

A QNUPS Trust

Wealth Creation Platform

Protecting Your Wealth and Securing Inheritance

August 2016

www.greshamstreet.com



Contents

The Problems You Face	Capital Gains Tax on Assets	3
	Property Tax – New and Old	3
	Inheritance Tax (IHT)	3
	Inflexibility of UK Pensions	3
Our Solution for You	QNUPS Trust	4
Best Structure for UK Prop	Comparative Table	5
Reassuring You	Legality	7
	Credibility	7
	Probity	7
Benefits to HMRC/clients	Tax Revenue Charts	8
Who manages the Investments?	You	10
Who are the Trustees?	Responsible Financial Institutions	11
Accessing the Funds	From Age 55	12
Appendices	UK Property Structuring Solutions	14
	CVs	15
	Articles	17
	The Destruction of UK Pensions	23
	UK Lifetime Allowance Limit	25
	How to Generate funds to roll into a QNUPS	27
	Structure Note	28

The Problems You Face



CGT on Sale of Assets

- 28% on sale of Investments
- Payable on all Non-Res' owned UK-situs property from April 2015

Property taxes

- If in your name, IHT at 40% and CGT at 20%; SDLT at 15%
- If in enveloped structure, 18% SDLT; 20% CGT; Annual Charges; IHT
- If living out of the UK, CGT on Residential Property
- Removal of Residential BTL properties from IHT protected Trusts

Inheritance Tax (IHT)

- If held personally 40%
- on Estates over £325K on death – now frozen until 2019 ¹
- If held in QNUPS Trust structure, no IHT
- £1Mn IHT allowance for couples leaving a family property to children

Inflexibility of UK pensions

- Degrading returns created by Annuity rates
- Retirees living longer – outliving guaranteed returns
- Beneficiaries pay Tax on receipt of benefits on Death over Age 75
- Children receive Zero²
- Huge Reduction in benefits: Pension Cap' £1Mn before tax; Max' contribs' effectively £10Kp.a. for HNW earners in excess of £150K p.a.

Source:

¹ Daily Telegraph (www.telegraph.co.uk/finance/personalfinance)

Article written by Howard Bilton – a Barrister

² www.accaglobal.co.uk

A Qualifying Non-UK Pension (QNUPS) Trust

HMRC's specific definition:

“A QNUPS is a form of Overseas Trust which qualifies as a pension for UK Tax purposes and it is afforded special IHT treatments”¹:

- Creates estate protection, wealth creation and succession planning
- More technically robust than individual discretionary trusts or double trusts schemes. HMRC devised & designed
- Avoids the 10 yearly Trust charges of 6%
- Avoids necessity of offshore company ownership which is no longer advisable for Offshore-owned UK Res' properties
- HMRC makes considerable deferred tax benefits
- No risk of tax penalties under Benefit in Kind rules or shadow legislation¹
- Facility to extend retirement contributions by Employers, irrespective of pension ceilings
- Although structured as a pension, access to the funds is not tied to retirement

Source: ¹ Inheritance Tax Act 2004 Schedule 29 to Finance Act 2008
<http://www.hmrc.gov.uk>



The Best Structure for buying/holding UK property

The UK Government announced from April 2013, the introduction of a new category of owner called 'non-natural persons' (NNPs).

The changes will consist of:

- Stamp Duty charge on all new real estate purchases of 18%.
- Capital Gains Tax at 28% on all gains arising after 6th April 2013 – now applicable to ALL foreign-owned UK-situs residential property (effective April 2015)
- Non/Doms & Non/Res' no longer permitted to hold Res' property in Offshore vehicles
- QNUPS is only Trust Structure permitted to hold residential property for tax protection
- An Annual Tax on Residential Property (ATED) based on the capital value of the property which will need to be re-valued every five years. The first payment will be due every April thereafter. Current charges from 2015 are:

Property Valued at	£1 million to £2 million	£2 million to £5 million	£5 million to £10 million	£10 million to £20 million	Greater than £20 million
Annual Charge	£7,000 pa	£23,350 pa	£54,450 pa	£109,050 pa	£218,200 pa

Source: <http://www.alphamanagement.com> from Corporate Advisors, Consultants and Administrators of Offshore Companies

Legality, Credibility & Probity

- EU Directive in 2006 – Freedom to transfer capital across borders¹
- Cameron's desire to create offshore wealth to supplement declining pensions' provisions
- The need to build up IHT protected wealth surplus to UK's restricted limits
- HMRC's considerable benefit from such platforms (see table on next page)³
- Embodied in the 2010 Addendum to the 2004 Inheritance Tax Act¹
- Falls under Pension legislation approved by UK HMRC – not some flaky BVI platform²
- QNUPS is the only Trust to be enacted in Parliamentary Statute - twice
- Entirely Transparent and fully Authorised by HMRC for Tax purposes
- A clear understanding by HMRC that this is not tax avoidance but Tax Deferment - they benefit considerably later on³

Source: 1 <http://www.hmrc.gov.uk> Sec 271A paragraph 18 Sch 29 Finance Act 2008
2 Sec 165 Finance Act 2004(b)
3 PwC's bar chart (P.9) comparing HMRC's annual tax take. www.pwc.com

Legality, Credibility & Probity (cont.)

The Considerable Benefits to both HMRC and client:

Age	Year	Yearly HMRC Revenue from funds Remaining Onshore	Yearly HMRC Revenue tax when 5% pa remitted onshore	Client's net after-tax income from 5% p.a. remitted onshore	Growing value of estate
45	1	£40,500	Nil	Nil	£5,000,000
50	5	£47,250	Nil	Nil	£7,500,000
55	10	£65,000	Nil	Nil	£10,000,000
60	15	£72,500	Nil	Nil	£12,500,000
65	20	£81,000	£337,500	£412,500	£15,000,000
70	25	£89,500	£393,750	£481,250	£17,500,000
75	30	£98,000	£450,000	£550,000	£20,000,000
80	35	£106,500	£506,250	£618,750	£22,500,000

Assumptions: Jonathan, existing client aged 45 intends to retire @ 65, taking annual income of 5% p.a. i.e. £750K, taxed at 45% income tax*

Assets Transferred:

