
STATUTORY INSTRUMENTS

2015 No. 869

INCOME TAX

CAPITAL GAINS TAX

The Individual Savings Account
(Amendment No. 2) Regulations 2015

<i>Made</i>	- - - -	<i>24th March 2015</i>
<i>Laid before the House of Commons</i>	- - - -	<i>25th March 2015</i>
<i>Coming into force</i>	- -	<i>6th April 2015</i>

The Treasury make these Regulations exercising the powers in sections 694 to 699 and 701 of the Income Tax (Trading and Other Income) Act 2005(1) and section 151 of the Taxation of Chargeable Gains Act 1992(2).

Citation and commencement

1. These Regulations may be cited as the Individual Savings Account (Amendment No.2) Regulations 2015 and come into force on 6th April 2015.

Amendment of the Individual Savings Account Regulations 1998

2. The Individual Savings Account Regulations 1998(3) are amended as follows.
3. In regulation 2(1)(a), after the entry “CTA 2010” insert—
““deceased’s account” is an account which the deceased held with an account manager at the date of the deceased’s death;”.
4. In regulation 2D after “5B,” insert “5DDA,”.
5. In regulation 4(1B)(d) after “regulation” insert “5DDA(2)(e) and”.
6. In regulation 5D—

(1) 2005 c. 5; amendments made by the Commissioners for Revenue and Customs Act 2005 (c. 11), Schedule 4, paragraph 132; the Finance Act 2008 (c. 9), section 40; the Finance Act 2011 (c. 11), section 40.

(2) 1992 c. 12; amendments made by the Finance Act 1993 (c. 34), section 85; the Finance Act 1995 (c. 4), section 64(2); the Income Tax (Taxation of Trading and Other Income) Act 2005, Schedule 1, paragraph 426; the Finance Act 2011, section 40(6).

(3) S.I.1998/1870; relevant amending instruments S.I. 1998/3174; S.I.2000/2079; S.I.2000/3112; S.I.2001/908; S.I. 2001/3629; S.I.2001/3778; S.I.2002/1409; S.I.2002/3158; S.I. 2005/3350; S.I. 2005/3230; S.I. 2007/2119; S.I. 2008/704; S.I.2009/1994; S.I. 2010/2957; S.I.2011/1780;S.I.2012/1871; S.I.2013/605; S.I.2013/1743; S.I. 2014/654; S.I.2014/1450.

- (a) at the end of paragraph (2)(a)(ii) omit “or”;
 - (b) at the end of paragraph (2)(a)(iii) substitute “or” for “and”;
 - (c) after paragraph (2)(a)(iii), insert—
 - “(iv) permitted in accordance with regulation 5DDA; and”;
 - (d) at the end of paragraph(2)(b), substitute a semicolon for the full stop and insert—
 - “and
 - (c) in a case within sub-paragraph (a)(iv)—
 - (i) the account manager of the account to which the subscription is made is provided with the declarations required by regulation 5DFA as relevant to the subscription;
 - (ii) the notices specified in regulation 5DFB(1) and (3) are given, as relevant to the subscription; and
 - (iii) the information and declarations required by regulation 5DFC(2) are provided.”.
7. After regulation 5DD insert—

“Additional permitted subscription to an account other than a junior ISA account

5DDA.—(1) A subscription to an account other than a junior ISA account is permitted by this regulation if—

- (a) it is made in the circumstances described in paragraph (2); and
 - (b) the amount of the subscription, or the aggregate of a number of such subscriptions, does not exceed in value the amount determined in accordance with paragraph (3).
- (2) The circumstances are—
- (a) an account investor dies on or after 3rd December 2014 leaving a surviving spouse or civil partner (S);
 - (b) subject to paragraph (6), a subscription is made by S to an account or accounts managed by a single account manager or, in a case within sub-paragraph (e), the deceased’s account manager;
 - (c) the subscription is within the permitted period;
 - (d) S and the deceased were living together at the date of the deceased’s death(4); and
 - (e) where the subscription comprises non-cash assets—
 - (i) the deceased held an account either comprising or including non-cash assets at the date of the deceased’s death;
 - (ii) S inherits all or part of those assets;
 - (iii) S makes a subscription comprising those assets or any part thereof; and
 - (iv) throughout the period beginning with the day on which the deceased’s account manager was notified of the deceased’s death and ending immediately before the subscription is made, title to those assets is vested in the deceased’s account manager, that manager’s nominee or jointly in one of them and another.

