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INNOVATION IN PENSIONS

Press Release

Commissioned Article for Retirement Planner:
Adam Wrench, Head of Business and Product Development at London & Colonial, looks at some of the opportunities and pitfalls for returning ex pats.

It is estimated that there are around 250 million ex pats living around the world. It is quite a thought isn't it? If they were all grouped together they would form the fifth largest country in the world by population. Furthermore, if they all decided to return to their home countries it is likely that there would be around 250 million permutations of financial investment, pensions, and tax plans which would need to be put in place to adequately cater for them.

There has never been a one-size-fits-all solution in any area of financial planning, but the extra complexities involved in efficiently transferring what could be a wide variety of assets back to the UK can prove to be a daunting task, and one which certainly requires specialist advice. Without such advice it is very easy to make some very big, and accordingly some very costly, mistakes.

Advisers need to accumulate a wealth of information before they can even begin to put a financial plan together. So let's explore some of the considerations that need to be taken into account when dealing with clients who are about to return to the UK, and who already have their pension fund held in a QROPS (Qualifying Registered Overseas Pension Scheme).

Considerations

First and foremost, it is important to establish for how long the client intends to return to the UK. If it is purely a temporary move then it may not be worth doing anything, however if the move is more permanent then there are a number of further considerations to take account of.

Perhaps the most important of these is whether or not they have been a non-UK resident for more than 5 full complete tax years. If they have, it means that they will be able to transfer their QROPS fund into what is known as a QNUPS (Qualifying Non-UK Pension Scheme). The only proviso is that they must still be a non-UK resident at the time of transfer. If they have been resident for less than 5 years, then they will not be able to transfer into a QNUPS and will have to either leave their pension fund in the QROPS, with all the advantages they currently enjoy, or consider an alternative option such as a SIPP. We will explore the potential advantages of transferring to a QNUPS later.

Another very important consideration is one of currency. If their QROPS is already denominated in sterling, then the repatriation of the funds is greatly simplified. If, however it is denominated in another currency, and in all probability that of the country of current residence, then exchange rate fluctuations will come into play. At the very least even if the fund is not transferred to the UK, and given the dangers of a fluctuating exchange rate and the disadvantages this may have, it would be prudent to explore the possibility of re-denominating the QROPS back into £sterling.

Given the ever increasing mobile nature of the labour market it may well be that the client, although returning to live in the UK, could still be required to work abroad or be employed by a company based within another jurisdiction.

Most QROPS are resident in a third party jurisdiction where the client resides. If the client is still working, and therefore potentially still accumulating future pension entitlements, then it will be important to research all of the possibilities in relation to ongoing pension contributions. Would the QROPS accept ongoing contributions from an employer in another jurisdiction? Would a UK pension scheme accept contributions from an overseas employer? What are the taxation implications of adopting either approach?

When it comes to pensions consolidation QROPS are similar in nature to their UK SIPP cousins. SIPPs in the UK have long been used by many, to consolidate pension pots accumulated from potentially numerous employments into one easy to manage plan. QROPS can be used in a similar way but on a global scale, for those internationally mobile employees who may have accumulated pension pots from a variety of employers, and potentially spanning different countries. The end result is one easy to manage plan which is denominated in the currency most appropriate to their circumstances at the time.

If the client has already reached the age of 55, and is either already taking or would like to start taking their pension income and tax free cash, then a number of options arise. Many QROPS will allow up to 30% cash to be taken compared with the 25% available in the UK (Please note that while QROPS regulations currently require a minimum of only 70% of a QROPS fund to be applied in the form of income for the scheme member, HMRC have advised that any amount in excess of 25% that is paid as a cash sum to the member will technically be an unauthorised payment from a UK perspective and, depending on the circumstances of the individual, could result in the tax penalties associated with unauthorised payments).

The new rules on pensions 'cashing out' which will come into force from April 2015, will provide another option to consider, in addition to that of whether they may wish to start, or perhaps continue, to withdraw tax free cash from their pension funds. However, it is anticipated by some within the QROPS industry that certain QROPS jurisdictions will follow the UK and allow "cashing out" in whatever form is eventually implemented next April 2015.

