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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 restrictions around the Annual Allowance along with the restriction in pension scheme borrowing to only 50% of the net asset 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 sometimes a staggered property structure is considered as the following case study shows.

The Facts:

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

Key points:

- Maximum borrowing allowed is 50% of net value of each SIPP fund = £120,000 in total across both SIPPs
- Total funding (including borrowing) available from the SIPPs is therefore £360,000, allowing the purchase of 72% of the property
- Shortfall to purchase the business property is £140,000 (28% of funding required)
- However, Albre Design Ltd 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 SIPP client to raise the necessary finance
- The arrangement can benefit all participants and they do not all have to have a Dentons' Full asset SIPP
- Opportunity to borrow funds towards the purchase of the property (subject to lender agreement to the structure)
- Open market rent paid to the SIPPs is free from income tax
- Rental income payable by the tenants could be treated by them as a business expense for tax purposes
- At each stage of the process, the proportionate ownership of the property held within the SIPPs is outside the members' estates 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 wholly own the property after 3 years
- Rent is applied to each SIPP proportionately

Process:

Year 1

Mr Lloyd and Mr Wilson jointly purchase premises for their business, Albre Design Ltd, through their SIPPs and along with their company.
The property acquisition is structured through a Declaration of Trust with the documented ownership recording the 36/36/28 split: 36% each for Mr Lloyd's and Mr Wilson's SIPPs and 28% for Albre Design Ltd.

The property is rented to the business - Albre Design Ltd.

Rental payments are set at a commercial rate as confirmed by an RICS Registered Valuer's open market rental valuation.

The rental payments are applied proportionately to each party and are adequate to cover the mortgage borrowing by the SIPPs.

Year 2

The company can now contribute further to Mr Lloyd's and Mr Wilson's SIPPs by making employer contributions which will then be used towards purchasing a larger share of the property in the SIPPs. 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 the SIPPs 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

A further employer contribution of £60,000 is made by the company into the SIPPs. This enables the SIPPs to acquire the remaining 12% of the property from Albre Design Ltd so that it is now owned entirely by Mr Lloyd's 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 only.

Rent is applied to each SIPP proportionately.

* Contributions assume that members' threshold and adjusted income will not result in scaling back of individual Annual Allowances below the amounts contributed.

** Please note: subsequent part purchases of the property could be deemed as linked transactions on which accumulated Stamp Duty Land Tax (SDLT) (in England and Wales), or Land and Buildings Transaction Tax (LBTT) (in Scotland) could apply.

Structure of ownership

Please note: this case study is for illustrative purposes only and does not take into account variable related costs and it assumes that mortgage repayments by the SIPPs are being serviced by rental income only. Subsequent part purchases of the property could be deemed as linked transactions on which accumulated Stamp Duty Land Tax (SDLT) (in England and Wales) or Land and Buildings Transaction Tax (LBTT) (in Scotland) could apply.

Year 1

		Property purchase		Total investment in property	Proportionate beneficial interest
Establish Dentons' Full asset SIPP – Mr Lloyd **£120,000 Transfer**	+	Borrowing by SIPP **£60,000**	=	**£180,000**	**36%**
Establish Dentons' Full asset 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 in property	Proportionate beneficial interest
Full asset SIPP – Mr Lloyd **£180,000**	+	From cash contribution by company **£40,000**	=	**£220,000**	**44%**
Full asset SIPP – Mr Wilson **£180,000**	+	From cash contribution by company **£40,000**	=	**£220,000**	**44%**
Company Capital – Albre Design **£140,000**	–	Additional purchase by SIPPs **£80,000**	=	**£60,000**	**12%**
				£500,000	**100%**

Year 3
Albre Design property value £500,000

		Property purchase		Total investment in property	Proportionate beneficial interest
Full asset SIPP – Mr Lloyd **£220,000**	+	From cash contribution by company **£30,000**	=	**£250,000**	**50%**
Full asset SIPP – Mr Wilson £220,000	+	From cash contribution by company **£30,000**	=	**£250,000**	**50%**
Company Capital – Albre Design **£60,000**	–	Additional purchase by SIPPs **£60,000**	=	**£0**	**0%**
				£500,000	**100%**

Notes

- This case study is for Financial Adviser use only and not for use by retail clients
- Figures used in this case study are for illustration purposes only
- 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) rules. 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
- Sufficient cash funds will need to be held in the SIPP default bank account to ensure ongoing fees and expenses from the SIPP can be met
- ^The property and remaining pension assets are currently outside of Mr Lloyd's and Mr Wilson's estates and are therefore not subject to inheritance tax if they were to die. From 6 April 2027, however, effectively all pension funds death benefits (including SIPPs), will be brought within scope of Inheritance Tax under current Government proposals
- Whilst the names used in this case study are fictitious, the processes described have been used in actual cases
- Dentons will not provide advice on the suitability of investments but reserves the right to refuse to hold any proposed investment in the scheme
- Every care has been taken to ensure that the information provided is correct and in accordance with our understanding of current law and HMRC rules, which are both subject to change.

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