John Silkin: So Gary, what are QROPS?

Gary Barlow: Well QROPS are a fascinating piece of legislation and probably the biggest single piece of jargon that's come out of pension legislation in recent years. It stands for qualifying recognised overseas pension schemes. Now what these are, is we have all heard of the EU Directive and the same one that allows a sort of freedom of movement of individuals within the European community, also really then comes down to our monies and our savings in allowing us to move our monies and savings around and that is what the QROPS facility actually provides. It's a facility that our Revenue and Customs department have said yes you can move these with you so your pension can go with you to a foreign jurisdiction.

John Silkin: Well that sounds great. So how do they work?

Gary Barlow: Well they work generally like most pension transfers. Some people over time will have moved their pension scheme from one pension provider to another. Now that may be with work, it may be because of charges. A very good example perhaps at the minute is transferring from a personal pension to a self invested personal pension so you get more flexibility and more choice in terms of how they work. Now from a QROPS point of view it's very similar. You look at the transfer value that's actually available from your pension scheme and you transfer it to a QROPS provider that may be in the jurisdiction such as the Channel Islands or the Isle of Man and there are several others around the world that are also available.

John Silkin: Can someone transfer any type of existing pension into a QROPS?

Gary Barlow: There's a few areas that you can't. Things like the basic state pension and if you are entitled to a state second pension, those facilities can't be transferred into a QROPS. Now a number of people in the UK will also be members of what we call final salary pension schemes especially things like the NHS superannuation scheme, the civil service type arrangements. Now it's unlikely that somebody in those pension schemes would benefit from a transfer into a QROPS arrangement but it can happen in exceptional circumstances but anybody who holds a private arrangement such a self invested personal pension, personal pension schemes, additional voluntary contributions, can transfer that value into a QROPS arrangement.

John Silkin: Which types of people then are you seeing setting up QROPS Gary?

Gary Barlow: The main people are people who are already what we might call expatriates so have become resident in European jurisdictions but it can be anywhere in the world. Also now we are getting more people who have the intention of actually moving and perhaps retiring or working abroad in the very near future.

John Silkin: We have spoken a little bit about their flexibility and including who they are appropriate for, a lot of people from what I can understand so far, what are their principle advantages?

Gary Barlow: Right well the main one that clients talk to us about is the no requirement to purchase an annuity or go into what is called alternatively secured pension by the age of 75 years. Now by moving to a QROPS and being non resident from the UK that ruling largely falls away. Now that in itself might not seem advantageous but one aspect that people don't like about pensions is having to buy this annuity and they then feel that the capital is actually lost so ultimately on death, which I'm afraid comes to everybody, there's nothing left, there's nothing there to pass on to their heirs, their spouse, their beneficiaries. Now that in a QROPS that requirement to buy this annuity is not there, so people can retain the pension fund for the rest of their life and then on death 100% of that fund value, whatever's left can actually pass on to their nominated beneficiaries. Now there's even more sort of benefits thereafter in that the jurisdiction that you will tend to have QROPS in, places like the Channel Islands and the Isle of Man, there won't be any tax levied on that amount of value that is paid over. Now you have got to be careful, some jurisdictions will have some form of death taxes or succession taxes, in the UK we call it inheritance tax but at least you'll know if you are in a QROPS environment and you have been non resident from the UK, you'll have no liability to the UK inheritance tax on the monies that you pass down perhaps through to your family.

John Silkin: You are obviously a sophisticated financial advisor so dealing with these sorts of issues for you is common and everyday but maybe some people will still be concerned about taking their money out of the UK. What would you say to people who are concerned about putting money offshore which is going to be some people?

Gary Barlow: Yes and I think you must have concerns because one thing in our favour although there have been issues in the past, the UK has got a very very good regulatory regime which covers the financial services industry. Now we actually look at the various jurisdictions in which QROPS can be placed and we tend to feel that places like the Channel Islands, like the Isle of Man have a proper government controlled legislative process with regard to financial services. They've both got investor compensation schemes which are similar if not slightly better than the UK arrangements and there's no sort of time barriers, language barriers in dealing in those jurisdictions, so people can feel very secure in transferring their monies there. Now there are QROPS all around the world and if people do want to consider those you have really got to take the time and make sure that they are comfortable with their advisor of all the regulatory and legislative and insurance schemes that are in place to make sure there could never be a possibility of loss of funds. So great care needs to be taken in that respect but certainly if you stay relatively close to home those jurisdictions I talked about, the Channel Islands and the Isle of Man can largely cover everything you'd need wherever in the world you might actually end up.

