

2023 No. 264

INCOME TAX

CAPITAL GAINS TAX

**The Individual Savings Account (Amendment) Regulations
2023**

<i>Made</i> - - - -	<i>6th March 2023</i>
<i>Laid before the House of Commons</i>	<i>7th March 2023</i>
<i>Coming into force</i> - -	<i>6th April 2023</i>

The Treasury make these Regulations in exercise of the powers conferred by section 151(1) and (2) of the Taxation of Chargeable Gains Act 1992(a) and sections 694, 695, 695A, 696, 699 and 701 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) Regulations 2023 and come into force on 6th April 2023.

Amendment of the Individual Savings Account Regulations 1998

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

Amendment of regulation 2

3.—(1) In regulation 2(1)(a) (interpretation)(d), for the definition of “dormant account” substitute—

““dormant account” means an account which contains a “relevant dormant asset” within the meaning given in section 39(2) of the Finance Act 2008(e), omitting the words “is to be, or”;

(2) In regulation 2(1)(b), in the definition of “recognised UCITS”(f)—

(a) 1992 c. 12. Section 151(2) was amended by paragraph 436 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005, section 40(6) of the Finance Act 2011 (c. 11) and section 27(2) of the Finance Act 2016 (c. 24).

(b) 2005 c. 5. Section 694 was amended by section 40(2) of the Finance Act 2011. Section 695 was amended by paragraph 132 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 695A was inserted by section 40(3) of the Finance Act 2011. Section 699 was amended by paragraph 132 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 and section 40(4) of the Finance Act 2011. Section 701 was amended by section 40 of the Finance Act 2008 (c. 9) and section 40(5) of the Finance Act 2011. See section 694A (inserted by section 27(1) of the Finance Act 2016 (c. 24)) for further definitions relating to deceased investors for the purposes of sections 694, 695, 699 and 701.

(c) S.I. 1998/1870.

(d) The definition of “dormant account” was inserted by S.I. 2011/22.

(e) 2008 c. 9. Section 39 was substituted by paragraph 2 of Schedule 6 to the Finance Act 2022 (c. 3).

(f) The definition of “recognised UCITS” was amended by S.I. 2019/325 and was substituted by S.I. 2019/689.

- (a) after sub-paragraph (a) omit “or”, and
- (b) after sub-paragraph (b) insert—
 - “; or
 - (c) a recognised scheme in accordance with section 271A of the Financial Services and Markets Act 2000(a).”.

Amendment of regulation 4ZE

4. In regulation 4ZE (permitted withdrawals from a junior ISA account where the named child is terminally ill)(b), in paragraph (ii) of Case 1 in paragraph (2)(b) and in paragraph (6)(b), after “section 72(5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (the care component)” insert “and, for this purpose, section 66(2)(a)(c) of that Act (attendance allowance for the terminally ill) is deemed to apply as if for “6 months” there were substituted “12 months”.”.

Amendment of regulation 5C

5. In regulation 5C (treatment of certain sums held in dormant accounts)(d)—
- (a) in paragraph (1), after “section 1 or 2 of the Dormant Bank and Building Society Accounts Act 2008 (“the 2008 Act”)” insert “or sections 2, 5, 8, 12 or 14 of the Dormant Assets Act 2022(e)”,
 - (b) in paragraph (2)(a), omit “cash”, and
 - (c) in paragraph (2)(b)—
 - (i) omit “cash”, and
 - (ii) omit “, with the same account manager”.

Amendment of regulation 7

6. In regulation 7 (qualifying investments for a stocks and shares component)(f)—
- (a) for paragraph (2)(d), substitute—
 - “(d) subject to paragraph (3), shares in an investment trust listed or admitted to trading on a recognised stock exchange;” and
 - (b) in regulation 7(3)—
 - (i) in the opening words, after “paragraph (2)(a)” insert “or (d)”, and
 - (ii) in sub-paragraph (a), after “in a company” insert “or trust”.

Amendment of regulation 8A

7. In regulation 8A (qualifying investments for an innovative finance component)(g)—
- (a) in paragraph (2)(a), for “paragraph (3)” substitute “paragraphs (3) and (3A)”,

(a) 2000 c. 8. Section 271A was inserted by Schedule 9 to the Financial Services Act 2021 (c. 22).
 (b) Regulation 4ZE was added by S.I. 2011/1780. It was amended by section 67(2) of the Welfare Reform and Pensions Act 1999 (c. 30), section 52 of the Welfare Reform Act 2007 (c. 5), S.R. 1999/494, S.I. 1999/3147, 2014/654, 2021/886 and 2022/332.
 (c) 1992 c. 7. Section 66(2)(a) was amended for certain purposes (but not for the purposes of regulation 4ZE of S.I. 1998/1870) by the Social Security (Terminal Illness) Act (Northern-Ireland) 2022 (c. 7).
 (d) Regulation 5C was added by S.I. 2011/22 and was subsequently amended by S.I. 2014/1450.
 (e) 2022 c. 5.
 (f) Regulation 7(3) was previously amended by S.I. 2013/1743 and S.I. 2014/654.
 (g) Regulation 8A was added by S.I. 2016/364. It was amended by S.I. 2016/977 and S.I. 2019/689.

