GARRISON BRIDGE
Superannuation Scheme

Pension Transfer Presentation

Matthew Harris

Tax Specialist

Topics

- Introduction
- Taxation of Superannuation – NZ vs. UK
- Tax Residency
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- Old Rules
- New Rules
- Taxation of Foreign Pensions
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p. 027 257 4071 | e. info@navigatoraccounting.co.nz | www.navigatoraccounting.co.nz

Matthew Harris
Navigator Accounting & Taxation

- 9 years working for Inland Revenue as a Specialist Taxation Auditor. 3 years in private practice.
- Worked predominantly in the complex taxation and international area.
- Large amount of experience in offshore taxation including the application of the Financial Arrangement ,CFC, FIF and Foreign Trust rules.
- Particular interest in new migrant taxation including the application of the transitional residency and foreign superannuation transfer exemptions.
- Excellent working knowledge of Inland Revenue policy and procedures!

Taxation of Superannuation – NZ vs. UK

Domestic superannuation in **New Zealand** is based on a Taxed Tax-Exempt (TTE) system, whereby contributions are generally made from post-tax income and gains that accrue in the fund are also taxed. This means any payments received from the scheme are exempt from tax.

Domestic superannuation in the **United Kingdom** is based on an Exempt Exempt-Taxed (EET) system, whereby contributions are usually deductible and gains accrue tax free in the fund. This means any payments received from the scheme are taxed.

New Zealand Tax Residency

- Individuals can become a resident of NZ for tax purposes in two ways:

    1. PPOA Test (overriding test)
    2. 183 Day Test

- This not to be mistaken with Permanent Residency.
- It is possible to be a tax resident of more than one jurisdiction (Dual Residency).
- Can be triggered by new migrants earlier than intended.

Transitional Residency Exemption

- Applies from 1 April 2006.
- Exempts new migrants and returning New Zealander's from most types of offshore income, including pensions and superannuation.
- Subject to the 10 year rule.
- Working for Families will opt a person out of the exemption (irrevocable).
- Exemption automatically granted if criteria met.
- Starts on the first day they become a NZ tax resident and runs for 48 months from the end of the month that they trigger their tax residency (ignores backdating rule).

Foreign Superannuation Transfer Exemption

- Applies from 1 April 2014.
- Only applies to foreign superannuation income.
- Similar to the transitional residency exemption, except that you do not have to have been outside NZ for 10 years previous and you cannot opt out.
- Applies retrospectively and reduces assessable period.
- Starts on the first day a person becomes a NZ tax resident and runs for 48 months from the end of the month that they trigger their tax residency (ignores backdating rule).

Taxation of Superannuation Transfers
Old Rules

- Complex and difficult to understand.
- Taxed under the FIF rules on an accrual basis or taxed on a withdrawal basis in relation to how the lump sum was received, i.e. pension/annuity, foreign dividends, Foreign Trust distribution or a return of capital.
- The way each person was taxed on the superannuation withdrawal could vary widely and it was not always clear that the rules resulted in a fair taxation outcome (equity problems).

Taxation of Superannuation Transfers
New Rules

- From 1 April 2014 , the FIF rules generally ceased to apply to interests in foreign superannuation schemes*

- Only taxed when:
  - An amount has actually been received (either as pension or lump sum);
  - A transfer is made into a NZ or Australian Scheme*;
  - A transfer is made to another taxpayer*

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New Methods

- Schedule Method (default method)
- Formula Method
- Low Compliance Option (15%)

Schedule Method

- Is designed to approximate the tax that would have been paid on an accrual basis while the person was a NZ tax resident together with an interest charge that recognises that the payment of tax has been deferred until receipt.

- Assessable period is central to the amount of tax payable.

Formula Method

- The Formula Method taxes a person based on the actual gains that have been earned by their scheme while they were a NZ tax resident, again together with an interest charge that recognises that the payment of tax has been deferred until receipt.