John Silkin: So providing one stays reasonably close to home then really people have very little to worry about in that respect. You talk about the advantages I imagine then they must be very popular so let me ask you, are they popular?

Gary Barlow: Yes, certainly the people that are actually moving their monies into QROPS, they are extremely popular. One of the problems with pensions though is getting the message across that this actual facility exists. Most people that actually come to us have actually seen something perhaps in a newspaper or been looking at their pensions and suddenly picked up on this bit of jargon and almost to a person if somebody is actually offshore and resident offshore, a QROPS can be the best thing for them to do. Now it is effectively just whether people are actually really aware of it. We've only been able to do individual transfers from a UK pension scheme into a QROPS realistically from December 2007 so we haven't even managed a complete year yet. As the word gets out, more and more of these will actually be done.

John Silkin: That leads me to another question then. You have sort of answered already, that I know I was looking at some figures the other day myself, looking at the number of people every year that are leaving the UK to retire overseas and obviously this looks like a wonderful solution for them, why have we not heard of them before?

Gary Barlow: Well largely QROPS were wrapped up in the what we call the pension simplification legislation that came about in April 2006 and the rules and regulations for overseas pension transfers were quite complicated and largely borne out by occupational so company pension schemes moving monies about. We've only recently had that legislation clarified and then Her Majesty's Revenue & Customs giving authorisation to these companies offshore that they can actually receive pension monies. Now what most people will find is if the pension company offshore didn't have QROPS status and that's an approval process they have to go through with HMRC, our Inland Revenue, then the pension company in the UK wouldn't allow a transfer to the QROPS scheme. So the QROPS status is very very important and realistically those have only been available now for a very very short time.

John Silkin: So nothing really untoward, it's just a question that it takes some time for these things to come to the surface and now they are here we are all hearing about them.

Gary Barlow: Yes, absolutely. That's a good point but some people can rest assured that qualifying recognised overseas pension scheme, all of those words mean something in terms of getting that approval from Her Majesty's Revenue & Custom. There is an approval process and those companies that have got QROPS status have given an absolute undertaking that they will follow the rules as laid down to accept those pension transfers into them.

John Silkin: Now I don't want to be a party pooper or pour cold water on everything but let me ask you, they seem to have a huge amount of benefits to these but there must be some downsides?

Gary Barlow: I think at face value, in terms of the flexibility that you get, the ability not to buy annuities, to retain the pension fund value until death and pass that on, those are all sort of real benefits. There are very very little disadvantages of QROPS. Really they follow UK pension rules for a reasonable period of time which is normally about 5 years of somebody being non resident from the UK and to be fair the only disadvantage really that I can think of is perhaps the charges of moving across. Now those can be as little as nothing as 0%, there's no charges and they can be high as several percentages depending on the type of scheme and type of investment that the individual pension holder wants to do. Sometimes you will get transfer penalties as well from your existing provider but that's all part of the advice process that you should go through with your advisor so see whether those transfer penalties are worthwhile incurring or whether you would be better leaving it where it is and perhaps considering QROPS at a later stage.

John Silkin: OK and that's no doubt something that you of course can help the end client with?

Gary Barlow: Absolutely, that's what we do. Effectively we are a financial advisory firm and we go through all the aspects of each individual pension that somebody may hold and advise accordingly.

John Silkin: They sound almost too good to be true and sometimes when the government allows something like this to go through they end up moving the goal posts 2 or 3 years later, they realise they gave away too many tax advantages and then they sort of want to change the goal posts. Do you think that might happen with these?

