HM Revenue & Customs

The overseas transfer charge

Guidance
8 March 2017

Contents

Introduction

This guidance applies from 9 March 2017 to the overseas transfer charge, the new tax charge that arises on transfers to qualifying recognised overseas pension schemes (QROPS) unless the transfer is excluded from the charge.

Chapter 1 – Actions required to implement the overseas transfer charge

1.1 A qualifying recognised overseas pension scheme (QROPS) is a pension scheme established outside the UK that is broadly similar to a UK registered pension scheme. A QROPS can receive transfers from registered pension schemes free of tax (up to the lifetime allowance).

1.2 From 9 March 2017 certain transfers to and from a QROPS will be liable to a 25% tax charge called the overseas transfer charge.

1.3 This guidance explains

- the circumstances in which the overseas transfer charge arises,
- who is liable to pay the tax charge tax,
- how to pay the tax charge,
- the information regime supporting the overseas transfer charge and
- changes to the QROPS regime as a result of the introduction of the tax charge.

Actions you should take

QROPS scheme managers - action required by 13 April 2017

1.4 Scheme managers of schemes that were QROPS on 8 March 2017 must decide if they wish their scheme to continue to be a QROPS and operate the overseas transfer charge.

1.5 You must submit a revised undertaking to HM Revenue and Customs (HMRC) by 13 April 2017 if you want your scheme to continue to be a QROPS.

1.6 If you do not do this your scheme will stop being a QROPS from 14 April 2017.

1.7 Scheme managers should:

- Read the guidance to understand their responsibilities for operating the overseas transfer charge.
- As explained at paragraph 9.3 sign and send the revised undertaking (APSS 240) to HMRC by 13 April 2017.

Registered pension scheme administrators

1.8 If you are asked to make a transfer to a pension scheme that tells you it is a QROPS:

1. Check to ensure that the pension scheme you are making the transfer to continues to be a QROPS after 13 April 2017. You are responsible for ensuring that your pension scheme does not make unauthorised payments.

2. If either the member or the overseas pension scheme manager tells you that the scheme will stop being a QROPS from 14 April 2017, you should not complete any transfer to the scheme after 13 April 2017. If the transfer is received by the overseas pension scheme on or after 14 April 2017 you will be liable to the scheme sanction charge.

3. If you are processing a requested transfer out and either the member or the overseas pension scheme manager asks you to stop the transfer, you should not make the transfer. Any transfer received on or after 14 April 2017 by a scheme that ceased to be a QROPS from that date will be an unauthorised payment and you will be liable to the scheme sanction charge.

1.9 Any transfer to a QROPS requested on or after 9 March 2017 may be liable to the overseas transfer charge. You need to read this guidance to find out

- when the overseas transfer charge arises
- how to calculate the tax charge
- how to report and pay the tax charge
- changes to the information you need to provide to members, HMRC and QROPS scheme managers

Members

1.10 If you transfer your pension savings to a non-UK pension scheme and that scheme is neither a

- registered pension scheme, nor
- QROPS

you will be liable to a tax charge (the unauthorised payments charge) of a least 40% of the amount of the transfer.

1.11 You are responsible for making sure that the non-UK pension scheme is either a QROPS or a registered pension scheme at the time the transfer is made.

1.12 If you request a transfer from a registered pension scheme to a QROPS on or after 9 March 2017 that transfer may be liable to a 25% tax charge called the overseas transfer charge.

1.13 In this context, a transfer has been requested when you have made a substantive request to the scheme administrator of your registered pension scheme on which they are required to take action in relation to the transfer. This means that you have given the scheme administrator an instruction to transfer £X or X% of your pension funds to a named overseas pension scheme. A casual enquiry is not a transfer request.

1.14 If you want to make a request for a transfer of your pension funds from a registered pension scheme to a QROPS on or after 9 March 2017, you should check whether the transfer will be subject to the overseas transfer charge. The guidance below under Overview of the overseas transfer charge explains when a transfer to a QROPS will be subject to the overseas transfer charge and gives details of the conditions which need to be met if the transfer is not to be subject to the charge.

1.15 You should also be aware that, 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. This will occur if the conditions which were met to make the transfer tax-free cease to be met within the five full tax years following the date of transfer. See the guidance below on Post transfer charges - the 'relevant period' for more details on this.

1.16 You must provide information to the scheme administrator (if transferring from a registered pension scheme) or to the scheme manager (if transferring from a QROPS or former QROPS) to enable them to establish whether or not the conditions are met and if the overseas transfer charge is due. You must also provide information to the scheme administrator and/or scheme manager in respect of certain changes in your circumstances following the transfer. The information you must provide is detailed below under Information requirements.

1.17 If the overseas transfer charge is due, you will be jointly and severally liable to the tax along with the scheme administrator (on transfers from a registered pension scheme) or scheme manager (on transfers from a QROPS or former QROPS, or where the tax becomes due as a result of the conditions ceasing to be met). See

Paying the overseas transfer charge below for details about how the tax charge is to be reported and paid.

Chapter 2 - Overview of the overseas transfer charge

2.1 The overseas transfer charge applies to certain transfers from a:

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

2.2 The overseas transfer charge does not apply to transfers that the member requested before 9 March 2017 or to funds derived from such transfers.

2.3 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 of the following beneficiary rights:

- dependants' scheme pension
- dependants' drawdown pension fund
- dependants' flexi-access drawdown fund
- nominee's flexi-access drawdown fund
- successor's flexi-access drawdown fund.

2.4 Where a transfer was not liable to the overseas transfer charge when it is made the tax charge can still become due for a period up to five tax years after the transfer where there is a change of circumstances. Paragraph 2.42 describes how a tax liability can arise after the transfer.

2.5 Similarly where the overseas transfer charge was paid on a transfer a change in the member's circumstances in the five tax years following the transfer may mean the tax charge can be reclaimed from HMRC. Chapter 7 provides guidance on when the tax charge may be repaid due to a change in circumstances and the process for reclaiming the tax charge.

2.6 The amount of the overseas transfer charge is 25% of the 'transferred value'. Chapter 5 of this guidance tells you how to calculate the amount of the overseas transfer charge.

Who is liable to pay the overseas transfer charge?

