
STATUTORY INSTRUMENTS

1998 No. 3174

INCOME TAX

**The Individual Savings Account
(Amendment) Regulations 1998**

Made - - - - 17th December 1998
*Laid before the House of
Commons* - - - - 17th December 1998
Coming into force - - 6th April 1999

The Treasury, in exercise of the powers conferred on them by sections 333 and 333B of the Income and Corporation Taxes Act 1988(1), section 151 of the Taxation of Chargeable Gains Act 1992(2) and section 75 of the Finance Act 1998, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Individual Savings Account (Amendment) Regulations 1998 and shall come into force on 6th April 1999.

Interpretation

2. In these Regulations—

“the principal Regulations” means the Individual Savings Account Regulations 1998(3);

“regulation”, except in regulation 13, means a regulation of the principal Regulations;

“gain” has the same meaning as in section 541 of the Income and Corporation Taxes Act 1988(4).

Amendments to the principal Regulations

3.—(1) Regulation 2 shall be amended as follows.

(2) In paragraph (1)(a)—

(a) after the definition of “deposit-taker” there shall be inserted—

(1) 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). Section 333B was inserted by section 77(1) of the Finance Act 1998.
(2) 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 1994 (c. 9), and by section 75(6) of the Finance Act 1998, and was extended by section 123(7) of the Finance Act 1998.
(3) S.I. 1998/1870.
(4) Section 541 was amended by paragraph 4 of Schedule 9 to the Finance Act 1989 (c. 26).

- “the Director of Savings” has the same meaning as in the National Debt Act 1972⁽⁵⁾;
- (b) in the definition of “gilt-edged securities” for “paragraph 1” there shall be substituted “paragraphs 1 and 1A”;
- (c) in the definition of “notice”, for the words “regulation 9(3) and (7)” there shall be substituted the words “regulations 9 and 36”;
- (d) in the definition of “security”, for “8(2)(e)” there shall be substituted “7(2)(c) to (cb) and (8)(b), 8(2)(e) and (f)”.
- (3) In paragraph (1)(b)–
- (a) after the definition of “authorised unit trust” there shall be inserted–
- “the first condition”, and references to the terms of a scheme complying with that condition, mean that the terms of the scheme do not permit any of the investments subject to the trusts of the scheme to consist of units in authorised unit trusts or parts of umbrella schemes which are not securities funds or warrant funds, or of shares in open-ended investment companies or parts of umbrella companies which are not securities companies or warrant companies;
- “the second condition”, and references to the terms of a scheme complying with that condition, mean that the terms of the scheme only permit any of the investments subject to the trusts of the scheme to consist of units or shares in–
- (i) a collective investment scheme which is a “recognised scheme” by virtue of section 87 or 88 of the Financial Services Act 1986⁽⁶⁾, or
- (ii) a part of a scheme mentioned in paragraph (i) which would be a part of an umbrella company, or a part of an umbrella scheme, if the definitions of “umbrella company”, “umbrella scheme” and a part thereof in either case applied to a scheme mentioned in paragraph (i),
- where the terms of the scheme mentioned in paragraph (i) identify that scheme, or the part thereof, as the case may be, as a scheme or part that would belong to one of the categories of securities fund, warrant fund, securities company or warrant company, if that scheme or part, as the case may be, were independently an authorised unit trust or an open-ended investment company in respect of which an authorisation order made by the Financial Services Authority was in force;”;
- (b) in the definition of “fund of funds”, for the words from “do not permit” to the end there shall be substituted the words “comply with the first condition and the second condition.”;
- (c) for the definition of “relevant UCITS” there shall be substituted–
- “a “relevant UCITS” means–
- (i) a UCITS, situated in a member state other than the United Kingdom, which has been authorised by the competent authorities of the member state in which it is situated, and which is a “recognised scheme” by virtue of section 86 of the Financial Services Act 1986⁽⁷⁾, and
- (ii) a part of a UCITS mentioned in paragraph (i), which would be a part of an umbrella company, or a part of an umbrella scheme, if the definitions of “umbrella company”, “umbrella scheme” and a part thereof in either case applied to a relevant UCITS,

(5) 1972 c. 65.

