

2002 No. 3158

INCOME TAX

**The Individual Savings Account (Amendment No. 3)
Regulations 2002**

Made - - - - - 18th December 2002
*Laid before the House
of Commons 18th December 2002*
Coming into force 8th January 2003

The Treasury, in exercise of the powers conferred upon them by section 333 of the Income and Corporation Taxes Act 1988(a), section 151 of the Taxation of Chargeable Gains Act 1992(b) and section 75 of the Finance Act 1998, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Individual Savings Account (Amendment No. 3) Regulations 2002.

- (2) These Regulations shall come into force on 8th January 2003, but shall have effect—
- (a) for the purposes of regulation 3—
 - (i) where a notice of discovery is given on or after 8th January 2003, and
 - (ii) in relation to subscriptions to accounts made on or after 6th April 2001;
 - (b) for the purposes of regulation 4, for subscriptions to accounts made on or after 6th April 2003; and
 - (c) for the purposes of regulation 7, on or after 6th April 2003.

Interpretation

2. In the following regulations “the principal Regulations” means the Individual Savings Account Regulations 1998(c) and “regulation” means a regulation of the principal Regulations.

Amendments to the principal Regulations

3. After regulation 4(d) insert—

“Repair of certain incompatible accounts

4A.—(1) An invalid account is “eligible for repair” if, in relation to the year in which the subscriptions to the account were made (“the relevant year”), it satisfies—

(a) 1988 c. 1; section 333 was amended by section 70 of the Finance Act 1991 (c. 31) and by sections 75 and 123(7) of the Finance Act 1998 (c. 36).
(b) 1992 c. 12; section 151 was amended by section 85 of the Finance Act 1993 (c. 34), by section 64(2) of the Finance Act 1995 (c. 4) and by section 75(6) of the Finance Act 1998, and was extended by section 123(7) of the Finance Act 1998.
(c) S.I. 1998/1870; relevantly amended by S.I. 1998/3174, 2000/809, 3112, 2001/908, 3629 and 2002/453, 1974.
(d) Regulation 4 was amended by regulation 2 of S.I. 2000/809 and regulation 3 of S.I. 2001/908.

- (a) the First Condition below, and
- (b) any one of the Second to Fourth Conditions.

First Condition

The account is invalid because it causes the account investor to breach the conditions in regulation 4(1)(c)(ii) or (d)(ii), as the case may be (which, taken together, allow an individual to subscribe to either one maxi-account, or to single mini-accounts with each of the 3 types of component, during a year), and for no other reason.

Second Condition

Subscriptions have been made to the account during the relevant year pursuant to regulation 5(1) (transfers from matured TESSAs), with or without other subscriptions.

Third Condition

The account would have been a “first later account” under regulation 4B if that regulation had effect prior to 6th April 2003 (but not earlier than 6th April 2001).

This condition shall not have effect on or after 6th April 2003 (when it is replaced by regulation 4B).

Fourth Condition

The account is (disregarding any account which is eligible for repair under the Third Condition) the earliest account in the relevant year, the subscriptions to which caused the account investor to breach the conditions of regulation 4(1)(c)(ii) or (d)(ii), as the case may be, (that is, it was first subscribed to earlier in that year than any other such account).

(2) In this regulation—

- (a) where an account investor subscribes to a particular account in more than one year, each year’s subscriptions shall be treated as a separate account for the purposes of this regulation, and regulation 4B (except for determining when an account is closed) only;
- (b) “date of discovery” means the date on which an officer of the Board gives a notice (“notice of discovery”) to the account manager or account investor that the account is invalid, and (if appropriate) directions under paragraph (5) below;
- (c) “counting towards the subscription limits” has the meaning in regulation 5(1);
- (d) “valid account” means an account which (apart from under this regulation) is exempt from tax under regulation 22(I);
- (e) “invalid account” means a scheme of investment which is not exempt from tax under these Regulations but which (if so exempt) would be an account, within the meaning in regulation 4(1)(a) and, in relation to an invalid account, references to an account, a component and subscriptions pursuant to regulation 5(1) have corresponding meanings; and
- (f) (for the avoidance of doubt) “repair” of an account is without prejudice to loss of, and accounting to the Board for, any relief from tax given for the period up to the date of discovery.

(3) An invalid account which is eligible for repair shall be treated as—

- (a) exempt from tax under this regulation (as if under regulation 22), and
- (b) complying with the conditions of regulation 4(1)(c)(ii) or (d)(ii), as the case may be,

as from the date of discovery, to the extent of the relevant proportion mentioned in paragraph (4)(b).

(4) (a) Calculate the extent to which the subscriptions made (and counting towards the subscription limits) during the relevant year—

- (i) to that account, any other account which is eligible for repair, and any valid account, but

- (ii) disregarding any closed account, or subscriptions to a closed account, in relation to which a first later account qualifies for the relief in regulation 4B(2) or satisfies the Third Condition above,

taken together, as if they were subscriptions to a single maxi-account and allocations to the corresponding components of that account, do not exceed the subscription and allocation limits in regulation 4(2) to (2B), as the case may be, and

- (b) an officer of the Board shall apportion that result between the accounts mentioned in sub-paragraph (a)(i), and the amount apportioned to the account mentioned in paragraph (3) is the relevant proportion.

(5) The account manager must comply within 30 days with any directions in the notice of discovery which—

- (a) make the apportionment under paragraph (4)(b) and identify the account and component from which excess subscriptions or allocations (if any) are to be removed;
- (b) direct the removal of subscriptions and proceeds representing them from an account; or
- (c) direct the removal of subscriptions and proceeds representing them from a component.”.