Gary Barlow: I think actually it's beginning to happen already. I'm afraid financial services tends to have the ability to stretch the boundaries of the spirit of the legislation so a lot might be down to the letter of the law but the spirit is perhaps being extended. We've already seen for example that QROPS in Singapore, the authorisation status from Her Majesty's Revenue & Customs has actually been removed so they are taking a close eye on what's actually going on and if they see anything they don't like, or they feel there's abuse of the actual system, Revenue & Customs are quite happy to turn around and stop that jurisdiction actually having the QROPS status so no further transfers of pension arrangements can go across. Most places that are perhaps a bit more local to home, the Channel Islands, the Isle of Man, there's very very good relationships between those legislative bodies, the Financial Services Commissions in those sort of areas, and you would see far less abuse of the system which is a key to what's going on. But yes HMRC is keeping a close eye on QROPS and any abuse but if it's used within the framework of the rules that are actually there, there should be no sort of major changes in the long-term.

John Silkin: You mention that certain QROPS schemes have been closed down because there were problems with them and therefore they are not taking any further entrants, what position does that leave the people in who are already in those QROPS schemes though?

Gary Barlow: HMRC have been very good actually and they have turned around and said that people who are actually already in those schemes can carry on benefiting but where HMRC does take a look at what those individuals have actually done with those schemes, if there has been an abuse of the system, if they have taken money out of a pension which perhaps they wouldn't have been entitled to under the UK scheme, the Revenue does have the ultimate facility to impose sanction and tax charges and those will be a liability which would fall on the individual which really they would have to pay or the pension scheme would have to pay in the very near future.

John Silkin: OK, well let's no dwell on the negative issues because of course like anything these are products that people need to enter into and think carefully about and of course choose QROPS in decent jurisdictions. Let's look at the actual product then if we may Gary in a bit more detail, maybe some of the more sophisticated or detailed questions now that a listener might have, what specifically do I need in order to be eligible for QROPS, for example, we hear something about this 5 year, can you explain that?

Gary Barlow: Yes, the 5 year rule is actually vitally important. A QROPS realistically is only of any benefit to somebody if they have got an intention of going and living abroad or they are already abroad. Now the 5 year rule relates to the legislation that the QROPS provider has to adhere to and the 5 year means that you have got to be non UK resident for a period of 5 complete tax years so it's not norm calendar years, it's 6 April to 5 April so for some people it can actually be nearer 6 years before they have completed that time. Now the importance of that timeline is that within 5 years the QROPS provider must report back to our Revenue & Customs about any capital or income payments that are actually made and therefore the scheme must fall inline with what you could have done within a UK pension scheme anyway, so you can't take too much income out, you can't take extra tax free cash or any aspects along those lines. Beyond 5 years, more flexibility arrives because the reporting requirements cease and therefore there's more flexibility in the income somebody can actually take from the QROPS pension scheme and more flexibility in the permitted investments as well. You then fall under the guidelines of the jurisdiction that you are in and that might include more esoteric type investments and specialist details that could even include residential property.

John Silkin: Gary you are talking about 5 years, 5 tax years so that's April 5 to April 6 and for some people find that may morph into 6 years depending on when they start, when we are talking about being classified as non resident, that doesn't mean that people have to be outside of the UK for the whole 365 days of each year does it?

Gary Barlow: No, no. The UK authorities will let you in for a few days, you are OK there. The way it works is that most European jurisdictions if you want to be resident there, you need to spend at least 183 days in that sort of country. Now there is also a rule within the UK which says you shouldn't really spend more than 91 days. It is a complicated affair, residency but certainly don't spend more than 91 days in the UK. So no, it's not a sentence as it were, you don't have to spend 365 days a year away from the UK and not see family and children and that type of thing. There is a sort of fairly relaxed approach to it but there is a specific timescale that must be adhered to.

John Silkin: Protected rights, am I able to transfer protected rights into a QROPS?

Gary Barlow: Yes, certainly. Any personal pension benefit can be transferred across to QROPS. We probably haven't got the scope here to go over all the details of protected rights but you do potentially lose some benefits of the protected rights transfer which will always be documented to people so they were fully aware of what they were actually doing.

John Silkin: When that becomes an issue again, you're in a position to be able to help them with that?

Gary Barlow: Absolutely, before any transfer would ever proceed you would be aware of all the sort of details about a particular transfer and the advantages and any potential disadvantages.

