

2010 No. 2957

INCOME TAX

CAPITAL GAINS TAX

**The Individual Savings Account (Amendment No. 2)
Regulations 2010**

<i>Made</i>	- - - -	<i>13th December 2010</i>
<i>Laid before the House of Commons</i>		<i>14th December 2010</i>
<i>Coming into force</i>		
<i>For the purposes of regulation 3</i>		<i>6th April 2011</i>
<i>Remainder</i>		<i>4th January 2011</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 694, 695(1) and (4) and 701(1) 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 2010.

(2) Regulation 3 of these Regulations shall come into force on 6th April 2011 and all other regulations thereof shall come into force on 4th January 2011.

(3) Regulations 4 and 5 shall have effect in relation to instructions given on or after 4th January 2011 for a cash account or part of a cash account held by an account investor with an account manager to be transferred, subject to and in accordance with regulation 21 of the Individual Savings Account Regulations 1998(c) (“ISA Regulations 1998”), to a cash account belonging to the account investor which is held with another account manager.

(4) For the purposes of this regulation—

- (a) the terms “account investor” and “account manager” have the same meanings as they do in regulation 2(1)(a) of the ISA Regulations 1998; and
- (b) the term “cash account” has the same meaning as it does in regulation 4(1) of the ISA Regulations 1998.

(a) 2005 c. 5; section 701(4) and (5) was inserted by section 40 of the Finance Act 2008 (c. 9).

(b) 1992 c. 12; section 151(2) was substituted by paragraph 436 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005 (c. 5), and section 151(4) was inserted by section 85 of the Finance Act 1993 (c. 34).

(c) S.I. 1998/1870; relevant amending instruments are S.I. 2002/1974, S.I. 2007/2119 and S.I. 2009/1994.

Amendment to the ISA Regulations 1998

2. The ISA Regulations 1998 are amended as follows.

3. In regulation 4 (General conditions for accounts and subscriptions to accounts)—

(1) at the end of paragraph (6)(f) insert “and, where it applies, regulation 21A”; and

(2) for paragraph (7) substitute—

“(7) The time stipulated in the transfer instructions or withdrawal instructions shall be subject to any reasonable business period of the account manager required for the practical implementation of the instructions, but such period—

(a) must not exceed 30 days; and

(b) must be consistent with regulation 21A where it applies.”.

4. In regulation 21(5) (Transfers relating to accounts) for “The” substitute “Except where the transferor has provided information to the transferee in accordance with regulation 21A(2)(b)(ii), the”.

5. After regulation 21 (Transfers relating to accounts) insert—

“Further requirements relating to transfers between cash accounts

21A.—(1) This regulation applies where an account investor, through the agency of an account manager (“the transferee”), gives instructions (“transfer instructions”) to an account manager with whom the account investor holds a cash account (“the transferor”) for that account or part of that account to be transferred, subject to and in accordance with regulation 21, to a cash account belonging to the account investor which is held with the transferee.

(2) Where this regulation applies—

(a) the transferee shall, within 5 business days beginning on the instruction day, send to the transferor—

(i) the transfer instructions; and

(ii) a notice specifying that the transferee consents to the transfer (“the consent notice”);

(b) the transferor shall, within 5 business days beginning on the day that the transferor receives the transfer instructions and the consent notice,—

(i) transfer to the transferee the subscriptions specified in the transfer instructions; and

(ii) send to the transferee a notice containing the information specified in paragraph (3); and

(c) the transferee shall ensure that the subscriptions specified in the transfer instructions are transferred to a cash account belonging to the account investor which is held with the transferee within 3 business days beginning on the day that the transferee receives the subscriptions and the notice referred to in sub-paragraph (b)(ii).

