QROPS – An endangered species?

Wyn Derbyshire explains what the HMRC's stricter requirements mean for the future of QROPS

An important element of the UK's registered pensions scheme regime has been the willingness of HMRC to recognise suitable overseas pension schemes – most particularly qualified recognised overseas pensions schemes (QROPS) - as being capable of accepting transfers of pension rights accrued under UK registered pension schemes without tax penalty. The ability to transfer without penalty has not only encouraged the growth of British ex-pat communities overseas, but has also proved to be of important benefit to citizens of such countries who have accrued significant pensions savings under the UK's registered pensions system whilst working in the UK, but who subsequently wish to return to their home countries, taking their accrued pensions saving with them.

Recently however, as a result of recent changes to the UK pensions system as part of the drive for greater pension flexibility, coupled with the desire to be seen to be fighting tax fraud within the pensions arena, HMRC has toughened its stance as regards the qualifications that overseas pension schemes must manifest before they can be considered to be QROPS. As part of this process, HMRC issued letters to overseas scheme providers in April 2015 requiring providers to confirm that all QROPS under their administration comply with UK requirements for QROPS, with a particular emphasis on the requirement that QROPS generally must not allow members who have transferred pension funds that de-

rive from UK registered pension schemes from accessing such funds before the 'minimum pension age', which applies in relation to UK registered pension schemes (typically age 55), save in cases of serious ill-health. The deadline for supplying such reassurance was 17 June 2015 and HMRC subsequently announced the temporary suspension of its list of recognised overseas pension schemes pending clarification of which schemes have and have not provided suitable reassurance. The problem is that in several of the relevant overseas jurisdictions many of the pension schemes that have historically operated as QROPS (and indeed been recognised as such schemes by HMRC in the past) do not have such a minimum age limitation built into their governing provisions. HMRC subsequently reissued the overseas schemes list on 1 July 2015, and has warned that it cannot confirm whether schemes in many overseas jurisdictions are in fact recognised overseas schemes, or whether transfers to them will be free from UK tax.

HMRC's approach has led to a number of overseas providers questioning whether to continue providing QROPS services at all. Certainly recent months have seen reports of large numbers of overseas pension schemes in countries such as Australia, New Zealand and Ireland apparently abandoning their claims of QROPS status.

Loss of QROPS status could have serious consequences not only for the overseas pensions industry generally, but also for member and prospective members of such schemes.

In particular, under UK tax rules, the loss or voluntary abandonment of QROPS status means that whilst members who have already transferred UK accrued funds to an overseas scheme (before 6 April 2015) may continue as members of that scheme (and in due course, benefits may be paid out to or in respect of such members provided the payments are in a form that a QROPS will pay), the former QROPS would be unable to accept further transfers derived from UK registered pension schemes in the future without tax penalties falling on the transferring members. Such penalties could be significant, possibly amounting to 55 per cent of the value of the transferred funds.

Transfers made after 6 April 2015 to schemes no longer deemed to be QROPS may also be vulnerable to UK tax. Furthermore, subsequent transfers of UK-derived funds from one overseas scheme to another could also attract tax penalties if the recipient scheme does not enjoy QROPS status. Looking forward, it seems likely that registered schemes in the UK will be far more cautious about agreeing to overseas transfers without compelling proof of the recipient scheme's QROPS status, and individuals seeking to transfer their accrued rights overseas will find the task much more difficult (and potentially expensive) than was formerly the case.

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