Collective Investment Schemes Sourcebook” substitute “rules 6.3.5 and 6.3.5B of the Collective Investment schemes sourcebook”.

(3) In paragraph (1)(b) for “rule 4.3.11 of the Collective Investment Schemes Sourcebook” substitute “rules 6.3.5 and 6.3.5A of the Collective Investment schemes sourcebook”.

Amendment of regulation 7 (qualifying investments for a stocks and shares component)

6.—(1) Amend regulation 7(h) as follows.

(2) In paragraph (2), in each of sub-paragraphs (b)(iii) and (d), for “paragraphs (7) and” substitute “paragraph”.

(3) Omit paragraph (2)(e).

(4) In paragraph (2)(h)—

- (a) in sub-paragraph (i) for “a savings-related share option scheme” substitute “an approved SAYE option scheme”;

(a) The definition of “non-UCITS retail scheme” was inserted by S.I. 2005/3350.
 (b) The definition of “qualifying units in or shares of a non-UCITS retail scheme” was inserted by S.I. 2005/3350.
 (c) The definition of “securities scheme” was substituted for the definitions of “securities company” and “securities fund” by S.I. 2001/3629.
 (d) S.I. 2006/964, to which there are amendments not relevant for these Regulations.
 (e) Section 468A was inserted by section 16 of the Finance (No. 2) Act 2005 (c. 22).
 (f) The definition of “warrant scheme” was substituted for the definitions of “warrant company” and “warrant fund” by S.I. 2001/3629.
 (g) Regulation 6 was relevantly amended by S.I. 2001/3629.
 (h) Regulation 7 was relevantly amended by S.I. 2000/2079, 2001/3629; 2003/2747, 2005/2561 and 2005/3350.

- (b) in sub-paragraph (iii) for “employee share ownership plan” substitute “SIP”.
- (5) Omit paragraph (7).
- (6) In paragraph (8)—
 - (a) in the words before sub-paragraph (a) for “trust, scheme or UCITS, or investments subject to the trusts of the scheme, as the case may be,” substitute “investment trust”;
 - (b) in the words after sub-paragraph (b) for the words from “trust,” to the end substitute “investment trust”.
- (7) Omit paragraph (9).
- (8) In paragraph (10)(a) for “a savings-related share option scheme” substitute “an approved SAYE option scheme”.
- (9) In paragraph (14) omit “(e),” and for “, (g) or (ga)” substitute “or (g)”.

Amendment of regulation 8 (qualifying investments for a cash component)

- 7.—(1) Amend regulation 8(a) as follows.
- (2) In paragraph (2) omit sub-paragraphs (c) and (d).
- (3) In paragraph (2)(g) omit “(e),” and for “, (g) or (ga)” substitute “or (g)”.

Amendment of regulation 9 (insurance policies)

- 8.—(1) Amend regulation 9(b) as follows.
- (2) In paragraph (3)(d)(ii) for “regulation 2(1) of the Personal Portfolio Bonds (Tax) Regulations 1999(c)” substitute “section 516 of ITTOIA 2005”.
- (3) In paragraph (7)(b)(i) for “final year in relation to the policy, within the meaning of section 546(4) of the Taxes Act” substitute “final insurance year in relation to the policy, within the meaning given by section 499 of ITTOIA 2005”.

Amendment of regulation 10 (qualifying individuals who may invest under an account)

- 9. In regulation 10(2)(d)(d) for paragraph (ii) substitute—
 - “(ii) who, though not resident in the United Kingdom, has general earnings from overseas Crown employment subject to United Kingdom tax within the meaning given by section 28 of ITEPA 2003,”.