(3) The information specified in this paragraph is—

(a) as regards the account investor—

(i) the full name of the account investor,

(ii) the address of the account investor’s permanent residence, including postcode,

(iii) the date of birth of the account investor, and

(iv) the national insurance number of the account investor (if any), and

(b) as regards the cash account or any part of the cash account—

(i) the date of the transfer,

- (ii) the total amount of cash subscribed to the account during the period from the beginning of the year in which the transfer takes place to the date of the transfer,
- (iii) the date on which the first subscription (if any) was made to the account, in the year in which the transfer takes place, and
- (iv) the reference number or other means used by the transferor to identify the account belonging to the account investor in respect of which the transfer is made.

(4) For the purposes of paragraph (2)(a) and (b), the transfer instructions and the notices (as appropriate) shall be treated as sent if they are—

- (a) posted to, or left at, the proper address of the transferor or the transferee (as appropriate); or
- (b) transmitted by electronic communication.

(5) For the purposes of paragraph (2)(b), where the transferor receives the transfer instructions and consent notice on different days, they must both be treated as received on the latest of those days.

(6) For the purposes of paragraph (2)(c), where the transferee receives subscriptions specified in the transfer instructions and the notice described in paragraph (2)(b) on different days, they must all be treated as received on the latest of those days.

(7) In this regulation—

“business day” means any day except—

- (a) a Saturday, Sunday, Good Friday or Christmas Day^(a),
- (b) a bank holiday under the Banking and Financial Dealings Act 1971^(b);

“electronic communication” includes any communication conveyed by means of an electronic communications network;

“instruction day” means—

- (a) the day stipulated by the account investor for the transferee to begin the transfer process, or
- (b) if no day is stipulated, the day that the transfer instructions are received by the transferee;

“subscriptions” means the current year’s subscriptions and the previous years’ subscriptions as described in regulation 21(1).

(8) For the purposes of this regulation—

- (a) a document is “posted” if it is sent pre-paid by a postal service which seeks to deliver documents by post within the United Kingdom no later than the next business day in all or the majority of cases, and to deliver by post outside the United Kingdom within such a period as is reasonable in all the circumstances; and
- (b) the “proper address” to which a document is to be sent is any current address provided by the transferor or transferee as an address for service of such documents, but if no current address is provided then it shall be the address of its registered or principal office in the United Kingdom.”.

*Angela Watkinson
Brooks Newmark*

13th December 2010

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) This follows the Bills of Exchange Act 1882 (c. 61), section 92(a) as amended by the Banking and Financial Dealings Act 1971 (c. 80), section 3(1).

(b) 1971 c. 80; section 1 of and Schedule 1 to that Act relate to bank holidays. Schedule 1 was amended by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (asp 2).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Individual Savings Account Regulations 1998 (S.I. 1998/1870) (“the ISA Regulations”) by inserting regulation 21A and making consequential amendments to regulations 4 and 21 of the ISA Regulations.

Regulation 3 of these Regulations amends regulation 4 of the ISA Regulations with effect from 6th April 2011, so as to require any agreement between an account investor and an account manager to contain a provision that any transfer of a cash individual savings account (“cash ISA”) or part thereof to another cash ISA held by the account investor with another account manager will not only be in accordance with regulation 21 (transfers relating to accounts) of the ISA Regulations but also consistent with regulation 21A where it applies.

Regulation 4 of these Regulations amends regulation 21(5) of the ISA Regulations with effect from 4th January 2011 so that an account manager from whom a cash ISA or part of a cash ISA is transferred, who provides information to the account manager to whom the transfer is made in accordance with regulation 21A(2)(b)(ii), is not required to provide information in accordance with regulation 21(5) and (6).

Regulation 5, which has effect from 4th January 2011, inserts regulation 21A into the ISA Regulations so that where a cash ISA or part of a cash ISA is transferred, the transfer must be made in accordance with regulations 21 and 21A.

A full Impact Assessment of the effect of this instrument will have on the costs of business and the voluntary sector is available from the HMRC website at <http://www.hmrc.gov.uk/better-regulation/ia.htm>.