



Our Ref: NSS/QROPS

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Proposed Changes to the UK Tax Regime for Qualifying Recognised Overseas Pension Schemes (QROPS)

Last week HMRC issued, without any prior warning, a consultation document which set out proposed changes to the tax regime governing QROPS. Attached to the consultation document was draft secondary legislation proposing changes to the qualifying conditions for QROPS, together with increased reporting conditions for such schemes. HMRC intends that, subject to any matters that arise in the consultation process, the new regime will start on 6 April 2012 – and will affect all current QROPS.

Against this background, we would highlight the following fundamental changes that HMRC proposes for continuing QROPS.

- From 6 April 2012 any tax exemption that is available in respect of benefits paid to a non-resident of the territory in which a QROPS is located, must also be available to residents of the QROPS territory
- QROPS managers will be obliged to make reports to HMRC for a total of 10 years from the date of transfer to a QROPS – as opposed to the current 5 years from the date of first becoming non-resident outside the UK
- More detailed reporting is required from QROPS administrators
- At least 70% of the funds transferred to a QROPS must be used to provide income in retirement

Pension Schemes wishing to qualify as QROPS or maintain their existing status will need to meet the above additional new conditions

Our Comments

1. The proposals above imply that unless local tax rules or QROPS regulations are changed significantly, many existing QROPS could lose their status after 5 April 2012.

2. The territories which are the principal QROPS providers in the northern hemisphere are Guernsey, The Isle of Man and Malta. We understand that in each of these the local QROPS provider association and Governments are conferring urgently and with HMRC with a view to maintaining existing QROPS status.
3. We are informed that maximum efforts are being made so as to ensure that there will be the minimum possible impact to existing clients – but we would highlight that until appropriate legislation for the individual territories emerges, the desired result cannot be guaranteed.
4. Depending on HMRC's exact clarification, there could be penalties arising should an existing QROPS loses its status.
5. We are aware, however, of territories whose current rules appear to meet the new requirements and which may need to be considered if the main QROPS locations are unable to change their rules sufficiently or in time.
6. In the event that an existing QROPS loses its status after 5 April 2012, problems could arise for members.

There is no need to panic however – but on the other hand, we believe that some initial preparation work should be considered from early 2012 so as to devise alternative options if necessary.

7. If it becomes clear that a QROPS is likely to lose its status, it will probably be necessary to transfer to an acceptable alternative. Our hope is that existing providers and the territories governing them will be able to take steps on time to protect existing interests. In the event that this is not possible, then all those with interests in QROPS should be prepared for the need to take swift action to change their QROPS location and/or provider.
8. We stress – and hope – that there will be no need to transfer, but it is right to point out that the need may arise.
9. Finally, we note that the changes do not appear to affect appropriately constructed Qualifying Non UK Pension Schemes (QNUPS). Nonetheless, we would point out that some providers have set up QNUPS arrangements in a format that is affected by the new proposals and we recommend that specialist advice should be obtained to verify the exact position.

Nigel Sloam & Co and NSS Actuarial Monaco, can provide truly independent specialist advice to all those affected currently or potentially by these changes. We are happy to assist clients and advisors to plan to maximise future interests

Over the next two to three months, it is vital that those with existing QROPS - or planning to incept a QROPS shortly - should have their position reviewed so as to ensure that they are not disadvantaged by the new UK regime.

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