

2017 No. 1089

INCOME TAX

CAPITAL GAINS TAX

**The Individual Savings Account (Amendment No. 3)
Regulations 2017**

Made - - - - *13th November 2017*

Laid before the House of Commons *14th November 2017*

Coming into force - - *6th April 2018*

The Treasury make these Regulations exercising the powers in sections 62(4A) and (4B) and 151 of the Taxation of Chargeable Gains Act 1992(a) and sections 694, 694A (6) to (8), 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. 3) Regulations 2017 and come into force on 6th April 2018.

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 account of a deceased investor, 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 account of a deceased investor” has the meaning given in regulation 2G;”

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

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- (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 (c.5), section 40(6) of the Finance Act 2011 (c.11) 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, 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, 2016/364, 2016/977, 2017/186 and 2017/466.

“Continuing account of a deceased investor and administration-period investments

2G.—(1) This regulation applies to an account, other than a junior ISA account, when the account investor has died (“continuing account of a deceased investor”).

(2) Investments held in such an account are to be administration-period investments as a result of section 694A(4) or (5) of ITTOIA 2005 for the period beginning on the death of the account investor and ending on the earlier of—

- (a) the completion of the administration of the deceased’s estate,
- (b) the day falling on the third anniversary of the death, or
- (c) the closure of the account within the meaning of regulation 4B(3)(a).

(3) A continuing account of a deceased investor is to cease to be such an account at the end of the period referred to in paragraph (2).

(4) Notwithstanding any other provision of these Regulations—

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

(5) In relation to a continuing account of a deceased investor, wherever the following expressions occur in these Regulations—

- (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 section 694A(1) of that Act, and
- (c) “account”, “Lifetime ISA”, or any reference to a scheme of investment, includes a continuing account of a deceased investor, notwithstanding that no subscription or qualifying addition can be made to it.

(6) In relation to a continuing account of a deceased investor—

- (a) regulations 4(6)(a) and (f) (except in relation to a transfer when regulation 17, 19 or 20 applies), 12(3)(f) and (6)(a) and 12B(8)(a) and (c) do not apply,
- (b) in regulation 7(2)(h)(iii), the phrase “but have remained in the beneficial ownership of the participant” is to be treated as omitted,
- (c) in regulation 21(4D), after “made on a transfer”, there is to be treated as inserted “and is a continuing account of a deceased investor”, and
- (d) in regulations 21(6), 21A(3) and 31(3)—
 - (i) in sub-paragraphs (a)(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 (a)(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) after “deceased’s death” where it appears—
 - (i) in paragraph (3)(a), insert “or, in the event that the period for an administration-period investment in a continuing account of a deceased investor with an account manager ends and S has not made a subscription under paragraph (1), immediately before the account ceasing to be a continuing account of a deceased investor (whichever is the higher)”, and

- (ii) in paragraphs (3)(b), (3A) and (3B), insert “or, in the event mentioned in paragraph 3(a) occurring, immediately before the account ceasing to be a continuing account of a deceased investor (whichever is the higher)”; and
 - (b) in paragraph (4)(b), after “the case” insert “of”.
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 account of a deceased investor;”.
7. In regulation 21A(3)(b) (further requirements relating to transfers between cash accounts)—
- (a) in sub-paragraph (iia) omit “and”; and
 - (b) after sub-paragraph (iv) insert—
- “(v) whether the account is a continuing account of a deceased investor; and”.
8. In regulation 31 (returns of information by account manager)—
- (a) in paragraph (1) for “and (7A)” substitute “, (7A) and (7B)”; and
 - (b) after paragraph (7A) insert—
- “(7B) The information specified in this paragraph is the total number of continuing accounts of a deceased investor.”.
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 date of transfer and for a consideration equal to its market value on such date; and
- (b) on the occasion when title to an investment is transferred from the personal representatives to a legatee after the end of the period in respect of which it was an administration-period investment, there shall be deemed to be a disposal and reacquisition by the personal representatives of that investment at the end of that period and for a consideration equal to its market value at such time and the legatee is to be treated as having acquired the investment for such consideration on the date of transfer.”.

Mark Spencer
Heather Wheeler

13th November 2017

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 account of a deceased investor (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>.

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