

2007 No.

INCOME TAX

**The draft Individual Savings Account (Amendment) Regulations
2007**

<i>Made</i>	- - - -	***
<i>Laid before the House of Commons</i>		***
<i>Coming into force</i>	- -	***

The Treasury, in exercise of the powers conferred upon them by sections 694 to 701 of the Income Tax (Trading and Other Income) Act 2005(a) and section 151 of the Taxation of Chargeable Gains Act 1992(b), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Individual Savings Account (Amendment) Regulations 2007 and shall come into force on 6th April 2008.

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 “account”—

(i) omit paragraph (ii), and

(ii) at the end add “and shall include a personal equity plan treated on and from the 6th April 2008 as a stocks and shares account”(d);

(b) omit the definition of “tax-exempt special savings account”.

4. In the Table in regulation 2(2) (Terms defined)—

(a) omit the entries relating to “Maxi-account”, “Mini-account” and “TESSA only account”;

(b) insert the following entries at the appropriate places—

“Stocks and shares account 4(1)(a) and (b)”

“Cash account 4(1)(a) and (c)”

“Overall subscription limit 4(2)”.

5. For regulation 4(1)(a) to (h) (general conditions for accounts and subscriptions) substitute—

(a)
(b)
(c)
(d)

- “(a) the account is set up as a stocks and shares account or a cash account;
- (b) a stocks and shares account is made up of a single stocks and shares component only;
- (c) a cash account is made up of a single cash component only;
- (d) a qualifying individual who is 16 years of age or over may only subscribe to a single cash account in a particular year,
- (e) a qualifying individual who is 18 years of age or over may only subscribe to a single stocks and shares account in a particular year;
- (f) it is an account to which only one qualifying individual subscribes; and
- (g) subject to regulation 7(2)(h), it is an account to which the qualifying individual subscribes only by payment to the account manager of a sum or sums of the individual’s cash which (ignoring transfers and payments from the account manager to the individual) do not in the aggregate exceed the subscription limits in paragraphs (2) and (3).”

6. For regulation 4(2) to (4) (subscription limits) substitute—

“(2) The overall subscription limit for any qualifying investor for any year (that is, the aggregate of the investor’s subscriptions to all accounts in that year) is—

- (a) £7,200, unless
- (b) the qualifying investor is 16 years of age or over but less than 18 years at the end of the year, where it is £3,600.

(3) Within and subject to that overall subscription limit, the qualifying investor may subscribe up to £3,600 in any year to a cash account.

(4) Accordingly, by way of illustration, the qualifying investor may subscribe in a year—

- (a) £3,600 to a cash account and £3,600 to a stocks and shares account;
- (b) £2,000 to a cash account and £5,200 to a stocks and shares account; or
- (c) nil to a cash account and £7,200 to a stocks and shares account;

but while under the age of 18 years the qualifying investor may only subscribe £3,600 to a cash account.”

7. In regulation 4A (repair of certain incompatible accounts)—

- (a) in paragraph (1) for the words from “satisfies—“ to the end of the Fourth Condition substitute “satisfies both of the following Conditions.

First Condition

The account is invalid because a subscription to the account causes the account investor to breach the conditions in regulation 4(1)(d) or (e) (which, taken together, allow an individual to subscribe to a single cash account and a single stocks and shares account, in a particular year) and for no other reason.

Second Condition

The account is (disregarding any account exempt from tax under regulation 4B) the earliest account in the relevant year, the subscriptions to which caused the account investor to breach the conditions in regulation 4(1)(d) or (e), as the case may be (that is, it was first subscribed to earlier in that year than any other such account).”

- (b) in paragraph (2)—
 - (i) omit sub-paragraph (c), and
 - (ii) in sub-paragraph (e) for “, a component and subscriptions pursuant to regulation 5(1)” substitute “and component”;
- (c) in paragraph (3)(b) for “4(1)(c)(ii) or (d)(ii)” substitute “4(1)(d) or (e)”; and
- (d) for paragraph (4)(a) substitute—

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

- (i) to that account and any valid account (but ignoring subscriptions to any closed account within the meaning in regulation 4B)) do not exceed
- (ii) the subscriptions limits in regulation 4(2) and (3), as the case may be, and”.

8. In regulation 4B (closure followed by opening of same type of account) —

- (a) in the heading, for “mini-account or TESSA only” substitute “cash”;
- (b) in paragraph (1)(a)(i), for “mini-account or TESSA only” substitute “cash”;
- (c) in paragraph (1)(a)(iii), for the words from “account which” to the end substitute “cash account”; and
- (d) in paragraph (2), for sub-paragraphs (a) and (b) and the hyphen which precedes them substitute “as complying with the conditions of regulation 4(1)(d)”.

