

QROPS-

A PENSION FOR EXPATS

Martyn Russell takes us through Qualifying Recognised Overseas Pension Schemes

According to Philip Beresford, the compiler of the Sunday Times Rich List, entrepreneurs and business professionals are leaving the UK at the rate of 10 a week. Whilst these individuals may be fleeing the UK to escape ever increasing taxes and restrictions with their pensions, the concept of moving aboard is becoming more and more attractive to many. No doubt the recent British winter may also be a factor for those contemplating a move abroad.

As a result of changes in the UK pension legislation, which were implemented by the UK Finance Act 2004 and activated on "A" Day in April 2006, expatriates are no longer restricted by the confines of the UK pension legislation and are now able to have their pension arrangements transferred to overseas arrangements, provided that certain criteria as set out by Her Majesty's Revenue and Customs ("HMRC") are met.

QROPS were introduced as part of this legislation and offer individuals who have left, or who are leaving, the UK to live, work or retire abroad, the opportunity to transfer their UK private pension to an overseas pension arrangement provided that it is recognised by HMRC and the tax authorities in their local jurisdiction. State pensions cannot be transferred.

There are various advantages that a QROPS has over a UK pension, notably:-

- No requirement to purchase an annuity from an insurance company by age 75.
- The roll up of capital gains and income free from tax in Guernsey.
- Increased flexibility of investments.
- Flexibility regarding when benefits may be drawn.
- Potential inheritance tax planning opportunities.

Pension benefits can be made by the Trustees direct from the trust fund. In calculating annuity payments the Trustees will generally take a number of considerations into account including the age and general health of the individuals and potentially other pension and financial arrangements. Pension benefits made from a Guernsey QROPS to a non resident of Guernsey will not be subject to tax in Guernsey, however, there may be tax implications in the member's new country of residence, so it is important that both UK and overseas professional advice is sought. In the event of the death of a member, any residual pension assets can be used by the Trustees to benefit any one or more of the member's dependants, relations or other persons as nominated by the member in writing to the Trustees.

QROPS providers are required to report to HMRC in respect of any benefits that have been made available to members if they have been resident in the UK during the previous 5 year period. The purpose of this is to enable HMRC to monitor if an overseas pension scheme makes a payment from the transferred pension assets that would not have been an authorised payment under the UK pension legislation, as the member may be subject to an unauthorised payment tax charge on such payments. It is important to be aware that QROPS are a means to provide a pension for life, and encashment at the end of the five year reporting period is not permissible.

Bachmann Trust Company Limited is registered with HMRC as a

QROPS provider and administers a Guernsey registered QROPS known as The Bachmann Personal Pension Plan. This scheme is administered in accordance with the laws of the Island of Guernsey and is open to both residents and non residents of Guernsey. The Bachmann Personal Pension Plan is an umbrella trust and under the terms of the Trust Deed the Trustees are required to create a separate sub trust for each pension plan admitted to the trust and to administer the same as if it were a separate trust. There is no pooling of pension assets of other members. Pension funds can be transferred to our plan either in cash, or by way of an inspecie transfer of other assets, for example an investment portfolio. Under the Bachmann Plan, the Trustees are required to formally consider any investment recommendations made to them by the member, although they are not bound by these recommendations should the Trustees deem these to be totally inappropriate.

Guernsey is at the forefront of good corporate governance with a globally respected regulatory body and a clearly defined and transparently operated tax regime. This places the Island in a strong position to meet the stringent criteria required by HMRC. In light of the fate which recently befell Singapore, the Guernsey Income Tax Authority has been working very closely with HMRC to ensure that the Island's reputation for excellence in this field continues to be recognised.

In conclusion, a QROPS is an excellent pension arrangement for individuals who are contemplating leaving the UK or who have already made the break. This arrangement provides members with flexibility in their retirement planning, tax efficiency and a choice of investment management, safe in the knowledge that, upon death, any residual pension assets can be distributed to their dependant beneficiaries.



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