John Silkin: Can one transfer benefits that are already in payment into a QROPS?

Gary Barlow: Yes and I would tend to say that's where we get most enquiries from. So individuals that are in what we used to term as income drawdown which is now regarded as unsecured pension, you could transfer that into a QROPS arrangement and then get the benefits of not being restricted to age 75 and having to convert that to an annuity at a later stage, so you effectively lose those rules and can carry on in that income drawdown arrangement for the rest of your life.

John Silkin: You touched upon property earlier, so let me just clarify I can purchase residential property with my QROPS fund?

Gary Barlow: Yes I go back to this 5 year rule and it is very important that you don't do anything within the pension scheme that is any different to a UK pension scheme until you have been non resident for 5 complete tax years but after that yes, you just fall into the regime of the QROPS provider and the jurisdiction's, their rules and regulations, and property purchase is one of those things that's then allowable. How you structure that is an important thing to look at. You may find it's better to be structured in a company or may just be better to be individually held by the pension fund but do bear in mind the property is held by the pension fund and not you as an individual so it has still got to be seen as an investment and perhaps rental income coming in would be ideal to increase the pension value in the future.

John Silkin: Does there need to be a link between where the member lives and the geographical location of the QROPS?

Gary Barlow: No, no particular link. There does need to be care and again your advisor will take you through this. A good example of this at the moment is the Isle of Man, if you have done a QROPS onto the Isle of Man potentially there and then you start taking income there's actually a withholding tax. Now you might not be able to recover that if you live in another European jurisdiction so it could end up paying taxation twice so it is very important not only to look at what is a good QROPS jurisdiction but also how that jurisdiction imposes taxes on funds invested within them but in general terms you'll find that nearly all QROPS are actually done in a separate jurisdiction to the actual country in which people live.

John Silkin: And why is that?

Gary Barlow: Largely because of tax – because you're going into a jurisdiction where there is a tax neutral status, the Channel Islands for example are on a pension transfer into a QROPS, they won't impose any income tax, they won't impose any capital gains tax, there's no inheritance tax whereas those taxes are likely to incur either some or all of them in most other European jurisdictions.

John Silkin: Do I need to liquidate assets into cash first Gary, before I transfer them into the QROPS?

Gary Barlow: Right well there is actually 2 facilities. One is exactly that, you liquidate your existing pension fund and then you transfer it over as a cash sum by direct transfer to the QROPS provider. For people with different types of assets in their pension scheme, now that could be anything from varied stocks and shares portfolio that they would like to keep or existing assets like property, commercial property, many business owners have held property in their pension fund now for a long period of time, those can be transferred in in what we call in specie so you change the pension trustee from the existing arrangement to the QROPS provider offshore.

John Silkin: Once I've transferred can I get all my money out in one lump sum?

Gary Barlow: Right now this has been a bone of contention with Her Majesty's Revenue & Customs. Certainly QROPS schemes were never set up to really what you might see as cashing in your pension scheme. There is an unequivocal rule in QROPS transfers that the company must use 70% of the transferred funds to provide somebody with a lifetime income. Now that basically means you can't just cash the sum in and go away on a nice holiday or stick the money in the building society or something like that. So the answer to that is no. There are some very quirky schemes out there that still purport to be able to do that but I think realistically what you are doing there is you are going against the spirit of legislation and I'm sure that by the time that people get to the point where possibilities of currently cashing in a pension scheme might have been available, they would have been tightened up and removed by HMRC.

John Silkin: Are there any things then, other things that I perhaps should look out for, any potential problems at all?

Gary Barlow: I think the main one is any tax consequences in the jurisdiction that you might end up in. Now I may have mentioned before the Isle of Man is a good example, when you start taking pension income from an Isle of Man based QROPS scheme there is a withholding tax which for many people can't be recovered so you're getting taxed on your pension whereas in other jurisdictions they will pay out the income from a QROPS scheme completely tax free so you will receive it gross and then it's your responsibility with perhaps your tax professional wherever you live to pay the according tax in the jurisdiction in which you live.

John Silkin: Once somebody has decided and they've sat down with you and gone through exactly what they want to achieve and what scheme is best for them etc, how long does it take and how much does it cost?

