
BULLETIN

Succession Planning for British Expats: The Critical Interplay Between SIPPs, Foreign Pensions and Offshore Trusts

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A death benefit from a pension - including a Self-Invested Personal Pension (SIPP), Qualifying Recognised Overseas Pension Scheme (QROPS) or Qualifying Non-UK Pension Scheme (QNUPS) - becomes subject to income tax in the hands of a UK beneficiary if the deceased member was over the age of 75. Moreover, the rate of tax can be as high as 45%, particularly when the benefit is paid as a lump sum.

Unfortunately, it does not stop there for the beneficiary:

1. All future income and gains generated on these funds are assessable to UK taxes,
2. Upon their passing, any remaining funds within the individual's estate will be assessed for UK Inheritance Tax (IHT).

An increasingly pertinent strategy being adopted by international advisers for non-UK resident clients with UK beneficiaries (particularly adult children residing in the UK) is to appoint an offshore trust as the beneficiary of the pension.

This strategy is particularly attractive as it can mitigate the otherwise significant tax charges noted above. Consequently, your client can maximise their position as a non-UK resident, enabling the seamless and efficient succession of hard-earned wealth with minimal erosion.

Below, we summarise the key advantages and considerations:

Why Consider an Offshore Trust for a UK SIPP, QROPS or QNUPS?

1. Enhanced Tax Efficiency

- **Tax Deferral on Death Benefits:** If death occurs after 75, direct payments to UK-resident individuals can incur significant income tax at the beneficiaries' marginal rate.

Appointing an offshore trust enables funds to be received into the trust without a tax charge, allowing future distributions to be managed in a tax-efficient manner.

- **Mitigating IHT Exposure:** Direct transfers from a pension into the personal estates of UK beneficiaries can subsequently become subject to UK IHT. By passing the death benefits to an offshore trust, it is possible to minimise the eventual IHT burden on distributed funds, with no liability on undistributed assets.

2. Asset Protection

- **Shielding Against Divorce and Third Party Claims:** Offshore trusts offer a layer of protection, as assets held within the trust do not directly enter the personal estate of the beneficiary.

This protection is especially valuable where beneficiaries may be exposed to future risks, such as divorce settlements or other claims.

- **Controlled Access:** The trustees retain discretion over distributions, helping to safeguard the client's legacy whilst giving advisers the opportunity to tailor distributions in line with the beneficiaries' changing circumstances.

3. Flexibility and Long-Term Control

- **Discretionary Trust Structure:** The trustees have the power to decide on the timing, amount, and conditions of distributions. This flexibility is particularly useful for managing the tax implications of lump-sum payments to UK-resident beneficiaries.
- **Staggered Income:** Trust distributions can be staggered to align with the individual beneficiaries' tax planning needs, potentially spreading the tax impact over several years as opposed to incurring a significant immediate tax burden.

Key Considerations for Advisers

A. Pension Provider Approval

- **Due Diligence:** Determine whether the existing pension has provisions for the appointment of a trust as a beneficiary. If not, consider transferring to a plan that does.
- **Documentation:** Ensure proper nomination forms are held with the pension provider, the trust is in place, and the trustees hold a letter of wishes to support it.

B. Compliance and Reporting

- **Trust Registration Requirements:** The offshore trust may become subject to UK Trust Registration requirements once a UK-resident beneficiary is appointed. It is crucial that the trust provider is equipped to handle this.

C. Strategic Client Profiling

- **Client Eligibility:** This strategy is most beneficial for individuals who are non-residents or non-long-term residents of the UK, yet have a significant portion of their wealth tied up in a UK SIPP or a foreign pension.
- **Beneficiary Considerations:** This approach is ideal for beneficiaries residing in the UK, as it provides a buffer against immediate UK income taxation and future IHT liabilities.

Conclusion

For UK expatriates, strategically appointing an offshore trust as the beneficiary of a UK SIPP or a foreign pension is a highly effective and sophisticated planning tool.

It enables advisers to:

- Optimise tax outcomes related to income and inheritance taxes,
- Protect client assets across generations,
- Offer flexible and tailored wealth transfer solutions,
- Provide clients with improved certainty and peace of mind.

Furthermore, this approach empowers advisers to extend their services well beyond a client's lifetime, offering continuity of advice services to the next generation.

Thus, it not only safeguards long-term financial stability but also deepens the adviser-client relationship, creating lasting value for families across generations.

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