

**THE INTERNATIONAL TAX COMPLIANCE
REGULATIONS 2014**

**ISLE OF MAN PENSION SCHEMES
GUIDANCE NOTES**

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Background

This section applies to the US Agreement and UK Agreement and provides guidance for Isle of Man resident pension schemes.

In most cases, an Isle of Man pension scheme constituted as a trust is classified as an Isle of Man resident pension scheme for the purposes of these Agreements, where it has an Isle of Man resident trustee.

The treatment of a pension scheme for FATCA purposes should follow the treatment of the vehicle in which the scheme is held. However, pension schemes have general exemptions within both the UK and US Agreements, as well as jurisdiction specific exemptions which have been agreed.

Pension providers, TCSPs and any trustee that is considered to be a Financial Institution in its own right will have registration obligations under the US Agreement even if no Specified US Persons are identified in relation to the retirement/pension funds that they manage or administer. Sole purpose trustee companies for Plans with no operating income are not expected to be FIs and hence will be Passive NFFEs.

It should also be noted that as a pension scheme is generally held in a trust it may be possible for the financial institution to utilise either the "Trustee Documented Trust" or "Sponsored Entity" route. Reference should be made to section 7 of the main body of the Guidance Notes which provides full details of the treatment of trusts.

Settlers or Beneficiaries

Within the guidance on trusts in section 7 of the main guidance notes, the reporting treatment is based on whether the settlor and/or beneficiary is a US or UK Specified Person. For the purpose of an Isle of Man resident pension scheme under FATCA, an individual who has contributed to a scheme will be said to be a settlor and the treatments for a settlor of a trust should be followed.

If a person is in receipt of a pension or payment from a scheme or a person who is entitled to a payment from a scheme will be said to be the beneficiary for FATCA purposes.

Equity Interest

The Equity Interest of an Isle of Man resident pension scheme should be calculated in the same way as for a trust. However, the Equity Interest attributable to an employer of any employer sponsored scheme can be considered to be nil while the scheme continues, even where the employer might have rights to any residual surplus assets on the dissolution of the scheme.

The Equity Interest of a beneficiary (including settlor) is the individual account balance in the scheme. If the trustee does not know, or have reason to know based on readily accessible information, the account balance in the scheme (as may be the case with a defined benefit scheme, for example), the Equity Interest of a beneficiary is the total amount of benefits paid during the year. If the trustee does not know, or have reason to know based on readily accessible information, the account balance in the scheme and the beneficiary received no benefit payments during the year, the Equity Interest is nil.

Exemptions (General)

Within the UK and US Agreements there are specific exemptions for retirement benefit schemes.

Exempt Beneficial Owners

The following entities are exempt beneficial owners and are treated as Non-Reporting Isle of Man Financial Institutions.

Broad Participation Retirement Fund – A fund established in the Isle of Man to provide retirement, disability, or death benefits, or any combination, to beneficiaries that are current or former employees in consideration for past service will be exempt provided that the fund:

1. Does not have a single beneficiary with a right to more than 5 percent of the fund's assets;
2. Is subject to Government regulation and provides annual information reporting about its beneficiaries to relevant tax authorities in the Island;
3. Satisfies at least one of the following requirements:
 - a. The fund is generally exempt from tax in the Isle of Man on investment income under the laws of the Isle of Man due to its status as a retirement or pension plan;
 - b. The fund receives at least 50 percent of its total contributions from the sponsoring employers;
 - c. Distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death, or penalties apply to distributions or withdrawals made before such specified events; or
 - d. Contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed \$50,000 annually, applying the rules for account aggregation and currency translation.

Narrow Participation Retirement Fund. A fund established in the Isle of Man to provide retirement, disability, or death benefits to beneficiaries that are current or former employees in consideration for services rendered, provided that:

1. The fund has fewer than 50 participants;
2. The fund is sponsored by one or more employers that are not Investment Entities or Passive NFFEs;
3. The employee and employer contributions to the fund are limited by reference to earned income and compensation of the employee, respectively;
4. Participants that are not residents of the Isle of Man are not entitled to more than 20% of the fund's assets; and
5. The fund is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in the Isle of Man.

Exempt Products

The following account is excluded from the definition of Financial Account and therefore shall not be treated as a Reportable Account.

Retirement and Pension Account - A retirement or pension account maintained in the Island that satisfies the following requirements under the laws of the Isle of Man.

- a) Annual contributions into the scheme are not more than £50,000 (US Agreement - \$50,000 or there is a maximum lifetime contribution limit to the account of \$1,000,000 or less);
- b) The scheme is tax-favoured (i.e. contributions to the scheme that would otherwise be subject to tax laws of the Isle of Man are deductible or excluded from the gross income of the scheme or taxed at a reduced rate, or taxation on investment income from the scheme is deferred or taxed at a reduced rate);
- c) Funds contributed cannot be accessed before the age of 55 except in circumstances of serious ill health (US Agreement - Withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events);

and for the purposes of the US Agreement only -

- d) The account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
- e) Annual information reporting is required to the tax authorities in the Isle of Man with respect to the account.

Exemptions specific to the UK IGA

There are further exemptions for certain Isle of Man resident pension schemes. In summary this means that -

1. All statutory schemes will be classed as exempt Beneficial Owners.
2. All schemes approved by the Assessor under the Income Tax (Retirement Benefit) Schemes Act 1978 will be classed as exempt products.
3. All schemes that are approved for UK QROPS purposes will be exempt products for the time on which they appear on the QROPS list published by HMRC.