

JUNE 2012 STATES MEETING

Statement by the Minister re Pensions

My Department has been reviewing recent developments in respect of pensions, in particular Qualifying Recognised Overseas Pension Schemes or QROPS for short, in light of recent, well publicised developments. I would therefore like to take this opportunity to update States Members on the current position.

The UK Government proposed changes to their QROPS regime last December, which took effect from 6 April 2012. As these changes meant that many personal pension schemes in Guernsey would lose their QROPS status, the States resolved in March to introduce a new exempt pension regime, the section157E scheme. This gives no relief for contributions and correspondingly had no tax charge on benefits paid out. At the time it was believed that this would satisfy the requirements of the UK legislation. However, on 4 May HMRC introduced new regulations which specifically exclude section157E schemes from being QROPS compliant.

Following consideration by my Department of the need for a robust pension regime going forward, one aspect of which must be to ensure the ability for pension schemes to remain QROPS compliant, we have decided to bring proposals to the September States meeting with the intention that, in the case of S157E schemes, they will take effect from today. In other words, the legislation we present will, if approved by the Assembly, have retrospective effect in the case of S157E schemes. The changes we will be proposing are as follows.

Firstly - income from occupational pension schemes will be taxable on non-residents as well as residents, by removing the exemption for pensions and annuities paid in respect of services performed wholly outside Guernsey. This will require amendment to Section 153 of the Income Tax (Guernsey) Law, 1975 which I will refer to as the tax law. The payer of a pension or annuity will

be required to deduct tax whether or not the recipient is resident in Guernsey and whether or not the services which led to the payment of that pension or annuity were performed here.

Secondly - to remove the exemption from tax on annuities and lump sums paid to non-resident members of approved retirement annuity schemes and retirement annuity trust schemes. The result of this will be that such annuity income or lump sum will be taxable on the same basis as if paid to a resident of Guernsey, albeit subject to the provisions of sections 157A (5A) and (5B) of the tax law which allow for the Department to exempt certain lump sums from taxation by regulation. This will be achieved by amendment of Section 40(ee) of the tax law. The exemption contained in that section will not apply to an annuity or lump sum paid from a scheme approved under Section 157A of the tax law, where, or to the extent that, the annuity or lump sum arises from funds contributed to the scheme, by way of direct contribution, or transfer from another scheme, after a certain date, which will be specified in the legislation.

This will ensure that there is no retrospective effect in respect of the existing funds of non resident members of such schemes.

Thirdly – the purpose of introducing section 157E was primarily to enable pension schemes to satisfy the conditions to be a QROPS. However, due to subsequent actions taken by the UK, that section is no longer effective for the purpose intended. There remains however a risk to domestic tax revenues, and therefore to mitigate that risk, it is proposed that section 157E will be amended, so as to prevent any new schemes being approved or any further transfers or contributions being made into existing section 157E schemes. As I said earlier the legislation will we be bringing to the Assembly to achieve this will be effective from today.