2.6 Where the overseas transfer charge arises in respect of a transfer from a registered pension scheme, both the scheme member and scheme administrator will be jointly and severally liable to the charge. This is similar to the situation with regard to the lifetime allowance (LTA) charge. The scheme administrator should deduct any tax due from the member's funds before making the transfer. The scheme administrator should report and pay the tax using the Accounting for Tax return (AFT). The member should report the tax charge, and pay any remaining tax, via Self Assessment.

2.7 Where the overseas transfer charge arises on a transfer from a QROPS (or former QROPS) it is the member and scheme manager that are jointly and severally liable to the tax charge. The scheme manager should deduct any tax due from the member's funds before making the transfer. They will then report and pay the tax to HMRC. The member should report the tax charge, and pay any remaining tax, via Self Assessment.

2.8 Where the overseas transfer charge arises in the 'relevant period' due to an event after the transfer was made (see 2.42) the liable persons are the member and the scheme manager of the QROPS or former QROPS that currently holds the ring-fenced transfer funds. Liability is joint and several.

2.9 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.

2.10 Where the whole or part of a ring-fenced transfer fund is subsequently transferred to another QROPS, the funds form a ring-fenced transfer fund in the receiving QROPS.

2.11 Where a transfer is liable to the overseas transfer charge and the scheme administrator or scheme manager (as appropriate) has not deducted and paid the tax to HMRC because they thought the transfer was not taxable they may apply to HMRC for a discharge from liability to the tax charge. Chapter 8 provides more details about this.

Which transfers from registered pension schemes are chargeable

2.12 The overseas transfer charge arises on all recognised transfers 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 are 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.

       PTM112200 provides guidance on the definition of an international organisation. It does NOT simply mean a multi-national employer.
    4. the QROPS is an overseas public service pension scheme and the member is an employee of an employer that participates in the scheme
    5. the QROPS is an occupational pension scheme and the member is an employee of a sponsoring employee under the scheme.

2.13 A transfer request is made when a member has made a substantive request to the scheme administrator of their pension scheme on which the scheme administrator is required to take action in relation to the transfer. This means an instruction from the

member to transfer £X or X% of their pension funds to a named overseas pension scheme. A casual enquiry is not a transfer request.

2.14 If a transfer to a QROPS requested before 9 March 2017 is not completed but instead the funds are sent to another QROPS, that transfer is not a pre 9 March 2017 requested transfer. This is because the funds have not been sent to the scheme included in the transfer request made before 9 March 2017.

2.15 In relation to the member, residence means residence for tax purposes. The definition of tax residence will vary from country to country. Guidance on the UK statutory residence test can be found at https://www.gov.uk/government/publications/rdr3-statutory-residence-test-srt.

2.16 Where an individual is resident in more than one state in a tax year, residence in this context is to be taken as the country of residence for the purposes of the OECD model tax convention prevailing at the relevant time.

2.17 The EEA is made up of any EU member state as well as Liechtenstein, Norway and Iceland. (In the context of this question this includes Gibraltar which is considered part of the EU as part of the UK.)

2.18 An overseas public service pension scheme is the equivalent of a UK public service pension scheme, being a scheme set up by or under the law of the host country, e.g. by the equivalent of an act of parliament or regulations (secondary legislation) or approved by the government of the host country. It is established for the purpose of providing benefits in respect of services rendered to the country or any subdivision or local authority. This means the only benefits capable of being provided under the scheme are in respect of public service employment. What constitutes public service employment for any particular country will depend on the structure and nature of the government of any particular country. HMRC will use the nature of the UK public sector as a guide in deciding whether or not an employer is a public service employer and a scheme an overseas public service pension scheme.

2.19 The exemption from the tax charge in relation to occupational pension schemes is aimed at pension schemes set up by multi-national employers for their employees working in a branch, or for a subsidiary or other group company in another country.

HMRC will be keeping the use of the term occupational pension scheme in this context, and the scope of this exemption from the tax charge, under review.

Which transfers from registered pension schemes are not chargeable

2.20 Transfers which 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.

2.21 Transfers requested before 9 March 2017 are not liable to the overseas transfer charge.

2.22 A transfer request is when a member has made a substantive request to the scheme administrator of their pension scheme on which the scheme administrator is required to take action in relation to the transfer. This means an instruction from the member to transfer £X or X% of their pension funds to a named overseas pension scheme. A casual enquiry is not a transfer request.

2.23 If a transfer to a QROPS requested before 9 March 2017 is not completed but instead the funds are sent to another QROPS, that transfer is not a pre 9 March 2017 requested transfer. This is because the funds have not been sent to the scheme included in the transfer request made before 9 March 2017.

Transfers from QROPS or former QROPS

2.24 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'.

2.25 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 (see PTM113230 for definition) to a QROPS.

2.26 An onward transfer is in respect of an original transfer if it is a direct transfer or a chain of transfers.

Example

2.27 George transferred his pension rights from the XYZ registered pension scheme to QROPS 1. George then transfers his pension rights from QROPS 1 to QROPS 2. The transfer from QROPS 1 to QROPS 2 is an onward transfer as the transferred rights derive from the original transfer from the XYZ registered pension scheme.

2.28 Later George transfers his pension rights from QROPS 2 to QROP 3. The transfer from QROPS 2 to QROPS 3 is also an onward transfer as the transferred rights derive from the original transfer from the XYZ registered pension scheme.

2.29 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).

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

2.31 An onward transfer made in the relevant period will be liable to the overseas transfer charge 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 are 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

PTM112200 provides guidance on the definition of an international organisation. It does NOT simply mean a multi-national employer.

4. the QROPS is an overseas public service pension scheme and the member is an employee of an employer that 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.

2.31 In relation to the member, residence means residence for tax purposes. The definition of tax residence will vary from country to country. Guidance on the UK statutory residence test can be found at https://www.gov.uk/government/publications/rdr3-statutory-residence-test-srt.

2.32 Where an individual is resident in more than one state in a tax year, residence in this context is to be taken as the country of residence for the purposes of the OECD model tax convention prevailing at the relevant time.

2.33 The EEA is made up of any EU member state as well as Liechtenstein, Norway and Iceland. (In the context of this question this includes Gibraltar which is considered part of the EU as part of the UK.)

