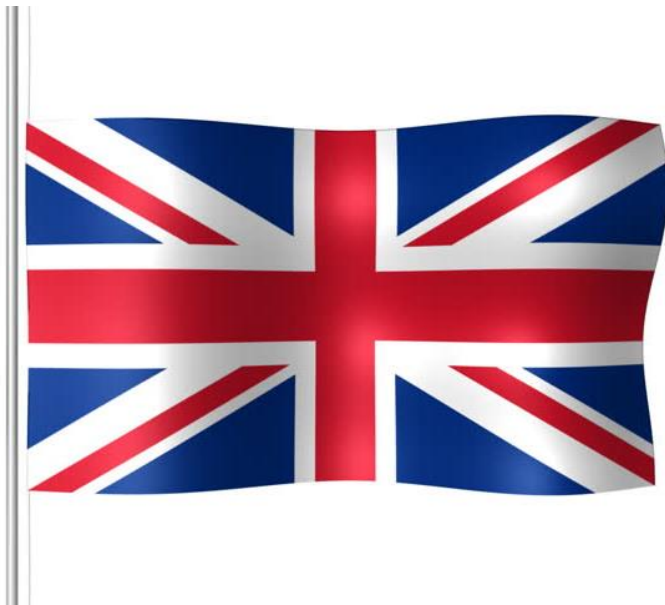


Overseas Transfer Charge (OTC)



The introduction of the overseas transfer charge was announced in the recent UK Budget. From 9 March 2017 transfers to qualifying recognised overseas pension schemes (QROPS) are subject to the charge, unless the transfer is excluded from it.

Contents covered:

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Scheme administrators of registered pension schemes and scheme managers of QROPS (or former QROPS) are jointly and severally liable to the OTC, along with the individual making the transfer. Legislation giving effect to the charge is contained within the Finance (No. 2) Bill 2016/17 and what follows is a summary of:

- circumstances in which the charge arises
- calculating the charge
- circumstances in which the charge is repaid

This content is derived from guidance issued by HMRC in conjunction with the legislation. The HMRC guidance is more comprehensive than this paper in that it also covers; how to pay the charge, the information regime supporting the charge and the changes to the QROPS regime as a result of the introduction of the charge.

The HMRC guidance can be found at:

gov.uk/government/publications/qualifying-recognised-overseas-pension-schemes-charge-on-transfers

Overseas transfer charge (on certain transfers)

The overseas transfer charge applies to certain transfers from a:

- registered pension scheme to a QROPS
- QROPS (or former QROPS) to another QROPS

The overseas transfer charge does not apply to transfers that the member requested before 9 March 2017 or to funds derived from such transfers. This includes the transfer of all pension rights including pension credit rights received from a pension sharing order following a divorce and all pensions in payment. The term pensions in payment includes all pensions in payment to members as well as where the individual has become entitled to any rights as a beneficiary.

Where a transfer was not liable to the overseas transfer charge when it was made, the tax charge can still become due after the transfer where there is a change of circumstances (see below). Conversely, where the overseas transfer charge was paid on a transfer, a change in the member's circumstances in the relevant period (see below) following the transfer may mean the tax charge can be reclaimed from HMRC.

Transfers from registered pension schemes

The overseas transfer charge arises on all recognised transfers from registered pension schemes to QROPS that were requested on or after 9 March 2017 if:

- the member has not provided the scheme administrator with all the required prescribed information before the transfer is made, or
- none of the following five conditions is met:
 1. the member is resident in the same country in which the QROPS receiving the transfer is established
 2. the member is resident in a country within the European Economic Area (EEA) and the QROPS is established in a country within the EEA
 3. the QROPS is set up by an international organisation for the purpose of providing benefits for or in respect of past service as an employee of the organisation and the member is an employee of that international organisation
 4. the QROPS is an overseas public service pension scheme and the member's employer participates in the scheme
 5. the QROPS is an occupational pension scheme and the member is an employee of a sponsoring employer under the scheme.

Transfers from registered pension schemes that are not recognised transfers will be subject to the unauthorised payments charge (and scheme sanction charge where appropriate). The overseas transfer charge will not arise on these transfers.

Transfers from QROPS or former QROPS

A transfer from a QROPS or former QROPS is only liable to the overseas transfer charge if it is an onward transfer in respect of an 'original transfer' and that onward transfer is made to a QROPS in the 'relevant period'.