9. After regulation 4C (removal of insurance components) insert—

“Removal of maxi-accounts, mini-accounts and TESSA only accounts at 6th April 2008

4D.—(1) This regulation applies to accounts in existence immediately before 6th April 2008 (“the transitional time”).

(2) An account that, at the transitional time, is or has been designated as a TESSA only account shall be treated as a cash account on and from 6th April 2008.

(3) An account that, at the transitional time, is or has been designated as a mini-account made up of a cash component shall be treated as a cash account on and from 6th April 2008.

(4) An account that, at the transitional time, is or has been designated as a mini-account made up of a stocks and shares component shall be treated as a stocks and shares account on and from 6th April 2008.

(5) An account that, at the transitional time, is or has been designated as a maxi-account and is made up of a stocks and shares component only, shall be treated as a stocks and shares account on and from 6th April 2008.

(6) Where an account, at the transitional time, is or has been designated as a maxi-account and is made up of two components—

- (a) the stocks and shares component, if it holds investments or cash at the transitional time, shall be treated as a stocks and shares account on and from 6th April 2008; and
- (b) the cash component, if it holds investments or cash at the transitional time, shall be treated as a separate cash account on and from 6th April 2008.”

10. Omit regulation 5 (transfers from TESSAs).

11. In regulation 6 (general investment rules)—

- (a) in paragraph (3)(a) for “at that time, and which has been allocated to the particular component of that account” substitute “and component”;
- (b) in paragraph (6)—
 - (i) in the words preceding sub-paragraph (a), for “component” in both places it appears substitute “account”;
 - (ii) in sub-paragraph (a) for “same” substitute “appropriate”.

12. In regulation 7(2) (qualifying investments for a stocks and shares component)—

- (a) in both sub-paragraphs (k)(i) and (l)(i), after “component” insert “or a personal equity plan”;
- (b) at the end add—

“(p) in the case of a personal equity plan which is treated on and from 6th April 2008 as a stocks and shares account^(a), investments which, immediately before that date, were qualifying investments for the plan under regulation 6(2)(m) of the Personal Equity Plan Regulations 1989;”.

13. In regulation 7(10)(c) for the words from “which are allocated” to the end substitute “to that account, do not together exceed the overall subscription limit in regulation 4(2)(a) in that year, reduced by the subscriptions by the individual in that year to a cash account”.

14. For regulation 10(2)(a) to (c) (qualifying individuals) substitute—

- “(a) who, in the case of a cash account, is 16 years of age or over and, in the case of a stocks and shares account, is 18 years of age or over;
- (b) who, in the case of a stocks and shares account, has not subscribed, and will not subscribe, to any other stocks and shares account, in the year in which the subscription is made;
- (c) who, in the case of a cash account, has not subscribed, and will not subscribe, to any other cash account, in the year in which the subscription is made;
- (ca) who has not exceeded the appropriate overall subscription limit in regulation 4(2), or the other subscription limit in regulation 4(3), in that year;”.

15. In regulation 12(3) (conditions for application to subscribe to an account)—

(a) for sub-paragraph (a) substitute—

“(a) his application is to subscribe to a stocks and shares account or cash account, as the case may be;”;

(b) for sub-paragraphs (d) and (e) substitute—

“(d) in the case of a stocks and shares account, the applicant—

- (i) has not subscribed, and will not subscribe, to any other stocks and shares account, in the year to which paragraph (2) refers, and
- (ii) will not subscribe to any other stocks and shares account, in each successive year following that year, in which the declaration has effect;

(e) in the case of a cash account, the applicant—

- (i) has not subscribed, and will not subscribe, to any other cash account, in the year to which paragraph (2) refers, and
- (ii) will not subscribe to any other cash account, in each successive year following that year, in which the declaration has effect;

(ea) that the applicant has not subscribed, and will not subscribe, more than the appropriate overall subscription limit in regulation 4(2) (aggregating subscriptions to all accounts)—

- (i) in the year to which paragraph (2) refers, and
- (ii) in each successive year following that year, in which the declaration has effect;

(eb) that in the case of a cash account, the applicant has not subscribed, and will not subscribe, more than the subscription limit in regulation 4(3)—

- (i) in the year to which paragraph (2) refers, and
- (ii) in each successive year following that year, in which the declaration has effect;”.

16. Omit regulation 12(5) (transfers from TESSAs).

(a) [see regulation 4(1) of the PEP Regs]

17. In regulation 14(3)(a) (account manager: qualifications) for the words from “accounts” to the end substitute “cash accounts only, or stocks and shares accounts only, or both”.