- Moves £5Mn Offshore into QNUPS - pays no tax in doing so.
- The estate comprises Two Buy-to-lets worth £1.25Mn each
- £1Mn in cash on Deposit with Lloyds bank yielding 0.25%
- £1Mn in Equities yielding approx' 1.6% Gross before Tax
- £500K in wine held with Berry Brothers yielding Zero

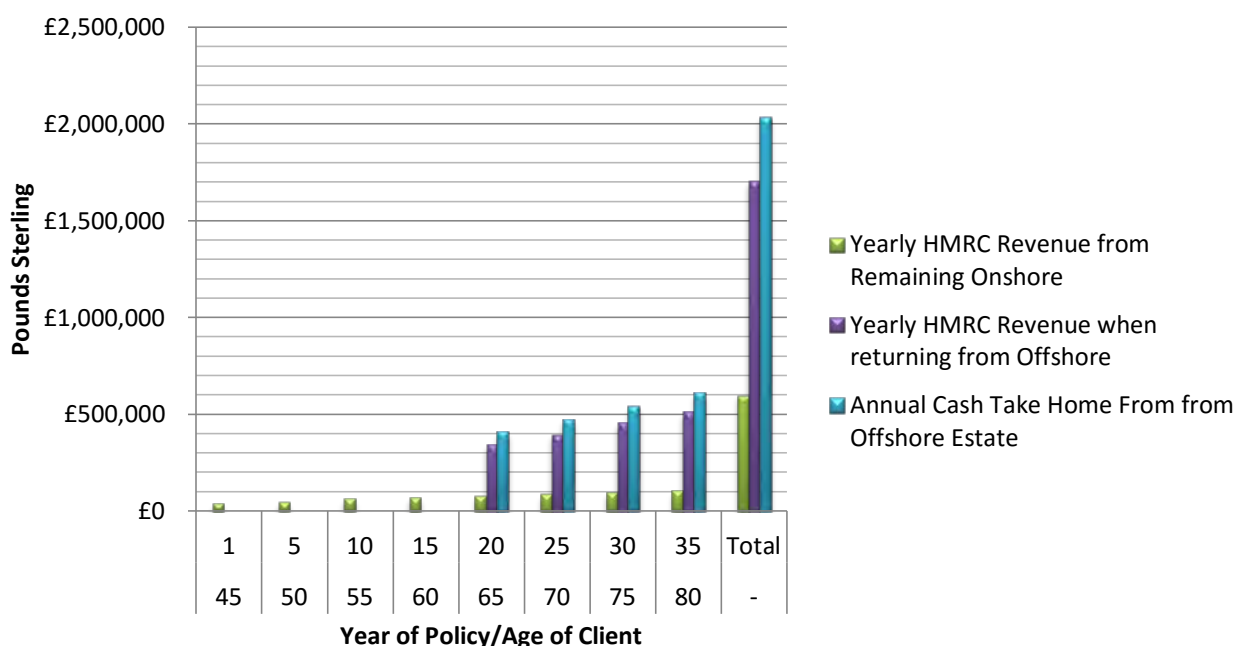
* Purpose for moving estate offshore:

1. Build up Compound Gross Rolled-up Wealth outside CGT
2. Create larger Retirement pot securely and far faster
3. Thus 1/3rd initial estate transferred offshore into a QNUPS

Source: PwCs table comparing HMRC's annual tax take. www.pwc.com

Legality, Credibility & Probity (cont.)

- He keeps it there for 20 years. This grows to £15Mn and this rate of growth continues. ¹
- He then starts to remit back to UK at 5% pa. He is a Top rate Tax payer.



- Who is happier, HMRC or client? Suggest ideal result is where both parties walk away delighted
- Provided QNUPS are not abused, HMRC will not “jump on” such platforms where returns are so beneficial
- **A gross compound roll-up factor over 20 years’ equivalent to 12-14 times gross return to HMRC** ²

Source: 1. PwC’s table comparing HMRC’s annual tax take. www.pwc.com

2. Goldman Sachs Private Wealth Management www.goldmansachs.com

Who manages the Investments?

You

Your stockbroker – for your FTSE equity portfolio

Your accountant/lawyer – for your private company shares

Your M/A adviser, your SME Financial Adviser

Your private banker, asset manager or wealth planner – for your discretionary portfolio management

Your IFA/investment adviser - for your mutual funds & other financial instruments

Your Employee Benefits Adviser - for your HR Dept

Your Fiduciaries – existing Trust providers

Your property agent/lawyer – for your investment property

Your wine merchant – to buy and sell your wine portfolio

Your Family Office Provider – for your complete bespoke solution

Your trust is ring-fenced and is solely in your name so you, or your investment manager manages everything.

You/they manage your investments and control your money.

Source: Sec 92, para 18 of Schedule 29 to Finance Act 2008. www.hmrc.gov.uk

Who are the Trustees?

Reputable Global Financial Institutions

The backers of these services are far and wide. The list includes:

Imperium

Imperium was established in 2011, a small boutique trust Company located in Guernsey with offices & regulated in Malta. The Company prides itself on being Independent, flexible and adaptable. GSP approved introducers in Malta. US/IRS approved trust and pension structures

www.imperiumtrust.com

PraxisIFM Group

Trireme Pension Services (Malta) Limited part of the PraxisIFM Group administer a wide range of Maltese regulated pension schemes. PraxisIFM also provide trust and corporate services including Guernsey QNUPS. US/IRS approved trust and pension structures

www.triremepensions.com / www.praxisifm.com

The Pensioneer Trustee Company (Guernsey) Limited

The Estate & Tax Planning Arm of the Richmond Fiduciary Group, offices in Guernsey and China since 1988.

www.richmondgroup.uk.com

Castle Trust Group

Chaired by Steven Knight, Chairman Association of Pension Fund Administrators. Formed 20 years ago. Member of IAPA. QROPS only

www.castletrustgroup.com

Royal Bank of Canada

12th largest global investment bank. Total fees in 2012 of \$1.1bn. Only used for clients of NBAD

www.rbc.com

Sovereign

One of the largest Trust group worldwide with 32 offices.

www.sovereigngroup.com

Accessing the Funds



- From age 55: If Res' in the UK ¹
- Loans available up to 30% of Trust value; on commercial basis. Interest is paid back into your own Trust ⁴
- If Res' elsewhere, age can be lower than 55 ²
- Retirement age for professional sportsmen can be as low as 35
- Intellectual Property Rights and Image Rights allowable for QNUPS; early retirement accessibility ³
- 30% Tax-Free Lump sum available at any time
- Usually up to 10% p.a.
- Under new rules April 2015, 100% commutable encashment available – tax will apply to 60% on Remittance
- Must commence drawdown of at least £25,000 p.a. by age 75
- And on death...

