



Transferring member funds overseas

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Member directed transfers





Overseas Transfers

- *Can* you transfer?
- *Should* you transfer?
- Provider/trustee responsibility?



CAN YOU TRANSFER?



Can you transfer?

OPS & PRSA
(Overseas
Transfer
Payments)
Regulations,
2003

SI 716 of 2003

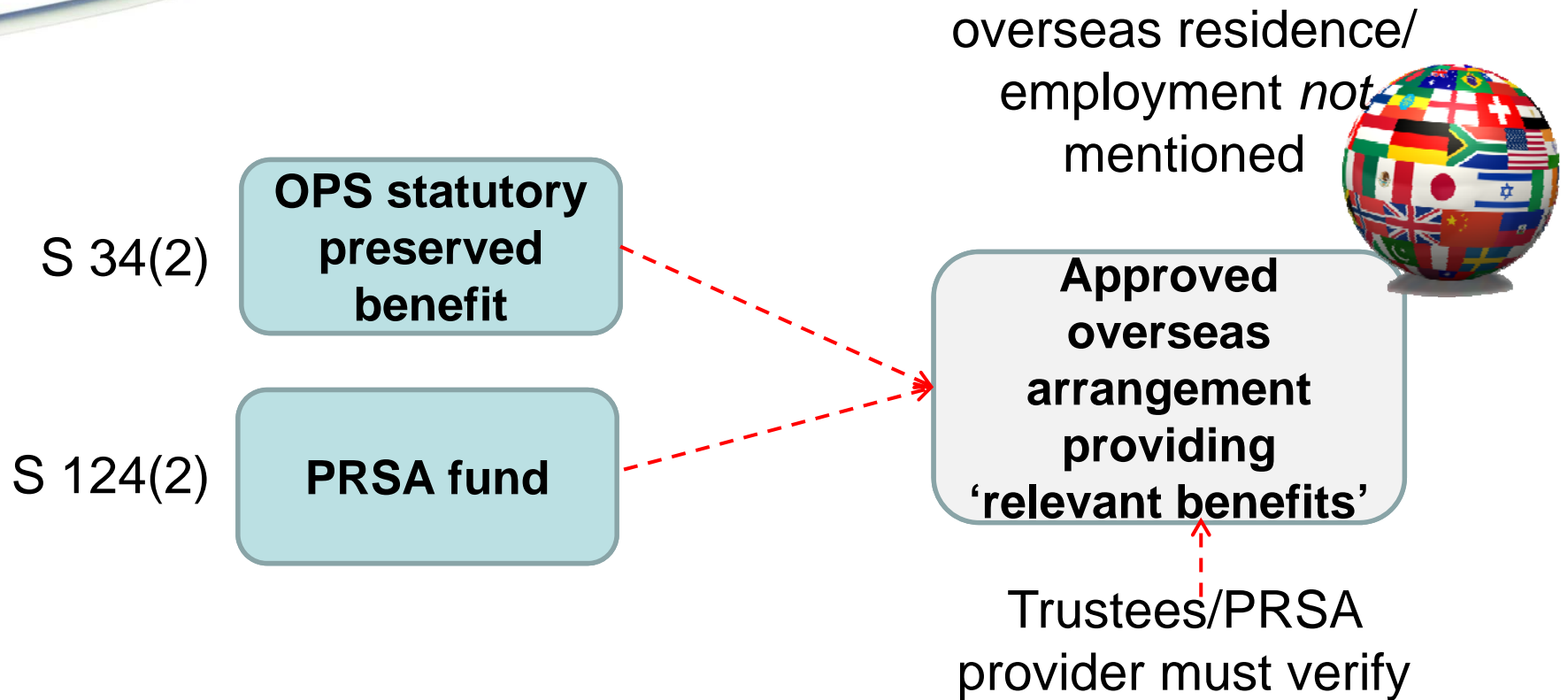
Revenue
Approval
Conditions
2009, 2012

Revenue Practice
requirements –
OPS

Chapter 13.4 – 13.7



Transfer Regulations





Revenue approval conditions

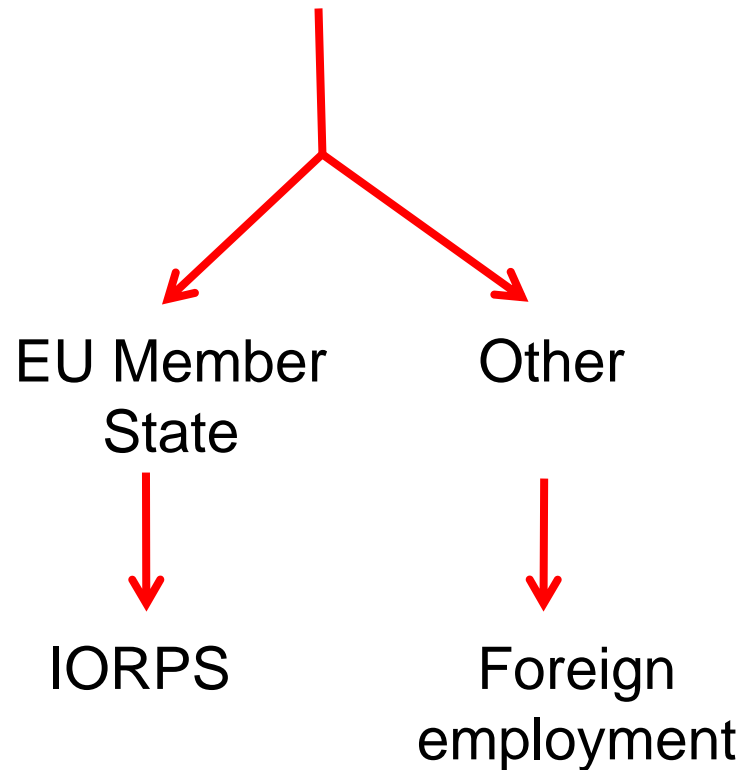
*“ All payments to an ... overseas arrangement from an occupational pension scheme under the ... Transfer Regulations or received from such an arrangement ... may be made or received **to facilitate bona fide transactions only.**”*

“for bona fide reasons and is not primarily for the purpose of circumventing pension tax legislation and Revenue rules.”

Declaration



Revenue Practice OPS requirements





OPS Summary of overseas transfer requirements

Statutory Preserved Benefit

'bona fide' test & Declaration

Verify overseas arrangement

Verify IORPS if to EU State;
else verify foreign employment



PRSA Summary of overseas transfer requirements

Statutory Preserved Benefit

'bona fide' test & Declaration

Verify overseas arrangement

Verify IORPS if to EU State;
else verify foreign employment



O'Sullivan v Canada Life



Mr O'Sullivan ... self employed tax accountant



- February 2013 : opened a PRSA
- May 2013 : instructed to transfer fund to Malta
- Signed the 'bona fide' Declaration ... *'unstable economic climate'*.
- Transfer declined as client not residing/working in Malta



Canada Life/Revenue



- Did the Maltese scheme provide 'relevant benefits'?
- Transfer not 'bona fide' as client is not residing or working in Malta
- CL twice referred to Revenue for guidance
- 'Relevant benefits' only employer related?



Court



Bona fide test and Declaration still stand

PRSA provider not required to verify
*'the signed Declaration is what it
appears to be'*, unless *'other
information'* suggests non bona fide

'relevant benefits' related to
employment for OPS transfers but not
for PRSA transfers



What does this all mean?