(4) Section 1011 of the Income Tax Act 2007(c.3), provides that, for the purposes of the Income Tax Acts, individuals who are married or in a civil partnership are treated as living together unless they are separated (a) by a court order, (b) by a deed of separation, or (c) as a matter of fact in circumstances in which the separation is likely to be permanent.

(3) The amount is—

- (a) where the deceased held a single account with a single account manager, then the value of that account at the date of the deceased's death; or
- (b) where the deceased held more than one account with a single account manager, then the combined value of those accounts at the date of the deceased's death;

but does not include any sums the deceased held in a junior ISA account.

(4) In this regulation, the permitted period means—

- (a) in the case of a subscription comprising non-cash assets made in accordance with paragraph (2), the period beginning with distribution to S by the deceased's estate of the non-cash assets and ending no more than 180 days thereafter;
- (b) in the case any other subscription under this regulation, the period beginning with the date of the deceased's death and ending either—
 - (i) no more than 3 years thereafter; or
 - (ii) no more than 180 days after administration of the estate is complete;

whichever is the later.

(5) Where the deceased died in the period beginning with 3rd December 2014 and ending on 5th April 2015—

- (a) for the purposes of paragraph (4)(a), distribution to S by the deceased's estate of non-cash assets is treated as occurring on either 6th April 2015, or, the actual date of distribution, whichever is the later; and
- (b) for the purposes of paragraph(4)(b), the deceased is treated as dying on 6th April 2015.

(6) The requirement in paragraph (2)(b) is deemed as met where the Board authorises an account manager to accept a subscription from S.

(7) The following regulations do not apply to a subscription permitted by this regulation—

- (a) 4(1B)(a), (b) and (e);
- (b) 4B;
- (c) 6(3);
- (d) 10(2)(b), (c) and (ca);
- (e) 21A(3)(b)(ii) and (iii); and
- (f) 31(3)(c)(ii) and (iii).

(8) The requirement in regulation 10(2)(d) is deemed as met where S makes a subscription permitted by this regulation.

(9) Regulation 12(3) applies to a subscription permitted in accordance with this regulation with the following modifications—

- (a) omit sub-paragraphs (d) and (e) where an account is opened in a year to which regulation 12(2) refers solely to receive subscriptions permitted by this regulation; and
- (b) omit sub-paragraph (ea); and
- (c) in sub-paragraph (f), omit the words after “or over”.

(10) Regulation 21 applies to a subscription permitted in accordance with this regulation with the following modifications—

- (a) in paragraph (1), as if that subscription was a previous years' subscription; and

(b) in sub-paragraph (6), omit sub-paragraphs (b)(iii) and (iv).

(11) In this regulation—

- (a) “inherits” in paragraph (2)(e)(ii) includes inherits under a will trust or as a result of a deed of variation;
- (b) “non-cash assets” means—
 - (i) those investments specified in regulation 7, other than those in paragraph (2)(j); and
 - (ii) those investments specified in regulation 8(2)(f), (h), (p) or (q); and
- (c) the value of a subscription comprising non-cash assets made pursuant to paragraph (2) is the value of the assets at the date of the subscription.”.

