

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.

It is not an appropriate vehicle for the transfer of existing tax-approved schemes.

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 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.

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. UK Tax Counsel’s opinion obtained by Praxis indicates that the 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 75th birthday. The pension should commence within 12 months of taking a lump sum. The pension 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 5% and 120% of the level of income that he could receive based on the UK’s Government Actuarial Department tables. Under current legislation 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 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 status and would enter the discretionary trust Inheritance Tax regime, and thus be subject to 10-yearly charges and charges on exits.

If the deceased member is no longer resident and/or domiciled in the UK, and/or if the 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.

HMRC DISCLOSURE

Further to Tax Counsel's advice, Praxis has disclosed the PIPS to HMRC under the Disclosure of Tax Avoidance Schemes legislation. The PIPS satisfies the hallmark dealing with standardised tax schemes and since QNUPS are not within the carve-out for overseas pensions and QROPS, this hallmark is triggered. A scheme reference number has been allocated and this will be provided to all members.

Counsel noted that as QNUPS are very new (regulations introduced in February 2010), it is possible that on receiving QNUPS disclosures HMRC might add these structures to the lists of carve-outs.

CAUTION

As PIPS is a pension scheme, it must at all times follow the rules governing such schemes.

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 the effect of such anti-avoidance provisions.

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 exemption from Inheritance Tax upon the member's death; and
- wide discretion over the distribution of the residual fund at death.

CONTACT

For further details please contact

John Bradley - Consultant

john.bradley@praxisgroup.com

David Piesing - Director, Head of Wealth Structuring

david.piesing@praxisgroup.com

David Hearse - Deputy Managing Director

david.hearse@praxisgroup.com

Anna Rhydwen-Jones - Senior Client Relationship Manager anna.rhydwen-jones@praxisgroup.com

Praxis Fiduciaries Limited

PO Box 296

Sarnia House, Le Truchot

St Peter Port,

Guernsey

GY1 4NA

Telephone: +44 (0) 1481 737600

Fax: +44 (0) 1481 710511

Website: www.praxisfiduciaries.com

Company Registration Number: 22546

This document has been prepared as a general guide. It is not a substitute for professional advice. Neither Praxis Fiduciaries Limited nor its directors or employees accept any responsibility for loss or damage incurred as a result of acting or refraining to act upon anything contained in or omitted from this document.