

Pension Schemes in Spain: MOVING YOUR MONEY OVERSEAS

By Dimas Cuesta Montejano

When considering moving to Spain, it is essential to get expert advice from an international tax adviser familiar with UK and Spanish systems. One of the most common issues we normally overcome as advisers is the transfer of UK Registered Pension Schemes. When leaving the UK and becoming a tax resident of Spain, there are several tax issues to consider when transferring your pension to the CGRPP.

What are the tax implications for funds invested in a QROPS prior to drawing benefits?

The QROPS is deemed to be "an employment related pension plan" and not a "personal scheme for individual savings". This is necessary to avoid the application of anti-avoidance provisions applicable to discretionary trust savings accounts located in tax haven jurisdictions. An "employment related pension plan" needs to be directly or indirectly related to the employment of the member, in which retirement is the main event that would trigger benefits. On this basis the QROPS will be a non-qualified employment related pension plan.

Therefore, on the assumption that the member and beneficiaries do not have the right to receive benefits from a QROPS until retirement and/or death, the member will not be subject to Spanish tax simply due to the existence of a QROPS. However, once the beneficiary reaches their Selected Benefit Date, the member could become immediately liable to pay tax in Spain, based on any increase in value during the particular tax year, regardless of whether benefits are received or not. It is essential, therefore, that the member selects a retirement age at which they will begin to take distributions. Depending on the size of the

fund it may also be advisable to have more than one QROPS with differing retirement ages in order to defer liability to Spanish tax on at least some of the QROPS funds allowing the owner more flexibility.

Taxation of Income Benefits

Benefits from a pension scheme are treated for Spanish tax purposes as employment-related income and as such, whether drawn down or received as an annuity from a QROPS, are subject to Spanish Income Tax on the entirety of the amount. It is recommended that you speak with a financial adviser to find out which rates would be applicable to your situation.

Restriction of Income Benefits

There are no additional Spanish tax restrictions on income benefits to those that already exist within the QROPS legislation.

Taxation of Lump Sum Benefits

The withdrawal of a Lump Sum from the QROPS will be treated no differently from that of any other withdrawal, and as such will be fully assessable by Spanish Income Tax. This is the same scenario as taking a Lump Sum

from a UK Registered Pension Scheme. Where possible, it would therefore be appropriate to take benefits before becoming resident in Spain and then affecting a 'drawdown to QROPS' transfer. It is important to note that partial transfers would be treated as Unauthorised Payments and would therefore be inappropriate.

Wealth Tax Issues

From the 1 January 2008, Wealth Tax was abolished in Spain and therefore there are no issues in relation to Spanish residence and QROPS.

Spanish Estate Duty and Forced Heirship Issues

Benefits from QROPS are not subject to the equivalent of Spanish Inheritance Tax and should also not be subject to Spanish forced heirship limitations or Spanish succession law in general, since this is only applicable to Spanish nationals.

The tax issues outlined above have been specified as general guidelines for transferring your pension to QROPS. It is recommended that you seek the advice of an adviser before committing to any scheme, who would be able to assess the best method of managing your funds. If this article has raised any questions, or you wish to understand more regarding your overseas pension options, please don't hesitate to get in touch with me at Lexland Abogados.



Dimas Cuesta, partner at Lexland Abogados, advises financial institutions and wealth management companies on a regular basis, designing efficient financial products for UK clients with interests in Spain. You can find more information on international tax and estate planning on expatsinspain.org, where a series of articles have been published through the collaboration of Dimas Cuesta and the prestigious financial institution, St James's Place.

Contact Lexland Abogados for a free consultation and assistance with your international tax and estate planning. **Tel: +34 952 778899** info@lexland.es www.lexland.es