2.34 An overseas public service pension scheme is the equivalent of a UK public service pension scheme, being a scheme set up by or under the law of the host country, e.g. by the equivalent of an act of parliament or regulations (secondary legislation) or approved by the government of the host country. It is established for the purpose of providing benefits in respect of services rendered to the country or any subdivision or local authority. This means the only benefits capable of being provided under the scheme are in respect of public service employment. What constitutes public service employment for any particular country will depend on the structure and nature of the government of any particular country. HMRC will use the nature of the UK public sector as a guide in deciding whether or not an employer is public service employer and a scheme an overseas public service pension scheme.

2.35 The exemption from the tax charge in relation to occupational pension schemes is aimed at pension schemes set up by multi-national employers for their employees working in a branch, or for a subsidiary or other group company in another country.

HMRC will be keeping the use of the term occupational pension scheme in this context, and the scope of this exemption from the tax charge, under review.

Which transfers are not chargeable

2.36 A transfer that is made to a registered pension scheme or to another non-UK scheme that is not a QROPS is not liable to the overseas transfer charge.

2.37 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 that was requested before 9 March 2017. This may be via a direct transfer from a registered pension scheme or a chain of transfers between QROPS. This protection from the overseas transfer charge ceases when the funds are transferred back to a registered pension scheme.

Example

2.38 Hector transferred his pension rights from the ABC registered pension scheme to QROPS 1 in July 2010. In March 2016 Hector transferred these right from QROPS 1 to QROPS 2. In September 2017 Hector transfers these rights to QROPS 3. Hector's pension rights under QROPS 3 are pre 9 March 2017 funds as they derive from a transfer from a registered pension scheme that was requested before 9 March 2017 (that transfer was in July 2010).

2.39 Scheme managers should have details of when a transfer from a registered pension scheme or another QROPS was received by their scheme, so they will be able to identify transferred funds received before 9 March 2017. For transfers made from that date scheme managers should receive information from registered pension scheme administrators telling them whether or not the transfer was requested before 9 March 2017. There will also be a requirement on scheme managers for them to provide information on transfers to another QROPS as to what extent the transfer represents pre 9 March 2017 funds.

2.40 Where a transfer includes an onward transfer that was 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. When a scheme manager receives a transfer from a registered pension scheme or from another

QROPS or former QROPS they will be told if and to what extent the transfer is liable to the overseas transfer charge. Where a transfer is not liable to the overseas transfer charge scheme managers should be told the reason why.

2.41 Transferred funds are also only subject to the charge to the extent that they are referable to the member's ring-fenced transfer fund (see 2.9 for definition).

Post transfer charges - the 'relevant period'

2.42 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 are met, the charge now arises.

2.43 This only applies if the change of circumstances takes place within the relevant period of five full tax years from the date of the original transfer from the registered pension scheme to the QROPS.

2.44 Five full tax years (the relevant period) is either:

- 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.

2.45 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).

2.46 The member is required to inform scheme administrators and scheme managers if they change their residence - see 4.19 and 4.24.

Chapter 3 – Transfer process

3.1 The process of transferring from a registered pension scheme or a QROPS can be divided into the following stages:

1. Member requests transfer
2. The scheme administrator/manager tells the member what information they need before they can make the transfer
3. The member should give the scheme administrator/manager the required information
4. Due diligence checks should be completed by the scheme administrator/manager before making the transfer
5. The scheme administrator/manager establishes if the transfer is liable to the overseas transfer charge
6. Calculation of the tax charges due on the transfer
7. Transfer made
8. Information reports and tax payment post transfer

Information from members

3.2 When a member requests a transfer to a QROPS within 30 days of that request the scheme administrator or scheme manager (as appropriate) should tell the member what information they are required to provide:

- see paragraph 4.2 for transfers from a registered pension scheme
- see paragraph 4.11 for transfers from a QROPS or former QROPS.

3.3 If the member does not provide the information required by the legislation before the scheme makes the transfer that transfer will be liable to the overseas transfer charge.

Due diligence checks

3.4 Before making a transfer to a QROPS, scheme administrators and scheme managers should carry out due diligence checks to ensure that the scheme receiving the transfer is a QROPS. If the receiving scheme is not a QROPS

- any transfer from a registered pension scheme will be an unauthorised payment. The scheme administrator will be liable to the scheme sanction charge and the member will be liable to unauthorised payments tax charges on the transfer.
- any transfer from the QROPS or former QROPS will be the equivalent of an unauthorised payment and the member will be liable to unauthorised payments tax charges on the transfer.

3.5 HMRC cannot provide a list of all the checks required on making a transfer. The questions and checks required will vary depending on the facts and circumstances of each individual transfer. HMRC cannot confirm whether or not any individual transfer will, or will not be, an unauthorised payment.

3.6 Where a scheme administrator becomes liable to the scheme sanction charge they can apply to be discharged from it as set out at PTM135400. In applying for any discharge from the scheme sanction charge scheme administrators need to prove to HMRC that they took reasonable care in establishing the correct position before making the transfer.

3.7 What constitutes 'reasonable care' will vary depending on the individual facts and circumstances of each case. This does not necessarily mean that scheme administrators need to ask for evidence of compliance with every one of the conditions to be a recognised overseas pension scheme (ROPS). Scheme administrators may choose to risk assess the level and detail of required due diligence checks.

3.8 In exercising reasonable care HMRC expects scheme administrators and managers to consider the information provided and, where appropriate, ask further questions to establish the exact position, to check on any inconsistencies or unusual situations, such as:

- where the bank account to which the transfer is to be made is not in the same country in which the pension scheme is established
- where the bank account to which the transfer is to be made is not in the name of the pension scheme which will receive the transfer

- where the representative person of the receiving scheme that the scheme administrator is 'corresponding' with regarding the transfer is not based in the same country as the receiving scheme
- that the person the scheme administrator is 'corresponding' with regarding the transfer is not a representative of the pension scheme but, for example, a financial adviser, or they are asked to act through a third party.

3.9 Whilst HMRC considers these to be generally indicative that the scheme is not a ROPS or/and is being used as a liberation vehicle there may be genuine reasons why these circumstances arise. An explanation should be sought and considered critically. This is not an exhaustive list and scheme administrators and managers should not take it that these are the only checks that are required.

