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QROPS

A guide to international pension transfers

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Evolution of QROPS

Since their launch in 2006, QROPS have faced significant upheaval. Roger Berry of Concept Group looks at the products and jurisdictions that continue to thrive

With the recent news that Gibraltar QROPS administrators are unilaterally holding off transfers pending HMRC clarification, now is a good time to examine why some products and jurisdictions continue to thrive, offering a safe haven for transfers.

Qualifying Recognised Overseas Pension Schemes (QROPS) have only been around since 'A Day', April 2006. Yet in a relatively short period of time, much has happened, and the development of QROPS has been anything but plain sailing.

Counting casualties

Singapore, and the removal of QROPS approval by HMRC in May 2008, must count as the biggest shock to the QROPS community, but it is far from the only twist and turn. Hong Kong schemes have also suffered, with at least one major provider closing its books to new business. With Gibraltar allegedly having a self imposed "freeze", and Malta said to be "in discussions" with HMRC as it tries to find a way forward, the list of casualties is growing. So what is really going on?

What is behind the QROPS legislation? HMRC objectives included:

- Principally to remove obstacles for an internationally mobile workforce.
- To make it easier for people leaving the UK for good to simplify their affairs by taking their pension fund with them.
- To ensure that the UK fulfils its international obligations.

QROPS legislation is detailed and complex, and must have taken great effort to produce. I cannot imagine there is much desire to rewrite the regulations, even though it would be fair to assume that what has occurred in the QROPS marketplace may not have been intended in the drafting process.

So although quite possibly different from the original intention, the QROPS marketplace provides a transfer regime that assists genuine emigrants and mobile workers, which is an acceptable evolution. The difficulty for HMRC is that some providers have shown a willingness to abuse the objectives.

Abuse and enquiry

There does seem to be a strong correlation between abusive schemes/jurisdictions and HMRC enquiry, sometimes leading to loss of approval. There are very few people who can shed absolute clarity on what is happening, but failure to meet the primary conditions of approval is the most likely technicality on which approval is removed or enquiry starts.

It is a guess, but a well informed one, that leads me to conclude that the problems start with abuse (as HMRC sees it). Whistleblowers, the internet and other agencies all provide information to HMRC. They have said they are monitoring for abuse and will act when they see it. It then does seem too coincidental that the jurisdictions in which the most abuse has occurred are ones where perhaps the primary conditions, which every provider has to meet, cannot in fact be met on detailed review. The primary conditions can be found in Statutory Instrument 206 of 2006.

Losing approval

Just after Singapore lost approval, HMRC changed its website. If you look at the QROPS list now, you will find it is headed with a significant caveat – which says (and I précis) just because the plan appears on the list does not mean that at some point in the future, after further review, it may lose approval status and all transfers to it may be treated as unauthorised and thus penalties and charges arise.

So from a provider, client and adviser position it is no use assuming once you have completed a transfer that you are safe. If the plan loses approval subsequently, all previous transfers are potentially open to attack by HMRC as unauthorised transfers.

The other unusual aspect to this legislation is the very approval basis on which transfers rely. It simply is not acceptable for anyone, a provider, an intermediary or the best QC money can buy, to say technically you can do something when pretty much everyone knows that such action is contrary to the intentions and objectives of HMRC.

If someone is selling you

IA KEY POINTS

QROPS legislation and regulation is complex, and schemes on the "approved" list are open to retrospective removal.

Schemes that follow the rules but claim to get a better deal through technicalities should be avoided.

Evolution of QROPS timeline

2004 FINANCE ACT
Legal Framework conceived

APRIL 2006
"A" Day and the birth of QROPS

LATE 2006 / EARLY 2007
Occupationally based QROP schemes open to non-residents begin to attract interest, e.g. Singapore and Hong Kong. Some schemes require completion of a 'sham' employment contract or other superficial arrangement to achieve membership.

MID 2007
Launch of Aurora, first known group personal pension QROPS open to residents and non-residents, moving away from difficulties perceived with occupational plans.

FEBRUARY 2008
HMRC charges man 33k in occupationally-based QROPS abuse clampdown. The special commissioner stated there was not a legitimate employer and it had been incorporated for the sole purpose of assisting people to gain access to accrued pension benefits in advance of their retirement.

