QNUPS: Retirement Wealth Planning at Last

Wealth management and pension planning aren't often mentioned in the same sentence, perhaps resulting from a line of thought that adjudges pension benefits to be out of kilter with the long-term financial aspirations of the wealthy.

Whatever the merits or otherwise of that thinking, you can see where it comes from. UK rules ensure that you can't save more than £40,000 a year into a registered pension and (even lower for those earnings above £150,000) and over the course of your lifetime you are restricted to a total tax-relieved pension pot of £1,000,000. You can't hold residential property through a registered scheme and commercial property values generally don't sit well with the lifetime allowance, so investment choices for the tax-favoured version in the UK are limited too.

Little wonder, then, that pensions are hardly the hot topic amongst private client advisers.

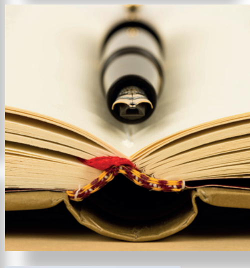
However, all that is set to change as the benefits of Qualifying Non-UK Pension Schemes, QNUPS as they are known, become more widely understood.

QNUPS are not actually all that new, having been introduced by The Inheritance Tax (Qualifying Non-UK Pension Schemes) Regulations 2010. The original purpose of the regulations was to tidy up the IHT treatment of schemes that had been transferred overseas, mostly by UK expatriates retiring abroad. The regulations set out the criteria that a non-UK scheme must meet in order to qualify as a QNUPS. Although not particularly complex, these regulations are specific in nature, so it is always worthwhile verifying that the characteristics of a non-UK scheme are such that it can properly confer the many benefits a QNUPS has to offer. An independent tax or legal opinion is useful in this regard and a good QNUPS provider will have this available.

Contributions to a QNUPS do not attract any UK tax relief. However, unlike UK registered schemes, you can contribute as much as you like without any adverse income tax consequences.

By contributing to a pension scheme you are seeking to ensure that, in return, you receive valuable future pension benefits, with the result that there is no transfer of value for IHT purposes and no danger of the initial charge being in point where QNUPS are concerned. Non-cash contributions – i.e. in specie transfer of assets – are a disposal for CGT purposes and therefore subject to tax where such assets are standing at a gain. In specie transfers of land or property should not attract SDLT.

"Structure gross roll-up of income and gains"



Once the QNUPS is established, it is generally possible to structure gross roll-up of income and gains but one should be cautious of any QNUPS arrangement that boasts of gross roll-up as a matter of course. Capital gains arise to the QNUPS trustees as a non-resident entity and therefore are not subject to CGT, as would generally be the case. Income arising to the trust is not treated as that of the member but where the income is produced from UK assets the income arising to the pension is taxed at the rate applicable to trusts. Consequently, some form of wrapper, for example a life policy, may often be used for UK income-producing assets.

Rather appealingly, though, the structure of a QNUPS is such that, currently, the non-resident CGT charge does not apply, nor should ATED or the 10 year charge. Consequently, residential property could become a very appealing asset class where QNUPS is concerned.

The benefits from a QNUPS, as befits a traditional retirement benefits structure, generally come in the form of a maximum 30% lump sum with the balance being used to provide an income for life. Expect to see the scheme rules stipulate a maximum age to commence benefits, 75 being typical, a feature more consistent with genuine pension planning than outright succession planning. However, because QNUPS would generally be seen as top-up provision over and above the limitations of a registered scheme, a fairly flexible approach to the income element is certainly preferable. For example, the ability to defer income in years when it is not needed, or indeed to bring forward income from future years, is an attractive feature of some QNUPS, as is being able to set a low level of pension drawdown where there are already healthy levels of income in retirement from other sources.

Whatever level and frequency of income is chosen, currently only 90% of it will be taxed in the UK but this looks likely to become 100% following the Autumn Statement. Of course, any benefits paid on death from a QNUPS will not fall into the member's estate for IHT purposes.

All of the above points towards a mostly benign or otherwise neutral tax treatment which should stimulate much positive thought within the private client adviser community. There is a gentle health warning, though. Put simply, any QNUPS must be real a pension arrangement. Using the structure of a QNUPS for short-term IHT planning alone is likely to fall foul of a number of anti-avoidance tests. Pension saving does not, almost by definition, tend to start in old age, ill-health (or both) nor does it tend to swallow up the majority of an individual's estate so, where characteristics such as these exist, be alert to the possible pitfalls.

What is clear, though, is that QNUPS are extremely effective if structured properly and managed well, so it certainly pays to work only with experienced professional trustees with a good understanding of UK tax matters and not be tempted towards low cost, boiler-plate offerings.

QNUPS is a style of pension that very much suits the modern world. Historically low lifetime allowances result, quite naturally, in historically low maximum income levels from the state-incentivised pension options. Those seeking higher levels of retirement income need a different state-approved alternative and QNUPS could well be it. Also people at retirement age are not all aspiring to a dependant-free existence any more. For example, soaring education costs for their offspring (not to mention the debts they run up as a result of becoming educated) create a much longer tail of financial dependence than in days gone by. Looking up a generation, people are living longer and middle-aged retirees commonly now find their own parents are in need of specialist, and costly, long-term care. People in their 50s and 60s could, conceivably, be facing a much higher financial burden than ever before for both their parents and children, and far beyond that which could be covered by state or registered pensions.

So, sensibly, a long-term rainy day fund is created to cover these eventualities but if that rainy day never comes the safety net may not be required. Where that fund is a QNUPS then at least it can eventually be passed on without a painful IHT hit. Although IHT isn't the sole driver for this kind of QNUPS arrangement, that doesn't mean that we should be shy of acknowledging the considerable IHT benefits which could arise and which, lest we forget, are bestowed upon it by statute not loophole. HMRC's recent IHT changes will affect far more people in the near future, not least non-doms and non-residents, so pension planning through QNUPS has to be a rising consideration.

Perhaps wealth management and pension planning aren't such awkward bedfellows after all.

Martin Hall - Director
martin@ofl.co.im