3.10 Any genuine pension scheme should be able to provide details of their scheme, e.g. scheme rules and membership booklets, and their regulatory and tax status. QROPS scheme managers should be able to explain how the tax and any regulatory rules for their country apply to their scheme, just as scheme administrators will be able to explain how UK tax and pension regulation rules apply to their registered pension scheme.

3.11 If a scheme manager is reluctant to provide such information this should be questioned; HMRC does not expect this behaviour from a genuine scheme manager of a genuine ROPS.

3.12 In addition to existing due diligence checks on the status of the receiving scheme, which as per PTM103000 includes checking the published list of ROPS notifications no earlier than 24 hours before the transfer is made, scheme administrators and managers will also need to check whether or not the transfer will be liable to the overseas transfer charge and on what basis. If the basis of the transfer allegedly not being chargeable is due to the nature of the pension scheme and the member's employment status HMRC expects scheme administrators to consider critically the information provided by the member. Where due care has not been taken in establishing the correct position of the transfer HMRC will not discharge the scheme administrator from liability to the overseas transfer charge as explained at chapter 8.

Is the transfer taxable?

3.13 A transfer from a registered pension scheme to a QROPS is a benefit crystallisation event (BCE 8). There are no changes to when a lifetime allowance charge arises and the processes that scheme administrators need to carry out in this respect. Guidance on the BCE is at PTM088690.

3.14 The lifetime allowance checks and BCE 8 calculation is done before the calculation for the overseas transfer charge.

3.15 If the member has provided all the information they are required to give under the legislation, scheme administrators and managers should have the information they need to work out if the transfer is liable to the overseas transfer charge.

3.16 If the member has not given all the information the legislation requires them to provide the transfer is liable to the overseas transfer charge.

3.17 Scheme administrators will need to ask themselves the following questions:

1. Was the transfer requested before 9 March 2017?

   See 2.22 for meaning of date of transfer request. Transfers requested before 9 March 2017 are not liable to the overseas transfer charge.

2. Is the member resident in the same country in which the QROPS is established?

   If the both the member and QROPS are resident in the same country the transfer will not be liable to the overseas transfer charge.

3. Are both the member and the QROPS resident in the EEA?

   If the both the member and QROPS are resident in the EEA the transfer will not be liable to the overseas transfer charge.

4. Is the scheme set up by an international organisation of which the member is an employee?

   PTM112200 provides guidance on the definition of an international organisation. It does NOT simply mean a multi-national employer. Transfers to such schemes in respect of their employees are not liable to the overseas transfer charge.

5. Is the scheme an overseas public service pension scheme and the member an employee of a public service employer?

   Transfers to such schemes in respect of their employees are not liable to the overseas transfer charge.

6. Is the scheme an occupational pension scheme and the member an employee of a sponsoring employer?

   Transfers to such schemes in respect of their employees are not liable to the overseas transfer charge. This exemption from the tax charge is aimed at pension schemes set up by multi-national employers for their employees working in a branch, or for a subsidiary or other group company in another country. HMRC will be keeping the use of the term occupational pension scheme in this context and the scope of this exemption from the tax charge under review.

3.18 In addition to the questions listed at paragraph 3.17 above, scheme managers also need to look at their own records and at information previously provided by registered pension scheme administrators and scheme managers of other QROPS or former QROPS to work out to what extent the funds being transferred relate to:

- pre 9 March 2017 funds - transfers of such funds are not liable to the overseas transfer charge. Pre 9 March 2017 funds are funds that derive from a recognised transfer from a registered pension scheme, or a transfer of a member's UK tax-relieved fund (see PTM113230 for definition) that was requested before 9 March 2017. This may be via a direct transfer or a chain of transfers between QROPS
- funds that were previously liable to the overseas transfer charge and the charge has not become repayable - transfers of such funds are not liable to the overseas transfer charge.
- funds that were received in the scheme more than five full UK tax years ago such that the 'relevant period' has expired. These funds cannot be liable to the overseas transfer charge if they are transferred to a QROPS.
- funds that are not ring-fenced transfer funds. Only payments from ring-fenced transfer funds can be liable to the overseas transfer charge.

Calculating the tax charge

3.19 Guidance on how to calculate the tax charge can be found in chapter 5.

Information reports after making the transfer

3.20 Scheme administrators and scheme managers need to provide information to HMRC, members and to QROPS scheme managers after the transfer.

3.21 Scheme administrators can find guidance on the information they need to provide to:

- HMRC at paragraph 4.8
- Members at paragraph 4.2
- QROPS scheme managers at paragraph 4.6

3.22 Scheme managers of QROPS and former QROPS can find guidance on the information they need to provide to:

- HMRC at paragraph 4.14
- Members at paragraph 4.11
- QROPS scheme managers at paragraph 4.13.

Paying tax charges

3.23 Guidance on how scheme administrators should report and pay any LTA and overseas transfer charges starts at paragraph 6.1.

3.24 Guidance on how scheme managers should pay any overseas transfer charges starts at paragraph 6.6.

Chapter 4 - Information requirements

Scheme administrator (registered pension scheme)

4.1 When a member requests a transfer to a QROPS a number of information requirements must be met by the scheme administrator.

Scheme administrator tells the member what information is needed

4.2 Within 30 days of the member requesting a transfer the scheme administrator should tell the member what information they are required to provide - see PTM103000. If the member does not provide the information required by the legislation before the scheme makes the transfer the transfer will be liable to the overseas transfer charge.

4.3 The section below sets out what extra information the member needs to provide. Form APSS 263 has been updated to reflect these extra requirements.

Information the scheme administrator needs to provide to the member after the transfer

4.4 Following the transfer the scheme administrator should provide the member with a BCE statement in accordance with PTM164400. If an LTA charge arises they must also advise the member about the amount of tax due in accordance with the guidance provided at PTM164300.