8. In regulation 5DF—

- (a) at the end of paragraph (1)(b)(iv), for the full stop substitute a semicolon; and
 - (b) after paragraph (1)(b) insert—
 - “(c) in relation to a subscription permitted by regulation 5DDA—
 - (i) the deceased’s full name;
 - (ii) the full address of the deceased’s permanent residence at the date of death;
 - (iii) the deceased’s National Insurance number, if known;
 - (iv) the deceased’s date of birth and date of death; and
 - (v) the date of S’s marriage or civil partnership to the deceased;
 - (d) in relation to a subscription permitted by regulation 5DDA and made with an account manager other than the deceased’s account manager, the name and address of the deceased’s account manager.
- (1A) The requirements in sub-paragraph (1)(c) are met where the information is provided on the first instance a subscription permitted by regulation 5DDA is made to an account.”.

9. After regulation 5DF, insert—

“Declarations required by regulation 5D

5DFA.—(1) The declarations in regulation 5D(2)(c) required by S in relation to a subscription permitted by regulation 5DDA are—

- (a) in all cases, those specified in paragraph (2);
 - (b) in a case where the subscription is made with the deceased’s account manager (A), those specified in paragraph (3); and
 - (c) in a case where the subscription is being made with an account manager other than the deceased’s account manager (B), those specified in paragraph (4).
- (2) The declarations specified in this paragraph are—
- (a) that S is the surviving spouse or civil partner of the deceased;
 - (b) that S and the deceased were living together so as to meet the requirements specified in section 1011 of the Income Tax Act 2007, at the date of the deceased’s death; and
 - (c) that the subscription is being made under regulation 5DDA.
- (3) The declarations specified in this paragraph are that the subscription is being made—

- (a) in the case of a subscription of non-cash assets made in accordance with paragraph (2) of that regulation—
 - (i) in the period beginning with distribution to S by the deceased’s estate of those assets and ending no more than 180 days thereafter; or
 - (ii) in the case of the deceased’s death occurring in the period beginning with 3rd December 2014 and ending with 5th April 2015, no later than 2nd October 2015;whichever is the later; and
- (b) in the case of any other subscription under that regulation, in the period beginning with the date of the deceased’s death and ending—
 - (i) no more than 3 years thereafter, or in the case of the deceased’s death occurring in the period beginning with 3rd December 2014 and ending with 5th April 2015, no later than 5th April 2018; or
 - (ii) no more than 180 days after administration of the estate is complete.
- (4) The declarations specified in this paragraph are—
 - (a) that the subscription is being made by a payment of cash;
 - (b) that, in the permitted period, S has not made, with A, any subscription permitted by regulation 5DDA in respect of the amount determined in accordance with paragraph (3) of that regulation; and
 - (c) that the subscription is being made in the period beginning with the date of the deceased’s death and ending—
 - (i) no more than 3 years thereafter, or in the case of the deceased’s death occurring in the period beginning with 3rd December 2014 and ending with 5th April 2015, no later than 5th April 2018; or
 - (ii) no more than 180 days after administration of the estate is complete.
- (5) The requirements in sub-paragraphs (2)(a), (b) and (4)(b) are met where the information is provided on the first instance a subscription permitted by regulation 5DDA in respect of an amount determined in accordance with paragraph (3) of that regulation is made to an account.

Notices required by regulation 5D

- 5DFB.**—(1) Where an account manager (B) has—
- (a) been notified by S that S wishes to make a subscription under regulation 5DDA; or
 - (b) received an application from S to make such a subscription;

that account manager shall, within the period of 30 days beginning with the day on which the notification or application is received, give to the deceased’s account manager (A) a notice containing the information specified in paragraph (2).

