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“Malta Pension Plans, Part II” Tax Notes Federal

In a letter to the editor in Tax Notes Federal, Tom Cullinan questions the IRS-CI investigation into Malta pension plans

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In a letter to the editor published in Tax Notes Federal on November 20, 2023, Atlanta-based Shareholder Tom Cullinan questions why the IRS-CI investigation into Malta pension plans includes taxpayers who contributed to pension plans while working in the UK and who legally and legitimately transferred those pensions to Malta pensions pursuant to the UK government QROPS program.

The first three paragraphs of the article are included below with permission from the publication. To read the full article, subscribers may [click here](#).

I enjoyed speaking with Tax Notes reporter Nathan J. Richman about the IRS's investigation of Malta pension plans and reading his article on the same. (Related coverage: p. 1512.) I would like to elaborate on the last part of his article, regarding qualified rollovers from U.K. pensions. Specifically, I am concerned that IRS Criminal Investigation has used its summons power on certain U.S. taxpayers who quite clearly did not do anything remotely illegal, and who are unlikely to have any relevant information about anyone who did.

On June 7 the IRS proposed regulations (REG-106228-22) that would make “certain Malta personal retirement scheme transactions” listed transactions. However, the preamble to the proposed regulations goes on to explain:

The Treasury Department and the IRS are aware that the United Kingdom allows tax-deferred transfers from its pension or retirement schemes to certain “qualified recognised overseas pension schemes” (or QROPS), including Malta personal retirement schemes. The Treasury Department and the IRS believe that certain U.S. individuals who may have transferred their foreign pension or retirement arrangements to Malta personal retirement schemes in accordance with foreign law and claimed an exemption from U.S. income tax for earnings in or distributions from such schemes on U.S. Federal income tax returns filed before the date these proposed regulations are published in the Federal Register should not be treated as participating in a listed transaction described in proposed section 1.6011-12(b)(1) provided certain requirements are met.