The Rainbow Overseas Retirement Plan

THE RAINBOW OVERSEAS RETIREMENT PLAN
(A QUALIFYING RECOGNISED OVERSEAS PENSION SCHEME – QROPS)

Frequently asked questions:

1) What is the Rainbow QROPS?

A Guernsey trust established under the Income Tax Guernsey Law 1975 with approval under S150 and 157A. The trust allows membership of both Guernsey residents and non-Guernsey residents (who benefit from exemptions granted under S40 (ee) of that law)

The scheme has also received approval from HMRC and been granted Qualified Recognised Overseas Pension Scheme status which allows the scheme to accept transfers from UK pension schemes and allows UK schemes to make such transfers.

2) How can I check if this scheme or any other scheme has QROPS approval?

HMRC maintain a website where you can check a scheme's status at:

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

3) Who are the Trustees and Administrators of the Rainbow QROPS?

The Trustees are Carey Pensions and Benefits Limited and the administrators are Carey Pensions Administration Limited both of whom are licensed and regulated by the Guernsey Financial Services Commission. The scheme is operated for and on behalf of Fiduciary Wealth Management Limited and their clients.

4) What is the "5 year reporting rule" and why does it matter?

The Trustees of the QROPS have a duty to report all payments to beneficiaries from the QROPS to HMRC if the Member of the scheme has been resident in the UK during the previous 5 years (*see 19 below*). In effect this means that (while the scheme is governed by Guernsey pension rules) it will continue to comply with many aspects of UK pensions legislation until you have been out of the UK for a full 5 years.

After 5 years the HMRC reporting requirement falls away.

5) Who can transfer a UK pension into a QROPS?

Individuals who have left the UK or are in the process of leaving and intend to remain outside the UK permanently outside the UK e.g. for retirement or employment purposes.

If you have not yet left the UK, you should:

- be leaving in the next 12 months
- have arranged accommodation in the country to which you are moving, or are in the process of doing so, and;
- intend to remain in that country (or another country) permanently and do not intend to return to the UK at any time in the future

6) Who cannot join the QROPS?

A QROPS is not open to UK resident individuals and there may be restrictions on participation for certain other countries (e.g. the U.S.A.)

7) What assets can be transferred?

- transfer of cash
- in specie transfers from a UK SIPP or SSAS, certain other UK pension schemes may not permit an in specie transfer of assets.

8) Is there any pension which cannot be transferred?

- state pension
- guaranteed annuity payments (e.g. from an insurance company)
- some guaranteed rights (usually only if in draw down)

NB Not all pension schemes allow a member to transfer to another scheme - particularly the case for employer sponsored schemes – you should check with the UK Trustee to see if the scheme allows a transfer.

9) Is the protected rights element of a UK pension accepted for transfer?

Yes, provided the UK scheme rules allow this. The Trustees will need to submit a form to HMRC at the time of the transfer and you will need to confirm in writing that you understand that you are giving up the protection afforded under UK pensions legislation.

10) Can I transfer into the QROPS once I have taken a payment on a final salary scheme?

Not unless the rules of the final salary scheme allow you to. In most cases you may only transfer a final salary scheme pension into the QROPS prior to drawdown. Note that it is not always prudent to transfer final salary benefits and it is recommended you take independent financial advice before doing so.

11) Is there a minimum / maximum amount?

The minimum transfer value which we will accept is usually c. £75,000 or currency equivalent. There is no maximum limit that may be transferred to and / or accumulated within a QROPS. However, a transfer from a UK registered pension scheme to a QROPS will be considered by HMRC as a ‘Benefit Crystallisation Event’ which must be tested against the individual’s lifetime allowance (£1.75m increasing to £1.8m in 2010) . Tax may be payable on any funds exceeding the client’s lifetime allowance at the time of transfer. It is important that all applicants take independent financial advice on this point.

12) Is there any restriction on investments?

All investments are subject to trustee approval but the Rainbow QROPS allows for a wide range of investments including cash, bonds, equities, investment funds, hedge funds, life insurance, structured products and even real estate (but non-standard investments such as properties involve a lot more work therefore pension administration costs will be higher.)

13) Can I manage my own investments?