(6) 1986 c. 60.

(7) Section 86 was amended by section 206(1) of, and paragraph 8 of Part I of Schedule 23 to, the Companies Act 1989 (c. 40).

where the terms of the UCITS mentioned in paragraph (i) identify that UCITS, or the part thereof, as the case may be, as a scheme or part that would belong to one of the categories of securities fund, warrant fund, securities company or warrant company, if that UCITS or part, as the case may be, were independently an authorised unit trust or an open-ended investment company in respect of which an authorisation order made by the Financial Services Authority was in force;”.

4. In regulation 6(4)(ii) for the references to “National Savings” there shall be substituted references to “the Director of Savings”.

5.—(1) Regulation 7 shall be amended as follows.

(2) In paragraph (2) for sub-paragraph (c) there shall be substituted—

- “(c) gilt-edged securities which satisfy the condition specified in paragraph (12);
- (ca) any securities issued by or on behalf of a government of any EEA State, which satisfy the condition specified in paragraph (12);
- (cb) any securities which—
 - (i) in relation to a security mentioned in sub-paragraph (ca), would be a strip of that security if “strip” had the same meaning as in section 47 of the Finance Act 1942⁽⁸⁾, with the omission of the words “issued under the National Loans Act 1968⁽⁹⁾”, and
 - (ii) satisfy the condition specified in paragraph (12);”.

(3) In paragraph (8) for the words from “securities which” to “paragraph (6)” there shall be substituted—

“either—

- (a) securities which would not be qualifying securities, or
- (b) securities which would not fall within any of sub-paragraphs (c) to (cb) of paragraph (2), if paragraph (6), or paragraph (6) as it applies with the modifications in paragraph (12), as the case may be.”.

(4) After paragraph (11) there shall be inserted—

“(12) The condition specified in this paragraph is the condition specified in paragraph (6), omitting sub-paragraph (b) of that paragraph and the word “or” after sub-paragraph (a).”

6. In regulation 8(2) for sub-paragraphs (d) and (e) there shall be substituted—

- “(d) units in a fund of funds, within the meaning given in regulation 2(1)(b), with the modification that, for the words “comply with”⁽¹⁰⁾ to the end, there are substituted the words “permit the investments subject to the trusts of the scheme to consist only of units in money market funds”;
- (e) such investment deposits with the National Savings Bank which, according to the terms and conditions subject to which they are made, are expressly permitted to be held under a cash component of an account;
- (f) any securities issued under the National Loans Act 1968—
 - (i) for the purpose of or in connection with raising money under the auspices of the Director of Savings within the meaning of section 11(1)(a) of the National Debt Act 1972, and

⁽⁸⁾ 1942 c. 21; the relevant amendment to section 47 was made by section 202(2) of the Finance Act 1996 (c. 8).

⁽⁹⁾ 1968 c. 13.

⁽¹⁰⁾ Added by regulation 3(3)(b) of these Regulations.

(ii) other than national savings certificates, premium savings bonds, national savings stamps and national savings gift tokens,
 which, according to the terms and conditions subject to which they are issued and purchased, are expressly permitted to be held under a cash component of an account.”

7.—(1) Regulation 9 shall be amended as follows.

(2) In paragraph (3)(b)(ii) for the words from “the policy” where they secondly appear to the end there shall be substituted the words “it comes to the notice of the account manager, in any manner, that either of the events specified in paragraph (8) has occurred in relation to the policy;”.