It passes directly to your named beneficiaries at once, outside of your estate, free of IHT.

1. Facility to unscramble Trust after a 10-yr period. Trustees will liquidate the assets, returning accumulated funds to the Settlor. A fee of one year's Annual Management Charge currently £2000, will be applied
2. If not UK Res', pension rules can be amended to take into account pension legislation in Country of Residence
3. Saffery Champness <http://www.saffery.com>
4. 1975 Guernsey Income Tax Act, Clause 6&7

Source: <http://www.hmrc.gov.uk> Sec271A Para' 18 Sch 29 Finance Act 2008

Appendices

UK Property Ownership: Structuring Solutions

Assumptions

Client is UK Domicile and UK Resident with UK situs property

Initial questions

Are they a candidate for a QNUPS – Age? Health? Working?

Taxes to watch out for

CGT at 28% - value of property when acquired and current market value? Is the property their main residence? PPR relief may be available.

Stamp Duty at 4% if property value is between £500k-£1m and 5% if value is £1m+. Consider Stamp Duty Mitigation scheme which can reduce stamp duty to 2% if property valued between £500k-£1m and 1.5% if over £1m.

Proposed Structure



Procedure

Client establishes offshore company with Trustees as offshore directors.¹

Property is transferred to offshore company in exchange for shares in that company. No decrease in the value of the client's worldwide estate so no IHT issue.

Client sets up a QNUPS– completion of application form, Deed of Adherence and KYC on the client required.

Shares in offshore company are transferred into the QNUPS as an in specie contribution. Trustees will take care of this transfer as offshore company directors within the same week of the property transfer. The effect of this is that the shares are no longer held by the member. This transfer will not attract a GCT, Stamp Duty or an IHT charge.

Trustees, as offshore company directors apply for non-resident landlord scheme in order for rental income to be paid to the offshore company by the tenant gross of tax.

Costs

QNUPS – Transfer Fee 2% of Assets transferred; Establishment Fee 0.25% with minimum of £1,250;

Annual Fees 0.25% with a minimum £1,250

BVI offshore company – Incorporation Fee £1,500; Third Party Statutory Fees £600; Annual Management Fees £2,100

On-going tax treatment

Rental income taxed at basic rate of 20%.

No CGT on future sale of the property.

No future liability to proposed Mansion Tax

No Stamp Duty if sale effected by a share transfer rather than a transfer of title.

No UK IHT on future transfers out of QNUPS or Member's Death

¹ For new purchases, no need for Offshore Co. Establish a QNUPS which purchases property.

Christopher Coleridge Cole

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Christopher has over 39 years experience in the estate protection and succession planning industry, out of which 21 years were spent in the Far East; currently based in between Dubai and Geneva.

He is a specialist adviser to expatriates all over the world in the very specialist field of transferring UK pensions out of Britain into registered trusts in Gibraltar (QROPS).

Since 2010 he has focussed on the Transference of Investment Assets out of the UK, creating HMRC approved retirement and wealth creation trusts in Guernsey (QNUPS). Christopher is registered in the UK with the Institute Register of Insurance Brokers & the Chartered Insurance Institute.

Christopher has recently been elected as a member to ORIAS, the European registered Regulatory body in France, sanctioning advice throughout the European Union countries. Gresham Street Partners are approved Fiduciary Introducers in Guernsey, Gibraltar and Malta - registered and authorised in both Dubai and Hong Kong.

Regulated by the Jersey Financial Services Commission.

OFFSHORE PENSIONS

Robert Adams on the creation of tax-free assets outside UK

Do you have investments, assets, equity portfolios and/or investment property in Britain that you wish you could reduce your tax liability on? Perhaps, from your time working in the UK, you have a pension there, which you would rather have under your control? Maybe you just want to avoid UK capital gains tax, income tax, stamp duty on property purchases or inheritance tax. The solution may be to move your assets 'offshore'? If you have assets and investments in the UK, new rules now permit people living in both the UK and abroad, the flexibility and control over their assets to export them offshore.

ATTRactions

QNUPS (Qualifying Non-UK Pension Scheme), the younger brother of QROPS (Qualifying Recognised Overseas Pension scheme), which previously permitted the transfer of UK pensions into recognised trusts abroad, now permits UK assets to be transferred into HMRC approved trusts in such jurisdictions as Guernsey and the Isle of Man. This falls under the new overseas pension rules' structures. The attraction of creating an overseas pension with UK assets mitigates all future taxes on these investments:

- * No income tax payable on pension/trust's assets;
- * No tax on UK equity portfolios as they grow;
- * No CGT on sale of assets;
- * No stamp duty on most property purchases – a maximum of 1.5% in worst case scenario; and,
- * No inheritance tax on pension's assets such as commercial and investment property, equities, cash, Private company shares, art or wine portfolios.

EXCEPTION

The one exception as to what can be transferred is owner-occupied residential property. In addition, it is important to remember it is primarily designed/permitted around offshore pension legislation. Participants will need to start drawing some regular income from the accrued assets before they reach the age of 70. It is important to note that it is not a 'death-bed' transaction. All assets transferred should be completed well before the age of 70.

EU LEGISLATION

This all results from EU legislation on the transfer of capital cross-border, incorporating, in the process, employee

benefits in May 2006. Guernsey has long been regarded as a centre of excellence in international pension provision and both QROPS & QNUPS proliferate in the island at a level far above its weight in the administration of pension arrangements, with the highest of regulatory standards. As a British crown dependency which is legislatively and fiscally independent of the UK, Guernsey has its own democratically elected parliament. This delivers complete political & economic stability.

LEGISLATION

QNUPS were introduced by the UK government in the Finance Act 2008 and in law by the Inheritance Tax (QNUPS) Regulations 2010, to give clarification of the UK inheritance tax treatment of QROPS and other overseas pension arrangements. Unlike QROPS, there are no requirements to obtain HMRC approval on the establishment of a QNUPS or, indeed, on transfers into a QNUPS arrangement.