No, the Trustees must retain ownership and control over the QROPS assets. They may appoint an investment manager on a discretionary basis or they may receive investment recommendations from them and they may receive investment recommendations from Fiduciary Wealth Management Limited. Fiduciary Wealth Management Limited will advise you on this aspect of the scheme.

14) Can I make further contributions to the scheme?

It is possible for the Member to continue to contribute to their plan subject to Guernsey contribution limits (*the maximum contribution amount is currently under review*). If you wish to contribute more than is allowed under Guernsey rules Fiduciary Wealth Management Limited may be able help with an alternative pensions solution.

15) If I am retired and receiving benefit can I still transfer my pension to a QROPS?

Yes, in most cases you can transfer a pension that is already in drawdown, however, if you are receiving a pension in the form of guaranteed annuity payments from a life insurance company it will not be possible to transfer this into a OROPS. In most cases you cannot transfer a pension from a final salary scheme once it is in drawdown.

If you have been out of the UK for less than 5 years and your pension has not been used to purchase an annuity then you may transfer your pension to the QROPS and continue to receive pension income from the QROPS equivalent to that you were receiving in the UK (based on UK GAD rates).

If you have been out of the UK for more than 5 years and your pension has not been used to purchase an annuity then you may transfer your pension to the QROPS and continue to receive pension income from the QROPS equivalent to that received in the UK (based on UK GAD rates) or alternatively based on an actuarial calculation provided to the Trustees. Under this scenario the level of income you receive may be reviewed every 3 years.

16) Do I have to purchase an annuity when I retire?

No.

17) Can I take a tax free lump sum when I retire?

Yes.

HMRC's requirement is that 70% of the value of the pension "pot" be retained by the Trustees to provide the Member with an income for life. The Guernsey Income Tax requirement, which applies at all times, is that a maximum lump sum of 25% of the value of the plan is payable.

Therefore for any QROPS approved plan in Guernsey, 75% of the member's plan must be retained to provide an income for life and maximum you can take as a tax free lump sum is 25%.

You must take your lump sum before you start to drawdown your pension.

18) If I have received the maximum lump sum in the UK can I receive a further amount once the pension is transferred to the QROPS?

No.

19) What are the reporting requirements?

- To HMRC:

- details of all benefit payments made from the plan when a Member is either:

Tax resident in the UK at the time the payment is made, or;
Although not tax resident in the UK, they have been resident in the UK earlier in the tax year on which the payment is made, or in any of the 5 tax years immediately preceding that UK tax year.

- To the Guernsey Administrator of Income Tax:

details of all benefit payments made in respect of Guernsey residents
deduction of tax from all benefits made in respect of Guernsey residents which must be paid to the Tax authority in accordance with the members coding notice
financial statements showing the status of the members pension

All members are responsible for reporting payments received from the QROPS to the Tax Authorities in their country of residence and will be expected to confirm that they understand this and undertake to comply with this requirement. We recommend all members take their own independent financial advice in respect of this.

NB If the tax authorities in a member's country of residence require information from the trustee in respect of payments made from the pension scheme or with regard to the members pension as trustee we will take advice and where appropriate will provide this information to them – and all costs in relation to this will be borne by the members pension plan

20) Can I withdraw all of my pension as lump sum after 5 years when the HMRC reporting requirement ceases?

No, definitely not. The QROPS continues to operate as a pension scheme (under Guernsey rather than UK rules) and the intention remains to provide you with a retirement income for life.

21) Can the QROPS borrow money?

Under the terms of the trust deed the Trustees of the QROPS may borrow money (e.g. from a bank or mortgage lender in connection with the purchase of an investment property within the trust) provided you have been non-UK resident for 5 years, however the Trustees would need to understand the commercial basis of any such transaction before granting their approval.

22) Can I borrow money from the QROPS?

You may be able to take out a personal loan from the QROPS subject to the following conditions:

- you have been outside UK 5+ years
- you are not in drawdown
- the Trustees agree
- maximum amount is 25% of the pension assets
- the loan must be a commercial arrangement – interest will be charged at a commercial rate and must be paid at least annually
- the loan is for specific purpose – the trustee will want to know what loan is for and will consider whether it is appropriate
- the trustee will need to take security
- the loan must be repaid before drawing a pension

23) Can the Trustee purchase residential property?