Amendment of regulation 12 (conditions for application to subscribe to an account)

- 10.—(1) Amend regulation 12(e) as follows.
- (2) In paragraph (3)(f) for paragraph (ii) substitute—
 - “(ii) is a person who has general earnings from overseas Crown employment subject to United Kingdom tax within the meaning given by section 28 of ITEPA 2003,”.
- (3) In paragraph (3)(g)(iv) for “the application is not in writing” substitute “a written declaration is required by paragraph (7)”.
- (4) In paragraph (7)—

(a) Regulation 8 was relevantly amended by S.I. 2003/2747, 2005/2561 and 3350.
 (b) Regulation 9 was relevantly amended by S.I. 1998/3174, 2001/908 and 2004/2996.
 (c) S.I. 1999/1029.
 (d) Regulation 10 was relevantly amended by S.I. 2001/908.
 (e) Regulation 12 was relevantly amended by S.I. 2001/908 and 2002/3158.

- (a) for “Where paragraph (3)(g)(iv) applies” substitute “Where the application is not in writing or the manager operates a record system under which all original written applications are not retained”;
- (b) for “therein referred to” substitute “referred to in paragraph (3)(g)(iv)”;
- (5) In paragraph (10)—
 - (a) for “(3)(g)(iv) of this regulation” substitute “(7)”;
 - (b) omit “of this regulation” where it secondly appears.

Amendment of regulation 16 (account manager – appointment of tax representative)

11. In regulation 16(2)(a) for “subsection (5) of section 333A of the Taxes Act” substitute “section 698(2)(b) of ITTOIA 2005”.

Amendment of regulation 22 (exemption from tax of account income and gains)

12.—(1) Amend regulation 22(a) as follows.

(2) In paragraph (1)(a)(ii) for “by section 714(2) of the Taxes Act” substitute “under Part 12 of ITA 2007 (accrued income profits)”.

(3) In paragraph (1)(a) for paragraph (iv) substitute—

“(iv) on a profit on the disposal of a deeply discounted security within the meaning given by section 430 of ITTOIA 2005(b).”.

(4) In paragraph (1)(a)(v) for “by section 541 of the Taxes Act” substitute “under Chapter 9 of Part 4 of ITTOIA 2005”.

(5) For paragraph (1)(c) substitute—

“(c) a deficiency arising in a tax year and falling within section 539(1) of ITTOIA 2005(c), so far as it relates to an account investment, shall not be allowable as a deduction from the total income of the account investor;”.

(6) In paragraph (1)(e) for “section 660B of the Taxes Act” substitute “section 629 of ITTOIA 2005”.

Amendment of regulation 24 (tax liabilities and reliefs – account manager to act on behalf of account investor)

13. In regulation 24(3)(c) for “paragraph 3 or 4 of Schedule 23A to the Taxes Act” substitute “Chapter 9 of Part 15 of ITA 2007”.

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

14.—(1) Amend regulation 31(d) as follows.

(2) In paragraph (1) for “and (5)” substitute “, (5) and (7)”.

(3) Omit paragraph (2).

(4) In paragraph (4)(a) for paragraph (iv) substitute—

“(iv) units in an authorised unit trust,”.

(5) In paragraph (4)(a) for paragraph (vi) substitute—

“(vi) shares in an open-ended investment company,”.

(6) In paragraph (4)(a) for paragraph (via) substitute—

(a) Regulation 22 was relevantly amended by S.I. 2001/908 and 2004/2996.
 (b) Section 430 was amended by paragraph 25(2) of Schedule 7 to the Finance (No. 2) Act 2005 (c. 22).
 (c) Section 539 was substituted by paragraph 539 of Schedule 1 to the Income Tax Act 2007 (c. 3).
 (d) Regulation 31 was relevantly amended by S.I. 2001/3629, 2003/2747, 2005/2561 and 2007/2119.

“(via) the surrender value of life insurance policies which satisfy the condition of regulation 7(15),”.

(7) In paragraph (4) for sub-paragraph (b) substitute—

“(b) the respective market values at the end of the year or the part of the year for which the return is made of account investments held under cash components, by him or a nominee for him on behalf of account investors, under all the accounts in respect of which he acted as account manager in that year or part, with separate values for—

- (i) cash, including cash represented in share accounts with building societies,
- (ii) the surrender value of life insurance policies which do not satisfy the condition in regulation 7(15), and
- (iii) investments (other than those specified in paragraphs (i) and (ii)) which do not satisfy the condition in regulation 7(15); and”.