4.5 In addition within three months of the transfer scheme administrators will need to provide the following information to the member:

A If the overseas transfer charge applied:

- the date of the transfer
- the fact that the transfer was chargeable to tax
- the chargeable amount in respect of the transfer
- the amount of the resulting tax charge
- whether, or to what extent, the scheme administrator has accounted for the tax to HMRC or intends to do so
- in the event that the scheme administrator has already accounted for tax to HMRC, the date they did so

B If the overseas transfer charge did not apply:

- the date of the transfer

- the fact that the transfer was not chargeable to tax
- which condition was met that meant the transfer was not chargeable

Information the scheme administrator needs to provide to the QROPS scheme manager

4.6 If the scheme administrator has reason to believe that the member has flexibly accessed their pension rights they should tell the scheme manager about this in accordance with PTM166700.

4.7 Following the transfer the scheme administrator needs to provide the following information to the scheme manager within 31 days beginning with the date of the transfer:

- whether or not the transferred funds were subject to the tax charge, and
- if the funds were chargeable, the amount of the tax charge, and
- if not subject to the charge, the reason why the charge did not arise

Information the scheme administrator needs to provide to HMRC

4.8 The scheme administrator must report the transfer to HMRC using form APSS 262 within 60 days of the transfer - see PTM103000. The following extra information will need to be reported to HMRC via the APSS 262:

- whether or not the transfer is taxable
- if the transfer isn't taxable the reason why it isn't taxable
- if the transfer is taxable:
  - the amount of the transfer before deduction of the transfer charge (but after deduction of any LTA charge paid by the scheme administrator)
  - the amount of the tax charge the scheme administrator has deducted before making the transfer
  - the amount of the transfer actually paid to the receiving scheme after any deduction of the tax charge

4.9 Form APSS 262 has been updated to include this information.

Scheme Manager (QROPS or former QROPS)

4.10 When a member requests an onward transfer to a different QROPS a number of information requirements must be met by the scheme manager. Changes in circumstances may also require the scheme manager to provide information.

Scheme manager tells the member what information is needed

4.11 Within 30 days of the member requesting a transfer the scheme manager should tell the member what information they are required to provide. If the member does not provide the information required by the legislation before the scheme makes the transfer the transfer will be liable to the overseas transfer charge.

Information the scheme manager needs to provide to the member after the transfer

4.12 Following the transfer the scheme manager needs to provide the following information to the member within 90 days of the date of the transfer:

A. If the overseas transfer charge applied:

- the date of the transfer
- that the overseas transfer charge applies to the transfer
- the amount of the charge on the transfer
- the amount transferred
- whether, or to what extent, the scheme manager has accounted for the tax to HMRC or intends to do so, and
- if the scheme manager has already accounted for tax to HMRC the date they did so

B. If the overseas transfer charge did not apply:

- the date of the transfer
- that the transfer is excluded from the overseas transfer charge
- the reason why the transfer is excluded from the overseas transfer charge
- where the reasons why the transfer is excluded by reason of the member and the QROPS being in the same country, or that the member and the QROPS are both in countries within the EEA, then also provide
    - when the relevant period (five year rule) ends, and
    - how the transfer may not be excluded from the charge upon a change of residence or the QROPS changing country of establishment

C. If the transfer to the QROPS was made without the overseas transfer charge applying but a change in the member's principal residential address means that the transfer is now subject to the overseas transfer charge, the scheme manager needs to tell the member:

- the amount of the tax charge
- whether, or to what extent, the scheme manager has accounted for the tax to HMRC or intends to do so, and
- if the scheme manager has already accounted for tax to HMRC the date they did so

Information the scheme manager needs to provide to the receiving scheme manager

4.13 The scheme manager should report the details of the transfer under regulation 3AD SI 2006/208 within 90 days of the transfer. The information required can be found at PTM112700. In addition the following information is required:

- that there has been a transfer of funds and/or assets that include any of the member's ring-fenced transfer funds
- a statement stating the value of any transferred sums or assets that are from a UK tax-relieved fund and are referable to tax-relieved contributions before 9 March 2017
- the date the transfer was requested
- whether the overseas transfer charge arises on the transfer
- if the overseas transfer charge does not apply the reason why it does not apply and under what circumstances the exclusion may cease to apply
- if the overseas transfer charge applies:
  - the transferred amount
  - the amount deducted by the scheme manager

Information the scheme manager needs to provide to HMRC

4.14 The scheme manager should report the details of the transfer under the regulation 3(2) SI 2006/208 within 90 days of the transfer. The information required can be found at PTM112700. In addition the following information is required:

- whether or not a transfer payment is chargeable to tax
- if the transfer is chargeable, the chargeable amount
- the amount of tax due in respect of the transfer that the scheme manager had deducted before making the transfer
- the total amount of any remaining relevant transfer funds and ring-fenced funds after the payment
- if the transfer isn't chargeable, the reason why it isn't chargeable.

4.15 If the tax charge arises but not as a result of a transfer (for example one of the conditions is no longer met) and:

- the member has ring-fenced transfer funds that originated from a transfer from a registered pension scheme that was requested on or after 9 March 2017,
- was transferred directly or through a chain of transfers, and
- the relevant period has not expired

then within 90 days of becoming aware that the transfer is now chargeable, the scheme manager needs to report to HMRC:

- that a taxable event has occurred
- the reason the funds are now taxable
- the taxable amount
- the amount of tax due that the scheme manager has deducted
- the total amount of any remaining relevant transfer funds and ring-fenced funds after the tax is paid

Members

Information the member needs to provide to the scheme manager of the registered pension scheme

To be provided upon requesting a transfer to a QROPS

4.16 As set out at PTM102000 the member is required to provide certain information to the scheme administrator within 60 days of their request to the scheme to make a transfer. In addition to information described at PTM102000 the member will have to provide the following details:

1. whether or not the QROPS is an occupational pension scheme;
2. whether or not the QROPS is an overseas public service pension scheme;
3. whether or not the QROPS is established by an international organisation for the purpose of providing benefits for or in respect of past service as an employee of the organisation;
4. if the answer to questions 1, 2, or 3 is yes then the member also has to provide the following information:
    - the employer name

- the employer address
- the job title of the individual
- the date the employment started
- their employer's tax reference in respect of the employment (if known)

5. the QROPS HMRC reference number, if known.

6. confirmation that they are aware they may be liable to the tax charge in respect of the transfer and the circumstances under which this may occur.

4.17 Form APSS 263 has been updated to reflect these extra requirements.

4.18 If this information is not provided before the transfer is made the transfer is liable to the overseas transfer charge.