While the Trustees can consider purchase of residential property once a member has been outside the UK for 5+ years, any purchase or acquisition of such property must be on a commercial basis so:

- they will consider why and whether purchase is appropriate
- property will be let on commercial terms in accordance with a proper formal agreement and will be reviewed along normal commercial terms
- an agent – which may be the Member – will be appointed to manage the property on behalf of the Trustees.

24) When can I take a pension?

You can 'retire' at anytime from age 55 (50 until 5.4.10) and must start to take benefits from age 75.

25) If I take my lump sum must I then start to receive a regular pension benefit?

Under Guernsey rules you currently need to receive regular benefits within 1 year of taking a lump sum.

26) Can I take my lump sum and benefits in tranches?

Yes, you can split your pension sum into a number of tranches and take benefit over a number of years up to age 75.

e.g. your total pension 'pot' is £500,000 you decide to split this into 3 tranches of
A £200,000, B £100,000, C £200,000

At age 55 you decide to draw on tranche A, could receive a lump sum of £50,000 and a pension of £x

At age 60 you decide to draw on tranche B which is now worth £90,000 you could receive £22,500 lump sum and a pension of £x

At age 68 you decide to draw a balance, C which is now worth £250,000 you can take a lump sum of £65,000 and a pension of £x

27) Once I am in draw-down how frequently is the amount I receive as a regular pension reviewed?

The Guernsey rules provide pension payments can be reviewed every three years.

28) How will you calculate my pension?

(i) within the first 5 years of your leaving the UK we will use UK GAD tables to calculate your pension payments

(ii) after the 5 year period has elapsed we can continue to use the GAD tables or we can arrange to obtain an actuarial quotation based on the individual members circumstances.

29) What pension choices do I have?

You can elect to receive a regular payment for your life (or until the plans' assets are exhausted) this will be based on the options set out in 19, or;

You can elect to purchase an annuity from one of the annuity providers which will then pay you a pension for your lifetime

If you are in a draw-down scheme you can elect to convert this to an Annuity, however once you have elected for an Annuity, it is not usually possible to cease this arrangement. You may not be able to pass any remaining assets on to your nominated beneficiaries after your death if you have purchased an annuity.

30) Is tax deducted at source on any pension payments to me?

No, provided you are not resident in Guernsey.

31) Is the QROPS subject to Guernsey tax?

No. Under current legislation, provided you are not resident in Guernsey, the QROPS is exempt from Guernsey taxation.

32) Will my beneficiaries pay UK inheritance tax?

No, the QROPS is subject to Guernsey tax legislation. However it should be noted that any recipient of a distribution from the QROPS may have to pay tax in their country of residence depending on their personal circumstances.

33) Is the QROPS subject to the EU savings tax directive (for European citizens)?

No. A QROPS Pension transfer is currently exempt from the EU Savings Tax Directive.

34) Must I take a pension at some time?

Yes by age 75 years you must be in receipt of a pension.

35) Can I take a lump sum after I have commenced taking pension benefits?

No – the option to receive a lump sum is only available at the time you first take your pension benefit, unless you have elected to take benefits in tranches as set out in 25 above (in which case your lump sum may also be taken in tranches).

36) What happens on my death?

For non-Guernsey members, and provided you have not opted to purchase an annuity, if you die any assets remaining in your pension scheme will be available to:

Provide a pension for your spouse or dependents, or;

Pay a lump sum to your nominated beneficiaries, or;

Transfer the remaining funds to an approved scheme for the benefit of your nominated beneficiaries, or;

Pay the remaining funds to your Estate.

37) What happens if I return to the UK?

If you are returning to the UK to work within 5 tax years, then you will need to report your QROPS to the HMRC and, although it can remain offshore, it will fall under UK tax rules and regulations. This is not a problem if you are just returning for a holiday. If you intend to return to the UK permanently we may recommend that you transfer your QROPS pension back into a UK SIPP or alternative pension scheme.

38) Why choose Guernsey?

Guernsey benefits from low tax environment and has a reputable, well regulated and politically stable jurisdiction with good communications, excellent infrastructure and access to professional services firms that specialise in pension administration and trustee services.