EARLY 2008
Guernsey providers grow in numbers and other jurisdictions take interest.

MAY 2008
Singapore registered schemes lose approval. Pressure brought to bear on Hong Kong schemes.

SUMMER 2008
Guernsey Income Tax Authority approach HMRC, leading to local rule change to prevent abusive commutation.

DECEMBER 2008
Aurora launch fixed fee product, irrespective of fund size.

JANUARY 2009
International Advisor reports UK has seemingly "rubberstamped" Guernsey's tax position on QROP schemes.

APRIL 2009
International Advisor reports Gibraltar based QROPS providers in receipt of HMRC enquiry.

SEPTEMBER 2009
Aurora Launches zero costing product.

2009
Other jurisdictions seek to enter market, seemingly some fail to obtain QROPS approval. Gibraltar apparently 'frozen' to new business.

that, my advice is to run away as fast as you can. Because the writing is on the wall, abuse QROPS and you may well find yourself facing HMRC enquiry and at worst lose approval. As Richard Green, deputy director of the Guernsey Income Tax Office said at a recent QROPS seminar "stay inside the walls", in other words push the boundaries of the legislation at your peril.

Tips for remaining safe

My tips for avoiding difficulties:

- Choose a jurisdiction that stays inside the intentions of the legislation. In my opinion Guernsey is best placed because its own tax office has been proactive and continues to meet HMRC to allay its concerns. Rules have been changed to prevent abuse in Guernsey as HMRC sees it. Guernsey is also proposing to make changes to its pension rules, most notably a proposal to change the lump sum benefit from 25% to 30%.
- Choose a prudent and experienced provider. There are a few in Guernsey I would happily recommend but no one would be surprised to find Aurora at the top of my list. Quite probably the oldest and largest personal pension multi-member QROPS around, with the experience and technical support to match. IA

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Concept Group is responsible for the pioneering Aurora product, which became an immediate global success and is synonymous with QROPS

Grasping the high concept

Concept Group Limited (CGL) is an independently-owned, Guernsey-based licensed fiduciary company. CGL is an innovator and developer of employee benefit and bespoke fiduciary products and considers local and international pension trust work as part of its core business.

The company's Aurora International Pension Plans have become synonymous with the Qualifying Recognised Overseas Pension Plan (QROPS) market.

Inventing Aurora

Concept's managing partners, Roger Berry and Jackie Eley, had the vision and technical knowledge to develop Aurora. As a result of their work and, following HMRC approval in August 2007, Aurora became the pioneering personal pension QROPS.

It did not take long for the Aurora Plans to take-off in the international marketplace and they continue to evolve to meet the needs of members and their advisers.

Guernsey focus

The QROPS market has been in the financial news on many occasions in recent times. However one point that has become clear is that Guernsey has become the preferred centre for placing new QROPS business.

Roger Berry, Concept's managing director, chairs the Guernsey Association of Pension Providers (GAPP) QROPS sub-committee. He is therefore very much at the forefront of QROPS development in Guernsey.

Global Impact

As the pioneering QROPS, it was no surprise that Aurora was an immediate global success. For the product to continue to grow it was critical to maintain a team of technical experts and efficient administrators.

The back office team has remained together and continues to provide high service levels. Their experience and dedication has become crucial to the success of Aurora.

Technical experience

With possibly the largest book of QROPS clients in the world, it is therefore likely that the Aurora team has been asked more technical questions than any other QROPS provider. Experience and longevity in a market undoubtedly results in a company ultimately offering more efficiency and confidence to their clients. This has definitely been the case with Aurora.

Products on offer

The Aurora product range continues to provide intermediaries with innovative and flexible solutions for their clients.

The open architecture investment freedom offered by the Libertaï range has been extremely popular. This range offers investment autonomy and the members choice of investment manager.

Aurora's continual innovation in the QROPS market has also resulted in the recent launch of Aurora Zero, where the client can select from a panel of pre-agreed funds. The trustee fees are in turn reduced to zero at a certain fund level.

In safe hands

While the Concept Group has been a very successful and pioneering developer of personal pension QROPS, it has maintained a policy of prudence and low risk.

The company remains well within the legislative boundaries and the 'spirit' of QROPS objectives gleaned from years of experience and discussion with HMRC on the subject. IA

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