18. In regulation 21 (transfer of accounts)—

(a) for the heading substitute “Transfers relating to accounts”;

(b) for paragraphs (1) to (4) substitute—

“(1) In this regulation and regulation 31(3), in relation to a transfer—

“the current year’s subscriptions” means—

(a) subscriptions made to the account by the account investor in the year in which the transfer takes place,

(b) subscriptions made to any other account by the account investor in the year in which the transfer takes place and transferred to the account in the same year, and

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

“the previous years’ subscriptions” means—

(a) subscriptions made to the account (or any other account or former personal equity plan) in any earlier year or years, and

(b) the qualifying investments and other proceeds (including income) representing those subscriptions.

(2) Any transfer relating to an account or part of an account shall be made—

(a) directly between one account manager (“the transferor”) and another account manager (“the transferee”), or

(b) where the same person is account manager before and after the transfer, solely by that manager (who shall maintain the records of both transferor and transferee required by this regulation).

(3) The current year’s subscriptions may only be transferred as a whole (with or without the whole or part of any previous years’ subscriptions), and following such a transfer the subscriptions transferred, and no other subscriptions, shall be treated as the same account.

(4) In the case of a cash account, the current year’s subscriptions and the previous years’ subscriptions may only be transferred—

(a) to a stocks and shares account (if the account investor is 18 years of age or over), or

(b) to be held under a cash account,

belonging to the same account investor.

(4A) In the case of a stocks and shares account, the current year’s subscriptions and the previous years’ subscriptions may only be transferred to be held under a stocks and shares account, belonging to the same account investor.

(4B) No transfer under this regulation (and in particular, no transfer falling within paragraph (4)(a)) shall count towards the subscription limits in regulation 4(2) and (3).

(4C) The account investor shall make a fresh application under regulation 12 (with any necessary modifications to reflect that it is made on a transfer) to the transferee.

(4D) This regulation shall also apply where an account is transferred in consequence of an account manager (“the transferor”) ceasing to act or to qualify as an account manager.”;

(c) in paragraph (6)(b)—

(i) in paragraph (i), for the words from “maxi-account” to the end substitute “cash account or stocks and shares account.”;

(ii) in paragraph (iii), omit the words from “, and the amounts” to the end; and

(iii) omit paragraph (iv);

(d) in paragraph (6)(c)—

- (i) for “(3)” substitute “(2)”;
- (ii) for paragraph (ii) substitute—
“ (ii) whether the account is a cash account or stocks and shares account;”.

19. In regulation 30(1) (information to be given to account investor by account manager) for sub-paragraphs (a) and (b) substitute—

- “(a) in the case of a stocks and shares account, if the account investor subscribes to that account in the year to which the notice relates, the account investor may not subscribe to any other stocks and shares account, in that year;
- (b) in the case of a cash account, if the account investor subscribes to that account in the year to which the notice relates, the account investor may not subscribe to any other cash account, in that year;
- (c) the account investor must not subscribe more than the appropriate overall subscription limit in regulation 4(2) in that year (aggregating subscriptions to all accounts); and
- (d) in the case of a cash account, the account investor must not subscribe more than the subscription limit in regulation 4(3), in that year.”

20. In regulation 31(3) (annual returns of information by account manager)—

- (a) in sub-paragraph (b)(ii) for “each” substitute “the”;
- (b) in sub-paragraph (c)—
 - (i) in the words preceding paragraph (i) for “maxi-account or mini-account” substitute “account”;
 - (ii) in paragraph (i) for the words from “maxi-account” to the end substitute “cash account or stocks and shares account”;
 - (iii) for paragraph (ii) substitute—
“ (ii) subject to paragraph (iia), the total amount of cash subscribed to the account, in the year or the part of the year for which the return is made;”
 - (iv) after paragraph (ii) insert—
“ (iia) in the case of a stocks and shares account to which current year’s subscriptions were transferred in the year from a cash account under regulation 21(4)(a), separate figures for the total amount of cash subscribed to the account, and the amount of the current year’s subscriptions so transferred to the account, in the year or part of the year for which the return is made;”;
 - (v) in paragraph (v) for “mini-account or TESSA only” substitute “cash”.

21. In regulation 31(7)(a) for the words from “for-” to the end substitute “for cash accounts and stocks and shares accounts”.

Signatory text

Name
Name

2007 Two of the Lords Commissioners of Her Majesty’s Treasury

DN: We have considered removing the concept of “components” in the interests of simplicity. However, components are an important part of the structure of ISAs, in particular as the means by which stocks and shares investments are kept separate from cash investments, either in the ordinary administration of ISAs or their transfer, so for structural reasons the concept is retained.
Sol. HMRC

COMMENTARY ON THE DRAFT INDIVIDUAL SAVINGS ACCOUNT (AMENDMENT) REGULATIONS 2007.

