STATUTORY INSTRUMENTS

2016 No. 16

INCOME TAX
CAPITAL GAINS TAX

The Individual Savings Account (Amendment) Regulations 2016

Made - - - - 7th January 2016
Laid before the House of Commons - - - - 11th January 2016

Coming into force in accordance with regulation 1

The Treasury, in exercise of the powers conferred by sections 694, 695, 696 and 701(1) and (5) of the Income Tax (Trading and Other Income) Act 2005(**1**) and section 151(1) and (2) of the Taxation of Chargeable Gains Act 1992(**2**), make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Individual Savings Account (Amendment) Regulations 2016 and come into force on 1st February 2016 but regulations 3(2) and (3), 4(a), 7(a), 8, 10 (only in relation to new regulation 5DDB), 11(b), 16(1)(d) and 16(2)(c), have effect from 6th April 2016.

Amendment of the Individual Savings Account Regulations 1998

2. The Individual Savings Account Regulations 1998(**3**) are amended as follows.

Amendment of regulation 2 (interpretation)

3.—(1) In regulation 2(1)(a) (interpretation), after the meanings for "51% subsidiary" and "75% subsidiary", insert—

(**1**) 2005 c.5; sections 694 and 701 were amended by section 40 of the Finance Act 2011 (c.11), 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).

(**2**) 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), paragraph 436 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 and section 40(7) of the Finance Act 2011.

(**3**) S.I 1998/1870. Relevant amending instruments are: S.I. 2001/908, S.I. 2002/3158, S.I. 2007/2119, S.I. 2008/704, S.I. 2012/1871, S.I. 2013/605, S.I. 2014/654, S.I. 2014/1450, S.I. 2015/608 and S.I. 2015/869.

""first subscription", in any year, means the first subscription into an account in that year which is not a subscription made in accordance with regulation 5D;".

(2) After the meaning for "first subscription" in that regulation inserted by paragraph (1), insert—

""flexible account" has the meaning given in regulation 5DDB;".

(3) After the meaning for "relevant authorised person" in that regulation, insert—

""replacement subscription" has the meaning given in regulation 5DDB;".

Amendment of regulation 2D (regulations that do not apply to junior ISA accounts)

4. In regulation 2D after "5DDA," insert –

(a) "5DDB,"; and

(b) "5DDC,".

Amendment of regulation 4(1B) (general conditions for accounts and subscriptions to accounts)

5. In regulation 4(1B)-

(a) in paragraph (a) at the beginning, insert "except for a subscription made in accordance with regulation 5D(2)(a)(i),(iv) or (v),"; and

(b) in paragraph (b) at the beginning, insert "except for a subscription made in accordance with regulation 5D(2)(a)(iv),".

Amendment of regulation 4B (closure of cash accounts)

6. In regulation 4B, after paragraph (3), insert−

"(4) This regulation does not apply to a subscription to an account made in accordance with regulation 5D.".

Amendment of regulation 5D (subscriptions disregarded for the purposes of the subscription limits in regulations 4ZA and 4ZB)

7. In regulation 5D(2)-

(a) after paragraph (a)(ii), insert-

"(iia) a replacement subscription;";

(b) at the end of paragraph (a)(iii) omit "or";

(c) at the end of paragraph (a)(iv) substitute "or" for "and"; and

(d) after paragraph (a)(iv) insert-

"(v) permitted in accordance with regulation 5DDC; and".

Amendment of regulation 5DA (defaulted cash account subscription)

8. In regulation 5DA, at the end of paragraph (b) insert "plus, in the case of a flexible account, in the year in which the default event occurred and before such event, the amount (if any) of cash withdrawn from the account which was not replaced by a replacement subscription".

Amendment of regulation 5DDA (additional permitted subscriptions to an account other than a junior account)

9. In regulation 5DDA-

(a) in paragraph (7) omit sub paragraphs (a),(b),(d),(e) and (f);and

(b) omit paragraphs (8) to (10).

New regulation 5DDB (flexible account) and new regulation 5DDC (closure of Help to Buy ISA)

10. After regulation 5DDA insert-

"**Flexible account**

5DDB.—(1) − The terms and conditions of an account (other than a junior ISA account) ("flexible account") may provide for an account investor to be able to replace (in whole or part) a cash amount withdrawn by the account investor in any year by a replacement subscription of a cash amount ("replacement subscription") made in that year.

(2) Subject to regulation 4(1B)(a) and (b), a replacement subscription in respect of a subscription counting towards the limit in regulation 4ZA(1) may be made into any account of the account investor.

(3) Any other replacement subscription may be made only to the account from which the withdrawal of a cash amount it is replacing was made.

(4) Any withdrawal of a cash amount in any year is to be deemed to be made first out of a current year's subscription.

(5) Any replacement subscription is to be deemed to be a replacement first of any withdrawal of a cash amount made out of a previous years' subscription.

(6) On any transfer under regulation 21 of the whole of previous years' subscriptions, the right of the account investor under paragraph (1) in relation to an account transferred is to cease in respect of a withdrawal of a cash amount from the account made before the transfer.

(7) Paragraph (6) does not apply where an account is transferred in a bulk transfer of accounts.

(8) For the purposes of this regulation−

"current year's subscription" means (other than a subscription made in accordance with regulation 5D)−

(a) a subscription made to the account by the account investor in the year in which a replacement subscription is made;

(b) a subscription made to any other account by the account investor in the year in which a replacement subscription is made and transferred to the account; and

(c) the qualifying investments and other proceeds (including income) representing the subscriptions in sub-paragraphs (a) and (b) of this definition;

"previous years' subscription" means−

(a) a subscription made to the account (or any other account or former personal equity plan) in any earlier year or years;

(b) any replacement subscription of a withdrawal of a cash amount made out of that subscription; and

(c) the qualifying investments and other proceeds (including income) representing the subscriptions in sub-paragraphs (a) and (b) of this definition.