Gary Barlow: Right, that really depends in terms of cost, where a person wants to go, what they want to do with their pension fund, how they want to invest it and the more extreme shall we say that you get generally the more the costs go up. There are differences in QROPS providers between packaged arrangements where they provide the trusts service or the trustees service and the underlining investments, to other types which are very similar to self invested personal pensions where somebody sits as a trustee but really allows you to invest the money with a great deal of scope and flexibility in different types of schemes. Timescales can vary enormously. There is a great deal of paperwork, there's the advisory process which has all got to be written down and made sure that you actually understand what is actually happening. Then the transfer process with your existing pension company and there is a number of discharge forms that have to be completed there. Most companies once all the paperwork is actually in place, will take a few weeks to transfer the monies across but the whole process you have got to be giving yourself a good 6 weeks perhaps even 2 months at the outside to facilitate a whole transfer into a new QROPS scheme.

John Silkin: It's a complex issue that's for sure and of course in spite of the very comprehensive answers that you have given which we certainly thank you for, there's a lot more that the individual needs to go through and of course we talk about people's pensions so it's important to get this absolutely right. Financial advice within this whole process is absolutely essential isn't it?

Gary Barlow: Absolutely and what I would say is stick a positive note up for UK financial advice in this situation because of the regulatory regime that UK financial advisors are actually under now and the disclosure regimes and documenting things like implicit and explicit charges, so implicit are charges within a fund and explicit are the ones that you actually sort of see, it is very important to stick to UK financial advisors and ones that have got expertise in QROPS before facilitating this type of arrangement. Do bear in mind that if you are using financial advisors abroad they are not under the same regulatory regime, they are probably under a regulatory regime which is very very light touch and actually getting the details of what you are really paying within a product can be very very difficult.

John Silkin: OK so it's important to speak with a real expert as you say, people who are thoroughly regulated. You clearly know a huge amount about the subject Gary. How come you know so much about QROPS?

Gary Barlow: We've spent a long time as part of normal pension planning looking at all the facilities that are available. Expatriate work has always been of great interest to me and the various tax regimes that exist not only within Europe but around the world and we do get asked occasionally where is it best to go if somebody wants to go to warmer climates, where's the best tax regime, where's the lightest touch in terms of tax and that might be anything from somebody just not wanting to pay a great deal of tax to somebody who it's very important that because their pension benefits aren't that enormous and they need a lower cost of living and more income.

John Silkin: Gary we have spoken a lot about QROPS and about setting them up and of course many people are going to be doing this. Once though somebody has set the QROPS up and they are living happily abroad benefiting from more sunshine I am sure than we have here, is there a need for ongoing advice?

Gary Barlow: Yes the ongoing side is absolutely crucial. First and foremost people are lightly to be spending their money in a different currency whether that's Euros or Dollars in some sort of jurisdiction so the advice in terms of whether to stay in Sterling, whether to move it into Euros, the various investment mediums that are going on and also the risk, people's risks change as they get older, somebody may want to take more risks at the moment and are prepared to invest their monies aggressively and later on in life move to a more conservative approach and have more deposit type funds in their arrangements. So all of those things must come out as part of annual reviews of the processes, how much income they are able to take from the pension scheme, how that should be denoted in their jurisdiction, should there be a capital payment, should it be a payment from the growth or the interest that's actually being received within the pension arrangement. So yes ongoing advice with QROPS as in the UK with unsecured pensions or as we used to term then income drawdown, is absolutely essential to make sure the ongoing advice is correct.

John Silkin: And how does that actually work so if somebody is perhaps a few thousand miles away, of course they are not in exile as we discussed earlier, so they can come back to the UK which some people do or much of it can be done over the phone can it or do you go out and see people?

Gary Barlow: There is a great deal that can be done over the phone but we are in a situation now where in most European jurisdictions we've got many clients and we come out and see them as one of the wonders of my job I get to work in some fantastic locations in the sun.

John Silkin: Well Gary thank you very much for sharing the time with us today and taking us all through what is a topic that is going only to generate more and more interest among lots and lots of people, so thanks very much for the insight. Very very useful.

Gary Barlow: Excellent, many thanks.