Individual Savings Accounts (ISAs) were introduced in 1999 to succeed Personal Equity Plans and Tax Exempt Special Savings Accounts as the Government's tax-advantaged savings scheme. The ISA regime allows individuals to save, without being subject to tax on any income or gains on those savings.

The ISA regulations were originally set out in the Individual Savings Account Regulations 1998 (SI 1998/1870).

In the Pre-Budget Report 2006 the Government published a document setting out proposed reforms to the ISA following an internal review. The document sought views on the proposals and how best to implement the reforms. These draft regulations set out the proposed legislation to:

- make ISAs a permanent part of the savings landscape;
- remove the Maxi/Mini distinction within ISAs;
- allow transfers from the cash component to the stocks and shares component of ISAs without affecting the current year's investment limits.

This commentary provides an analysis of the draft regulations.

Amendment of the Individual Savings Accounts Regulations 1998.

Regulation 1 gives the title by which the regulations are to be known and the date on which the regulations will come into force, which is 6th April 2008.

Regulation 2 provides that the main Individual Savings Account Regulations (SI 1998/1870) shall be amended.

Regulation 3 amends Regulation 2(1) of the main regulations to remove the definition of Tax Exempt Special Savings Accounts (TESSAs) as these are now obsolete. It also updates the definition of "account" to take account of the fact that Personal Equity Plans will become ISAs.

Regulation 4 amends Regulation 2(2) of the main regulations, which sets out the definitions of various terms used in the regulations. The amendment removes the terms "Maxi-account", "Mini-account" and "TESSA-only account" and replaces them with definitions of "stocks and shares account", "cash account" and "overall subscription limit".

Regulation 5 amends Regulation 4(1), which sets out the general conditions for accounts. The amendment sets out the types of accounts that will now exist (cash accounts and stocks and shares accounts), what the accounts consist of and who can subscribe to them.

Regulation 6 amends Regulations 4(2) to 4(4) setting out the subscription rules for accounts. It removes the provision that the investment limits will only exist until 2009-10. It also sets out the new annual investment limits for each account.

Regulation 7 amends Regulation 4A of the main regulations and sets out the rules for repair of certain incompatible accounts, amending the existing rules to take account of the new structure of the ISA.

Regulation 8 amends Regulation 4B to set out the procedure when a cash account is opened and closed in one year, and a new account is subsequently opened in the same year.

Regulation 9 inserts a new Regulation 4D which sets out the procedure by which existing Individual Savings Accounts will transition into the new structure and how they will be treated.

Regulation 10 removes Regulation 5 of the main regulations as it is now obsolete.

Regulation 11 amends Regulation 6, which sets out the general investment rules in relation to ISAs. It amends the regulations to update for the revised structure of components and accounts.

Regulation 12 adds to Regulation 7(2), which sets out the qualifying investments for the stocks and shares component. The amendment allows investments which qualified for former PEPs, but did not qualify for ISAs to still qualify as investments for accounts that used to be PEPs.

Regulation 13 amends Regulation 7(10)(c) to update the conditions which shares must adhere to to be a qualifying investment, to reflect the new structure of ISAs.

Regulation 14 amends Regulation 10(2)(a) to (c) of the main regulations. The amendment sets out who can subscribe to cash accounts and who can subscribe to stocks and shares accounts.

Regulation 15 amends Regulation 12(3), setting out the form of the declaration an ISA investor has to make when subscribing to an account

Regulation 16 removes Regulation 12(5) of the main regulations as it is now obsolete.

Regulation 17 amends Regulation 14(3)(a) to account for the new structure of the ISA when approval is sought to become an ISA manager.

Regulation 18 amends Regulation 21 which sets out the rules on transfers of accounts. The amendment clarifies the existing rules on transfers, and enables investors to transfer between accounts of the same type, and also allows investors to transfer funds from cash ISAs to stocks and shares ISAs.

Regulation 19 amends Regulation 30(1) about the information to be given to the account investor by the account manager which reflects the new structure of the accounts and the subscription rules.

Regulation 20 amends Regulation 31(3) of the main regulations to update the returns of information made by an account manager to reflect the new structure of the accounts.

Regulation 21 amends regulation 31(7)(a) of the regulations to update the returns of information made by an account manager to reflect the new structure of the accounts.

Contact

For any comments you wish to make on the technical detail of the draft regulations please contact Anna Caffyn at HM Revenue and Customs, tel: 020 7147 2855 or email: Anna.Caffyn@hmrc.gsi.gov.uk