- Can only be used by people with defined contribution schemes.

- To use this method a person must be able to obtain the market value of the foreign superannuation scheme at the time the exemption period ends together with information about contributions made.

Low Compliance Option

- This option is available to people **who received** (or applied to receive) a lump sum from their foreign superannuation scheme (either as a cash withdrawal or a transfer to another scheme) between 1 January 2000 and **31 March 2014** but did not comply with their tax obligations relating to the interest in their scheme at that time.

- In these cases, in order to remedy their non-compliance, a person can elect to include 15% of the lump sum received in their 2014 or 2015 income tax return and pay tax on that amount. In the alternative, a taxpayer can elect to apply the rules as they applied at the time that the lump sum was received.

- If the person has already filed their 2014 or the 2015 income tax return but would like to apply the low compliance option, they will have to make an amendment request for either of those two years by way of voluntary disclosure.

Taxation of Foreign Pensions

- The new rules do not affect the taxation of foreign pensions (social security pensions) received by NZ tax residents which continue to be taxed in full on receipt.

- In most cases NZ has the sole taxing rights to foreign periodic pensions under the applicable DTA's. This means that generally no foreign tax credit is allowed in NZ.

- In a few situations, New Zealand will allow a FTC for income tax paid on foreign pensions such as when a DTA gives the source country the right to tax or partially tax the pension or if there is no tax treaty with that country.

HMRC Relief at Source

- Under article 19 of Double Taxation Relief (United Kingdom) Order 1984, NZ has the sole taxing rights for pensions and annuities derived from the UK by NZ tax residents.

- This means that we can apply to stop taxation at source and the person can receive the pension or annuity tax free for the period of their transitional residency exemption.

- We can also apply to have tax already deducted in the UK returned.

New Superannuation Withdraw Rules (UK)

- From April 2015 it is possible for a person to take pension benefits from personal pensions without buying an annuity in certain circumstances.

- Must be 55 or over

- 25% tax free and remainder taxed at marginal rates

- What about the NZ/UK DTA?

- IR believe that this should be able to be received tax free in NZ if a transitional resident

- HMRC contend that it is a penalty not a tax

Background of Zero Rate PIE’s

- Original rules designed to operate as if the PIE member had invested directly in the underlying asset.
- Treatment of non-resident investors did not follow source rules as non-resident investors were taxed at a flat 28% on their PIE income, regardless of the income's source and type.

Zero Rate PIE's

- A Zero-rate PIE will invest offshore and only hold a minimal amount of investments in New Zealand.
- They will apply the zero rate to attributed PIE income of notified foreign investors.

How it works - S HR 8 & Zero Rate PIE’s

- Transitional residents are given a four-year exemption on their foreign-sourced investment income. However, their New Zealand-sourced investment income is fully taxed from day one.

- So, if a transitional resident invests in a foreign investment PIE that derives New Zealand-sourced income, the PIE should pay tax for the transitional resident on the basis they are a New Zealand resident. This includes an investment in a foreign investment variable-rate PIE.

- However, where a transitional resident invests into a **foreign investment zero-rate PIE** they will only derive offshore income and the transitional resident should be able to use the zero-rate prescribed investor rate for this income.

- Transitional residents that cease to be eligible for the zero rate can continue to use the zero rate until the beginning of the next tax year.

The Outcome - Zero Rate PIE's

- A notified foreign investor should have no tax liability on their PIE income unless they have been treated as a notified foreign investor when they do not in fact meet the relevant requirements.
- Transitional Residents cannot be notified foreign investors. However, they are able to elect a 0% tax rate in zero-rate PIEs.
- This is on the basis that, while Transitional Residents are generally not taxed on their foreign-sourced investment income, they are taxed as a New Zealand resident on any New Zealand-sourced income.

Example 1 – Schedule Method

- Joseph migrated to NZ permanently on 10 May 2006 and purchased a house (PPOA) on 14 August 2006. He had not been a tax resident in the last 10 years.