Change of residence

4.19 In addition, if, after a taxable transfer has been made, the member becomes resident in a different country, the member is required to tell the scheme administrator within 60 days of the change of residence. This requirement only applies for five full tax years following the date of the payment. They should also tell the scheme manager of the QROPS.

Information the member needs to provide to the scheme manager of the QROPS when requesting an onward transfer

4.20 The scheme manager needs certain information to determine whether or not the transfer is liable to the overseas transfer charge. Within 60 days of requesting the transfer the member must provide the following information to the scheme manager:

- their name and date of birth,
- their national insurance number, where applicable, or confirmation in writing that the member does not qualify for a national insurance number
- their principal residential address and, if they are were and ceased to be resident for tax purposes in the United Kingdom, the date that residence ceased
- the name and address of the receiving QROPS, the country in which it is established, and its QROPS reference number
- whether or not the receiving QROPS is an occupational pension scheme
- whether or not the receiving QROPS is an overseas public service pension scheme (see PTM112300 for definition)

- whether or not the receiving QROPS is established by an international organisation (see PTM112200 for definition) for the purpose of providing benefits for or in respect of past service as an employee of the organisation.

4.21 Where the answer to any of the last three extra questions is "yes" the member must also supply the following details to the scheme manager:

- their employer's name and address
- their job title
- the date their employment started, and
- their tax reference in respect of the employment (if known)

4.22 Members do not need to provide this information if all their UK related funds under the scheme are:

- pre 9 March 2017 funds, or
- the transferred funds were liable to the overseas transfer charge, either on transfer into the current QROPS or on an earlier transfer where there has been a chain of transfers between QROPS, and the member has not qualified for a repayment of the tax charge, or
- the member payment provisions do not apply to the transferred funds, either because the relevant time limit has been exceeded or because the member has used up all their relevant transfer fund or ring-fenced transfer fund.

4.23 These exemptions cover the situations where the overseas transfer charge cannot arise on a transfer between QROPS.

Change of residence

4.24 In addition, if, after a taxable transfer has been made, the member becomes resident in a different country, the member is required to tell the scheme administrator within 60 days of the change of residence. This requirement only applies for the length of the relevant period.

Pre 9 March 2017 funds

4.25 These are funds that derive from a transfer from a registered pension scheme that was requested before 9 March 2017. This may be via a direct transfer from a registered

pension scheme or a chain of transfers between QROPS, as illustrated by the example below.

4.26 Hector transferred his pension rights from the ABC registered pension scheme to QROPS 1 in July 2010. In March 2016 Hector transferred these right from QROPS 1 to QROPS 2. In September 2017 Hector transfers these rights to QROPS 3. Hector's pension rights under QROPS 3 are pre 9 March 2017 funds as they derive from a transfer from a registered pension scheme that was requested before 9 March 2017 (that transfer was in July 2010).

Examples

Information not needed

4.27 In July 2024 Zsazsa wants to transfer her pension rights from QROPS 1 to QROPS 2. She has been non-UK resident for more than 10 years.

4.28 Zsazsa's pension rights include transfers in of UK tax relieved funds that derive from a number of sources. Zsazsa's pension rights consist of:

4.29 A transfer from a registered pension made in 2015 (so pre 9 March 2017 funds)

4.30 A transfer made in December 2023 that was liable to [X] charge when it was made and Zsazsa has not qualified for a repayment of the tax charge.

4.31 A transfer made in October 2017 that was not liable to the [X] charge. The member payment provisions do not apply to these transferred rights because Zsazsa has been both non-UK resident for more that 10 years and the transfer was made over five years ago.

4.32 Zsazsa does not have to give QROPS 1 scheme manager any information before the transfer is made to QROPS 2.

Information needed

4.33 In 2022 Kiki wants to transfer her pension rights from QROPS A to QROPS B. She has been non-UK resident for more than 10 years.

4.34 Kiki's funds under QROPS A include funds that derive from UK tax-relieved funds including:

- A transfer received in early May 2017 but requested before 9 March 2017 (so pre March 2017 funds)
- A transfer made from a registered pension scheme in August 2019 that was liable to the overseas transfer charge but Kiki qualified for a repayment of the tax charge in November 2019.

4.35 Kiki is required to provide information to the scheme manager of QROPS A as her pension funds include a transfer of funds that are not pre 9 March 2017 funds and at the time of the proposed transfer:

- have not had the overseas transfer charge levied (as Kiki qualified for repayment of the tax charge originally paid), and
- the member payment provisions still apply to those funds because although Kiki has been non-UK resident for over ten years it is less than five years since the transfer was made from the registered scheme.

Chapter 5 - Calculating the overseas transfer charge

Rate of charge

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

5.2 Where the overseas transfer charge arises on a transfer from a registered pension scheme, the transferred value is the total amount of the sums and value of assets transferred after the deduction of any lifetime allowance charge due (where BCE 8 applies and a lifetime allowance charge actually arises) on the transfer.

5.3 If the registered pension scheme is established outside the UK, the transferred value is restricted to the amount of any sums and the value of any assets transferred that are attributable to the UK-relieved funds held in the scheme.

5.4 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 under the scheme.

5.5 Where the overseas transfer charge arises on an event after the transfer, the 25% tax charge is applied to the member's remaining ring-fenced transfer funds in the scheme at the time of that event.

5.6 In other words benefits already taken from that fund are out of this calculation.

Financing adjustment

5.7 The transferred value for the purposes of the overseas transfer charge is adjusted if the scheme administrator of the registered pension scheme, or the scheme manager of the QROPS or former QROPS pay the tax charge and the payment is financed:

- by deducting the tax due from the funds being transferred, or
- by deducting the tax due from the member's other accrued rights in the scheme aside from the funds being transferred.

5.8 Where the overseas transfer charge is to be deducted from the funds being transferred, the calculation of the transferred value ignores any such deduction.

5.9 Where the charge is paid from the member's other rights under the scheme (other than the funds being transferred), the transferred value must be grossed up at 25%, so:

Transferred value = Transferred value / 0.75

This ensures that the charge is not altered by how it is financed.

