

2009 No. 1994

INCOME TAX

**The Individual Savings Account (Amendment No. 2)
Regulations 2009**

<i>Made</i> - - - -	<i>20th July 2009</i>
<i>Laid before the House of Commons</i>	<i>21st July 2009</i>
<i>Coming into force</i> - -	<i>11th August 2009</i>

The Treasury make the following Regulations in exercise of the powers conferred 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):

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Individual Savings Account (Amendment No. 2) Regulations 2009 and shall come into force on 11th August 2009.

(2) Regulation 5 has effect from 8th October 2008.

Amendments to the Individual Savings Account Regulations 1998

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

3. In regulation 2(1) (interpretation)—

(a) in sub-paragraph (a)—

(i) in the definition of “company”(d), for paragraph (ii) substitute—

“(ii) a UK UCITS, recognised UCITS or non-UCITS retail scheme,”

(ii) in the definition of “EEA Agreement” at the end add “, as modified or supplemented from time to time”;

(b) in sub-paragraph (b)—

(i) omit the definitions of a “Chapter 5 UCITS”(e) and “UCITS” (with its associated expressions);

(ii) in the definition of “non-UCITS retail scheme”(f) for “Sections 5.1, 5.4 and 5.6 of that Sourcebook” substitute “COLL 5.1, 5.4 and 5.6”;

(iii) for the definition of a “relevant UCITS” substitute—

(a) 2005 c.5; section 701(4) and (5) were inserted by section 40 of the Finance Act 2008 (c. 9).
(b) 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) and paragraph 436 of Schedule 1 to the Income Tax (Trading and Other Income) Tax Act 2005.
(c) S.I. 1998/1870; relevantly amended by S.I. 2001/3629, 2002/1974, 2003/2747, 2005/3350, 2007/2119 and 2008/704.
(d) The definition of “company” was amended by S.I. 2001/3629.
(e) The definition of “Chapter 5 UCITS” was substituted by S.I. 2008/704.
(f) The definition of “non-UCITS retail scheme” was inserted by regulation 4 of S.I. 2005/3350.

““recognised UCITS” means—

- (a) a collective investment scheme constituted in an EEA State, which is a “recognised scheme” under section 264 of FISMA 2000, and complies with the requirements to be a “UCITS scheme” for the purposes of the Collective Investment Schemes Sourcebook (see in particular COLL 1.2.2); or
- (b) a part of a recognised UCITS mentioned in paragraph (a) of this definition, which would be a sub-fund of an umbrella scheme which is a recognised UCITS;”;
- (iv) in the definition of “units in, or shares of, a UCITS”(a), before “UCITS” (in both places it appears), insert “UK UCITS or recognised”;
- (v) add at the appropriate places—
 - ““collective investment scheme” has the meaning in section 235 of FISMA 2000;”
 - ““FISMA 2000” means the Financial Services and Markets Act 2000(b);”
 - ““UK UCITS” means—
 - (a) a collective investment scheme authorised under section 31(1)(a) of FISMA 2000, which complies with the requirements to be a “UCITS scheme” for the purposes of the Collective Investment Schemes Sourcebook (see in particular COLL 1.2.2); or
 - (b) a part of a UK UCITS mentioned in paragraph (a) of this definition which would be a sub-fund of an umbrella scheme which is a UK UCITS;”.

4. In regulation 4(c) (general conditions for accounts) add at the end—

“(8) Where an account holds units in or shares of a UK UCITS, recognised UCITS or non-UCITS retail scheme, and dealings in the units or shares are suspended in accordance with Rule 7.2 of the Collective Investment Schemes Sourcebook (COLL 7.2), or any direct foreign equivalent of that Rule, the business period in paragraph (7) may be extended to 7 days after the end of such suspension.”

5. For regulation 5A(d) substitute—

“Treatment of sums held in accounts managed by Icesave Bank

5A.—(1) This regulation applies if—

- (a) at 8th October 2008, an account investor had an investment in an account (“the Icesave account”) for which the account manager was Landsbanki Islands hf (trading as Icesave);
- (b) compensation is paid in respect of that investment by (or through) the Financial Services Compensation Scheme(e); and
- (c) the account investor receives from the Financial Services Compensation Scheme a certificate containing the following information—
 - (i) the account investor’s full name;
 - (ii) his or her permanent address, including postcode;
 - (iii) his or her date of birth;
 - (iv) his or her national insurance number (if any);
 - (v) the Icesave account number;
 - (vi) the date on which the account was suspended;
 - (vii) the amount in the account (capital and interest) at the date of suspension;

(a) The definition was amended by S.I. 2003/2747.

(b) 2000 c. 8.

(c) Regulation 4 was relevantly amended by regulation 3 of S.I. 2002/1974.

(d) Regulation 5A was inserted by regulation 3 of S.I. 2007/2119.

(e) Established by the Financial Services Authority pursuant to section 213 of the Financial Services and Markets Act 2000.

(viii) the date of the first subscription (if any) to the account in the year 2008-09; and

(ix) the aggregate of the subscriptions made to the account in the year 2008-09 on or before 8th October 2008 (“current year subscriptions”).