- Joseph did not comply with the FIF rules at any time since becoming a NZ tax resident.

- Joseph applied to transfer his UK pension to NZ on 5 March 2015.

Example 1 - Continued

- Exemption Period Calculation:

Arrival Date In New Zealand	10/05/06
Date House Purchased in NZ (PPOA Date)	14/08/06
183 Day Date	09/11/06
Start Date of Exemption	**10/05/06**
Start Date of Calculation	14/08/06
End Date of Exemption Period	**31/08/10**

- Assessable Period Calculation:

Details	**Date**
Start Date of Assessable Period	1/09/10
Date of Transfer	5/03/15
Number of Assessable Periods	**4**
Workings Check	**Year**
Start Tax Year	2011
End Tax Year	2015

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Example 1 – Continued

- Even though Joseph did not comply with the FIF rules, as he transferred after 1 April 2014 the new rules apply and he is taxed under the Schedule Method (or the Formula Method).

- Joseph's assessable period is reduced by the the duration of his transitional residency exemption.

- As Joseph acquired a PPOA before meeting the 183 day test, his exemption period will run from 48 months from the end of the month in which he purchased the property, however the first day of the exemption will be the day he arrived in NZ, as once he meets the 183 day test, his residency start date will back-date to the first day.

Example 1 – Continued

- Would the tax outcome be different if Joseph migrated to NZ on 10 March 2006
- **No. He would still be eligible for the new Superannuation Transfer Exemption period which applies retrospectively.**

- If David had complied with the FIF rules, how would his situation change?
- **He would have the option of using the FIF grand-parenting rules and any withdrawal would be tax free.**

- What would be the outcome if Joseph transferred the pension on 10 July 2010?
- **The amount would be tax free as he would be within his transitional residency exemption period.**

- Would the tax outcome be different if Joseph had transferred on 20 April 2013?
- **Yes. Joseph would have to apply either the FIF rules up to the date of transfer or the 15% option.**

- What difference would it make if Joseph transferred the pension on 5 April 2015 instead of 5 March 2015?
- **He would be subject to taxation under year 5 of the schedule method, not year 4.**

Example 2 – In and Out and In

- Stephanie visited NZ on a working visa for 12 months between 5 July 2005 and 26 July 2006.

- She liked NZ so much she decided to return permanently 18 months later on 31 December 2007.

- On 31 May 2012 Stephanie transferred her foreign superannuation to New Zealand.

- She did not file any income tax returns during the period 1 January 2007 and 31 May 2012.

Example 2 - Continued

- Is Stephanie eligible for the Transitional Residency Exemption?
- **No. She has been a NZ tax resident in the last 10 years – 183 day rule.**

- Is Stephanie eligible for the new Foreign Superannuation withdraw exemption?
- **No. She transferred her pension to NZ before 1 April 2014.**

- What are Stephanie's options?
- **She can apply the FIF rules in prior years or use the 15% low compliance option.**

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Example 3 – FIF Rules

- Bruce migrated to New Zealand on 1 July 2008 after 9 years living and working in the United Kingdom.

- His Transitional Residency exemption period expired on 31 July 2012.

Arrival Date In New Zealand	01/07/08
Date House Purchased in NZ (PPOA Date)	28/07/08
183 Day Date	31/12/08
Start Date of Exemption	**01/07/08**
Start Date of Calculation	28/07/08
End Date of Exemption Period	**31/07/12**

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Example 3 - Continued

- Bruce filed Income Tax returns for the years ended 31 March 2013 and 31 March 2014 and included FIF income from his offshore superannuation scheme.

- On 10 September 2014 Bruce transferred his foreign superannuation scheme to NZ.