So far we have lots of information and lots of options, but where do we go from here? Before we continue however we should perhaps at this point also make it clear that London & Colonial, although a provider of pension products both offshore and onshore, does not offer advice of any kind.

What follows are some of the advantages associated with each option, although obviously this is not intended to be an exhaustive list.

Advantages of leaving the pension funds in a QROPS

There is absolutely no requirement to transfer funds back to the UK. If you are happy to return and your QROPS is happy remaining in the sun and doing well, then leave it there.

QROPS by their very nature would normally have been established as the result of a transfer from a UK pension fund at the time, or possibly after, the client originally left the UK. There have been a number of changes to the UK pension system over the last few years not least of all the changes in the Lifetime allowance. For those clients already at or near the lifetime allowance limit leaving the funds behind within the QROPS will ensure that any ongoing growth in fund value, over and above the original transfer, will continue to remain unaffected by any future lifetime allowance tests.

Another attraction for any clients already taking pension income is that only 90% of the pension amount would be assessable for UK income tax purposes – although this may in part be at least offset by a withholding tax, depending upon where the QROPS is based.

Advantages of transferring the QROPS to a QNUPS

Transferring funds into a QNUPS before the client becomes a UK resident also has many advantages. The main benefit is that there is no 55% charge on any post–retirement lump sum death benefits. The same lump sum death benefit tax charges (or lack of them) also apply in the same way as a QROPS. In addition QNUPS are not bound by the same investment restrictions as the UK system, for example residential property is permitted in certain jurisdictions, and as with a QROPS only 90% of the pension income is liable for UK income tax.

Advantages of transferring the funds to a UK SIPP

It is also a simple process to effectively transfer any funds held within a QROPS directly into a SIPP. In most cases, a SIPP will be cheaper in terms of fees than a QROPS, and for many there is the added comfort to be had from the belief that the UK offers a safer, more secure home for their funds. They can also be reassured that depending upon the type of investment held within the SIPP they have the added protection of the FSCS' compensation scheme.

In addition they will have the ability to accumulate new UK tax relieved contributions, as well as being able to take advantage of the new UK 'cashing out' pensions legislation due to come into effect in April 2015. Although, as mentioned previously, it is anticipated that some QROPS jurisdictions will implement a similar "cashing out" pension system.

So taking a step back and having considered all the many options available, it may well be that a combination of any number of these could provide the most suitable solution. For example someone with over five years of non-UK tax residency who wants to return to live and work in the UK, may be best advised to transfer their QROPS to a QNUPS before they return and then pay any new or ongoing contributions to a UK SIPP.

In the event that it is decided that the QROPS remains the most suitable option for the client then it might be a good opportunity to ensure that the client is still within the most appropriate QROPS jurisdiction/QROPS provider. The QROPS market has changed significantly over the last 5 years and new providers and plans have been introduced to the market that might simply not have been around at the time the client first took out their current plan. The adviser will probably want to look closely at the safety, security, and the reputation of both the QROPS jurisdiction as well as the QROPS provider themselves.

It is certainly worth emphasising at this point the importance of the choice of jurisdiction itself, as well as the need to ensure that the jurisdiction chosen is suitable for the clients' specific needs.

Whilst the jurisdiction the client may be moving to doesn't need to be the jurisdiction within which their QROPS is held – so long as the scheme satisfies all of the rules stipulated by HMRC – it is worth noting that in terms of the third party jurisdictions available, Malta and Gibraltar are considered within the industry to be both very well regulated and trustworthy, as well as being part of the EU.

We would strongly urge both advisers and clients alike to give careful consideration to using such well regulated jurisdictions, as well as choosing providers who are able to offer the added security and reassurance that a UK-lookalike regulation and scheme governance regime can provide. Especially as all of these factors translate into added peace of mind for those considering taking out, or moving an existing, QROPS.

Finally what about if the client returns abroad? Surely a provider who can support the whole of a client's financial (and actual) journey should also be an important consideration?

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For more information, please contact:

Matt Godwin	London & Colonial	020 3479 5505
Fiona Bond	Holt PR	020 8334 8354