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NEW "AUSSIE RULES" ON UK TRANSFERS

1 INTRODUCTION

Australia is one of the top destinations for UK migrants. For this reason many pension schemes will have been or will be involved in transferring pension benefits to its fair shores.

From 1 July this year, Australia is introducing changes to its taxation of retirement benefits. In this alert we consider the impact of this on transfers from UK schemes.

2 KEY POINTS

- HM Revenue & Customs (HMRC) have confirmed that they will ensure that Australian schemes which currently qualify to receive tax-free transfers from the UK will continue to do so.
- From 1 July 2007 there will be a cap on UK transfer amounts of AU$150,000 per year or AU$450,000 every three years.
- Until 30 June 2007, transitional provisions allow a transfer payment of up to AU$1 million to be paid into an Australian scheme.

3 WILL TRANSFERS TO AUSTRALIAN SCHEMES STILL BE TAX-FREE?

Since 6 April 2006 (A-day), for a pensions transfer to be an authorised payment (and tax-free) it may only be made to another registered pension scheme in the UK or an overseas scheme which is a "qualifying registered overseas pension scheme" (QROPS). To be a QROPS, a scheme must satisfy certain conditions. One of these is that either there is no tax relief on contributions being paid in to the pension scheme or that tax is generally payable on benefits when they are paid out.

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In Australia, from 1 July 2007, both pensions and lump sums payable from age 60 will be tax free. In addition, contributions into schemes will also benefit from some degree of tax relief. This led to a concern among UK advisers that Australian schemes would no longer meet the above condition. However, HMRC have recently confirmed that this will not be the case.

HMRC have published draft regulations which will revise UK legislation so that Australian schemes which currently qualify to receive tax-free transfers can continue to do so from 1 July.

4 BEWARE NEW LIMIT ON TRANSFER AMOUNTS

But, the Australian fiscal changes will also introduce a limit on the contributions an individual can make into Australian pension schemes from post tax income, known as "non-concessional contributions". Transfer payments from an overseas scheme count as such contributions. From 1 July 2007, it will only be possible to make non-concessional contributions of either AU$150,000 per year (approximately £63,000) or a total of AU$450,000 (approximately £190,000) every three years.

There is currently a transitional cap of AU$1 million (approximately £422,000) on non-concessional contributions. The transitional period comes to an end on 30 June 2007.

5 DO YOU NEED TO TAKE ACTION?

Schemes which have transfers to Australia in the pipeline should try to find out whether any of the payments are likely to exceed the new post 1 July contribution cap. Where this is the case, trustees should consider asking the scheme administrators to expedite payment where possible.

If the transfer cannot be made before the deadline, members who will be affected should be advised of the position as soon as possible and be given time to take advice on their options.

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