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Dentons

Staggered joint property purchase

A Case Study

It is becoming far more common to see commercial property purchases within self invested pensions structured on a joint basis, whether with other providers and/or individuals. To some extent this has been brought about by the reduction in the Annual Allowance along with the restriction in pension scheme borrowing to only 50% of the value of the pension scheme's assets.

Joint purchases may involve several self invested pensions joining together or even acquiring property directly with the member or member's company and increasingly a staggered property deal is being considered as the following case study shows.

The Facts:

- Mr Lloyd and Mr Wilson are 50% owners and directors of Albre Design, a limited company
- The value of the business property is £500,000
- Mr Lloyd and Mr Wilson each have a Dentons SIPP valued at £120,000.

Key points:

- Maximum borrowing allowed 50% of net value of each SIPP fund = £120,000 from both SIPPs
- Total funding (including borrowing) available from the SIPPs = £360,000, allowing the purchase of 72% of the property
- Shortfall to purchase the business property is £140,000 (28% of funding required)
- Albre Design has available capital of £140,000 (28% of the funding).

Advantages:

- Enables commercial property to be purchased that would otherwise be too expensive for an individual client to raise the necessary finance
- The arrangement can benefit all participants and they do not all have to have a Dentons SIPP
- Opportunity to borrow funds towards the purchase of the property
- Open market rent paid to the SIPP is free from income tax
- Rental income payable by the tenants can be treated by them as a business expense for tax purposes
- At each stage of the process, the proportionate ownership of the property is outside the member's estate for Inheritance Tax
- On completion of the staggered process the property is owned outside of the business so it is protected from creditors in the event of company insolvency
- A declaration of trust is made under which the trustees hold title for participants as the beneficiaries in the relevant proportions.

The Final result:

- The declaration of trust is varied to show the new ownership proportions
- The SIPPs for Mr Lloyd and Mr Wilson now wholly own the property
- Rent is applied to each SIPP proportionately.

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Process:

Year 1

Mr Lloyd and Mr Wilson jointly purchase premises for their business, Albre Design, through their SIPPs and along with their company.

The property acquisition is structured through a declaration of trust with the document ownership recording the 36/36/28 split: 36% each for Mr Lloyd and Mr Wilson's SIPPs and 28% for Albre Design.

The property is rented back to the business.

Rental payments are set at a commercial rate.

The rental payments are applied proportionately to each party to cover the mortgage borrowing.

Year 2

The company can now contribute to Mr Lloyd and Mr Wilson's SIPPs by making an employer contribution which is then used toward the payment of the property. In this example we have shown contributions of £40,000 gross for each member*: these represent a total of 16% of the property value. At each subsequent year the property will need to be re-valued by an independent MRICS or FRICS Registered Valuer.

The declaration of trust is effectively varied to show the amended ownership and records the new ownership of 88%:

Mr Lloyd	**44%****
Mr Wilson	**44%****
Albre Design	**12%**

Subsequent rents are then applied to each party in the same proportion as the documented ownership.

Year 3

Profits made by Albre Design have been used to completely pay off the outstanding property finance.

The final £60,000 being contributed by the company to the SIPPs, thus the full value of the property is now held by Mr Lloyd and Mr Wilson's SIPPs:

Mr Lloyd	**50%****
Mr Wilson	**50%****
Albre Design	**0%**

The declaration of trust is again varied to show the amended ownership - now between the two SIPPs.

Rent is applied to each party proportionately.

* Contribution assumes that members net adjusted income will not result in scaling back of individual Annual Allowances.

** Please note: subsequent part purchases of the property could be deemed as linked transactions on which accumulated Stamp Duty Land Tax (SDLT) could apply.

Structure of ownership

Please note: this case study is for illustrative purposes only and does not take into account variable related costs. Subsequent part purchases of the property could be deemed as linked transactions on which accumulated Stamp Duty Land Tax (SDLT) could apply.

Year 1
Albre Design property value £500,000

		Property purchase		Total investment	Proportionate beneficial interest
Establish Dentons SIPP – Mr Lloyd **£120,000 Transfer**	+	Borrowing by SIPP **£60,000**	=	**£180,000**	**36%**
Establish Dentons SIPP – Mr Wilson **£120,000 Transfer**	+	Borrowing by SIPP **£60,000**	=	**£180,000**	**36%**
Company Capital – Albre Design **£140,000**			=	**£140,000**	**28%**
				£500,000	**100%**

Year 2
Albre Design property value £500,000

		Property purchase		Total investment	Proportionate beneficial interest
Dentons SIPP – Mr Lloyd **£180,000**	+	Cash contribution by company **£40,000**	=	**£220,000**	**44%**
Dentons SIPP – Mr Wilson **£180,000**	+	Cash contribution by company **£40,000**	=	**£220,000**	**44%**
Company Capital – Albre Design **£140,000**	–	Contributions to SIPPs **£80,000**	=	**£60,000**	**12%**
				£500,000	**100%**

Year 3
Albre Design property value £500,000

		Property purchase		Total investment	Proportionate beneficial interest
Dentons SIPP – Mr Lloyd **£220,000**	+	Cash contribution by company **£30,000**	=	**£250,000**	**50%**
Dentons SIPP – Mr Wilson **£220,000**	+	Cash contribution by company **£30,000**	=	**£250,000**	**50%**
Company Capital – Albre Design **£60,000**	–	Contributions to SIPPs **£60,000**	=	**£0**	**0%**
				£500,000	**100%**

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All statements concerning the tax treatment of products and their benefits are based on our understanding of the current law and HM Revenue & Customs (HMRC) practice. These are for general guidance only and do not constitute professional advice. The tax treatment depends on the individual client circumstances and may be subject to change. Whilst every effort has been made to ensure accuracy, no liability can be accepted for any errors or omissions.

If VAT may be applicable, you should seek specialist advice.

Whilst the names used in this case study are fictitious, the processes described have been used in actual cases.

Please note that every care has been taken to ensure that the information provided is correct and in accordance with our understanding of current law and HMRC practice, which are both subject to change.

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