4. After regulation 4A (inserted by regulation 3 above) insert—

“Closure of mini-account or TESSA only account prior to the opening of the same type of account to be disregarded once

4B.—(1) Where—

- (a) an account investor, within the same year—
 - (i) subscribes to a mini-account or TESSA only account,
 - (ii) then closes it (“the closed account”), and
 - (iii) subsequently first subscribes to another account which has the same designation and type of component as the closed account, and
- (b) the closed account was (apart from under this regulation) exempt from tax under regulation 22(1),

the earliest account in that year to fall within the terms of sub-paragraph (a)(iii) (the “first later account”) shall be eligible for the relief in paragraph (2).

(2) The first later account shall be treated, as from the date of the first subscription to it mentioned in paragraph (1)(a)(iii)—

- (a) in the case of a mini-account, as complying with the conditions of regulation 4(1)(d)(ii), and
- (b) in the case of a TESSA only account, as complying with the conditions of regulation 5(1),

in the same manner as the closed account.

(3) In this regulation, an account is closed where—

- (a) the account investor withdraws from the account all account investments, other proceeds in respect of such investments and cash, representing subscriptions to the account (and closure shall be treated as occurring at the date of such withdrawal), and
- (b) no further subscriptions to the account are made during the remainder of the year, after such withdrawal.”.

5. In regulation 12(a)—

- (a) in paragraph (9) omit “or regulation 13”;
- (b) in paragraph (10) omit “or regulation 13(4)(h)(iv)” and for “either this regulation or regulation 13” substitute “this regulation”; and

(a) Regulation 12 was amended by regulation 6 of S.I. 2001/908 and regulations 1, 2 and 4 of S.I. 2002/1974.

(c) after paragraph (11) add—

“(12) An application may be made on behalf of an individual who is suffering from mental disorder, by a parent, guardian, spouse, son or daughter of the individual, and shall be treated for the purposes of these Regulations as an application made by the individual.

(13) In paragraph (12) “mental disorder” has the meaning given by section 1(2) of the Mental Health Act 1983(a) or, in Scotland, section 1(2) of the Mental Health (Scotland) Act 1984(b) or, in Northern Ireland, Article 3 of the Mental Health (Northern Ireland) Order 1986(c).”.

6. Omit regulation 13.

7. In regulation 31(3)(c)(d)—

(a) in the words preceding paragraph (i) omit “other than those made pursuant to regulation 5(1)”;

(b) in paragraph (i) add at the end “or a TESSA only account”;

(c) in paragraph (iii) omit “, other than pursuant to regulation 5(1),”; and

(d) after paragraph (iv) add—

“and—

(v) the date when any such mini-account or TESSA only account was closed, where that occurred during the year or the part of the year for which the return was made.”.

8. In regulation 36(6)(e), for both the paragraph (d) treated as inserted in section 552(6) of the Taxes Act, and the paragraph (ca) treated as inserted in section 552(7) of that Act, substitute the following appropriately numbered paragraph—

“if the event is—

(i) a termination event, or

(ii) a chargeable event preceding such a termination event (as mentioned in regulation 36(2) of the Individual Savings Account Regulations 1998),

the period of three months beginning with the date on which the insurer received notice under regulation 9(9)(b) of those Regulations or, if earlier, actual notice of the termination event.”.

18th December 2002

Nick Ainger
John Heppell
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 1983 c. 20.

(b) 1984 c. 36.

(c) S.I. 1986/595 (N.I. 4).

(d) Regulation 31 was amended by regulation 5 of S.I. 2000/3112 and Article 177 of S.I. 2001/3629.

(e) Regulation 36 was inserted by regulation 12 of S.I. 1998/3174 and amended by regulation 5 of S.I. 2002/453.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Individual Savings Account Regulations 1998 (S.I. 1998/1870). The principal effects of the amendments are to provide relief for some of the common (and straightforward and often inadvertent) breaches of the compatibility rules governing the taking out of maxi and mini Individual Savings Accounts (“ISAs”). The three situations dealt with are:

- if a saver subscribes to an ISA and in the same tax year, closes it and uses the proceeds to make the first subscription to a second account with another manager, instead of requesting the first manager to transfer the first account to the second manager, the second ISA is technically invalid. The amendment will allow the second account to be repaired, and consequently attract tax relief, under the Third Condition in the inserted regulation 4A(1). And for ISAs subscribed to from 6th April 2003, the second account will not be invalidated at all (the inserted regulation 4B);
- where a saver subscribes a capital sum from a matured TESSA to an ISA which breaches the compatibility rules, that ISA will be able to be repaired so that the TESSA capital can remain in it (the Second Condition in the inserted regulation 4A(1)); and
- where a saver subscribes to an incompatible combination of mini and maxi ISAs, the first invalid ISA can be repaired to the extent that neither the overall subscription limit for a maxi ISA, nor the subscription limits for any component, are exceeded (the Fourth Condition in regulation 4A(1)).

Regulation 1 provides for citation, commencement and effect, and Regulation 2 for interpretation.

Regulation 3 inserts regulation 4A into the principal ISA Regulations, providing for the repair of invalid accounts as mentioned above, from 8th January 2003.

Regulation 4 inserts regulation 4B into the principal ISA Regulations, providing for automatic relief for the first occasion in a tax year where a “transfer” is incorrectly carried out (as mentioned in the first bullet above), on or after 6th April 2003.

Regulations 5 and 6 simplify the rules for ISA applicants with mental incapacity.

Regulation 7 makes amendments to the rules for account managers to make annual and quarterly returns of information relating to ISAs, requiring the reporting of the closure dates of mini-ISAs and TESSA only ISAs.

Regulation 8 makes a technical amendment to the reporting requirements for insurers where a policy of insurance held in an ISA breaches the terms of the Regulations.

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