

Tech Talk

May 2015

The new ISA: the next generation

ISAs have been a hot topic for reform in the past 18 months. Budget 2014 announced an increase in the limits which could be saved each year, and the Autumn Statement took a bold step where no Chancellor had gone before, with the announcement of the inheritable ISA for a surviving spouse or civil partner.

The next frontier became apparent in Budget 2015: cash ISAs would become more flexible when withdrawals are taken, as top ups within the same tax year will be permissible from autumn 2015. A new Help to Buy ISA will be introduced to help first time buyers.

The regulations enacting the additional subscription allowance were placed before Parliament in March, and HMRC has now issued its guidance on the additional subscription.

This Tech Talk takes the opportunity to update the additional subscription allowance guidance and looks at how the Help to Buy ISA and topping up cash ISA withdrawals are likely to work in practice.

Contents

- The additional allowance
- The additional allowance: HMRC guidance
- The announcements in Budget 2015
- Comment

The additional allowance

We discussed the additional subscription allowance in our Tech Talk [The new “new ISA”: inheriting an additional subscription](#). To recap, the allowance will be available where the first spouse or civil partner to die does so on or after 3 December 2014. The first subscriptions using the allowance have been possible since 6 April 2015.

The survivor will have two options:

- a cash subscription;
- an in-specie subscription.

The in-specie subscription is only possible where the survivor has inherited the assets held in the deceased's ISA from their spouse or civil partner and uses those assets to fund the additional subscription. It is subject to tighter time limits for making the subscription (generally within 180 days of the date that the beneficial ownership of the assets is transferred to the survivor by the estate), and the regulations also contain specific rules regarding the valuation of the assets.

If an in-specie contribution is made, the valuation of the assets is at the date of the additional subscription and not their value at the date of death. Whether this will cause problems in practice remains to be seen. For example, if the investments increase in value after death, the survivor may need to retain some of the investments outwith the ISA to avoid breaching the additional subscription limit.

Cash subscriptions are subject to a longer time limit (the later of 3 years from the date of death or 180 days from the date that the administration of the estate is complete).

The draft regulations remain largely unchanged since our original [Tech Talk](#), but there are a few key differences to note between these and the regulations enacted. We will now consider these differences and any additions to HMRC's corresponding guidance in more detail.

The additional allowance: HMRC guidance

Non-residents will be able to make an additional subscription

We discussed in our original [Tech Talk](#) whether a survivor who is not resident in the UK would be able to take advantage of the additional subscription allowance. We had concluded that this would not be possible, as the additional subscription required, in many instances, the opening of a new account. This generally requires a declaration of UK residency before a subscription can be made.

HMRC's guidance to ISA managers has clarified that the additional subscription will still be possible for non-residents.

The ISA manager to whom the additional subscription must be made

The draft regulations were also extremely restrictive in terms of to whom the survivor could make the additional subscription. The original draft regulations anticipated that the

additional subscriptions would only be possible to the deceased's ISA manager, unless there were exceptional circumstances, such as the ISA manager no longer accepting business. This has been relaxed significantly.

Survivors will now be able to select an ISA manager other than the deceased's ISA manager without requiring HMRC approval. There is no obligation on the deceased's ISA manager to accept the additional subscription and the new ISA manager must agree to take the new subscription.

As we previously discussed, in order to be eligible to make an in-specie contribution, the assets must have been held by the ISA manager or their nominee continuously since death. There is no provision that they can be used to make an in-specie contribution to a new ISA manager. Where the survivor wants to make the additional subscription directly to a new ISA manager, this must be done in cash.

EXAMPLE 1

Kirk and Edith are married. Edith predeceases Kirk, leaving the following ISA savings:

- £25,000 cash with ISA manager 1;
- £50,000 stocks and shares and £20,000 of cash with ISA manager 2; and
- £65,000 stocks and shares with ISA manager 3.

Kirk's ISA savings are with ISA manager 2 and ISA manager 3.

ISA manager 3 will accept additional subscriptions to use the allowances from ISA manager 1 and ISA manager 2.

However, Kirk will not be able to make an in-specie contribution to ISA manager 3 of the stocks and shares held by Edith with ISA manager 2.

Kirk therefore decides to transfer the additional subscription allowance from ISA manager 1 to ISA manager 3. Because he wants to make an in-specie contribution of the shares held with ISA manager 2, he must make the in-specie contribution to ISA manager 2. He must also make an in-specie contribution to ISA manager 3 for the shares held with ISA manager 3.

Kirk therefore subscribes as follows:

- £70,000 to ISA manager 2 – the additional subscription allowance from ISA manager 2; and
- £90,000 to ISA manager 3 – the additional subscription allowances from ISA manager 1 and ISA manager 3.

There is no legal requirement for the survivor to open a new account, but the ISA manager can insist upon this if it will allow them to police the additional permitted subscription limit.

EXAMPLE 1 (CONTINUED)

ISA manager 3 allows Kirk to make the additional subscriptions to his existing ISA account. However, ISA manager 2 will only allow the additional subscription if Kirk opens up a new account with them.