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2010 No. 51

INHERITANCE TAX

**The Inheritance Tax (Qualifying Non-UK Pension Schemes)
Regulations 2010**

<i>Made</i>	- - - -	<i>12th January 2010</i>
<i>Laid before the House of Commons</i>		<i>14th January 2010</i>
<i>Coming into force</i>	- -	<i>15th February 2010</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 271A of the Inheritance Tax Act 1984^(a).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Inheritance Tax (Qualifying Non-UK Pension Schemes) Regulations 2010 and shall come into force on 15th February 2010.

(2) These Regulations shall have effect from 6th April 2006.

Interpretation

2. In these Regulations—

“pension rule 1” means pension rule 1 in section 165 of the Finance Act 2004^(b);

“relevant scheme funds” means any sums and assets held under a pension scheme—

(a) to which these Regulations apply, and

(b) which would be subject to inheritance tax if the scheme did not meet the requirements for a qualifying non-UK pension scheme.

Scope of these Regulations

3. These Regulations apply to pension schemes which are established in a country or territory outside the United Kingdom.

Requirements for qualifying non-UK pension schemes

4.—(1) For the purposes of section 271A of the Inheritance Tax Act 1984 (qualifying non-UK pension scheme) a pension scheme must—

(a) be recognised for tax purposes under the tax legislation of the country or territory in which it is established (see regulation 5) and satisfy regulation 6; or

(a) 1984 c. 51; section 271A was inserted by section 92 and paragraph 18 of Schedule 29 to the Finance Act 2008 (c. 9).

(b) 2004 c. 12.

28.02.16 / 5

Osborne's grab from big pension pots rises fourfold

Becky Barrow

MONEY EDITOR

GEORGE OSBORNE'S stealth caps on pensions have almost quadrupled the tax he has levied on savers since becoming chancellor.

The extra £70m a year paid is revealed today following a Freedom of Information (FoI) request. It comes amid fears that next month's budget will make further devastating changes.

In 2009-10, the year before Osborne became chancellor, savers had to pay just under £25m in tax on their pensions for breaching the lifetime allowance, which is the total amount that can be held in a pension before a tax charge of up to 55% is levied.

Osborne has cut this threshold three times in just five years, which means the amount of tax paid by savers has rocketed. In 2014-15, the FoI reveals, pension savers paid nearly four times this amount — £94.2m — in tax. Experts say this is set to rocket when the next cut comes into effect in April.

Greg Kingston, head of marketing at Suffolk Life, said: "It is inevitable that the tax take will continue to rise."

The lifetime allowance used to be £1.8m. Under Osborne this was reduced to £1.5m in 2012-13, then to £1.25m in 2014-15 and again to £1m this April.

The Treasury's own figures reveal that it expects to make nearly £2bn over the next five years from the reduction, a decision that experts warn is penalising the prudent, not just the wealthy.

Gary Smith, financial planner at the wealth management company Tilney Bestinvest, said: "While it could be argued

that previous reductions only impacted quite wealthy individuals, the latest reduction will impact those hard-working individuals who have been prudent in saving towards retirement."

A 40-year-old woman who has a pension pot worth £465,000 would be caught by the lifetime allowance by the time she is 65, even if she does not pay a penny more into it, according to Smith.

This assumes her fund increases by 5% a year and that the lifetime allowance increases with inflation.

Tom McPhail, head of retirement policy at Hargreaves Lansdown, said:

Maximum amount you can save into a pension*

2010-11	£1.8m
2011-12	£1.8m
2012-13	£1.5m
2013-14	£1.5m
2014-15	£1.25m
2015-16	£1.25m
2016-17	£1m

*Over this amount, you will be charged 55% tax. Source: HM Revenue & Customs

"The lifetime allowance is widely disliked and is seen as a disincentive to save."

Before her appointment as pensions minister last year Baroness Altman was also critical, describing the latest changes to the lifetime allowance as "a draconian change" that would make it "much harder for people to plan their pension savings over the long term".

Ian Cowie on cuts to the lifetime allowance, Money, page 3 @beckymbarrow

QNUPS: the secret to escaping inheritance tax?

QNUPS, the little-known cousin of QROPS, can be a perfect tool for expats looking to reduce tax liabilities on their estate.



UK tax can take a hefty slice of your inheritance Photo: Ray Grover / Alamy

By Howard Bilton

9:31AM BST 12 Oct 2011



1 Comment (http://www.telegraph.co.uk/finance/personalfinance/offshorefinance/8774700/QNUPS-the-secret-to-escaping-inheritance-tax.html#disqus_thread)

Many UK expatriates do not realise that they remain UK-domiciled, and therefore subject to UK Inheritance Tax (IHT) on their worldwide estate at a rate of 40 per cent after allowances. This can come as a major shock to a family after the death of the breadwinner.

What can be done about this? There are several options. Long-term expatriates may have the chance to establish a foreign domicile, which means they will lose their liability to IHT entirely. (I will write more about this and the recent changes to the procedures for establishing a foreign domicile, in a later article).

Transfers of wealth on death between husband and wife are also exempt from IHT, but only if the spouse is also domiciled in the UK (or both are non-domiciled). This catches out many expatriates who have married a foreign passport holder who is likely to be domiciled elsewhere. Even then the IHT is only delayed rather than avoided, because on the death of the survivor the tax will be payable on the passing of the family assets to the next generation.

IHT is also avoided on any assets given away at least seven years before death. This is rarely an attractive option, as any attempt to continue to enjoy the assets will normally result in the Reservation of Benefit rules applying and the tax being charged on the donor's death. Add to this the fact that persons rarely know when they are going to die, and will rarely be content to rely on their relatives to maintain them, and this is generally a non-starter.

It is possible to transfer assets to a Family Investment Company and give away the capital value whilst retaining control and the income. Again, I will write more about this in a later article.

But a final option, and one which is finding increasing favour, is the qualifying non-UK pension scheme (QNUPS).

QNUPS have not yet been widely used because the legislation enabling such schemes was only recently made effective. This legislation, which also created the better known QROPS, was passed in 2004 in response to the EU pensions directive in 2003, which was designed to further the EU principle of free movement of capital. The legislation became effective in 2006, but QNUPS could not be used until HMRC passed the accompanying regulations. They only got round to doing that in 2010. (As you might imagine, HMRC was not massively keen on allowing UK persons to create offshore pensions over which it has little or no control and no ability to tax).

