



QROPS Draft Legislation Update

On 6th December 2011 HM Revenue & Customs (HMRC) released a consultation document relating to draft legislation 'The Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2012' ('**the proposals**') which comes into force on 6th April 2012. This was followed on 20th December 2011 with draft guidance on the proposals ('**the guidance notes**'). The proposals are set to significantly change the way that QROPS operate post 6th April 2012. It is clear that any jurisdiction which fails to make the required changes before the new proposals take effect risk losing their QROPS status altogether which could have serious consequences for members.

The key changes are:

Reporting Period will increase to the later of ten years from date of transfer and five full consecutive tax years of non-residency, however, this will not affect a member's ability to enjoy the benefits of QROPS after five consecutive tax year's non-residency.

Tax-free cash will effectively be further restricted so that any client not residing in the same jurisdiction as their pension scheme will be limited so that 70% of the tax relieved fund which is transferred from a UK registered pension scheme must be used to provide an income in retirement regardless of whether or not that jurisdiction could provide a higher amount.

The new **Condition 4** will mean that **resident and non-resident members of a QROPS cannot be treated differently for tax purposes when taking benefits**. This change will have the greatest impact post 6th April and may even force some jurisdictions out of the QROPS market if they cannot find a suitable way to respond. It is clear that the proposals are aimed at the market as a whole and are not an attempt to specifically target one jurisdiction over another; however, there are clearly some winners and some losers.

Guernsey may be forced to tax all pensions paid for residents and non-residents or appear to fly in the face of the new 'Condition 4' and the principle of treating international clients in the same way as local residents.

Isle of Man has a very similar problem to Guernsey. However providers on the island have been relatively quiet. On the face of it, the simplest solution would be for Isle of Man (like Guernsey) to tax all pensions for residents and non-residents. However, we are yet to see any concrete plans or proposals.

Malta is also affected by the new condition 4, however it appears to be able to mitigate this much more easily than

can be done in IOM or Guernsey. This is because Malta's various Double Taxation Agreements (DTA) coupled with a contract based system will allow some Maltese QROPS to continue to operate.

In our opinion, Malta will continue to be the most appealing jurisdiction for US residents after retirement and will still offer a great deal of benefits for people retiring in EU countries like France and Spain.

New Zealand QROPS will see changes to both the maximum tax free cash they can offer and to the minimum retirement age (rising from 50 to 55) however, 'Condition 4' will have relatively little impact on NZ QROPS as the system of 0% tax on retirement income for residents would simply be applied to non-resident scheme members.

In our opinion, this confirms New Zealand as the premier QROPS jurisdiction post 6 April 2012 as it requires only small amendments to the trust deed as opposed to the sweeping reforms required in other QROPS jurisdictions.

The future of QROPS in some jurisdictions is extremely uncertain and the promotion of a 'buy now while stocks last' attitude is dangerous and imprudent. This could see your client stuck in a jurisdiction post 6 April which is no longer viable but which has no statutory right to transfer (such as Guernsey and Isle of Man).

However, many advisers may wish to transfer their clients out of their current QROPS jurisdiction into one like New Zealand where there is a far more certain future post 6 April 2012. **Brooklands Pensions will therefore waive set-up fees where a member transfers to our New Zealand QROPS from a competitor in another jurisdiction.**

If you have any questions then please do not hesitate to contact a member of the Brooklands Pensions team on +44 (0) 207 100 4011 (UK) or +971 (0) 4 429 8686 (UAE)

Brooklands Pensions
41 Lothbury
London
EC2R 7HG
UK

Tel: +44 (0) 207 100 4011
Fax: +44 (0) 207 100 4012

Brooklands Pensions
3rd Floor Office
Building 4
PO Box 345804
Dubai Outsource Zone
Dubai, UAE

Tel: +971 (0) 4 429 8686
Fax: +971 (0) 4 429 8685