5.10 In the same way, if the overseas transfer charge is paid by the member (or for the member) from other funds not held in the scheme then the transferred value is the amount actually transferred.

5.11 If the charge arises on a 'later event' as mentioned above there is no adjustment for financing methods.

Example

5.12 Ivor is 50 years old and has £800,000 available LTA. In August 2017 Ivor decides to move his pension savings from a registered pension scheme to a QROPS. The scheme administrator advises him that the savings are worth £950,000, so they can see that an LTA charge will be due. Ivor's transfer circumstances are such that the overseas transfer charge also applies. Ivor agrees that the scheme administrator will deduct both the LTA charge and the overseas transfer charge from the funds being transferred.

5.13 The process for calculating the amount of the BCE 8 and the tax due is as follows:

Establish potential BCE 8 (scheme funds to be transferred) = £950,000

Establish amount of any excess over Ivor's LTA: £950,000 - £800,000 = £150,000

Establish potential LTA charge: £150,000 @ 25% = £37,500

The amount to be transferred to the QROPS (before the overseas transfer charge is applied):

£950,000 - £37,500 = £912,500

BCE 8 = £912,500

Amount of BCE 8 over available LTA: £912,500 - £800,000 = £112,000

Chargeable amount = £150,000

(£112,500 (basic amount) + £37,500 (scheme funded tax payment))

LTA charge due £150,000 @ 25% = £37,500

Amount available to transfer to QROPS = £950,000- £37,500 = £912,500

Overseas transfer charge = £912,500 @ 25% = £228,125

Amount transferred to QROPS = £684,375

Chapter 6 - Paying the overseas transfer charge

Payment by scheme administrators

6.1 Where a lifetime allowance (LTA) charge is due on a transfer from a registered pension scheme to a QROPS, the scheme administrator deducts the amount of tax due before making the transfer and reports and pays the tax using the Accounting for Tax return (AFT) process.

6.2 When the overseas transfer charge arises on a transfer from a registered pension scheme it is the joint and several liability of the member and the scheme administrator, just like the LTA charge. Just as for the LTA charge, scheme administrators should deduct the amount of tax due before making the transfer to the QROPS. The tax due should be reported and paid using the AFT process. For all tax payable under the AFT process the existing interest, penalties and assessments procedures will apply in the event of non-/late filing or non-/late payment.

6.3 Details on the AFT return process is in the Pensions Tax Manual starting at PTM162000. The guidance at PTM162300 gives details on the due date for payment of the tax and the interest and penalties due if tax is not paid on time.

6.4 However, where the overseas transfer charge arises on a transfer made before 1 July 2017, the tax due cannot be reported and paid until the AFT quarter ending 30 September 2017. The due date for reporting and paying tax on chargeable transfers made before 1 July 2017 will be 14 November 2017, i.e. 45 days after the end of the AFT quarter ending 30 September.

6.5 Where the overseas transfer charge arises on a transfer made on or after 1 July 2017, the due dates for reporting and paying the tax will be in line with the normal AFT deadlines. Therefore the deadline for transfers in the period 1 July 2017 to 30 September 2017 inclusive is 14 November 2017, the deadline for transfers in the period 1 October 2017 to 31 December 2017 inclusive is 14 February 2018 and so on.

Payment by scheme managers

6.6 When the overseas transfer charge arises on a transfer from a QROPS or former QROPS to another QROPS, it is the joint and several liability of the member and the scheme manager of the scheme making the transfer.

6.7 Where the overseas transfer charge arises on an event which means that the exclusion from the charge that applied to the transfer into the QROPS no longer applies, it is the joint and several liability of the member and the scheme manager of the scheme holding the transferred funds at the time of that event.

6.8 The scheme manager should notify HMRC of the transfer or event - see Information requirements above for guidance on these notification requirements. On receipt of the notification, HMRC will issue the scheme manager with an accounting reference and bank details for the scheme manager to use to pay the overseas transfer charge due. The due date for payment of the overseas transfer charge is 90 days following the date that HMRC issues the accounting reference details to the scheme manager.

6.9 If the scheme manager does not pay the overseas transfer charge by the due date:

- interest will be charged on the amount outstanding from the due date until the date it is paid
- HMRC will issue a notice of assessment to the scheme manager for the charge. The tax due on the assessment must be paid within 30 days of the date that the notice is issued.

6.10 Failure by the scheme manager to pay the overseas transfer charge by the due date may result in the scheme losing its QROPS status - see Exclusion below for more details.

Payment by members

6.11 As detailed above, where the overseas transfer charge arises on a transfer from a registered pension scheme to a QROPS, the scheme administrator should deduct the tax due from the transferred funds and pay it to HMRC. Similarly, where the charge arises on a transfer from one QROPS to another or on an event following the transfer, the scheme manager of the transferring scheme (in the case of a transfer) or of the

scheme holding the funds (in the case of an event) should deduct and pay the tax to HMRC.

6.12 However, the member has joint and several liability for the tax with the scheme administrator or scheme manager. This means that if the scheme administrator or scheme manager (as appropriate) does not pay the charge, the member must pay the overseas transfer charge.

6.13 Scheme administrators and scheme managers are required to provide information to members to let them know that the overseas transfer charge is due and whether the scheme administrator/scheme manager has paid the tax or intends to do so - see Information requirements, above.

6.14 If the scheme administrator/scheme manager does not pay the overseas transfer charge, the member should report and pay the charge under Self Assessment. The existing Self Assessment provisions on interest, penalties and assessments procedures will apply in the event of non-/late filing or non-/late payment.

Chapter 7 - Repayment of the overseas transfer charge

Basic principles for repayments

7.1 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. It is not relevant if the change of circumstances takes place after the original transfer or after any onward transfers.

7.2 This only applies if the change of circumstances takes place within the 'relevant period' from of the original transfer to the QROPS. Paragraph 2.29 gives the meaning of relevant period and paragraph 2.25 gives the meaning of original transfer

7.3 Repayments can also be made where the charge was deducted and paid in error.

7.4 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.

7.5 Any repayments are not, and cannot be treated as, contributions to a registered pension scheme.

7.6 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.