A QNUPS can invest in a wide range of assets, much greater than a normal UK pension. A QNUPS can invest in residential property and make loans to its members to purchase personal assets rather than having the constraints of trying to borrow from a bank. This can be very attractive as banks normally only

lend if you can prove you don't need the money and are even stricter in the current climate. A person with a UK pension can do neither, or at least not without a significant penalty charge.

The biggest advantage however of QNUPS is that they are also exempt from UK IHT on the member's death. The Coalition Government have recently abolished IHT for approved UK pension schemes. However, they have replaced this 40 per cent tax with a new special tax charge of 55 per cent, imposed before the benefits are paid out to the beneficiary. The charge applies irrespective of where the member was resident before death, and where the beneficiary receiving the benefit is resident. But a QNUPS fund is exempt from the new 55 per cent charge.

The advantage of a normal UK-approved pension over a QNUPS is that contributions attract tax relief. Contributions to a QNUPS do not attract relief. But that relief is now capped at maximum of £55,000 per year, so all UK resident individuals should have both a QNUPS and a UK-approved pension. They should maximise their relief by transferring £55,000 of their income into an approved scheme (before tax has been suffered) and then transfer as much as they like of their taxed income into a QNUPS to obtain the long term advantages noted above. It is pointless putting this taxed income into a UK pension.

There can be problems if the only reason for setting up a QNUPS is to avoid UK IHT. There is a danger that, where the member is in ill health and sets up the QNUPS with the sole objective of avoiding IHT, HMRC could seek to attack the arrangement. They would do this by trying to claim the pension was essentially a sham and was no different to a normal trust. This could lead to the member suffering a lifetime IHT charge on the transfer into the QNUPS, and a further charge on his death if he were to die within seven years. But there are so many other advantages in setting up a QNUPS that it should be easy to point to, and which have been well documented, these alternative and additional motives, and thereby rebut this suggestion if it were ever made.

In order to be a QNUPS, the scheme must fulfil certain conditions. The scheme must have the same retirement age as applies in the UK; it must provide an income upon retirement; it must be open to the local population in the jurisdiction where it is established and recognised for tax purposes in that jurisdiction.

The UK Government has shown that it is not beyond raiding UK pensions when it needs money to prop up its own finances. At the moment it needs money arguably more than at any time since the Second World War. This is not unique to the UK Government. Most of the EU governments are in the same boat. It would therefore seem eminently sensible to try and remove pension assets from the UK tax system and to get them outside the influence of the Government. There is no suggestion that these schemes are not going to be around for the long term, but why wait? This facility is available now and there is no guarantee that it will be available later. Anything which puts assets into a friendlier tax climate allows more flexibility in their administration and draws down and carries substantial IHT tax advantages would seem to be a very attractive proposition which everyone should grab with both hands.¹

So to summarise: UK expatriates who have an existing UK pension should transfer it to a QNUPS scheme as soon as possible. UK residents should continue to contribute to a UK pension up to £55,000 per year to take advantage of the tax relief on the contributions. Those who wish to contribute more than £55,000 should set up a QNUPS. UK expatriates who remain UK-domiciled should set up a QNUPS especially if they may return to the UK, as then they will not only get the UK IHT advantage, but the underlying income and capital gains will be exempt from UK tax. If a UK expatriate is not planning on returning to the UK then the family investment company may be the preferred option, as it is simpler and cheaper and more flexible.

Every UK expatriate should do one or the other, as to do nothing will prove very, very expensive.²

Howard Bilton is a barrister called in both England and Gibraltar and currently practicing in Hong Kong. He lectures and writes extensively on tax matters and is appointed Professor to the Thomas Jefferson school of law in San Diego.

He founded the Sovereign Group (<http://www.sovereigngroup.com/>) in 1987; it specialises in international tax planning and setting up and managing offshore companies and trusts, and now has over 8,000 clients serviced from a network of offices in twenty-six jurisdictions around the world.

Editor's Note:

1. Estate Protection and succession Planning
2. This also applies to both UK Residents and Non-Residents who have UK-held assets

The Destruction of UK Pensions



THE SUNDAY TIMES

10 January 2016

So, you think you're safe from the £1m pension trap?

Many young savers with modest retirement pots could be hit by the reduction of the lifetime allowance to £1m. By **Ruth Emery**

A PENSION pot worth £1m is the preserve of chief executives and overpaid bankers, and would never be something you would have to worry about, right? Wrong.

Savers with modest pension pots currently worth as little as £40,000 could be caught in a new £1m trap set by the chancellor that will penalise the prudent, an exclusive report for Money reveals today.

In April, the maximum size of total pension assets allowed without incurring a tax charge will drop from £1.25m to £1m, the third cut since George Osborne became chancellor in 2010. Any savings above this level when you begin to draw the pension will be subject to tax of up to 55%.

It is a controversial cut by a Conservative chancellor, and one that will hit younger workers, who are unlikely to have any idea of how profoundly the change could affect them in the future.

Take the example of a 35-year-old woman who currently has a pension of £37,750. By the time she reaches 65, it could be worth more than £1m, according to analysis by the financial adviser Tilney Bestinvest. Similarly, a 45-year-old man with pensions currently worth £220,000 could amass £1m over the next two decades.

This assumes £1,000 is paid into their pensions each month, including employer's contribution and tax relief, and annual investment growth of 5% (see table, right).

Gary Smith, a financial planner at Tilney Bestinvest, said: "The reduction in the lifetime allowance will potentially impact significant numbers of people. And we're not just talking about wealthy City types, but also senior NHS staff and other public servants, middle-class professionals and those who have simply saved diligently and made wise investment choices."

"Lifetime allowance" might sound like a boring technical term, but it is vital that savers understand how it works and that they could be stung by this stealth tax.

While a government paper published last month estimated that about 55,000 people have pension assets worth between £1m and £1.25m, and could, therefore, be affected in 2016-17, experts believe hundreds of thousands of savers will eventually be hit.