It will be possible for the survivor to make additional subscriptions by instalments, so long as the ISA manager allows this. However, any further additional permitted subscriptions up to the limit must be made to the same ISA manager.

EXAMPLE 1 (CONTINUED)

Kirk makes the additional contribution in-specie to ISA manager 3 as soon as possible. However, he makes the cash subscriptions relating to the allowance from ISA manager 1 in three equal instalments.

The first instalment is made to ISA manager 3 in July 2015. When the second instalment is made in September 2016 and the third instalment in June 2017, he must also make this to ISA manager 3 and cannot, instead, make the subscriptions to ISA manager 2.

We discussed in our previous [Tech Talk](#) what the position would be if the share value altered between the date of death and the date of the additional subscription. To recap, the additional subscription allowance is determined by the value of the investments at the date of the deceased's death, whereas the value of the in-specie subscription is determined at the date of the subscription. This means that some of the investments will need to remain outwith the ISA to avoid breaching the additional subscription limit.

HMRC's Bulletin confirms that, where the deceased held both cash and stocks and shares with the same ISA manager, the additional subscription limit is the combined value. This means that all shares can be used to fund an in-specie contribution, even though part of the additional subscription allowance was made up of cash at the date of death.

EXAMPLE 1 CONTINUED

Between the date of death and the date that Kirk makes the additional subscription in-specie, the shares held with ISA manager 2 rise in value by £8,000. Kirk can make the in-specie contribution of all shares to ISA manager 2. He will then be able to subscribe a further £12,000 in cash to use up the additional subscription allowance (£70,000 limit less £58,000 by the in-specie subscription).

The announcements in Budget 2015

The Help to Buy ISA

The draft regulations introducing the Help to Buy ISA are still awaited and are expected in the autumn. However, Budget 2015 documents explain at a high level how the new product will work.

The key attraction for the Help to Buy ISA is the bonus which the Government will contribute to the product. For every £200 saved, including subscriptions and interest accumulating, the Government will contribute a further £50. The minimum bonus which can be claimed is £400, and the maximum is £3,000.

The Help to Buy ISA comes with some restrictions, as would be expected. The subscriptions will count as an individual's cash subscription for the year, and is subject to a maximum monthly subscription of £200. This means that individuals will need to save for a minimum of five years to receive the full £3,000 bonus available.

To qualify, the subscriber must be over the age of 16 and a first time buyer. The bonus will only be payable where the property to be purchased is worth less than £250,000 outside London and £450,000 within the capital.

The product will be available per subscriber, not per property. This means that joint purchasers can each save a maximum of £200 a month towards a deposit.

From autumn 2015, it will be possible to open the account at any time over the next four tax years, and the account can be held indefinitely once opened. As the product will be introduced part-way through the tax year, an initial deposit of up to £1,000 can be made, including from cash savings made earlier on in the tax year to another cash ISA.

The bonus will be calculated and paid at the time the property is purchased.

EXAMPLE 2

Jean-Luc and Deanna, both aged 23, have decided to buy a house together. Jean-Luc earns £35,000 per annum whereas Deanna earns £18,000 per annum. Both are eligible to open a Help to Buy ISA.

Deanna saves £200 per month in her instant access savings account. When the Help to Buy ISA becomes available, she withdraws £1,000 from her savings account and deposits it in a new Help to Buy ISA. She then deposits £200 per month. In total, she saves £2,400 in her ISA during the 2015/16 tax year.

In contrast, Jean-Luc opens a cash ISA on 6 April 2015 and deposits £1,000. He also opens a stocks and shares ISA and adds £12,840 to his account towards his subscription for 2015/16.

When the Help to Buy ISAs become available, Jean-Luc transfers the £1,000 saved already in his cash ISA to his new Help to Buy ISA as a current year transfer. He then adds a further £200 per month for the rest of the tax year. His ISA savings for the 2015/16 tax year are £15,240, with £2,400 of those savings being made in the Help to Buy ISA.

In 2018, they find a house to purchase and the sale completes on 10 April 2018. They have each deposited £7,200 to their Help to Buy ISA. Each can claim a bonus of £1,800 on their savings.

Topping up a cash withdrawal

Prior to 2015/16 where an individual withdrew funds from their cash ISA during the year, any funds added to the ISA to replace the withdrawal counted towards their subscription limit for the year.

From autumn 2015 onwards, it is expected that top ups to cash ISAs will be able to be made to replace withdrawals, so long as both the withdrawal and top-up occur within the same tax year.

EXAMPLE 3

Scotty has saved £30,000 in his cash ISA. He relocates for work during 2015/16 and uses £25,000 in June 2015 to fund a deposit on a flat in his new home city while he sells his old flat.

The sale of his old flat completes in December 2015, and after paying off the old mortgage, receives cash of £45,000. He uses £25,000 to top up his cash ISA and a further £15,240 to fund a stocks and shares ISA to use his subscription allowance for 2015/16.

The facility will not be available for withdrawals from, and top ups to, stocks and shares ISAs.

Comment

We are now in a brave new world of ISAs, but not as we knew them. The products had been languishing without significant reform since their introduction in 1999/2000. The recent changes can only be welcomed and advisers should ensure that their clients make maximum use of the changes.

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