Example 3 - Continued

- If Bruce decided to apply the Schedule Method to his transfer, what would happen to the FIF tax already paid?
- **He would lose it, as a tax credit is not available for previous tax paid on income arising under the FIF rules.**
- Would it make a difference if Bruce only returned FIF income in his 2013 return, not his 2014 return?
- **Yes. He would not be grand-parented, as a person must treat their interest in a foreign superannuation scheme as an attributing interest in all returns filed before 20 May 2013 (the FIF grand-parenting cut off date).**
- What difference would it make if Bruce acquired his interest in the foreign superannuation scheme whilst he was a NZ tax resident?
- **He would have to account for his interest under the FIF rules.**

Example 3 - Continued

- What are Bruce's options?
- **Bruce can choose to apply the FIF rules up to the date of transfer and pay no tax on the lump sum received or apply the schedule method. (Year 2 rate = 9.45%)**

Details	Date
Start Date of Assessable Period	01/08/12
Date of Transfer	10/09/14
Number of Assessable Periods	**2**

Example 4 – New UK Rules

- Elaine is a 58 year UK migrant who immigrated to NZ on 14 February 2014. On 10 August 2015 Elaine decides to withdraw her UK superannuation in a lump sum directly from her UK fund provider. The total amount withdrawn was $180,000 GBP.

- Elaine can take 25% tax fee in the UK = $46,250.00 GBP

- The remaining 75% will be taxed at her marginal tax rate in the UK.

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Example 4 – Continued

- What tax will Elaine pay in the UK on the withdraw?
- **Based on UK marginal rates she would pay 48,143.00 GBP in tax, roughly 104,604.00 NZD!**

- Would the situation be different if Elaine transferred her pension to NZ?
- **Yes. She would have paid no tax, as she is a Transitional Resident (in the alternative the superannuation transfer exemption would apply).**

Example 5 - Private and Public Pension

- John is a 71 year old UK citizen who migrated to NZ permanently on 10 March 2014, he had not previously been a tax resident of NZ.

- On 21 May 2015 he approaches a pension transfer agent and triggers the transfer of his private pension to NZ. In addition John is receiving a state pension from the UK government.

Example 5 - Continued

- Will John pay tax on his pension transfer to NZ?
- **No. John is a Transitional Resident who has transferred his pension to NZ within the exemption period.**

- What options are available with regards to his state pension?
- **John can apply to the HMRC to stop tax at source on the state pension. This is because NZ has the sole taxing rights to this income. He will be able to receive this pension tax free in NZ for the duration of his transitional residency exemption period.**

GBSS Road Show Example 1

- Peter, originally from the UK, lived in New Zealand for 3 years in 2004-2007 before returning to the UK. Peter then returned to live in New Zealand in August 2015 and has no intention of leaving.

- Does he qualify for any Foreign Superannuation tax exemption?

GBSS Road Show Example 2

- Jane, age 47, visited New Zealand for 3 months in 2014 and decided to migrate here. She arrived permanently on 27th April 2017.
- What is her tax position in relation to transferring her UK pension?

GBSS Road Show Example 3

- Tane is a returning New Zealander. He originally left in May 2010 and returned to New Zealand permanently in July 2017.
- What is his tax position in relation to transferring his UK pension?

GBSS Road Show Example 4

- James migrated to NZ permanently from the Canada on 1 June 2016. On 10 August he transfers his pension into New Zealand and invests this in a Zero- Rate Pie.
- What is his tax position?

Navigator Accounting and Taxation Services

We can help with the following common tax issues for new migrants:

- The taxation of pension transfer's.
- Relief from tax at source on HMRC withdraws and UK annuities.
- Financial Arrangement rules in relation to offshore mortgages and loans/bank accounts.
- Migration of offshore Trust's into the New Zealand tax system.
- Compliance with CFC rules for offshore companies.
- Compliance with FIF rules for offshore shares.
- Tax residency determinations.
- Voluntary disclosures, debt work and Inland Revenue audit management.