(3) For paragraph (7), the following paragraphs shall be substituted—

“(7) Where either of the events specified in paragraph (8) occurs in relation to a policy, the policy shall nevertheless be treated, for the purposes of these Regulations, excepting paragraphs (3)(b)(ii) and (8) and regulation 36, as if it had satisfied the conditions in paragraph (3)(b)(i) during the period—

- (a) commencing at the time at which the specified event occurred, and
- (b) ending immediately before—
 - (i) the end of the final year in relation to the policy, within the meaning of section 546(4) of the Taxes Act(11), or
 - (ii) the time at which the specified event came to the notice of the account manager,
 whichever first occurs (the “termination event”).

(8) The events specified in this paragraph are—

- (a) that the policy has ceased to be one in respect of which the conditions in paragraph (3)(b)(i) are satisfied; and
- (b) that those conditions were not satisfied in relation to the policy at the date on which the insurance was made.

(9) Where—

- (a) it comes to the notice of the account manager, in any manner, that an event specified in paragraph (8) has occurred in relation to a policy, and
- (b) the account manager is not the insurer for the time being responsible for the obligations under the policy or, where the policy is not still in existence, the person who was the last such insurer,

the account manager shall, within 30 days of the event coming to his notice, give notice to that insurer, specifying the event mentioned in sub-paragraph (a), and the termination event.”

8. In regulation 14(2)(b)(iii) for the words “National Savings” there shall be substituted the words “the Director of Savings”.

9. In regulation 25(5) at the end there shall be added the words “except in so far as regulation 26(2) requires a return of all sums of interest referred to in regulation 23(2)(a) and any gain treated as arising in accordance with regulation 36(3)(a) or (b)”.

10. In regulation 26(2) after “regulation 23(2)(a)” where it first appears there shall be inserted the words “and any gain treated as arising in accordance with regulation 36(3)(a) or (b)”.

11. In regulation 35(6) at the end there shall be added the words “but this paragraph is without prejudice to the operation of section 552(1)(12) in a case to which paragraph (1) of regulation 36 applies”.

12. After regulation 35 the following regulation shall be inserted—

“Application of the provisions of Chapter II of Part XIII of the Taxes Act to policies where an investor ceases to be or was not entitled to relief from tax

36.—(1) This paragraph applies to a case where—

- (a) an event specified in regulation 9(8) has occurred in relation to a policy of life insurance, and
- (b) a termination event within the meaning given by regulation 9(7) occurs in relation to that policy.

(2) Where—

- (a) there is a case to which paragraph (1) applies, and
- (b) a chargeable event in relation to the policy, within the meaning given by section 540 of the Taxes Act(13), has occurred prior to the time at which the termination event mentioned in paragraph (1)(b) occurs,

the account investor shall cease to be, and shall be treated as not having been, entitled to relief from tax under regulation 22(1)(a)(v), in respect of gains treated as arising on the occurrence of any chargeable event mentioned in sub-paragraph (b).

(3) The provisions of Chapter II of Part XIII of the Taxes Act shall apply, in a case to which paragraph (1) applies, to—

- (a) the termination event mentioned in paragraph (1)(b), and
- (b) any chargeable event mentioned in paragraph (2)(b),

with the modifications provided for in regulation 35(7) and paragraphs (4) to (7) of this regulation, and the account investor and the account manager shall account to the Board in accordance with this regulation for tax from which relief under regulation 22(1)(a)(v) has been given on the basis that the account investor was so entitled, or in circumstances such that the account investor was not so entitled.

(4) In section 547(5) of the Taxes Act(14), for the words after “total income” (where it first appears) there shall be substituted the words “that gain shall be chargeable to tax under Case VI of Schedule D”.

(5) Relief under section 550 of the Taxes Act(15) shall be computed as if paragraph (4) had not been enacted.

(6) In section 552(1) of the Taxes Act—

- (a) after the words “notification thereof” there shall be added the words “or, if it is an event specified in regulation 9(8) or a termination event, within three months of their receiving written notification or actual notice thereof”;
- (b) in paragraph (a) for the words “policy holder” there shall be substituted the words “account investor”.

(12) 1988 c. 1; section 552 was amended by paragraphs 7 and 8 of Schedule 9 to the Finance Act 1989 (c. 26) and section 57 of the Finance Act 1995 (c. 4).