An original transfer is either:

- a recognised transfer from a registered pension scheme to a QROPS, or
- a transfer of all or part of a member's UK tax-relieved pension fund to a QROPS

The relevant period is a period counted from the date of the original transfer, being:

- where the transfer is made on 6 April, five years from that date, or
- where the transfer is made on any other date, the period from that date until the next 5 April plus a further five years from 6 April.

For example, if the transfer is made on 13 June 2017, the relevant period runs until 5 April 2023 (13 June 2017 - 5 April 2018 plus 6 April 2018 - 5 April 2023).

Any onward transfer made after the relevant period has expired cannot be liable to the overseas transfer charge.

An onward transfer made in the relevant period will be liable to the overseas transfer charge, in the same circumstances (see above) as if the transfer were a recognised transfer to a QROPS.

Where a transfer includes pre 9 March 2017 funds, that part of the transfer that relates to pre 9 March 2017 funds is not liable to the overseas transfer charge. Pre 9 March 2017 funds are funds that derive from a transfer from a registered pension scheme, requested before 9 March 2017. This protection from the overseas transfer charge ceases when the funds are transferred back to a registered pension scheme.

Where a transfer includes an onward transfer that has previously been charged to the overseas transfer charge, and where the charge has not become repayable, that part of the transfer will not be liable to the overseas transfer charge.

Transferred funds are also only subject to the charge to the extent that they are referable to the member's ring-fenced transfer fund. Ring-fenced transfer funds comprise:

- funds transferred to the scheme under a relevant transfer from a registered pension scheme on or after 9 March 2017
- funds transferred to the scheme on or after 9 March 2017 under a relevant transfer of the whole or part of the UK-tax relieved funds of a relieved member of a QROPS
- funds transferred to the scheme on or after 6 April 2017 under a relevant transfer of UK-tax relieved funds of a relieved member of a relevant non-UK scheme that is not a QROPS

Overseas transfer charge (post transfer)

Where a transfer meets one of the conditions and so is not subject to the overseas transfer charge at the time of the transfer, it may become chargeable later (post transfer). This will occur if the conditions which were met to make the transfer tax-free cease to be met within a specified timeframe.

If a transfer is not liable to the overseas transfer charge because when the transfer is made:

- the member is resident in the same country in which the QROPS receiving the transfer is established, or
- the member is resident in a country within the European Economic Area (EEA) and the QROPS is established in a country within the EEA.

but after the transfer circumstances change so that neither of these conditions is met, the charge then arises. This only applies if the change of circumstances takes place within the relevant period from the date of the original transfer to the QROPS.

Calculating the overseas transfer charge

The overseas transfer charge is 25% of the 'transferred value' where it arises on a transfer.

Where the overseas transfer charge arises on a transfer from a QROPS or former QROPS to another QROPS, the transferred value is restricted to the amount of any sums and the value of any assets transferred that are attributable to the member's ring-fenced transfer funds (see above) under the scheme.

Where the overseas transfer charge arises on a post transfer event, the 25% tax charge is applied to the member's remaining ring-fenced transfer funds in the scheme at the time of that event. Therefore, any benefits taken under the scheme before the event would be excluded from the calculation.

Repayment of overseas transfer charge

If circumstances change so that a transfer that was chargeable to the overseas transfer charge would have not been chargeable had the new circumstances existed at the time of the transfer, a repayment can be claimed regardless of whether the change of circumstances takes place after the original transfer or after any onward transfers.

This only applies if the change of circumstances takes place within the relevant period from the original transfer to the QROPS. Repayments can also be made where the charge was deducted and paid in error.

Any amounts repaid will not be more than the amount paid. For example, if £25,000 was meant to have been paid and only £20,000 was actually paid, HMRC will only repay the £20,000. Also, if when the original payment was made, it was late and penalties and/or interest were also paid, the repayment can only be the amount of the overseas transfer charge actually paid and no penalties and/or interest will be repaid.

Comment

The complexity surrounding UK pension transfers and the associated advice continues to increase. For those living in NZ, the 'same country exemption' will mean a transfer of UK pension savings to a NZ scheme will be safe from the OTC. However, investors circumstances change and either a return to the UK or a move to a different country could trigger a 25% OTC. Advisers and Investors will need to be aware of possible situations and stay vigilant to avoid unexpected costs.

Main Points

- OTC only applies to new UK transfers from 9 March 2017
- OTC is excluded if member is resident in the same country as the QROPS
- OTC remains relevant for five UK tax years from the date of original transfer
- Can transfer from one QROPS to another
- Can reclaim paid OTC if qualify for exemption within five years of original transfer