

# Overseas Transfers of Pension Savings

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**1. Will the changes apply only to pension schemes that notify HMRC that they meet the conditions to be a QROPS on and after 6 April 2012?**

No. The revised rules will apply to all existing and new QROPS from 6 April 2012.

**2. Will the changes apply to transfers to QROPS on and after 6 April 2012 only?**

The revised rules will apply:

- to all transfers to QROPS requested on and after 6 April 2012
- to all sums that are in QROPS on and after 6 April 2012
- to all payments by QROPS on and after 6 April 2012.

**3. What will happen to a QROPS that doesn't meet the conditions to be a QROPS from 6 April 2012?**

Pension schemes that have notified HMRC that they meet the conditions to be a QROPS and undertaken to provide information will need to check if they will they continue to meet the conditions to be a QROPS on and after 6 April 2012.

If they are no longer a QROPS they will need to inform HMRC of the sums left in the scheme that were transferred from a UK registered pension scheme and to which member they relate.

**4. Does a pension scheme have to notify HMRC if it is no longer a QROPS?**

This requirement has existed since 2006 when the QROPS regime was introduced. From 6 April 2012 a QROPS will also have to provide details of members who have funds that were transferred from a UK registered pension scheme (or from another QROPS that received funds that were transferred from a UK scheme).

**5. What will happen to a member's pension savings in a QROPS if the scheme doesn't meet the conditions to be a QROPS from 6 April 2012?**

If a pension scheme that is a QROPS on 5 April 2012 no longer meets the conditions to be a QROPS on 6 April 2012 members of the pension scheme will be able to remain as members and receive a pension paid from the sums transferred without incurring member payment charges.

Provided it meets all of the current conditions, a transfer made to a QROPS on or before 5 April 2012 will be a "recognised transfer" and members of a pension scheme that is no longer a QROPS will be able to remain as members and receive a pension paid from the sums transferred without incurring member payment charges.

**6. Will the 10 year reporting period apply to transfers that were made before 6 April 2012?**

Yes. The 10 year reporting period will apply to all payments made by a QROPS on and after 6 April 2012.

**7. Will the 10 year reporting period apply to payments to members who have been resident outside the UK for more than 5 full tax years?**

Yes. From 6 April 2012, any payment made by a QROPS within 10 years of the transfer will have to be reported to HMRC. This report will be required even if the member is not UK resident and has not been UK resident for longer than five full tax years.

**8. Does the 10 year reporting period replace the requirement that a QROPS has to report payments made to a UK resident or someone who has been UK resident at any time in the five tax years before the payment is made?**

No. These requirements will operate together.

A QROPS will have to report to HMRC a payment out of sums transferred unless:

- the individual is not UK resident,
- the individual has not been UK resident at any time in the five full tax years before the payment, and
- 10 years have passed since the transfer was made.

As QROPS started on 6 April 2006 the earliest the 10 year limit will expire and turn off the reporting requirement is 6 April 2016. So in effect all payments made by a QROPS from 6 April 2012 until that date (i.e. at least next 4 years) are reportable without any need to actually consider the individual's residence status.

After that date whether a payment needs to be reported will depend on whether 10 years have elapsed since the transfer was made and whether the member is resident in the UK or has been UK resident at any time in the five full tax years immediately before the payment is made.

Also if an individual becomes non-UK resident at about the same time as the transfer is made, once the 10 year reporting period expires the QROPS will not need to report any payment to HMRC.

However, if the individual remains UK resident the QROPS will need to report any payment to HMRC even after the 10 year reporting period expires.

#### **9. Do the changes mean that a UK non-resident will now be subject to UK tax for up to 10 years from 6 April 2012?**

The tax position of a UK non-resident member of a QROPS has not changed.

#### **10. Do the changes mean that a UK resident will be taxed if he or she is a member of a scheme that is a QROPS?**

The tax position of a UK resident member of a QROPS has not changed.

A UK resident can be a member of a pension scheme that is a QROPS and make transfers to that scheme. There is no change to the payments a QROPS must report where they are made to a UK resident.

UK tax rules (as well as any rules that apply to the pension scheme in relation to its status as a QROPS) will continue to apply unchanged to any payments made by the QROPS to the UK resident member. So if a UK resident was paid a pension it would be taxable as pension income provided it was paid in accordance with UK rules (for example, the pension would have to be paid after the normal minimum pension age of 55).

#### **11. Do scheme administrators have to obtain the required information on members from the member?**

Part of the information required from the member before a transfer is made from a UK registered pension scheme, is a signed acknowledgement that tax charges may arise.

We would expect the scheme administrator to check the information they receive from the member against any information they already hold.

#### **12. What is meant by 'transfer request'?**

A transfer request is when a member has made a substantive request to the scheme administrator of their registered pension scheme on which the scheme administrator is required to take action in relation to the transfer. A casual enquiry is not a transfer request.

#### **13. Has condition 4 been removed?**

No, but it has been moved. The provision that was condition 4 in the draft Overseas Pension Schemes (Miscellaneous Amendments) Regulations published for consultation on 6 December 2011 is now a condition that an overseas pension scheme has to meet to be a 'recognised overseas pension scheme'.

#### **14. What is meant by 'income for life'?**

This phrase takes its plain meaning. It does not mean that an annuity has to be provided. Rather the context resonates with the definition of lifetime annuity in the tax rules (paragraph 3(1)(c) of Schedule 28 Finance Act 2004):

"it is payable until the member's death or until the later of the member's death and the end of a term certain not exceeding ten years"

For example, we would not consider a payment to be made as an income for life if 50% of the fund was paid out one year and the other 50% in the next year.

**15. What pension savings does the '70% income for life' requirement apply to?**

The requirements for pension savings under the QROPS rules apply to sums that have been transferred from a UK registered pension scheme or have otherwise received UK tax relief.

**16. Will a New Zealand pension scheme that does not meet the new requirement still be a QROPS if it does not accept any new transfers?**

No. Where a pension scheme has to meet a condition about the scheme rules making certain provisions in order to be a QROPS, the condition must be capable of being met at the time a pension scheme notifies HMRC that it is a QROPS. Even though the scheme would not have received any transfers at that time, the condition would still need to be met for the scheme to be a QROPS.

Therefore, from 6 April 2012, if a New Zealand pension scheme does not meet the new requirement to be a 'recognised overseas pension scheme, it will not be a QROPS.