(13) Section 540 was amended by paragraph 3 of Schedule 9 to the Finance Act 1989.

(14) Section 547 was amended by paragraph 5 of Schedule 9 to the Finance Act 1989 (c. 26), paragraph 9 of Schedule 7 to the Finance Act 1991 (c. 31), section 19 of the Finance (No. 2) Act 1992 (c. 48), sections 56 and 76 of the Finance Act 1995, section 122 of the Finance Act 1996 (c. 8) and paragraph 1 of Schedule 14 to the Finance Act 1998 (c. 36).

(15) Section 550 was amended by section 19 of the Finance (No. 2) Act 1992.

(7) After section 552(6) of the Taxes Act there shall be inserted—

“(7) In this section “account investor” and “termination event” have the same meanings as in the Individual Savings Account Regulations 1998 and “regulation” means a regulation of those Regulations.”

(8) The account manager shall account for and pay income tax at the basic rate in force for the year of assessment in which the termination event, or the chargeable event mentioned in paragraph (2)(b), occurred, as the case may be, and any amount so payable—

- (a) may be set off against any repayment in respect of tax due under regulation 25 or regulation 26 and, subject thereto,
- (b) shall be treated as an amount of tax due not later than 6 months after the end of the year in which the event specified in regulation 9(8) came to the notice of the account manager, and
- (c) shall be payable without the making of an assessment.

(9) Where tax is charged in accordance with paragraph (3)(a) or (b)—

- (a) an assessment to income tax at the basic rate in force for the relevant year of assessment may be made on the account manager or on the account investor, and
- (b) an assessment to income tax at the higher rate within the meaning of section 832(1) of the Taxes Act(16), for that year of assessment, may be made on the account investor,

within five years after the 31st January next following that year of assessment, and regulation 28 shall not apply.”

Amendment to the Individual Savings Account (Insurance Companies) Regulations 1998

13. The regulation inserted by regulation 25(5) of the Individual Savings Account (Insurance Companies) Regulations 1998(17) as regulation “31” shall be renumbered “30A”.

*Jane Kennedy
David Jamieson*

Two of the Lords Commissioners of Her
Majesty’s Treasury

17th December 1998

(16) The definition of “higher rate” in section 832(1) was amended by Part IV of Schedule 14 to the Finance Act 1988 (c. 39).

(17) S.I. 1998/1871.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 6th April 1999, amend the Individual Savings Account Regulations 1998 (S.I. 1998/1870) (“the principal Regulations”) and also make a small amendment to the Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871). The principal effects of the amendments are to expand the descriptions of investments which are qualifying investments for components of Individual Savings Accounts, and to provide for the taxation of life insurance policies where there has been a breach of regulation 9(3)(b)(i) of the principal Regulations.

Regulation 1 provides for citation and commencement.

Regulation 2 provides for interpretation.

Regulation 3 inserts new definitions in the principal Regulations, amends existing definitions and substitutes another definition for the existing definition of “relevant UCITS”.

Regulation 4 makes a minor amendment to regulation 6 of the principal Regulations.

Regulation 5 makes amendments to regulation 7 of the principal Regulations, to add certain foreign government securities, and “strips” of such securities, to the investments which are qualifying investments for a stocks and shares component.

Regulation 6 makes a minor amendment to regulation 8(2)(d) of the principal Regulations, and sets out the National Savings products which are qualifying investments for a cash component.

Regulation 7 amends regulation 9 of the principal Regulations, relating to investments which are qualifying investments for an insurance component.

Regulations 8 to 11 make minor amendments to regulations 14, 25, 26 and 35 of the principal Regulations.

Regulation 12 inserts a new regulation 36 in the principal Regulations, dealing with insurance policies where there has been a breach of regulation 9(3)(b)(i) of the principal Regulations.

Regulation 13 makes a minor correction to the Individual Savings Account (Insurance Companies) Regulations 1998.