The lower limit was announced by Osborne last year and will be introduced on April 6. He said in his budget speech last March: "The gross cost of tax relief has continued to rise through this parliament, up almost £4bn. That is not sustainable. So from next year, we will further reduce the lifetime allowance from £1.25m to £1m."

The limit has been steadily eroded over the past six years. In 2011-12, savers could have built up a pot as big as £1.8m without penalty. The £1m trick is all the more sneaky because Osborne has spoken in the past about how the lifetime allowance is a tax on good investment decisions. In 2004 – when in opposition – he told MPs the allowance was "a curious and perverse incentive" and warned that it would catch not just "the super-wealthy".

Many savers are confused and panicked by the change. The pension and investment firm Fidelity International told Money that the proportion of call-centre queries on the lifetime allowance had rocketed from 2% to 9% between October and December. Half of all questions at its retirement seminars are now about the lifetime allowance.

HOW MANY PEOPLE WILL BE AFFECTED?

Experts dispute the 55,000 figure. Rachel Vahey, a pensions expert, said: "The government's estimate is too conservative. It's impossible to know what pension assets people have in total. Schemes may be able to pinpoint those who have more than £1m with them, but they wouldn't know what other pensions somebody has. The total amount of assets is not collected anywhere." However, many more people will be caught in the future. The Treasury told Money: "The reduction of the lifetime allowance affects only 4% of the wealthiest pension savers approaching retirement."

Analysis by the investment firm Old Mutual Wealth shows this 4% figure equates to about 460,000 savers aged 50-65 who could lose out.

COULD I BE CAUGHT?

Workers with gold-plated final salary schemes, typically in the public sector but also provided by large companies such as BP and Rolls-Royce in the past, could be hit.

Young savers who have a decent-sized pot already, and those who have enjoyed high investment returns or regularly pay in large contributions, could also top the £1m limit.

Adrian Walker, retirement planning manager at Old Mutual Wealth, said: "Working out whether you are likely to be affected is not an exact science as it refers to the value of your pensions in the future. The danger is if people don't realise and are hit with an unexpected tax charge when they take money from their pension." Check the table to see if your current pension could breach the limit when you get to 65.

Will you be caught in the £1m trap?

Yes, if this is the value of your pension pot now and you pay in ...

Your age now	£500 a month until 65*	£1,000 a month until 65*
35	£134,600	£37,750
36	£147,630	£52,238
37	£161,312	£67,449
38	£175,677	£83,422
39	£190,761	£100,193
40	£206,599	£117,803
41	£223,229	£136,293
42	£240,690	£155,707
43	£259,025	£176,093
44	£278,276	£197,497
45	£298,490	£219,972
46	£319,714	£243,571
47	£342,000	£268,349
48	£365,400	£294,367
49	£389,970	£321,685
50	£415,769	£350,369
51	£442,857	£380,488
52	£471,300	£412,112
53	£501,165	£445,318
54	£532,523	£480,184
55	£565,449	£516,793
56	£600,022	£555,233
57	£636,323	£595,594
58	£674,439	£637,974
59	£714,461	£682,473
60	£756,484	£729,196
61	£800,608	£778,256
62	£846,939	£829,769
63	£895,586	£883,857
64	£946,665	£940,650

Assumes 5% annual investment growth net of charges.

*Consists of employee and employer contribution plus tax relief

Source: Tilney Bestinvest

The Destruction of UK Pensions (contd)

Final salary schemes are more difficult to calculate. The first year of income is usually multiplied by 20 to give a capital value to test against the lifetime allowance. This means a £50,000-a-year final salary entitlement would equal £1m.

Phil Wood, who runs his own technology firm, Tomkat Consulting, is worried about breaching the limit. The married father-of-two from Windsor, Berkshire, is 47 and has two pensions worth a total of more than £300,000, plus a final salary scheme that will pay about £2,000 a year, equivalent to a £40,000 pot. So together, his pension assets are worth about £340,000. According to our table, he could exceed the limit when he reaches 65.

"For the government to bring the limit down by £250,000 is quite harsh. I'm speaking to my financial adviser from Chase de Vere to work out how to avoid it, perhaps by investing in property instead," he said.

WHY IS THE LIMIT BEING LOWERED?

The Treasury said the reform "will create a balanced system that protects the public finances". The sums involved are certainly striking: the reduction to £1m will net the Treasury £300m in 2016-17, according to government figures. Over the next four years, it will raise a huge £1.86bn.

It is not the first time the lifetime allowance has been reduced. In 2012-13 it was cut from £1.8m to £1.5m, and then cut again in 2014-15 to £1.25m.

There is also a limit on how much can be saved into a pension each year and attract tax relief – and, again, it has been slashed. It was cut from £50,000 to £40,000 in April 2014 and will be reduced on a sliding scale to £10,000 on April 6 for those earning more than £150,000.

As a sweetener, Osborne has pledged to raise the lifetime allowance from 2018-19 in line with inflation. Yet Walker of Old Mutual Wealth points out that, based on government assumed increases in the consumer prices index of 1.9% a year, it will take 12 years from 2018-19 to get back to the current allowance of £1.25m.

When the limit starts to increase, younger savers will be able to build up pots worth more than £1m without penalty. But given the government's record of tinkering, it is anyone's guess what lifetime allowance, or indeed tax charge, will exist in the future.

Smith at Tilney Bestinvest said: "The cut to £1m sends another negative signal about the tendency of politicians to meddle with pensions and treat them like a piggy bank."

UK Lifetime Allowance Limit -

What Pension Alternatives are available?

Introduction

The UK reduction in the pension limits for UK executives and high earners has been well publicised. For the recent tax year, 2012-13, the standard lifetime allowance is currently £1.5 million and the annual allowance £50,000. From the tax year 2014-15 the standard lifetime allowance will reduce to £1.25 million and the annual allowance to £40,000.

So will this be the trend for the future?

Given the Government supports the objective of a system of pensions tax relief that is fair, affordable and sustainable, the reduction to both lifetime and annual allowances is likely to be a continued integral part of their deficit reduction plans. As such it is likely that the growing cost of such pension relief for high earners will continue to be cut in years to come and such individuals will need to establish supplementary retirement arrangements.

So how are Executives dealing with this issue?

