UK PENSIONS

SEPARATION GUIDE

FOR THOSE SPLITTING PENSIONS

charter square

WELLINGTON AUCKLAND MANCHESTER

SPLITTING A UK PENSION

As with any asset a pension is generally considered and included when it comes to matrimonial asset splitting at the time of divorce or legal separation with the intention to divorce. In this article we explore splitting a UK pension transfer.

Divorce or legal separation with the intention to divorce may involve the splitting of a UK pension, but unlike some other financial instruments they can be difficult to value and unwind and split, particularly because it's a pension and generally illiquid until you reach you're your designated retirementment age.

Generally lawyers, tax and financial advisers are unfamiliar with the process of valuing or transferring a UK pension, let alone providing advice resulting in the split between the separating parties. So, it's important to have experienced people familiar with the process from start to finish.

For most separating parties timing is crucial and with the courts required to be part of the process from a compliance perspective, timeframes can be long, leading to high costs and frustration. Mitigating these delays and costs can sometimes save hundreds if not thousands of dollars in lost time and legal fees.

We have conducted numerous UK pension transfers for the purpose of marital splits and our experience and advice can save time and money in legal fees and other costs such as tax by ensuring the process runs smoothly and in accordance with the requirements of UK and NZ laws.

There are several steps in the process so lets get started:

1. Understanding the value of a UK pension

Understanding the true value of a UK pension is often not easy, especially if the pension is a final salary pension or contains valuable benefits like guaranteed annuity rates.

Over 60% of UK pensions are in final salary schemes so great caution should be excercised when examining UK pensions as separation assets. The most straightforward way to establish the economic value of a UK pension for the purposes of a NZ divorce or separation is to transfer the pension to New Zealand and deduct the resultant taxes arising from the transfer. This creates a liquid asset for the transferor and a liability in respect of the tax, if any attributable to the transfer.

But what if:

- The UK pension cannot be transferred (like unfunded public sector schemes such as NHS)
- The person who owns the pension does not want to transfer it? But rather wants to receive the pension as a stream of income in the future.
- The pension is worth more after tax if left in the UK?
- The tax bill on transfer is too large to be paid by either party in the separation and would create financial difficulties for both parties?
- One party intends to return to the UK post separation and thus would potentially lose out from a transfer to New Zealand because of any tax bill created.

What then is an equitable split of the pension and how do you value that split for each person? As most pensions form a significant portion of the net worth of the holder (the average transfer from the UK is over £100,000) care must be taken.

81%	60%	£100k
have private pensions in the UK	are final salary schemes	average transfer value from UK to NZ

Using a final salary pensions as an example, the value of these pensions is they provide a stream of guaranteed income into the future. When considering a pension transfer the UK provider calculates the value of that income stream as a

Cash Equivalent Transfer Value (CETV) as what they are prepared to transfer out to another scheme to alleviate themselves of the responsibility to pay that future income stream. CETVs rise and fall dramatically based on inflation and bond yields in the UK and while a CETV today might by £100,000 it could just as easily be £90,000 or conversely £110,000 in three months time. That's despite there being no change in the underlying future guaranteed income stream. So pinning a separation valuation for the UK pension solely on the CETV is erroneous if that UK pension value has not been cystallised through a transfer.

2. Getting the right advice

As previously outlined, there may be benefits in a UK pension that may not be fully understood, and are therefore hard to value and split. Conversely, someones individual circumstances may allow them get exceptional benefits by living in New Zealand and having a UK pension asset.

Getting the right advice is critical so you understand:

- If there's tax to pay on a UK pension transfer could it be significantly lowered or even zero – increasing available funds for both parties in a separation
- Could both parties end up splitting their pensions – so that equal access is given
- What can be done in the future and how decisions now might impact the future value of any split transferred pension, such as if one party returned to the UK, or simply left NZ, would the 25% Overseas tax charge apply to their split pension asset

So, it's crucial these factors are taken into account before moving to the next step.

To understand the steps required before you start the process. We provide you and your legal advisers with a checklist so you don't miss any steps in the process, once you get started we provide both NZ and UK authorised and regulated advice regarding the transfer of a UK pension for the purpose of a split.

