Guernsey Cream of the QROPS

Wednesday 16th September 2009
Grange St Paul’s Hotel, London

Welcome
Peter Niven
Guernsey Finance

Expert Panel
- Richard Green, States of Guernsey
- David Denton, Royal Skandia
- Paul Buckle, Carey Olsen
- Deborah Moon, Royal London 360°
- Roger Berry, Aurora

Tax Environment
Richard Green
Deputy Director of Income Tax
States of Guernsey

QROPS
- Guernsey’s relationship with the United Kingdom.
- Outline the relevant legislation which is in place in Guernsey.
- Will not provide comment or explanations regarding the UK’s legislation.

QROPS
- Prior to 6 April 2006, Guernsey had had a reciprocal agreement with HMRC.
- Prior to 2006, Guernsey had held discussions with HMRC regarding retirement annuity trust schemes generally.
- We explained how retirement annuity trust schemes operated, and the way in which we approved them and dealt with them.
QROPS
- The initial Regulations drafting QROPS required pensions to be regulated in the country where the overseas scheme was resident.
- Guernsey does not have a pension regulator.
- The result of a review of the position by HMRC was the implementation of the additional condition containing the 70% income rule.

QROPS
- At the Income Tax Office, we felt we needed to strike a balance.
- HMRC started to look more closely at QROPS schemes worldwide.
- Guernsey felt it appropriate to meet with HMRC.

QROPS
- Those discussions resulted in the Income Tax Office imposing further conditions on non-residents joining Guernsey schemes.
- Schemes would need to be open to local residents.
- Conditions which applied to domestic contributors to Guernsey pension schemes would apply to non-residents.

QROPS
This means that, primarily, they must:
- not be able to take 100% commutation,
- not be able to draw benefits before age 50 (55 from 2010 if it is wished to continue QROPS approval) or must commence by age 75,
- take a properly valued annuity, and
- adhere to the investment restrictions set out in the published notes on retirement annuity trust schemes.

QROPS
- In addition, if funds are transferred, that transfer must be either to a scheme which itself has QROPS approval, whether in Guernsey or elsewhere; or
- has conditions similar to those imposed by Guernsey’s domestic legislation.

QROPS
- These conditions were discussed with, and explained to, HMRC in some detail.
- Guernsey’s legislation allows the Director of Income Tax to impose certain conditions on the approval of retirement annuity trust schemes.
- Those conditions would generally be formulated to ensure that schemes are not abused.
QROPS

- Essentially retirement annuity trust schemes are a self-administered form of pension arrangement set up under trust.
- They allow a degree of flexibility in investment.
- The risk transfers to the member rather than provider.
- Detailed notes are on our website (www.gov.gg/tax).

London Pension Provider

David Denton
UK Head of Sales

QROPS - who needs them?

UK residents with UK pension benefits

Local residents (of the scheme’s jurisdiction)

Expatriates from the UK

‘The most difficult thing to predict is the future’

Dan Quayle

‘Brits abroad’ (source: IPPR 2006)

- 5.5 million British people ‘permanently’ live abroad
- Equivalent to 9.2% of the UK population
- A further 0.5 million live part of the year abroad
- Over 1 million pensioners
- More ‘Brits abroad’ than ‘foreigners’ in the UK
- Three quarters live in 10 countries
Leaving behind the influence of the UK

- Income tax
- One tax year
- Capital gains tax
- Five tax years
- Inheritance tax
- Perhaps never
- Pensions legislation
- Normally five years

Subject to circumstances and planning

QROPS: background

- It was possible to transfer pension benefits overseas prior to the Finance Act 2004
- Legislation in the Finance Act 2004 meant that the procedure was simplified
- Effective from ‘A Day’ – 6 April 2006

QROPS possible benefits

- Based on the rules of the scheme, its jurisdiction and client’s situation:
  - currency choice
  - no compulsion to purchase annuity at 75
  - flexibility over withdrawals
  - freedom from UK income tax
  - freedom from UK inheritance tax
  - investment choice

QROPS: investment choice

- In theory, very wide – residential property, private equity, wasting assets etc
- In practice, most unlikely
- Unless a single asset is desirable, normally an administrative platform is required e.g. a fund supermarket or portfolio bond

Subject to liquidity and pricing

QROPS: acceptable assets for portfolio bonds

- Internal life funds
- Authorised unit trusts
- Open-ended investment companies
- Investment trusts
- Most non-UK collective investment schemes
- Individual stocks and shares
- Cash deposits
- Cash for speculation
- Closed-ended o/s funds
- Medium Term Notes
- Exchange Traded Funds

‘Tax complexity itself is a kind of tax’

Max Baucus
This presentation is based on Royal Skandia’s interpretation of the law, draft legislation before Parliament, the Finance Act 2004 and HM Revenue & Customs practice as at August 2009.