The majority of corporates' have adopted a policy of grossing up their executives pay in compensation for these reducing limits, and paying over the additional cash. In some respects this is the individuals issue as opposed to the corporates' but whether these executives have the time or inclination to consider their retirement options is unlikely given today's work pressures. As such this does present a moral issue for the pension teams. Such individuals' are there to assist but clearly the lack of suitable pension alternatives available in the market place is an issue.

For those executives and high earners the realistic options, once the lifetime allowance and annual allowances have been reached, are really quite limited:

International EFRBS

Prior to 2011, EFRBS (Employer Financed Retirement Benefit Schemes) were highly popular corporate pensions schemes for UK executives. EFRBS had been used as pension vehicles where no tax or national insurance was paid by the employee when the contributions were made or when the benefits came out. Their key benefits were therefore income tax deferral and national insurance avoidance, but on the condition that benefits were paid mainly in the form of an income upon retirement. EFRBS are not an efficient inheritance tax shelter as there is no specific exemption for death benefits.

Post 2011 employer contributions into EFRBS are now subject to income tax and national insurance as employment income under PAYE as well as continuing to form part of the member's estate for inheritance tax purposes.

These rules became effective from 6 April 2011 and HMRC even brought in anti-forestalling rules effective from 9th December 2010 to immediately stop any new payments into these schemes. As such these changes have mitigated any benefit in using such schemes and they have fallen from grace in both the eyes of corporates' and the advisors.

QNUPS

Qualifying Non – UK Pension Schemes (QNUPS) were introduced through a change in legislation by the UK Government on 15th February 2010. When the UK Government embarked on its major overhaul of UK pension legislation – “A” Day - the intention had been to ensure that certain non-UK pension funds remained exempt from UK Inheritance Tax but the drafting of the earlier legislation was ambiguous in that respect.

HMRC confirmed this was an error and the legislation was updated in the Finance Act 2008, followed by The

Inheritance Tax (Qualifying Non – UK Pension Schemes) Regulations 2010. These rules clarified exactly which pensions are exempt from IHT – and introduced QNUPS. As QNUPS are not registered pension schemes different rules apply to the investments held within the fund and terms relating to the drawdowns. They provide a highly flexible and tax efficient pension structure that can supplement existing pension arrangements while remaining entirely separate and distinct. The scheme is a genuine pension arrangement and as the transfer of assets is out of post-tax earnings or from personal capital, there are no reporting requirements to HMRC.

As a non-UK registered pension scheme, the lifetime allowance limits and annual allowance limits do not apply. As such there is no tax relief for contributions, but also there is no limit on how much may be contributed to this type of supplementary pension scheme.

So, what's En Vogue?

QNUPS are much less contentious than their predecessor, as contributions are out of taxed income, and do represent a substantially safer and holistically flexible structure for executives.

QNUPS are surely becoming more popular and of interest to the employee benefit consultants' and pension teams', especially as the corporates' continue to exit the final salary schemes. As the lifetime limits continue to fall, and executives start to realise the effects this will have on their personal retirement planning, so pension advisors will need to consider the limited options.

THE ONLY WAY IS UP

Many are predicting changes to tax relief on pensions that could leave savers out of pocket, although qualifying non-UK pension schemes could provide a useful 'topping up' option

As far as pensions were concerned, the UK's March 2016 Budget ended up being something of a damp squib. Much had been made of the possible removal of tax relief on contributions, following the Treasury's consultation (and extended deliberation) on its paper, *Strengthening the incentive to save: a consultation on pensions' tax relief*.

That did not happen, though it seems it nearly did but for an apparent U-turn late in the day. There was also some talk of the lifetime allowance being reduced yet further, perhaps to as low as £750,000. That did not materialise either.

However, the immediate post-Budget commentary seemed to favour the theory that all of this represented nothing more than a holding pattern to navigate Mr Osborne and Mr Cameron through the EU referendum, rather than a strategy to last for generations.

The same commentators reflected on the increased level of ISA savings as an early signal of where the government really wants to go with long-term savings. ISAs are, of course, a tax-exempt-exempt (TEE) savings vehicle, in that they are effectively taxed on the way in but enjoy tax free roll-up and payments out.

The big squeeze

This is the way many thought the government wanted to go with pensions, removing the current exempt-exempt-tax system (EET), where contributions are exempt through tax relief. Roll-up is also exempt but benefits, except for a tax-free lump sum, are taxed. The perceived wisdom is that this still represents the longer-term plan and, with it, the potential for a whopping estimated £20bn plus saving for HMRC from removing tax relief on contributions.

Consequently, strong signals still exist to support the theory that tax-relieved pension savings will continue to be squeezed through limiting contributions in both the short and long terms, and a drive to encourage savings through the promise of a tax-free roll-up and exit, rather than tax-advantaged contributions and roll-up.

Many people, however, will still want to save more for retirement than both the lifetime and annual allowances will permit. Particularly for high-earning and high net-worth clients, the pension available from a fund that falls within the lifetime allowance may represent a significant shortfall to their perceived financial needs in retirement. This is especially true if they aspire, as many do, to retire earlier than is the norm.

The recent backdrop of financial turmoil has in many cases devastated retirement plans and has made safety-net funds a much more sought-after proposition, enabling a comfortable retirement as well as the ability to support your wider family's needs.

Top-up tool

This is where qualifying non-UK pension schemes (Qnups) can become a very useful planning tool for 'topping up' tax-relieved pension savings.

Qnups were introduced by inheritance tax (IHT) regulation in 2010, effectively to remove an anomaly that had existed regarding the application of IHT to schemes that had been transferred overseas by UK expatriates retiring abroad.

The Qnups rules clarified IHT would not apply on qualifying pension schemes established outside of the UK. The qualification criteria principally requires that the schemes are authorised, and/or tax approved, in the jurisdiction



David Pope
Chief executive,
Kreston IOM

in which they are established. It also requires that on retirement (at no earlier than age 55), 70% of the fund is used to provide an income for life.

Two of the more important differences are that there are no reporting requirements from the Qnups trustees to HMRC and the permitted investments follow local rules that are often more liberal than for UK-approved schemes.

A Qnups does not qualify for any UK tax relief on the contributions made to it, and 90% of the benefits payable are taxable to income tax in the hands of a UK resident. It does, however, benefit from gross roll-up in the fund. There

are other long-term savings vehicles that achieve much the same result in a purely savings sense but it is the IHT effectiveness of a Qnups that really delivers for this area of pension planning.