(8) Omit paragraph (6).

(9) In paragraph (7)—

(a) for the words from the beginning to “for which the return is made, as to” substitute—

“The information specified in this paragraph is information relating to all accounts to which subscriptions were made in the year or part of the year, in respect of which he was acting as account manager immediately before the end of the year or part of the year for which the return is made, or in the case of an account that was closed during the year, in respect of which he was acting as manager at the date the account was closed, as to”;

(b) in sub-paragraph (b) for “quarter or other period” substitute “year or part of the year”.

Amendment of regulation 34 (capital gains tax – adaptation of enactments)

15.—(1) Amend regulation 34(a) as follows.

(2) In paragraph (2)(a), in the notionally added subsection (12)(b)(iii) of section 106A of the Taxation of Chargeable Gains Act 1992(b), for “employee share ownership plan” substitute “SIP”.

(3) In paragraph (2)(a), in the notionally added subsection (13) of section 106A of the Taxation of Chargeable Gains Act 1992, for paragraph (c) and the word “and” immediately preceding it substitute—

- “(c) “approved SIP” and “ceased to be subject to the plan” shall be construed in accordance with the SIP code (see section 488(3) of ITEPA 2003); and
- (d) “plan shares”, in relation to an approved SIP, shall be construed in accordance with the SIP code (see section 488(3) of ITEPA 2003) except that—
 - (i) paragraph 87(6) of Schedule 2 to ITEPA 2003 (meaning of the word “shares” in the context of company reconstructions) shall not apply, and
 - (ii) in paragraph 88(2) of that Schedule (treatment of shares acquired under rights issue) the words “or securities or rights” shall be treated as omitted.”.

Amendment of regulation 35 (administration of tax in relation to accounts – supplementary)

16.—(1) Amend regulation 35(c) as follows.

(2) In paragraph (5)(a) for “sections 95 and 96” substitute “section 95”.

(3) In paragraph (6)(a) for “Chapter 2 of Part 13 of the Taxes Act” substitute “Chapter 9 of Part 4 of ITTOIA 2005”.

(4) For paragraph (7) substitute—

(a) Regulation 34 was relevantly amended by S.I. 2000/2079.

(b) 1992 c. 12; section 106A was inserted by section 124(1) of the Finance Act 1998 (c. 36).

(c) Regulation 35 was amended by S.I. 2002/453 and 2004/2996.

“(7) A termination of a policy of insurance pursuant to regulation 9(3)(b)(ii) shall be treated as the surrender of all rights under the policy for the purposes of section 484(1)(a)(i) of ITTOIA 2005.”.

Amendment of regulation 36

17.—(1) Amend regulation 36 as follows.

(2) In the title to the regulation after “Taxes Act” insert “and of Chapter 9 of Part 4 of ITTOIA 2005”.

(3) In paragraph (2)(b) for “within the meaning given by section 540 of the Taxes Act” substitute “falling within section 484(1) of ITTOIA 2005”.

(4) In paragraph (3) after “Taxes Act” insert “and of Chapter 9 of Part 4 of ITTOIA 2005”.

(5) For paragraph (4) substitute—

“(4) Section 530 of ITTOIA 2005 does not apply to a gain in a case in which paragraph (1) applies.”.

(6) In paragraph (5) for “section 550 of the Taxes Act” substitute “section 535 of ITTOIA 2005”.

12th March 2008

Dave Watts
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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 vast majority of the amendments have been made to ensure that the detailed wording of the principal Regulations takes account of legislation that has come into force after the principal Regulations came into force: notably the Income Tax (Earnings and Pensions) Act 2003 (c. 1), the Income Tax (Trading and Other Income) Act 2005 (c. 5), the Income Tax Act 2007 (c. 3) and the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964).

A number of other amendments have also been made to the principal Regulations. Regulation 12 of the principal Regulations has been amended to make it easier for account managers to keep information relating to applications to subscribe to an account; and regulation 31 of the principal Regulations has been amended so that some information which previously had to be provided quarterly now only has to be provided yearly.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

£3.00

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E2199 3/2008 182199T 19585