

Frequently asked questions about the transfer of UK pension rights to a QROPS

1. Q What is a QROPS?

A A QROPS is a Qualifying Recognised Overseas Pension Scheme that has met criteria set by HMRC and is recognised by HMRC. There is a list of QROPS to be found at :

<http://www.hmrc.gov.uk/PENSIONSCHEMES/qrops-list.htm>

Any QROPS can accept transfers from a UK registered pension scheme.

2. Q Am I able to transfer protected rights funds into a QROPS?

A Yes – so long as the receiving QROPS is willing to accept it. When the transfer takes place form CA 1881 should be completed which enables HMRC to keep track of where the protected rights are. In transferring protected rights it is necessary to state that you understand that all protection associated with UK pensions legislation is being given up.

3. Q Can I transfer benefits that are in payment to a QROPS?

A Yes – so long as the receiving QROPS is willing to accept transfers of funds where the member is in receipt of unsecured or alternatively secured income. Unless the member has not been UK resident during the last five complete tax years then UK rules associated with these benefits are lost. If the member does not satisfy this condition however UK provisions associated with these types of benefit continue to operate until the five-year rule has been satisfied. Annuities in payment and pensions in payment from occupational final salary schemes may not be transferred.

4. Q I am a resident of the USA. Can I transfer my UK pension rights into an IRA?

A Transfers to QROPS for a US citizen are problematical. From <http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM14101050.htm>

“Members should be aware that a transfer may not be permissible even though an overseas pension scheme is a QROPS. QROPS status has significance for UK tax purposes only. Whether or not a transfer to a QROPS can be made will depend also on the scheme being able to accept a transfer under the legislation of the country in which it is established.”

"In particular, it is our' understanding that transfers to US “qualified” retirement plans, including individual retirement arrangements (IRAs), cannot be made as such plans are not permitted to accept a transfer of funds from a UK registered pension scheme. UK scheme administrators and members should contact the relevant overseas authority for confirmation."

The answer we think is to transfer to a non USA based QROPS - and leave the funds outside the USA

5. Q Can I purchase residential property with my QROPS fund?

A If you have been a UK resident at any time in the last five tax years then in relation to any activity associated with a QROPS the answer to this and similar questions is precisely that which would apply to a UK registered pension scheme. The answer in these circumstances being “yes” but subject to a tax charge of typically 70% of the asset value.

However if, having transferred to a QROPS, you have not been at any time in the last five years resident in the United Kingdom then the operation of the QROPS become subject to the legislation associated with the jurisdiction to which the fund has been transferred. Some of these jurisdictions do permit investment into residential property although most frequently this will be only permitted through indirect ownership that is through a corporate structure.

6. Q Are there any circumstances in which I shouldn't transfer to a QROPS?

A Yes, there are, although in most situations that we have come across so far associated with non-UK residents the arguments are overwhelmingly in favour of transferring UK pension rights to a QROPS.

However some clients may have older pension plans with benefits such as guaranteed annuity rates set when interest rates were much higher than today. In these circumstances it may be better to stay put, but this is not always the case and you should seek our advice.

7. Q How long does it take to transfer my UK pension rights to a QROPS and how is the process initiated?

A Generally speaking you should think in terms of the process taking a couple of months. However where the transfer is from an occupational pension scheme the process may take rather longer. The process is initiated by asking you to complete a letter of authority. This enables us to get information from your UK pension scheme relating to the current benefits and transfer value. This also enables us to obtain the correct discharge forms should you decide to accept any recommendation that we might make to transfer your UK pension rights to a QROPS.

8. Q Which jurisdictions QROPS are you currently recommending that people consider transferring to?

A We have undertaken a considerable amount of research in identifying jurisdictions where there are QROPS available which meet our criteria. In particular we are looking for strong investor protection principles which are similar to those associated with the United Kingdom.

In addition, we seek those jurisdictions where, after the QROPS member has been non-resident for five complete tax years, there is a significant improvement in the investment and benefit options available. For example where there is no requirement to buy an annuity at any time. Those jurisdictions where we have identified suitable QROPS include Guernsey and New Zealand.

9. Q Some QROPS seem to require that you have an employment contract. Do you recommend such arrangements?

A It seems to us that QROPS that have such a requirement have an inbuilt element of artificiality with the UK authorities may at some stage question. It is impossible to say that we would never recommend such an arrangement, as any recommendation we make always depends upon the particular circumstances of the client.

However, all the QROPS recommendations we have made so far have been into arrangements that are like personal pension arrangements in the United Kingdom with no form of employment contract required.

10. Q The fund I wish to consider transferring into a QROPS is of substantial value. Are there any tax considerations on transfer that I need to worry about?