- (b) in paragraphs (2)(b) and (2)(c), for “paragraph (3)(c) and (d)” substitute “paragraphs (3)(c) and (d) and (3A)”, and
- (c) in paragraph (3)(a), for “or capital or both” substitute “, capital or profit, or any combination of these payments;”, and
- (d) after paragraph (3) insert—
 - “(3A) The conditions in this paragraph are—
 - (a) the payment is not made to the lender by reason of that person’s or another person’s status, whether past, present or prospective, as an employee, director, partner, trustee or the holder of any office;
 - (b) the borrower is not connected with the lender, and for this purpose “connected” has the meaning given in section 170 of ITA 2007 with the omission of “in period A” in subsection (7); and
 - (c) the payment must not be connected with any other investment held outside an account by the account investor or any other person, and for this purpose an investment is to be treated as connected with another investment if—
 - (i) either investment was made with reference to the other or with a view to enabling the other investment to be made on particular terms; or
 - (ii) the terms on which either investment was made would have been significantly less favourable if the other investment had not been made.”.

Amendment of regulation 17

8. In regulation 17 (account manager – withdrawal by Board of approval)(a)—

- (a) in paragraph (1), at the end insert “which is not a junior ISA account”,
- (b) in paragraph (3), omit the “and” immediately after sub-paragraph (b) and at the end of sub-paragraph (c) insert—
 - “; and
 - (d) may specify that, from the date of the notice, the account manager—
 - (i) must not accept any subscriptions or open new accounts, or
 - (ii) must not accept any subscriptions or open new accounts except to the extent specified in the notice.”,
- (c) in paragraph (4)—
 - (i) for “regulations 21” substitute “regulation 21”,
 - (ii) omit “or 21B (as appropriate)”,
 - (iii) for “regulation 20(3)” substitute “regulation 20(4)”, and
- (d) after paragraph (4) insert—
 - “(5) Where the account manager does not intend to make a bulk transfer of accounts, the account manager must, in addition to notifying the account investor in accordance with paragraph (4), notify the account investor of that intention and draw to the account investor’s attention the fact the account will cease to be exempt from tax unless it is transferred as specified in regulation 20(4).
 - (6) The account manager must comply with paragraph (5) within the period beginning with the date of the Board’s notice under paragraph (1) and ending with the date which is 15 days before the date on which the Board’s approval is withdrawn.
 - (7) Where a notice under paragraph (1) makes a specification under paragraph (3)(d)(i), from the date of the notice the account manager must not accept any subscriptions or open any new accounts.

(a) Regulation 17 was amended by S.I. 2011/1780.

(8) Where a notice under paragraph (1) makes a specification under paragraph (3)(d)(ii), from the date of the notice the account manager must not accept any subscriptions or open any new accounts except to the extent specified in the notice.”.

Insertion of regulation 17A

9. After regulation 17, insert—

“Account manager – withdrawal by Board of approval of junior ISA manager

17A.—(1) This regulation specifies the circumstances (“the disqualifying circumstances”) in which the Board may by notice withdraw their approval of a person as an account manager in relation to a junior ISA account.

(2) The disqualifying circumstances to which paragraph (1) refers are that the Board have reason to believe—

- (a) that any provision of these Regulations is not, or at any time has not, been satisfied in respect of an account manager by the account manager; or
- (b) that a person to whom they have given approval to act as an account manager is not qualified so to act.

(3) The notice to which paragraph (1) refers—

- (a) may withdraw an approval in part, that is, in respect of particular types of account specified in the notice;
- (b) shall specify the disqualifying circumstances;
- (c) shall specify that the withdrawal takes effect from the date on which the last of the accounts is transferred to another manager; and
- (d) shall specify that from the date of the notice, the account manager must not accept any subscriptions or open any new accounts.

(4) On receiving the notice referred to in paragraph (1), subject to any appeal in accordance with regulation 18, the account manager must notify the person who is the account investor in relation to the account held with the account manager of the right to transfer the account under regulation 21B(a).

(5) From the date of the notice referred to in paragraph (1), the account manager must not accept any subscriptions or open any new accounts.”.

Amendment of regulation 18

10. In regulation 18(1) (account manager – appeal against Board’s withdrawal of approval)(b), after “regulation 17” insert “or 17A”.

