

Malta – A centre for establishing QROPS

QROPS

Qualified Recognised Overseas Pension Schemes (QROPS) are pension schemes established outside of the UK, recognised by Her Majesty's Revenue and Customs (HMRC). In Malta, QROPS are regulated by the Special Funds (Regulation) Act (Cap 450 of the Laws of Malta) and have in recent years become increasingly attractive for individuals intent on retiring outside of the UK, although not necessarily taking up residence in Malta. The Act provides a statutory basis for the registration and regulation in Malta of Retirement Schemes, Retirement Funds and their related parties, and is intended to cover schemes or arrangements which provide retirement benefits to residents of Malta as well as non-residents.

Competent Authority

Malta Financial Services Authority (MFSA) - often hailed for its efficiency and flexibility in issuing licences, a factor which is essential as QROPS status is determined on a case by case basis.

Key drivers

In light of its comprehensive yet flexible regulatory framework, its English-speaking community and skilled professional workforce, Malta has gained popularity as a jurisdiction of choice in this field. Apart from eligibility of QROPS status and the aforementioned considerations, the key driver for Malta's increased prominence in this field is the applicability of certain tax incentives, and this even more so since the publication of the HMRC's final QROPS rules in March 2012 which resulted in around 300 Guernsey QROPS seeking relocation after being removed from the HMRC's list of approved schemes.

Fiscal incentives

Although pension fund benefits may be taxed in a person's country of residence, double tax relief available through around 60 double taxation treaties with other countries significantly mitigates this risk. Furthermore, the following tax breaks are also available in Malta:

- (i) no income tax on pension income;
- (ii) no income tax on pension cash lump sums;
- (iii) no capital gains tax on pension fund gains; and
- (iv) no inheritance or other death duties.

Legal Form and Licensing

In Malta, QROPS may be established by trust or by contract, in either case requiring the necessary MFSA license. To be eligible for such licence, the following must be submitted to the MFSA for consideration:

- (i) an application for registration;
- (ii) the trust deed or the scheme document, as the case may be;
- (iii) an application fee of approximately €1,165 together with an additional fee ranging between €116 and €2,330, depending on the number of scheme members; and
- (iv) any other information the MFSA may require.

Appointments

The applicant of the pension scheme must appoint both an administrator, whose function is to manage the day to day running of the scheme, and an auditor. In case of a pension scheme established by trust, a trustee must be appointed and he may also apply to act as administrator if such trustee is already registered with the MFSA. Furthermore, an asset manager may need to be appointed where the administrator does not have the required competence. A custodian's appointment may also be necessary where the members' contributions to the pension scheme are not invested in a retirement fund.

Post-licensing requirements

Once the pension scheme is established in Malta, the administrator is required to send an application to HMRC for recognition of the scheme as a QROPS. On formal recognition by the HMRC, funds from existing UK pensions may be transferred to the newly established QROPS. An annuity or a lump sum, where opted for, will be paid out to the beneficiary on maturity of the QROPS.

QNUPS

As an alternative to QROPS (which are subject to English inheritance tax), the UK has introduced Qualifying Non UK Pension Schemes (QNUPS) which, on registration with the MFSA, would be free from English inheritance tax on the passing of the beneficiary.

Why Malta?

- Robust legal system, based on UK and EU law and in tune with the business world.
- Member of the EU: easy access to 27 member states through the EU marketing passport.
- Reputable regulator while being easily accessible and sensitive to the particular requirements of applicants.
- Flexible legal structures.
- Tax efficiency: favourable tax regime and extensive double tax treaty network.
- Skilled and highly qualified workforce and service providers.
- Lower costs.
- English language is an official language and the principal business language.

For further information on QROPS please contact:

Malcolm Falzon, Senior Associate

E-mail malcolm.falzon@camilleripreziosi.com

Tel +356 21238989

Web www.camilleripreziosi.com

The information provided herein is not intended to constitute advice of any nature whatsoever. Many factors unknown to us may affect the applicability of any statement or comment made herein to your particular circumstances. Although we have researched all the sources to ensure accuracy and completeness of the information contained in this paper, we assume no responsibility for errors, inaccuracies, omissions or any other inconsistencies herein.