- (2) The information specified in this paragraph is—
- (i) the name and address of the deceased;
 - (ii) the deceased’s date of birth and date of death;
 - (iii) the deceased’s National Insurance number, if known;
 - (iv) S’s name and address;

- (v) a statement that B has either received an application from S to make a subscription under regulation 5DDA or been notified that S wishes to make such a subscription; and
 - (vi) a statement that B has, subject to relevant checks, accepted that application or, where B has been notified that S wishes to make such a subscription, that B will accept such an application subject to relevant checks.
- (3) Where A receives from B a notice under paragraph (1), A shall, within the period of 30 days beginning with the day on which that notification is received, give B a notice containing—
- (i) the deceased’s full name;
 - (ii) the full address of the deceased’s permanent residence at the date of death;
 - (iii) the deceased’s date of birth and date of death;
 - (iv) the deceased’s National Insurance number, if known;
 - (v) the amount determined in accordance with paragraph (3) of regulation 5DDA;
 - (vi) a declaration that, in the permitted period, S has not made to an account held by A, any subscription permitted by regulation 5DDA in respect of the amount determined in accordance with paragraph (3) of that regulation;
 - (vii) an undertaking that, other than in the case of an authorisation given under paragraph (6) of regulation 5DDA, A will not accept a subscription made by S in respect of the amount determined in accordance with paragraph (3) of that regulation; and
 - (viii) an undertaking that, other than in the case of an authorisation given under paragraph (6) of regulation 5DDA, A will not provide the information and declarations in this paragraph to another account manager in respect of the amount determined in accordance with paragraph (3) of that regulation.
- (4) In this regulation relevant checks means checks by B in relation to the information and declarations provided by S pursuant to regulations 5DF and 5DFA.

5DFC.—(1) Where the deceased’s account manager receives a request from S made in accordance with paragraph (2), that account manager shall, within the period of 30 days beginning with the day on which the request is received, provide to S a statement of the amount determined in accordance with paragraph (3) of regulation 5DDA.

(2) The request shall contain the information required by regulation 5DF(1)(c) and the declarations required by regulation 5DFA(1)(a) and (b).

5DFD. —Regulation 12(7) to (11), (12) and (13) applies in relation to any information or declaration required under regulations 5DF(1)(c) and 5DFA as it applies to any application to open an account.”.

10. In regulation 31(3)(c)—

- (a) at the end of sub-paragraph (iv) omit “and”;
- (b) at the end of sub-paragraph (v) for the full stop substitute a comma and insert—
 - “and
 - (vi) whether a subscription permitted in accordance with regulation 5DDA has been made at any time in the year or part of the year for which the return is made.”.

24th March 2015

Alun Cairns
David Evennett
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Individual Savings Account Regulations 1998 (S.I. 1998/1450) (“the principal Regulations”) to allow an additional permitted subscription to the surviving spouse or civil partner (S) of a person who held an Individual Savings Account at their death (D).

Regulation 3 amends regulation 2 of the principal Regulations to insert a definition of a “deceased’s account”.

Regulation 4 amends regulation 2D to provide that an additional permitted subscription cannot be made to a junior ISA account.

Regulation 5 amends regulation 4(1B) of the principal Regulations to allow an additional permitted subscription to be made in the form of non-cash assets where S inherits those assets from D and certain other conditions set out at regulation 5DDA(2)(e) are met.

Regulation 6 amends regulation 5D of the principal Regulations. It adds an additional permitted subscription as a further category of subscription to be disregarded for the purposes of the yearly ISA subscription limits.

Regulation 7 inserts regulation 5DDA into the principal Regulations. Regulation 5DDA permits S (in addition to the yearly subscription limit provided for at regulation 4ZA) to subscribe an amount not exceeding the value of the ISA investments held by D with a single account manager on D’s death. Regulation 7 applies where D dies on or after 3 December 2014. Such subscriptions are subject to eligibility conditions, time limits and information requirements.

Regulation 8 amends regulation 5DF of the principal Regulations to specify the information which S must provide when making a subscription permitted by regulation 5DDA.

Regulation 9 inserts new regulations 5DFA to 5DFD, which contain information and declaration requirements.

Regulation 10 amends regulation 31 of the principal Regulations to provide that an account manager must state in any return whether a subscription permitted by regulation 5DDA of the principal Regulations has been made.

A Tax Information and Impact Note covering this instrument was published on 20th January 2015 alongside draft legislation. This has been updated as a result of this instrument and is available on the website at <http://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>