

## THE PRAXIS INTERNATIONAL PENSION SCHEME

### INTRODUCTION

February 2010 witnessed the birth of an extremely attractive new offshore pension vehicle, referred to as a “QNUPS”. The acronym stands for “Qualifying Non-UK Pension Scheme”, and it refers to any non-UK pension scheme which satisfies the criteria set by HMRC to be recognised as such for UK tax purposes. The non-UK scheme must be officially recognised in its jurisdiction of establishment.

Praxis has accordingly established its own Guernsey QNUPS, known as the Praxis International Pension Scheme (“PIPS”) which is aimed at Guernsey residents, UK residents (whether UK-domiciled or not) and UK expatriates who have retained their UK domicile for Inheritance Tax purposes.

PIPS has been established as a multi-member trust, with individual sub-trusts established for each member.

### CONTRIBUTIONS

The primary role of PIPS is to act as a supplementary pension scheme, in addition to any approved pension schemes already established by the member. Contributions are usually funded by the member out of post-tax earnings or from personal capital. No tax relief is available in respect of contributions, and contributions would not be taxable as chargeable lifetime transfers for Inheritance Tax purposes due to the statutory exemption granted to QNUPS. The member’s fund will not form part of his UK Lifetime Allowance, nor are contribution levels measured against UK contribution limits for approved schemes.

Contributions can be either single or regular. The level of any substantial contributions needs to be able to be fully justified, relative to the member’s personal wealth, in order not to compromise the bona fide pension characteristics of the scheme. This can of course be extremely subjective and considerable care must be taken. However, a desire to contribute to a member’s fund within the PIPS so that the member is able to sustain his/her current lifestyle into advanced old age would seem to be a perfectly reasonable approach when considering contribution levels.

PIPS is therefore ideal for anybody wishing to make additional pension provision for themselves over and above the funds held within their UK approved scheme.

### TAXATION OF THE PIPS FUND

The income and capital growth generated by a member’s fund within the PIPS will generally be tax-free, except for certain UK-source income and any irrecoverable foreign withholding taxes.

### FLEXIBLE INVESTMENT POSSIBILITIES

The range of permissible investments within the PIPS is extremely wide. Broadly, investments should be appropriate for a pension scheme (i.e. similar to a UK SIPP). However, in addition to investments such as equities, bonds, mutual funds etc., the relevant Guernsey pension scheme rules also permit investments into residential property and private company shares (provided that the member does not personally already hold more than 15% of the issued share capital). A member is also able to borrow up to 25% of his fund at any time on suitable commercial terms.

It is crucial to stress, when considering investment options, that a member’s fund within the PIPS should look, behave and be treated like a bona fide pension scheme at all times.

### LUMP SUM AND PENSION BENEFITS

A member can take a lump sum of up to 25% of the value of his fund once he has attained the age of 55, and this lump sum would not be taxable in the UK if the member’s fund was funded solely by the member himself. A minimum of 70% of the member’s fund must be used to pay the member a pension, starting no later than on the member’s 75<sup>th</sup> birthday, but this does not need to be purchased from an insurance company. In effect, the member can go into “drawdown” from his own fund, paying himself a pension of anything between 50% and 120% of the level of income that he could receive based on the UK’s Government Actuarial Department tables. Such a pension would be subject to UK income tax (if the member is still UK resident at the relevant time) but at a tax rate equal to 90% of the member’s applicable tax rate due to the PIPS’ status as a bona fide non-UK pension scheme.

If the member is no longer resident in the UK then the tax treatment of any lump sum or pension will depend on the tax laws of his country of residence at that time.

## **DEATH BENEFITS AND INHERITANCE TAX**

Upon the death of the member, the fund held within PIPS will be outside of the member's estate for Inheritance Tax purposes and held by the trustees at their discretion. The funds can be distributed tax-free by the trustees by way of capital payments, using their powers of discretion under the provisions of the scheme rules. Alternatively, the funds can remain on trust and continue to grow in a tax-free environment. At this point the funds would cease to be protected by the QNUPS regime and would enter the discretionary trust Inheritance Tax regime. They would be subject to 10-yearly charges and charges on exits which are not subject to Income Tax.

If the deceased member is no longer resident and/or domiciled in the UK, and/or if his chosen beneficiaries are not resident or domiciled in the UK, then appropriate tax advice must be sought in each relevant jurisdiction in order to confirm the tax treatment of capital payments from the deceased member's fund.

## **CAUTION**

As stated above, it is vital that the PIPS looks and behaves as a bona fide pension scheme, not only in terms of how it is invested but also how it is funded in terms of contribution levels.

If HMRC considers that a member has made a substantial contribution to the PIPS without any realistic expectation that he will ever draw the resulting pension benefits (for example if he is terminally ill), or if it is deemed by HMRC not to have the characteristics of a bona fide pension scheme, then it is possible that the member's fund could be treated as a "settlement" for Income Tax and Capital Gains Tax purposes. In such circumstances, the anti-avoidance provisions applicable to "settlements" would apply, and the income and capital gains of the fund would be deemed to be the personal income and capital gains of the member. Appropriate steps can be taken to mitigate against the effect of such anti-avoidance provisions. However, under current legislation, even if the settlement provisions were to apply, this would not compromise the favourable Inheritance Tax treatment of the member's fund.

## **SUMMARY**

In summary, the PIPS provides a very attractive supplementary pension scheme in an offshore environment, based on the UK's QNUPS legislation, with:

- no statutory limits on contributions;
- long-term tax-free growth of the fund;
- a wide range of permissible investments;
- considerable flexibility regarding the timing and structuring of retirement benefits;
- no requirement to purchase an insurance annuity;
- no Inheritance Tax on entry, no 10-year charge, and exempt from Inheritance Tax upon the member's death; and
- wide discretion over the distribution of the residual fund at death.

The cost of setting up and administering a member's fund within the PIPS should not be materially different from the costs of an offshore personal/family trust.

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