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flash Alert

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United Kingdom – Temporary Suspension of 'Recognised Overseas Pension Schemes' List

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The U.K. tax authority, HM Revenue & Customs (HMRC), temporarily suspended its published list of *Recognised Overseas Pension Schemes* (ROPS) on 17 June 2015¹. The list will be re-issued in updated form by 1 July 2015. This follows the introduction of new U.K. legislation², effective as from 6 April 2015, which:

- (a) provides that a non-U.K. pension plan cannot be a ROPS if benefits are payable before age 55 (except in cases of ill-health), insofar as such benefits represent funds transferred to that plan from a U.K. *Registered Pension Scheme* (U.K. Scheme); and
- (b) will also prevent such a plan from being a *Qualifying Recognised Overseas Pension Scheme* (QROPS) – as all QROPS must also be ROPS.

Prior to 6 April 2015, a *minimum age* requirement applied only in relation to certain countries.

Traditionally, many QROPS have permitted benefit withdrawals before age 55 (at least in certain circumstances). As from 6 April 2015, however, any non-U.K. pension plan not meeting the new *minimum age* requirement will have automatically ceased to be a QROPS even where continuing to appear on HMRC's list (prior to the list's suspension).

Why This Matters

Any funds transferred to a non-QROPS from a U.K. Scheme will potentially be subject to U.K. tax charges of up to 70 percent. By contrast, a transfer from a U.K. Scheme to a QROPS should be tax-free (insofar as the funds transferred do not exceed certain limits).

The new *minimum age* requirement is likely to affect many plans in countries that have a well-established QROPS market – for example, New Zealand *Kiwisaver* plans, which permit members to make certain early withdrawals (e.g., to fund a first home purchase), and Australian *superannuation* plans, which also permit members to make certain early withdrawals (e.g., in cases of severe financial hardship).

Alternatively, a plan might not permit early withdrawals, but have a normal retirement/benefit payment age lower than 55.

Some individuals will have made transfers to non-U.K. pension plans between 6 April 2015 and 17 June 2015, when such plans still appeared on HMRC's list but did not satisfy the new *minimum age* requirement. Such transfers could potentially be taxed at up to 70 percent – although it remains to be seen exactly what position HMRC will take.

However, transfers made before 6 April 2015, to plans that have now ceased to be QROPS should not normally be affected.

KPMG Note

Going forward, it seems that many non-U.K. pension plans will need to amend their rules in order to satisfy the new QROPS criteria.

In some cases, foreign legislative changes may be required.

Please note that, even where a plan appears on the re-issued HMRC list, caution should still be exercised. HMRC has always stressed that inclusion on its list is no guarantee that a scheme is a *bona fide* QROPS – a non-U.K. pension plan will need to satisfy both the *minimum age* requirement and other criteria imposed by U.K. legislation.

Flash Update! Just as we went to press with this *Flash Alert*, HMRC published the new list. It can be found at <https://www.gov.uk/government/publications/list-of-qualifying-recognised-overseas-pension-schemes-qrops>.

The list has been revised to remove a number of schemes, for example certain schemes based in Australia where the schemes do not meet the minimum age requirement.

Footnotes:

1 For HMRC's "Guidance: Temporary Suspension of the Recognised Overseas Pension Schemes Notification List," click [here](#).

2 See: *the Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2015* (the 2015 Regulations), which introduced the new "minimum age 55" requirement and *The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes Regulations 2006* (the ROPS Regulations) – as amended by the 2015 Regulations.

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The information contained in this newsletter was submitted by the KPMG International member firm in the United Kingdom. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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