(2) Where this regulation applies, the account investor may, not later than 5th October 2009, make a single subscription to an account held by him or her with another account manager (“the receiving account”), giving the certificate to the account manager, in accordance with the following paragraphs.

(3) Where the subscription to the receiving account is made during the year 2008-09, the amount subscribed under this regulation may not exceed:

X minus Y

where X is the closing balance in the Icesave account (see paragraph (1)(c)(vii)), and

Y is the amount (if any) by which the aggregate of—

- (a) the current year subscriptions (if any) made to the Icesave account (see paragraph (1)(c)(ix)), and
- (b) the subscriptions (if any) made to the receiving account by the account investor in the year 2008-09 (ignoring the subscription made under this regulation),

would otherwise exceed the subscription limit for the year 2008-09 in regulation 4(3).

Paragraphs (4) to (6) shall also apply to a subscription made under this regulation during the year 2008-09.

(4) The subscription made under this regulation shall only count towards the subscription limit in regulation 4(3) to the extent that the current year subscriptions (if any) made to the Icesave account exceed Y (or where there is no amount for Y, exceed nil).

(5) Where the receiving account is a stocks and shares account—

- (a) the references in paragraphs (3) and (4) to the subscription limit in regulation 4(3) shall be read as references to the subscription limit in regulation 4(2); and
- (b) the current year subscriptions (if any) made to the Icesave account shall be treated, for all purposes including regulation 31(3)(c), as if they had been made to the stocks and shares account, and accordingly shall not count towards the cash subscription limit in regulation 4(3).

(6) The account manager for the receiving account must—

- (a) in the case of a subscription made under this regulation to the account in the year 2008-09, treat the subscription in the same way as an account transferred from another account manager to him during the year 2008-09; and
- (b) retain either the certificate mentioned in paragraph (2), or a copy of it.

(7) Where the subscription to the receiving account is made during the year 2009-10 (but not later than 5th October 2009), the amount subscribed under this regulation—

- (a) may not exceed X (see paragraph (3)), and
- (b) shall not count towards the subscription limits in regulation 4(2) or (3),

and paragraph (6) (omitting sub-paragraph (a)) shall also apply to that subscription.”

6. In regulation 7(2)(f)(a) (qualifying investments for a stocks and shares component) for “relevant UCITS or Chapter 5 UCITS” substitute “UK UCITS or recognised UCITS”.

7. For regulation 12(7) substitute —

“(7) Where the application is not in writing or the manager operates a record system under which all original written applications are not retained, the account manager shall

(a) Regulation 7(2)(f) was amended by S.I. 2003/2747 and 2005/3350.

make the written declaration referred to in paragraph (3)(g)(iv) and notify the applicant of its contents.

(7A) Any such declaration shall take effect from the date on which it was made (subject to any corrections notified by the applicant to the manager within 30 days), and if he does not disagree with the contents within 30 days, he shall be treated as having agreed them.”

8. In regulation 21(a)—

- (a) in paragraph (5) omit “and the declaration” to the end; and
- (b) omit paragraph (7).

9. In regulation 31(4)(a)(b)—

- (a) in paragraph (i) for “UCITS” substitute “UK UCITS, recognised UCITS or non-UCITS retail scheme”; and
- (b) in paragraph (v) for “relevant UCITS” substitute “recognised UCITS, or non-UCITS retail scheme (constituted outside the United Kingdom)”.

Tony Cunningham

Dave Watts

20th July 2009

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) Regulation 21 was amended by regulation 18 of S.I. 2007/2119.
(b) There are no relevant amendments.

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”). The main effect of these Regulations is to allow individuals who had ISAs with Icesave Bank (suspended on 8th October 2008) to reinvest up to the closing balance of their accounts in an ISA managed by another account manager, not later than 5th October 2009. Such reinvestments have already taken place under the terms of ISA Bulletins 6, 9 and 13. The new regulation 5A therefore has effect from 8th October 2008 (before these Regulations are made) and makes provision which does not impose or increase any liability to tax. In these circumstances, authority to make retrospective provision is conferred by section 701(4) of the Income Tax (Trading and Other Income) Act 2005 (inserted by section 40 of the Finance Act 2008).

Regulation 1 provides for citation, commencement and effect. Regulation 2 provides for amendment of the principal Regulations.

Regulations 3, 4, 6 and 9 up-date references in the principal Regulations to certain collective investment schemes, and enable shares and units in all non-EU EEA countries’ UCITS (undertakings for collective investments in transferable securities) to be qualifying investments within UK ISAs.

Regulation 5 makes the provision for reinvestment of balances in Icesave accounts in ISAs, with different calculations of the sum which may be invested for the tax year 2008-09 (allowing for any subscriptions to the Icesave account in that year) and 2009-10.

Regulation 7 brings the procedures for non-written applications to open ISAs into line with the procedures for Child Trust Funds (in particular where the applications are made by telephone).

Regulation 8 removes the requirement for a declaration by the account manager on the transfer of an account to another account manager, in order to facilitate electronic transfers of accounts.

A regulatory impact assessment on the effect of this instrument is available at <http://www.hmrc.gov.uk/ria.index.htm>

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STATUTORY INSTRUMENTS

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£4.00