3. Agreeing on the actual split percentage.

This may be a complicated process when taking into account all the factors regarding the value of the pension in concert with the other assets included in the split, at this stage and if necessary, your legal advisers may be useful. Depending on the course of action that you take with your UK pension we can help you and your legal advisers:

- If the choice is to transfer the UK pension to New Zealand:
    - The length of time the transfer will take and the process that will be followed
    - The tax obligations and for whom they will be applicable
    - Where the funds will end up and the options for splitting them and how to do this
- If the choice is to transfer the UK pension to another UK scheme or leave it where it is:
    - The length of time the transfer will take and the process that will be followed for a intra UK transfer
    - The tax obligations and for whom they will be applicable
    - Where the funds will end up and the options for splitting them and how to do this

4. Getting a court order

If a UK pension is transferred to New Zealand and agreement has been reached on how it should be split between parties then a court order is necessary to make the agreement binding. A court order is required in New Zealand before the scheme receiving the pension transfer can allocate funds received from the UK to someone other than the pension owner. A UK court order is not binding in New Zealand and the receiving scheme can't act on it. The court order will reflect what has been agreed between the parties or where agreement cannot amicably be reached the courts may decide on the amount to be split after considering all the facts of the case.

If you do not have a court order then you must apply to the courts in New Zealand for one. This process will cost at least $700 (based on October 2020 fees).

5. Selecting the right scheme to transfer to

Like any investment it's important to ensure you are transferring to the right scheme with the right funds that match your investment preference outcomes and risk profile. Charter Square works with authorised financial advisers with experience in QROPS and specifically advisers that have worked with pension splits. It may be when the funds arrive, they don't stay in the same scheme so understanding if the scheme you transfer to will allow an immediate transfer out to another scheme is critical.

6. Access to and the rules on the funds

The non-pension holder or beneficiary of the split is subject to the same rules as the pension holder:

- They can only access the funds in the same circumstances as set out by the UK rules. For simplicity sake no access until 55 years old. Currently you can access the funds from age 55 (potential rising to age 57 in 2028).
- If they transfer the funds to New Zealand and then leave New Zealand within five years the 25% overseas transfer charge (OTC) may apply
- They cannot offer the funds as security, take a payment before 55 (even under NZ hardship rules), transfer out to a non-QROPS scheme without a 55% tax charge

What next? If you are caught up in a pension split or have friends or family that need help navigating the process contact us and speak to one of our specialists and we can guide you through your options and the process.

GET YOUR FREE PERSONAL UK PENSION REPORT

Everything you need to get the decision right in one place:

- ✓ UK pension analysis
- ✓ UK and NZ tax assessment
- ✓ Financial comparisons
- ✓ Scenario planning
- ✓ Future considerations

It's been the starting point for thousands of clients who have made an informed decision on whether to transfer their UK pensions.

GETTING IT RIGHT COUNTS

Thank you kindly for keeping in touch with me. For now, I will not be moving my pension. I will however be keeping your details and referring back to you when I wish to pursue it. You by far are the best party to deal with, no nonsense, professional and in my opinion genuine. I do sincerely thank you for your advice to date. **GE**

SIMPLE EXPLANATIONS

I'd put my UK pension savings in the "too hard" basket for a long time - navigating the respective IRD requirements, and the world of QROPS wasn't something I wanted to spend time on. While, financially, my pension transfer will have been at the lower end of the scale I received first class communication throughout the process, with all the document completion (the hard work) explained and completed for me, ready to sign ... as well as a clear explanation of current and potential tax implications of the transfer. Overall the process couldn't have gone smoother. **MC**

SIMPLE FACTS ABOUT US

over
5,000
transfers

worth
$450m
transferred

from
800
UK pension providers

Charter Square has been transferring UK pensions to New Zealand since 1999. As one of the first pension transfer providers in the world Charter Square has built an extensive and unrivalled knowledge of the QROPS market and the tax and legislative environment. Our staff present to NZ Government Select Committees, assist the IRD on foreign superannuation taxation legislation and are regularly consulted as experts by media and the Institute of Financial Advisors on QROPS and UK pension transfers.

Charter Square operate an office in the UK to liaise directly with your UK pension provider in the relevant time zones to ensure your transfer is executed on a timely basis and without problems. Our processes of thorough New Zealand scheme review and detailed understanding of your UK pension(s) allow you to receive a full and robust opinion on your UK pension and the implications of transferring it.

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