Bona fide test and Declaration still apply

No residence test for overseas transfers of 'self employed' PRSAs

Residence test for overseas transfers from OPS?

Residence test for AVC PRSAs and 'employee' PRSAs?





Warning!

Trustees and PRSA Providers should *not* rely on this presentation in making a decision to make or not make a requested overseas transfer.

They should obtain their own legal advices.



SHOULD YOU TRANSFER?





Why transfer?

- No pension levy
- Earlier access to benefits
- Higher tax free lump sum?
- Avoid forced annuity purchase
- Avoid €63,500 AMRF requirement
- Avoidance of 5% pa forced drawdown ... until 70
- Future growth in funds outside Irish Threshold limits
- Avoid Irish PAYE on retirement income
- Putting funds beyond the reach of creditors?

But all of these would fail the 'bona fide' test!



Downsides of overseas transfers

- Significant taxation uncertainty
 - PAYE tax charge on PRSA transfers
 - How will benefits be taxed if resident in ROI?
- High and non transparent costs & commissions
- Irreversible transaction
 - E.g. offshore drawdown fund can't be transferred back to an Irish ARF
- Getting service/advice on a distance basis
- Difficulty in obtaining legal redress overseas



Other risks

- Dealing with unregulated intermediaries
- Taking a transfer value from a DB scheme
 - BOB/PRSA or overseas transfer?
- Timing risk in taking a transfer value
- Unsuitable investment profile of offshore investment fund?
- ‘Blowing’ retirement funds through early access



Two overseas transfer 'markets'

€100~€150k
TV



€1.5m + TV





Irish 'QROPS' regime required ?





TRUSTEE/PROVIDER RESPONSIBILITY?



Provide information and warnings?



Predators stalk your pension

Companies are singling out savers like you and claiming that they can help you cash in your pension early. If you agree to this you could face a tax bill of more than half your pension savings.

 **Don't let your pension become prey.**

ActionFrame the pensions advisory service



Suggest seeking independent advice from another source?





Impose cooling off period prior to transfer?





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THANK YOU

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