While we believe this interpretation is correct, we cannot guarantee it. Tax relief and the treatment of investment funds and trusts may change in the future.

The value of tax reliefs will depend on individual circumstances.

Royal Skandia does not accept any responsibility for any losses or liabilities arising from actions taken or omissions as a result of the information contained in this presentation.

---

**QROPS - Formalities**

- What does QROPS status mean?
- What schemes will qualify?
- The 5 year rule
- The 70% rule
- Process

---

**QROPS in Guernsey**

- What schemes can Guernsey offer?
- Singapore
- Guernsey’s QROPs success
- Income Tax changes
- Schemes including non-residents & residents
  - Advertising

---

**Legal Environment**

Skandia International is the divisional name for the international companies within the Skandia Group. www.royalskandia.com

Calls may be monitored and recorded for training purposes and to avoid misunderstandings.

Royal Skandia Life Assurance Limited is registered in the Isle of Man under number 24916. Registered and Head Office: Skandia House, King Edward Road, Onchan, Isle of Man, IM99 1NU, British Isles. Phone: +44 (0)1624 655 555 Fax: +44 (0)1624 611 715.


---

**Two further points**

- Investment issues
  - In Guernsey
  - Under the English legislation
- Member involvement
QROPS – The current market
- HMRC are definitely taking an interest
- Abusive schemes are attracting most attention, avoid
  - promotion of 100% lump sums
  - ‘sham’ occupational schemes
  - promotion of schemes to UK residents with no intention to leave
  - lending associated with but not charged on pension fund
  - failure to report to HMRC within 5 year period

QROPS – Jurisdictions
Singapore
- Approval for jurisdiction (and, hence, all schemes) withdrawn in May 2008

Isle of Man
- Income subject to 18% tax
- IHT at 7.5%
- Tax free cash 25% for less than 5 years non-UK residency and 30% for greater than 5 years non-UK residency

Hong Kong
- No income tax
- No IHT
- Tax free cash not guaranteed

QROPS – Jurisdictions continued
Gibraltar
- No tax on lump sums
  - 25% tax free cash
- No tax on lump sum used to buy a pension
  - Pension income taxed at 0% for members over 60+ years
- No tax on lump sum used to buy an annuity
  - Annuity in payment taxed at 0%

QROPS – Jurisdictions continued
Gibraltar continued
- May 2009, reported in International Adviser that trustees of Gibraltar-based QROPS have received letters from HMRC “asking for clarification of the local rules regarding taxation of retirement income”
- One scheme allegedly allows tax-free encashment once a scheme is transferred from the UK

QROPS – Jurisdictions continued
Malta
- Initially very “flexible” rules, 100% tax free cash post reporting period
- Maltese authorities understood to be in dialogue with HMRC to bring their rules in line with UK
- 25% tax free cash
- Income very similar to GAD* rates
- EU member state

* Government Actuary’s Department
Guernsey
- No income tax
- No IHT
- Tax free cash 25%
- New conditions ensure all new schemes comply with HMRC guidelines

Guernsey
- No 100% commutation
- Not be able to draw benefits before age 50 (55 from 2010 if it is wished to continue QROPS approval) or must commence by age 75
- Must have a properly valued annuity; and
- Must adhere to the investment restrictions set out in the published notes on retirement annuity trust schemes

Guernsey
- If funds are transferred, must be either to a scheme which itself has QROPS approval, whether in Guernsey or elsewhere; or
- Has conditions similar to those imposed by Guernsey’s domestic legislation

Guernsey

<table>
<thead>
<tr>
<th>Pension options</th>
<th>&lt;5 years non-residency</th>
<th>&gt;5 years non-residency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre 75 = USP**</td>
<td>25%</td>
<td>25%</td>
</tr>
<tr>
<td>Post 75 = ASP***</td>
<td>Income drawdown (based on GAD tables)</td>
<td>Properly valued Annuity</td>
</tr>
<tr>
<td>PCLS*</td>
<td>25%</td>
<td>25%</td>
</tr>
</tbody>
</table>

**Pension Commencement Lump Sum (Tax Free Cash)**
**Unsecured Pension**
**Alternatively Secured Pension**

Guernsey

<table>
<thead>
<tr>
<th>Pre retirement</th>
<th>Return of fund with nil tax charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Post retirement</td>
<td>Return of fund with nil tax charge</td>
</tr>
<tr>
<td>Post retirement</td>
<td>Return of fund less tax charge up to 82%</td>
</tr>
</tbody>
</table>

* Maximum
* Example single life pension figures assuming portfolio has a balanced equity allocation (70% +)
QROPS – Jurisdictions continued

Guernsey
- Not part of the EU
- And has no double tax treaty with the UK
- Guernsey schemes must provide evidence to HMRC
- Full scheme documentation, including the trust deed and rules
- Scrutiny by HMRC happens at point of registration

Important notes

For Financial Advisers only. Not to be distributed to, nor relied on by, retail investors.