Top-up, or safety-net provision, may never be used, or only used in part, and where that is the case the funds need to be passed on as efficiently as possible. The IHT-free treatment of a Qnups is clear by virtue of its specific set of IHT regulations and therefore no additional planning frills are required.

Of course, in order for that IHT treatment to apply, the Qnups must actually be a pension arrangement. Any-

'STRONG SIGNALS STILL EXIST TO SUPPORT THE THEORY THAT TAX-RELIEVED PENSION SAVINGS WILL CONTINUE TO BE SQUEEZED'

thing that seeks to use the structure of a Qnups for short-term IHT planning alone is likely to fail anti-avoidance scrutiny. Pension saving does not, as a

matter of reasonableness, tend to commence in old age, ill health (or both), nor does it tend to consume the majority of an individual's total net wealth. There is no overt guidance on the point, so advisers need to be careful to structure arrangements that are there clearly to support benefits in retirement.

Rising costs

These days, people in retirement tend to be younger, or at least they would like to be, and may still have significant financial commitments towards the generations either side of their own.

School and university fees for their children and nursing home care, or assisted living for their parents, might conceivably exist simultaneously for someone in retirement.

Their costs are spiralling upwards and therefore require ever-increasing contingency sums to support them, potentially far beyond what the lifetime allowance can cover. Equally, they might not be an issue at all, in which case you need the remnant fund to be tax-efficient on succession.

Qnups can deliver a trust-based arrangement that generates a contingency fund that, if it remains unused and distributed to chosen beneficiaries, does not suffer initial, periodic or exit IHT charges.

There are a number of jurisdictions from which Qnups are available, but in the main, they tend to be offered by providers in the Isle of Man, Gibraltar, Channel Islands and Malta. All of these jurisdictions can generally accommodate the more flexible investment options that characterise Qnups – for example, residential property or loans – and all have a range of experienced providers to choose from.

The Isle of Man and Malta both have specific legislative frameworks for the authorisation, regulation and governance of retirement benefit schemes, which is in addition to specific tax legislation. This is often seen as beneficial in demonstrating that the substance of the arrangement is the provision of retirement benefits.

The relevant Isle of Man tax regime also requires that 70% of the fund be used to provide an income for life, which mirrors the stipulations in the Qnups rules.

The UK government wants everyone to save privately for retirement – but just not too much or at too great a cost to the Treasury. The more this is squeezed the greater the market need for top up planning. Qnups may well be the answer. ●

How to Generate funds to roll into a QNUPS



HMRC quietly adds QROPS changes to planned pension reforms

12/01/2015 by: Will Sidery

HMRC has announced that it is permitting QROPS Trusts to be treated in the same manner as Chancellor George Osborne's new rules for UK pensions being brought in in April – allowing QROPS holders to enact the 100 percent encashment of them once the settlor/pensioner is aged 55.

According to Christopher Coleridge Cole, managing partner of Gresham Street Partners, this will be good for all advisers or to those who either have UK pensions or indeed QROPS Trusts already. "Once someone has a QROPS in place for a full Fiscal year, he will be permitted to access the full value without any tax payable to the UK. He can then invest wherever & however he wishes. Obviously dependent on where you remit the funds into will determine whether there is tax to be paid but only on what is remitted at that point," he said.

Mr Coleridge Cole said this meant that for those living in Portugal, Andorra, Italy, Monaco, Luxembourg, Bermuda, BVI, Bahamas, Eire, Cyprus, Far East, Middle East, parts of South America and Switzerland, the tax paid will be considerably less than the UK - if not zero. "Of course for UK Res/Non-Doms of any nationality they also benefit hugely because they do not pay tax on overseas earnings; so until they remit these funds the monies are tax-free & can be invested as such," he added.

The changes to QROPS regulations was announced in a Business Tax policy paper drafted by HMRC on 19 December 2014 on changes to the taxation of Pension Act 2014, published as a draft Statutory Instrument on Overseas Schemes. "We believe this will be enacted with the remainder of the Autumn Statement proposals including the 100 percent commutation of UK pensions, in the April Budget," Mr Coleridge Cole added.

Mr Coleridge Cole added that whilst these changes can be expected to be enacted whilst a Conservative Government is in control, "we generally feel that Labour will be against the Tories' recent pension revolution and may well try to reverse this once they are in control. Whilst that wouldn't be likely to happen within the next few months, it would quite possibly form part of the next year's budget if Cameron is out."

Source: www.paminsight.com

Structure Note



Background

Dmitry is a Russian domiciled, UK resident professional currently living in London. He is 40 yrs old, and married with two young children. The majority of his assets/investments are in Russia, and he is now considering buying two UK properties. Both properties would be in the value of £2.5m each, the first he and his family will reside in and the second will be held as a long term investment and rented.

Objectives

The client would like to establish a structured wealth platform, to form part of his and his wife's long term retirement plan. Although currently resident in the UK he and his wife may return to Russia in the future where there is no private pension legislation. As such he would like to consider an International Pension Plan which could hold UK based property but would also be appropriate should they return to Russia.

Solution

The advisor has suggested a Qualifying Non-UK Pension Scheme (QNUPS).

This supplementary pension Trust will allow the UK properties to be contributed without the UK lifetime allowance limitations. The UK property, which is to be rented, would be held underlying the pension within an offshore company. As such, the income tax on rental profits from the investment property will be limited to 20% rather than a maximum of 45%. Assuming rental income of approximately £100,000 on the £2.5m property, this could save income tax of up to £25,000 per annum.

It is further recommended that the high value residential property would be held directly by the pension scheme. This is due to the UK Government discouraging the ownership of such properties from being held within a corporate structure. As such the ATED tax would not apply, and Stamp Duty would be payable on the standard UK rates and not the higher 15% enveloped rate.

UK assets will further be protected from IHT at up to 40%, a potential saving of £1m per property and also currently Capital Gains Tax (CGT) on future sales which currently would be 28%.

The pension would also provide the client with a great deal of asset protection and security should they return to Russia.

The Advisor further recommended that independent tax advice is taken to ascertain the tax points.

A QNUPS Trust

Wealth Creation Platform

Protecting Your Wealth and Securing Inheritance

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