QROPS
THAILAND

ARE YOU TAX RESIDENT IN THAILAND AND DO YOU HAVE A UK REGISTERED PENSION?

IF SO, AND YOUR PENSION REMAINS IN THE UK, YOU SHOULD BE AWARE OF YOUR POSSIBLE UK TAX OBLIGATIONS. FURTHERMORE, BENEFITS COULD BE AVAILABLE SHOULD YOU TRANSFER THESE PENSION FUNDS OUT OF THE UK TO OTHER SECURE JURISDICTIONS UNDER HMRC'S FAVOURABLE QUALIFYING RECOGNISED OVERSEAS PENSION SCHEME (QROPS) REGIME.

UK TAXATION IF YOUR PENSION REMAINS IN THE UK

From 6 April 2006 a single set of rules came into effect. Under this system, the tax treatment for all types of approved schemes, including occupational schemes, small self-administered schemes, personal pensions, self-invested pension plans and retirement annuity contracts have been amalgamated into the rules for Registered Pension Schemes. These can be either Defined Benefit or Defined Contribution (DC) Schemes.

UK INCOME TAX DURING LIFETIME OF MEMBER

From 6 April 2015, more flexibility was introduced in respect of how you can access UK DC savings. Generally 25% can be taken UK tax free and the remaining 75 % (whether income from an annuity, drawdown, or lump-sum) will be taxable at your marginal rate of UK tax (current top rate 45%).

UK residents are liable to UK tax on such income and, generally, non-UK residents are subject to UK income tax on UK source income too. Therefore, if you are non-UK resident and receive a payment from a UK Registered Pension Scheme, assuming the payment is not within your 25% tax free amount, it is liable to UK tax at your marginal rate, unless a Double Tax Agreement (DTA) with your country of residence and the UK provides exemption from UK tax on such income.

UK/THAILAND (DTA)

There is a DTA between the UK and Thailand, however it does not provide any relief from UK tax on pensions received from UK-sources. Therefore payment of a UK pension to a Thai resident remains liable to UK income tax (current top rate 45%). It may also be subject to tax in Thailand with no foreign tax credit relief available, so the income could be taxed twice (see Thai tax position below). There are separate provisions for Government pensions.

UK TAX ON PAYMENT OF PENSION DEATH BENEFITS

From 6 April 2015, the UK tax treatment of benefits from DC schemes on death depends, amongst other things, on the age of the member at the time of death (i.e. pre or post 75). From this date, generally, there should be a lower UK tax cost on passing pension value to heirs on death. However, that said there is still a possible current tax rate of up to 45%.

For those that are non-UK resident and have a QROPS the UK tax cost on succession can be less. For further details please refer to the STM Pensions Death Benefits briefing.

IF YOUR UK PENSION IS TRANSFERRED TO A QROPS IN:

1. GIBRALTAR has no DTA with Thailand, therefore the QROPS payments to you would be taxable in Gibraltar, currently at a rate of 2.5%.

No UK income tax if non-UK resident (for 5 tax years+ or total withdrawals are below £100,000).

No Gibraltar Inheritance Tax.

Protection from UK IHT.

Protection from UK death benefit charges if non-UK resident (and non-UK resident for the last 5 years + before payment).

2. MALTA has no DTA with Thailand, therefore the QROPS payments to you would be taxable in Malta, currently at rates of up to 35%.

No UK income tax if non-UK resident (for 5 tax years+ or total withdrawals are below £100,000).

No Maltese Inheritance Tax.

Protection from UK IHT.

Protection from UK death benefit charges if non-UK resident (and non-UK resident for the last 5 years + before payment).

THAI TAX POSITION

Currently Thailand does not impose net wealth, gift or inheritance taxes on pensions. Therefore the only tax exposure that the pension fund is likely to trigger in Thailand would be in relation to personal income tax as pension payments are considered assessable income for personal income tax purposes under the Thai Revenue Code.

Individuals resident in Thailand will generally be taxed on income earned both inside and outside of Thailand. However, for non-Thai nationals resident in Thailand, foreign pension payments are only subject to Thai personal income tax if the individual remits the pension income into Thailand in the same tax (i.e. calendar) year as the income arises.

An individual is considered tax resident in Thailand if he/she resides in Thailand at one or more times for an aggregate period of 180 days or more in any tax year.

Non-Thai residents are only subject to Thai personal income tax on Thai-source income and therefore they are not liable to Thai tax on any foreign pension income, even if remitted to Thailand. However, if the foreign pension income is relevant to and/or in connection with employment in Thailand, such pension income may be taxed in Thailand.

If the foreign pension income is subject to tax in Thailand, the applicable rates are progressive rates, currently from 5% to 35% (possibly 0% to 37% from 2015) and the individual is required to file an annual return of income. No foreign tax credit would be available in Thailand for any Gibraltar or Maltese tax paid on the pension income. Furthermore, even though there is a DTA with the UK because there are no pension income or other income provisions in this DTA, such pension income is outside the scope of the DTA and, consequently, no relief for double taxation applies to this income. Therefore if UK pension income is remitted to Thailand in the year it arises by a Thai resident but non-Thai national, the income is taxed in both countries (up to 80% tax).

There is no difference in Thai tax treatment between a personal pension scheme and an occupational pension scheme.

Currently, Thailand has 56 DTAs (i.e. 55 countries and 1 Special Administrative Region, Hong Kong).

OPTIONS FROM A TAX PERSPECTIVE:

UK

If the pension remains in the UK, UK tax may be due on any payments (at up to 45%), with tax also potentially payable in Thailand (at up to 35%) for Thai residents. No foreign tax credit would be available in Thailand to alleviate any double taxation. Therefore, if the UK pension income is remitted to Thailand in the year it arises by a Thai resident but Non-Thai national, the income is taxed in both countries (at up to 80%). Furthermore, the fund remains exposed to the UK death benefit charges.

GIBRALTAR

Transferring to a Gibraltar QROPS for non-UK residents (5 years +) can alleviate UK tax on payments (at up to 45%) with 2.5% Gibraltar tax on payments and no tax in Thailand if non-resident but potentially up to 35% Thai tax if Thai resident (for non-Thai nationals, only if remit pension to Thailand in same year it arises). No foreign tax credit would be available in Thailand to alleviate any double taxation (where applicable). Furthermore, the QROPS can protect from the UK death benefit charges if non-UK resident (5 years +) and there is no Gibraltar IHT.

MALTA

Transferring to a Maltese QROPS for non-UK residents (5 years +) can alleviate UK tax on payments (at up to 45%) with Maltese tax at rates up to 35%, and no tax in Thailand if non-resident, but potentially up to 35% Thai tax if Thai resident (for non-Thai nationals, only if remit pension to Thailand in same year it arises). No foreign tax credit should be available in Thailand to alleviate any double taxation (where applicable). Furthermore, the QROPS can protect from the UK death benefit charges if non-UK resident (5 years +) and there is no Maltese IHT.

This general information has been provided on the basis of our understanding of the current legislation in Thailand as of 1st of July 2015 and April 2015 for UK, Gibraltar & Malta. Should any of the information provided be inaccurate, incomplete or misleading, we take no responsibility for any reliance placed on it. We recommend that individuals always seek specialist multi-jurisdictional (where relevant) tax advice so that their individual circumstances can be fully considered.

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