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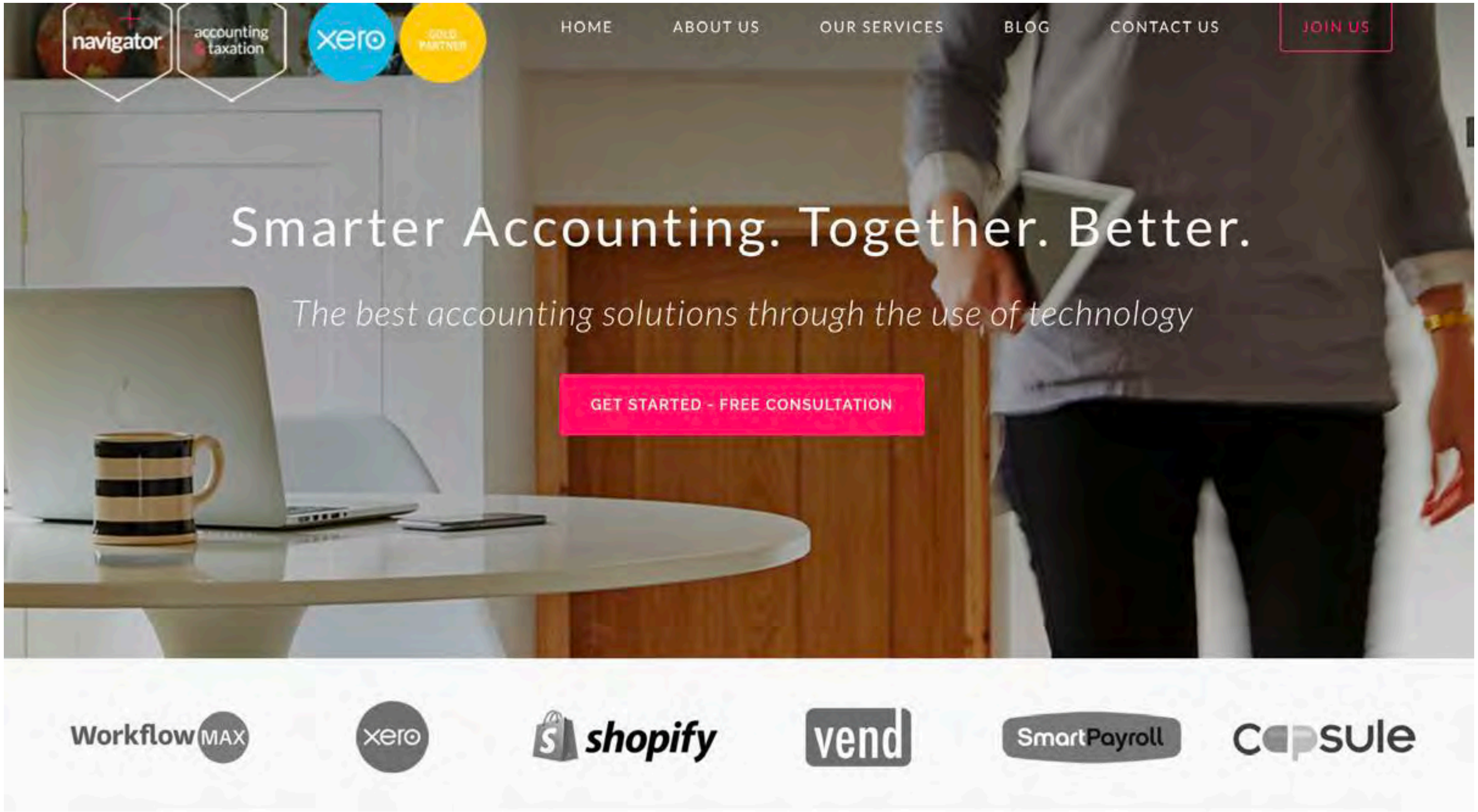
Any Questions?



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