

It's a wrapper!

Nick Brier discusses having your surgery property in a SIPP.

Following the radical changes in pension legislation that became effective from April 6, 2006, a number of GDPs are considering the feasibility of transferring their existing surgery premises into a Self Invested Personal Pension (SIPP).

Such transactions may be attractive to some GDPs but the issues

surrounding SIPP property purchase can be complex and this article aims to set out the pros and cons.

What is a SIPP?

In many respects a SIPP is similar to a conventional personal pension

in as much as it can receive tax-relievable contributions and transfers-in from

other pension arrangements with the aim of ultimately providing retirement benefits to the member.

However, as the name implies, a SIPP is not restricted to the investment choice of only one product provider. In effect, it is an empty box or wrapper,

which can contain any investment approved by Her Majesty's Revenue and Customs (HMRC) for pension purposes. For example, forms of investment acceptable to HMRC include: shares, Government bonds, unit trusts, investment trusts, deposit

accounts, as well as commercial property (for example, a dental surgery).

An attractive feature of SIPPs in relation to buying property, is that the SIPP itself can borrow up to 50 per cent of scheme assets to help fund the purchase.

For example, ignoring costs, a SIPP that has a fund value of £200K could borrow a further £100K to buy a

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property for £300K.

As you would expect, as with an individual purchase, a SIPP property acquisition will incur costs such as valuation fees, legal fees, stamp duty and so on. In addition, there will be initial and ongoing costs for the SIPP wrapper itself and your financial adviser will usually charge a fee for providing advice on setting-up the SIPP.

Also, if the value of the property has increased since the original purchase date, moving surgery premises into a SIPP may give rise to a capital gains tax liability – this will be at a maximum rate of 18 per cent of the gain. Also, given the recent fall in most commercial property values, capital gains tax issues may now be less of a stumbling block to moving property into a SIPP!

Transferring the property

To the question: can I simply transfer the property into a SIPP *in lieu* of a cash contribution, under HMRC rules, the answer is 'yes' and the process is known as an 'in specie' contribution.

However, due to the legal complexity surrounding 'in-specie' property contributions, most SIPP providers will prefer that you fund the purchase from a possible combination of new contributions, transfers-in from other registered pension schemes and bank borrowing.

If needed, most banks will usually be willing to make a short term lending facility available to fund new contributions with the borrowing being repaid when the sale proceeds from the pension scheme have been received.

Some people struggle to get to grips with this process – however, remember that as it is your pension scheme that is buying a property that you already own, you get the sale proceeds back out of the pension scheme!

Advantages

Any contributions paid into the SIPP should attract tax relief at your highest

marginal rate. For example, the cost of a £50K contribution could be as little as £30K.

The rent paid to the SIPP will be tax-free and should be eligible as a business expense for tax purposes. The rent paid forms part of your investment return, meaning that it does not restrict your ability to also make further individual contributions into the scheme.

As the property is held within a pension scheme, any future growth in its value will be tax-free.

Death benefits from pension schemes are usually exempt from inheritance tax.

Any cash that builds-up in the SIPP (for example, from rental payments and any further contributions you decide to make) can be used to buy other investments and/or make lump sum reductions in any scheme borrowing.

Disadvantages

As you would expect, there are also some potential disadvantages of which you need to be aware.

The ownership of the property will pass from you personally to your SIPP meaning that you have less direct control. Also, you will not be able to use the property to secure any borrowing outside the SIPP.

The purchase price of the property and terms of the lease must be set at commercial rates.

Property is not a liquid investment – it may not be easy to sell when you wish to access pension benefits.

If, to help fund the property purchase, you need to make a contribution into your SIPP, you will need to check that the required level of contribution is within HMRC limits. For personal contributions, each tax year you can normally pay contributions up to a maximum of 100 per cent of your earnings subject to an overall annual



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allowance of currently £235K.

The recent pension legislation introduced a lifetime allowance applicable to pension benefits - the limit is £1.65m for the current tax year. As building pension savings in excess of the lifetime allowance does not usually make sense, you need to consider the likelihood of breaching the limit. This issue is likely to be particularly relevant to those who have already accrued substantial NHS pension rights.

If transferring pensions from other schemes into your SIPP, you need to take into account any transfer penalties or loss of any guarantees.

When you eventually draw benefits from the SIPP (the minimum age is currently 50 but will increase to 55 with effect from April 6, 2010), although you can take up to 25 per cent of the value of the fund as a tax-free sum, the remainder must be used to provide a pension income which is subject to income tax.

Property values can go down as well as up.

Using a SIPP to acquire a commercial property can be very advantageous, but it can also be a complex process where a number of issues need to be carefully considered. It is essential that anyone considering such a transaction should take professional advice. ■

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