

• RATS INFESTATION IN JERSEY

Retirement Annuity Trust Schemes ('RATS') have existed in Guernsey for some years and following a recent amendment to the Income (Jersey) Law 1964 (the 'Law'), Jersey now offers the opportunity for Jersey residents to save for their retirement by way of a trust.

As with other pension vehicles, depending on your age, the Law stipulates the maximum annual sums which you may contribute to a RATS. Retirement benefits can only be paid by the trustees to you once you reach the age of fifty (50), but not after you reach seventy-five (75). However, you may receive retirement benefits before attaining your fiftieth birthday where: (i) you become incapable through infirmity of body or mind to carry on your occupation or any occupation of a similar nature for which you are trained or fitted; or (ii) your occupation is one in which persons customarily retire before attaining the age of fifty.

Retirement benefits can only be applied to you by way of an annuity or an annuity and a lump sum payment (such sum must not exceed 30% of your contributions). No additional contributions can be made once the annuity is taken.

One of the most popular advantages of RATS is that an annuity can be paid directly from the trust fund without the need to purchase an annuity from an insurance company. Once an annuity quotation is obtained, future liabilities of the RATS are known in advance allowing the trustees to manage the portfolio so that adequate funds are available to pay a pension for the rest of your expected life. This means pension payments can become the primary measure of performance allowing trustees to focus on limiting the risk of your RATS not being able to meet its liabilities.

In the event you die before exercising your right to receive an annuity and/or lump sum, your contributions are paid to your estate. However, if you die after exercising your right to receive an annuity and/or lump sum, your surviving spouse (if any) will benefit from your RATS by electing to receive either an annuity or a lump sum (but not both). Any annuity paid to your surviving spouse cannot be of greater amount than any annuity paid to you. If there is no surviving spouse, then a lump sum is payable to your estate.

Unfortunately, Jersey RATS do not provide for your dependants (typically children) to benefit from your RATS other than through payment of a lump sum to your estate which will have suffered taxation at the standard rate before your dependants benefit.

Whilst it is not possible for any accrued rights under a RATS to be wholly or in part surrendered, commuted or assigned, it is possible for you to require or request a sum representing your accrued rights to be paid to an annuity contract or a fund or another RATS approved of by the Comptroller of Income Tax. However, your surviving spouse only has the option to require a sum representing your accrued rights to be paid to another RATS.

In respect of income tax, an annuity payable to either you or your surviving spouse is treated as earned income arising in Jersey. However, where a lump sum becomes payable to your surviving spouse or your estate after commencement of an annuity to you, income tax in respect of that lump sum is charged on the trustees of the RATS either: (i) at half the standard rate in force for the year in which payment is made if payment is made to your surviving spouse; or (ii) at the standard rate in force for the year in which payment is made if payment is made to your estate.

It is usual for trust schemes to be established by a pension provider and for you to join the scheme (i.e. you become a member) whereby all contributions are pooled for investment purposes and benefits are allocated to individuals accordingly. However, the Law does not specifically exclude you having your own private RATS which might allow you greater flexibility in relation to the terms of the scheme and the investment of the portfolio (subject to the Law and guidelines produced by the Income Tax Department).

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FOR MORE INFORMATION,
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