Repayment process

7.7 Guidance on how to claim repayments will follow in due course.

Chapter 8 - Discharge from liability to the overseas transfer charge

8.1 If:

- the scheme administrator or scheme manager did not deduct the 25% tax when they should have, because they thought the transfer was not taxable and
- the situation has arisen as a result of circumstances outside the control of the scheme administrator or scheme manager

they can apply to HMRC to be discharged from their liability to the overseas transfer charge.

8.2 The grounds for this application are that:

- the scheme administrator or scheme manager reasonably believed that there was no liability to the tax charge, and
- in all the circumstances of the case, it would not be just and reasonable for them to be liable to the charge.

8.3 This 'good faith' protection is aimed at the situation where the scheme administrator or scheme manager has been misled, or been given incomplete information, by the member or another party acting for them leading them to assume wrongly that the tax charge was not due. Where the information provided by the member or their agents isn't clear HMRC expects scheme administrators or managers to ask appropriate questions to clarify the situation.

8.4 Scheme administrators and scheme managers should retain documentary evidence of any statement, or information, that they have relied on.

8.5 The application for discharge of liability to the overseas transfer charge must be made in writing and set out the particulars of the grounds for the discharge of liability.

8.6 HMRC will be specifying the time limits for these applications by further regulations, until such time as these are publicised scheme administrators and managers should submit their application to HMRC as soon as possible after becoming aware of the need to make such an application.

8.7 Registered pension scheme administrators that have not reported the chargeable transfer on the AFT when the application for the discharge is made must provide the information with the discharge application. Similarly a QROPS scheme manager should provide the information as required by regulation 3(2) SI 2006/208 if not provided previously.

8.8 On receipt of the discharge application HMRC will consider the available evidence. HMRC will not discharge scheme administrators or scheme managers from their liability if they have not taken due care to establish if a transfer is liable to the overseas transfer charge.

8.9 If HMRC discharges the scheme administrator (or scheme manager as appropriate) from liability to the overseas transfer charge they will notify them of their decision. The member will still remain liable to the overseas transfer charge.

8.10 If HMRC refuses the application to discharge the scheme administrator's (or scheme manager's) liability to the overseas transfer charge, HMRC will notify them of their decision. The scheme administrator (or scheme manager) can appeal against this decision. The appeal should be made to HMRC in writing within 30 days of the date that HMRC gave the notification of their decision.

8.11 Under the appeal and review process either HMRC or, if necessary, a tribunal may decide whether or not the decision was correct.

8.12 Scheme members cannot apply for discharge from liability to the overseas transfer charge.

Chapter 9 – QROPS conditions

QROPS undertakings

9.1 When a scheme wishes to become a QROPS it must provide certain undertakings to HMRC as part of the recognised overseas pension scheme (ROPS) notification including an undertaking that the scheme manager will:

- tell HMRC it their scheme ceases to be a ROPS and
- comply with prescribed information requirements for QROPS.

9.2 Following the introduction of the overseas transfer charge the undertakings made by a scheme manager include an undertaking to operate the overseas transfer charge and confirmation that they understand that they may be liable to pay the tax charge.

Schemes that are QROPS before 9 March 2017

9.3 Scheme managers of schemes that were QROPS on 8 March 2017 need to make the undertaking to operate the overseas transfer charge if they wish the scheme to continue to be a QROPS.

9.4 Scheme managers of existing QROPS need to decide whether or not they wish their scheme to continue to be a QROPS following the introduction of the overseas transfer charge.

9.5 If scheme managers wish their scheme to continue to be a QROPS they need to make an extra undertaking to HMRC to operate the overseas transfer charge. Scheme managers should use form APSS 240 to make the extra undertaking.

9.6 HMRC must receive this undertaking by 13 April 2017.

9.7 If HMRC does not receive the revised undertaking by that date the scheme will stop being a QROPS from 14 April 2017. This loss of status is automatic under the legislation. As there is no decision made by HMRC there is no right of appeal if a scheme stops being a QROPS in these circumstances.

9.8 If scheme managers do not want their scheme to continue to be a QROPS following the introduction of the overseas transfer charge then they should not submit the revised undertaking to HMRC. Their scheme will stop being a QROPS on 14 April 2017.

9.9 Scheme managers who do not intend their scheme to continue to be QROPS should take action to stop transfers being received by their scheme after 13 April 2017. Such transfers will be unauthorised payments and both the member and the transferring scheme administrator may be taxed on the transfer.

9.10 HMRC is writing to scheme managers to tell them about the need to make a revised undertaking. This is not required under the legislation. If, for whatever reason, the scheme manager doesn't receive the letter and fails to submit a revised undertaking by 13 April 2017 the scheme will stop being a QROPS on 14 April 2017.

9.11 When a scheme stops being a QROPS the scheme manager needs to submit a completed form APSS 251B to HMRC within 30 days of the date the scheme stopped being a QROPS.

Schemes that are not QROPS before 9 March 2017

9.12 From 9 March 2017 the undertakings given to HMRC by the scheme manager of a scheme that is not yet a QROPS must include an undertaking to HMRC

- confirming that they understand their liability to the overseas transfers charge, and
- they will comply with any requirement to pay tax and provide information relating to the overseas transfer charge.

9.13 Form APSS 251 has been updated to include the revised undertaking.

9.14 Scheme managers of schemes for which a ROPS notification was made to HMRC before 9 March 2017 but where HMRC has not issued a reference number by that date will need to make the revised undertaking. HMRC cannot issue a reference number to the scheme until the revised undertaking has been made. Scheme managers should complete and submit form APSS 240.

Exclusion

9.15 The grounds by which HMRC can remove the QROPS status from a scheme (excluding a scheme from being a QROPS) already include:

- failure to provide information required by legislation, and
- providing incorrect information.

9.16 This includes the information that QROPS scheme managers need to give HMRC, members, and other scheme managers to support the operation of the overseas transfer charge. If a scheme manager fails to provide the information described at section starting at 4.10, or provides incorrect information, HMRC can exclude the scheme from being a QROPS.

9.17 For more information on the reporting requirements for QROPS see PTM112700.

9.18 The grounds for excluding a scheme have been extended to include a failure to pay the overseas transfer charge when due. If a scheme manager does not pay the overseas transfer charge when due, HMRC may exclude the scheme from being a QROPS.

9.19 For more information on exclusion see PTM112500.