Amendment of regulation 19

11. In regulation 19 (account manager’s intention to make a bulk transfer of accounts or to cease to act as account manager)(c)—

(a) after paragraph (4)(c) insert—

“(d) where the account is not a junior ISA account, include a statement that, unless the account is transferred in accordance with these Regulations, it will cease to be exempt from tax.”, and

(b) after paragraph (5) insert—

(a) Regulation 21B was added by S.I. 2011/1780 and was amended by S.I. 2012/1871 and 2015/941.
(b) Regulation 18 was amended by S.I. 2009/56.
(c) Regulation 19 was substituted by S.I. 2012/1871.

“(6) Paragraph (7) applies in relation to an account manager of a junior ISA account who has given a notice referred to in paragraph (1).

(7) An account manager must not cease to act as an account manager in relation to a junior ISA account until that junior ISA account has been transferred to another account manager in accordance with paragraph (8) or (8H) of regulation 21B.

(8) Where the account manager does not intend to make a bulk transfer of accounts, the account manager must notify the account investor of that intention and draw their attention to the provisions in regulation 20(3).”.

Amendment of regulation 20

12. In regulation 20(account manager ceasing to qualify)(a)—

(a) in paragraph (3)(a), omit “17(4) or”, and

(b) after paragraph (3) insert—

“(4) Where an account investor—

(a) receives a notice under regulation 17(4), and

(b) within the period of 30 days beginning with the date from which the Board’s approval is withdrawn transfers the account to another manager pursuant to regulation 21(b) or 21B (as appropriate),

the period between the date from which the approval is withdrawn and the transfer to the transferee shall be ignored for the purposes of determining whether the account has at all times been managed by an account manager.

(5) Paragraph (6) applies in relation to an account manager of a junior ISA who has sent a notice referred to in paragraph (1).

(6) An account manager must not cease to act as an account manager in relation to a junior ISA account until that account has been transferred to another account manager in accordance with paragraph (8) or (8H) of regulation 21B.”.

*Steve Double
Andrew Stephenson*

6th March 2023

Two of the Lords Commissioners of His 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”).

Regulation 3 amends regulation 2 of the principal Regulations to provide that schemes authorised in accordance with section 271A of the Financial Services and Markets Act 2000 are recognised UCITS (Undertaking for Collective Investment in Transferable Securities). It also amends the definition of “dormant account” in consequence of the coming into force of the Dormant Assets Act 2022 (c. 5).

Regulation 4 makes amendments to regulation 4ZE of the principal Regulations to update the definition of terminal illness as it applies to a child in Northern Ireland. As the amendments to the definition of terminal illness made to section 66(2) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 by section 1 of the Social Security (Terminal Illness) Act (Northern Ireland) Act 2022 do not apply for the purposes of the principal Regulations, regulation 4ZE is amended to take account of those changes.

(a) Regulation 20 was amended by S.I. 2011/1780 and S.I. 2012/2404.

(b) Regulation 21 was amended by S.I. 2007/2119, 2009/1994, 2011/1780, 2014/1450, 2016/16, 2016/364, 2017/466 and 2017/1089.

Regulation 5 amends regulation 5C of the principal Regulations in consequence of the coming into force of the Dormant Assets Act 2022.

Regulation 6 amends regulation 7 of the principal Regulations so that the requirements for shares which are not in an investment trust are the same as for shares which are in an investment trust.

Regulation 7 amends regulation 8A of the principal Regulations to permit investment in alternative finance investments and makes provision as to loans by connected persons.

Regulation 8 amends regulation 17 of the principal Regulations to take account of the insertion of a new regulation 17A. It also sets out the requirements for the giving of notice by account managers to account holders. New regulations 17(5) and (6) require the account manager to remind the account investor, at least 15 days before the Board's approval is withdrawn, that the account will cease to be exempt from tax unless it is transferred to another account manager in accordance with regulation 20(4).

Regulation 9 inserts a new regulation 17A into the principal Regulations which makes provision as to the withdrawal of approval from junior ISA account managers.

Regulation 10 amends regulation 18 of the principal Regulations to provide for a right of appeal where the Board withdraws a junior ISA manager's approval under regulation 17A.

Regulation 11 amends regulation 19 of the principal Regulations to require account managers to inform account holders that unless accounts are transferred to another manager, the account will cease to qualify for tax relief. In relation to junior ISAs, the manager may cease to act only when the accounts have been transferred to another manager.

Regulation 12 amends regulation 20 of the principal Regulations to require account managers who cease to qualify to inform account holders that, unless accounts are transferred to another manager within 30 days of the account manager's notifying the Board, the account will cease to be exempt from tax. It also makes amendments to regulation 20 consequent on the amendments to regulation 17 and the insertion of regulation 17A into the principal Regulations.

A Tax Information and Impact Note will be published on the HM Government website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

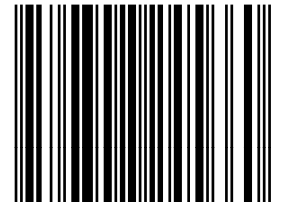
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