A. A transfer to a QROPS will be a Benefit Crystallisation event and so will give rise to a tax charge if the amount transferred exceeds the individual's unused lifetime allowance (LTA). The LTA to which everyone is entitled is £1.6 million in the 2007/08 tax year. Thus before any transfer to a QROPS is finalised it is essential to check whether there is any possibility of the LTA being exceeded.

If necessary then registration for "enhanced protection" should be put in place before transferring to a QROPS which removes any possibility of such a charge.

11. Q Once I have transferred UK pension rights to a QROPS can I access the entirety of my fund as a lump sum?

A. The answer is "maybe". Remember always that once you are a QROPS member and you have transferred in your UK pension rights you remain subject to UK pensions rules unless you have been non-UK resident for five complete UK tax years. After that all of the UK restrictions fall away unless you once again become UK resident.

Subject to that proviso, access to the fund is then only available so long as the legislation of the jurisdiction associated with the QROPS permits it. For example in New Zealand it is possible to access up to 40% of the fund as a lump sum (subject to the five-year rule having been satisfied), irrespective of age.

In some other jurisdictions subject to the member being over the age of 50 then full access to the fund becomes available although whether or not this is a good idea depends upon personal circumstances.

There may be taxation consequences in respect of this course of action depending on your country residence at the time.

Full fund access may require a second transfer to take place to an international pension scheme.

12. Q. What are the costs associated with transferring to a QROPS?

A. This depends on individual circumstances, the nature of the benefits to be transferred and the QROPS that we think is most suitable as the receiving scheme. Thought of in terms of a percentage of the transfer values then the larger the fund, then in general terms the lower the costs will become.

Bearing in mind the costs that will be levied by the receiving scheme and those associated with advice you should generally think in terms of a total cost of between 2.5% and 5% of the transfer value. There will be additional fund management charges and annual administration costs which are in general relatively modest,

13. Q. Can I transfer the assets held within my UK registered pension scheme into a QROPS without first liquidating them into cash?

A. If the assets are held within an insurance company based scheme then the funds in which you are invested will be converted to cash, and the transfer to the QROPS will be in cash.

If however your existing registered pension scheme is a SIPP or a SSAS then it may be possible to transfer the existing assets to the QROPS, if the receiving scheme administrators or trustees are willing to accept them.

14. Q. What tax charges are there for withdrawing money from a QROPS in the first five complete tax years of my being non UK resident?

A. There are no tax charges for authorised payments from a QROPS during this period. Authorised payments include:

- Withdrawals made after you reach retirement age – this generally means age 50 (55 if you were born after 5 April 1960).
- Transferring funds from a QROPS to another QROPS;
- Payment of benefit on your death.

However, you may have to pay an unauthorised payment charge of 40% of the amount involved if before five complete tax years of your being non UK resident:

- You make a withdrawal from the fund before you reach retirement age
- you transfer your UK pension scheme from a QROPS to scheme which is not a QROPS or is not a UK registered pension scheme;
- The QROPS makes a payment on your behalf for hardship reasons.
- You take more than 25% of your fund as a lump-sum payment on reaching retirement age.

You may also have to pay an unauthorised payment surcharge of 15% of the amount involved if you make a withdrawal before you reach retirement age which is greater than 25% of the value of the fund you have invested in a QROPS.

15. Q. Will the QROPS declare any payments made from the scheme?

A. Yes. The Trustee of the QROPS is obliged to let HMRC know about any withdrawals, payments or transfers made from your account during the first five complete tax years of your being non UK resident. HMRC will then determine whether the payment is authorised or unauthorised, and will contact you directly if you need to do anything.

16. Q. Do I need to declare payments made from the scheme too?

A. Yes. Even though the QROPS will report any payments made from your account to HMRC during the first five complete tax years of your being non UK resident, you must also declare any unauthorised payments, or any other payment giving rise to a charge, by filling out a self-assessment return. Self-assessment returns are available from HMRC.

You should return your completed form to the tax office that is currently dealing with your affairs, or that was dealing with your affairs immediately before you left the UK.

17. Q. Is the QROPS obliged to report payments to the HMRC forever?

A. No. The QROPS no longer has to report a payment, withdrawal or transfer to HMRC if you are not a UK tax resident on the date the payment, withdrawal or transfer is made; **and** you have not been a UK tax resident at any stage during the UK tax year in which the payment, withdrawal or transfer is made; **and** you have not been a UK tax resident at any stage during the previous five complete UK tax years.

(Remember that the UK tax year runs from 6 April to 5 April.).

18. Q. What tax charges are there for withdrawing money from a QROPS beyond the first five complete tax years of my being non UK resident?

A. After this period then unless you once again become a UK resident then you become subject to the taxation regime associated with the QROPS you have transferred to.

This means for example that if you take benefit from a Guernsey based QROPS that we often recommend there will be no tax deducted at source from payments that are made from the scheme. You will of course however be subject to any taxation on such payments that are due in your country of residence at the time.

We will revise this document from time to time to take account of additional questions that we receive.

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