This information is in the Royal London 360° section of this presentation is not intended to be relied upon as legal and/or tax advice. The recipient of this information is not intended to be relied upon as legal and/or tax advice. The recipient of this information is not intended to be relied upon as legal and/or tax advice. The recipient of this information is not intended to be relied upon as legal and/or tax advice. The recipient of this information is not intended to be relied upon as legal and/or tax advice.

Please note that every care has been taken to ensure that the information in the Royal London 360° section of this presentation is correct and in accordance with Royal London 360°’s current understanding of the law and Her Majesty’s Revenue and Customs (HMRC) practice as at August 2009. You should note however, that Royal London 360° cannot take on the role of an individual taxation adviser and independent confirmation should be obtained before acting or refraining from acting upon the information given. The law and HMRC practice are subject to change. Legislation varies from country to country and the policyholder’s country of residence may impact on any of the above.

Guernsey Provider

Roger Barry
Managing Director

QROPS Chronicle

- 2006 – April – “A” Day and the birth of QROPs
- Late 2006 / Early 2007 – Occupationally based QROP schemes open to non-residents begin to attract interest, Singapore (e.g. Panthera) and Hong Kong (e.g. CC HK ORS)
- Mid 2007 – Launch of first known group personal pension QROPS open to residents and non-residents in Guernsey (Aurora), moving away from difficulties perceived with occupational plans
- Early 2008 – Guernsey providers grow in number and Isle of Man enters markets

QROPS Chronicle continued...

- May 2008 – Singapore registered schemes lose approval.
- Pressure brought to bear on Hong Kong schemes
- Summer 2008 – Guernsey Income Tax Authority approaches HMRC, leading to local rule changes to prevent abusive commutation
- 2009 – Other jurisdictions seek to enter market, seemingly some fail to obtain QROPS approval (e.g. Malta / Cyprus), some come under scrutiny (e.g. Gibraltar). Numbers of Guernsey providers grow due to compliant / prudent approach

Where is the QROPS road going?

- We appear to be past the initial mad “Gold Rush” and in a more steady position
- HMRC clearly monitoring for abuse and acting where they find it
- HMRC* wish to maintain regime in current form to assist genuine emigrants and mobile workers
- HMRC* may well have concerns if the scheme deals solely with transfers from UK i.e there are little or no local members or the jurisdiction where the scheme is established has no significant private pensions industry.

* Summary extraction from HMRC “View of QROPS” 6 March 2009 presentation
Where is the QROPS road going continued...

- Guernsey can tick those boxes and through the two pillared approach from the Income Tax Authority and the Regulator (and now industry / provider panels as well) a compliant and prudent long term approach will continue to be taken.

QROPs Myths

- Guernsey QROPs are unregulated
  All Guernsey schemes are approved by the Income Tax Authority, the schemes are written under trust law and all trustees in Guernsey are regulated by the Guernsey Financial Services Commission. It’s a two pillared approached 1/ approval and supervision of the plans and 2/ regulation of the Trustees

- Guernsey has been or is being investigated by HMRC
  Guernsey has not suffered investigation by HMRC, uniquely it has approached and met with HMRC to discuss QROPS. It continues to meet with HMRC and seeks to maintain an open dialogue.

QROPs Myths continued.....

- Guernsey QROPs are split or hybrid schemes
  Guernsey QROPs are simply a Guernsey Tax Office approved local retirement annuity trust which has sought and received approval as a QROPS from HMRC. Membership is open to residents and non-residents and the rules of the plans apply to both.

Target Clients

- Potential clients will have UK accrued pension benefits
- Leaving or having left the UK permanently
- Wishing to transfer out of the UK their pension benefits
- Looking to enjoy the greater flexibilities a Guernsey QROPs provides in perhaps the most prudent, mature and experienced QROPs jurisdiction

Q&A

Peter Niven
Guernsey Finance

Presenters

Richard Green, States of Guernsey
Tel: 01481 724711
Email: richard.green@tax.gov.gg

David Denton, Royal Skandia
Tel: 07970 088 232
Email: david.denton@royalskandia.com

Paul Buckle
Tel: 01481 727272
Email: paul.buckle@careyolsen.com

Deborah Moon, Royal London
Tel: 0207 0845 050 2020
Email: deborah.moon@royallondon360.com

Roger Berry, Aurora
Tel: 01481 723500
Email: roger@col.gg
Drinks Reception
-sponsored by

Intertrust