

How to use your
pension fund

to help your business



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1. Introduction

Dear Reader

Legislation introduced on 6 April 2006, a date known as “A Day” significantly enhanced the flexibility of pension plans and how individuals could use those plans to invest in a range of assets.

The scope of pensions is far greater than most people realise and the rules/guidelines allow for some dramatic possibilities.

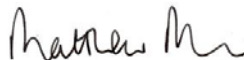
In particular we believe that many individuals may not be aware how significantly they can use their pensions to “self invest” and how they might use their pensions to help with their businesses requirements.

In the current market with the economy in freefall, bank funding non existent and with many investments flattened by asset price falls we believe many people may look to their pension to help supplement their businesses requirements.

This short guide is intended to highlight the possibilities. It is not intended to provide the answers, we will show you how and where to find the answers and to alert you to the type of planning that you may undertake which may help you with your business needs.

It is crucial that we stress (and we make no apology for doing so repeatedly) how important it is that, should you wish to pursue some further investigation into these areas, you must take specialist advice. These areas are complex: yes, the prospects are great but in some respect so are the pitfalls.

Yours sincerely



Matthew Morris

2. The Pension Plans you can use

There are probably a range of plans that you could use for some form of DIY investing (including help for your business) but we believe there are two types which will normally be applicable:

- **Self Invested Personal Pensions (SIPPs)**
- **Small Self Administered Schemes (SSASs)**

It is these two types that we will focus upon.

Both have significant capacity for you to direct the investment within your own plan.

They differ in that SIPPs are *personal* schemes whereas SSAS's are *occupational* schemes set up by a sponsoring employer.

Both allow investment into unlisted shares, corporate property and both have borrowing facilities to top up the amount you can invest.

However SSAS's have the advantage in that they can **loan** money to the sponsoring employer on a commercial basis. The maximum loan that can be made is 50% of the fund.

Our view is that the new pension rules established after A Day make it far more likely that most individuals will be using SIPPs, where there are now very generous contribution limits and rules applying.

IF YOU CURRENTLY HAVE A PENSION WHICH IS NOT A SIPP OR SSAS THEN YOU CAN CONSIDER TRANSFERRING YOUR EXISTING PENSION IN ORDER TO SET UP A SIPP OR SSAS SCHEME.

3. Some Key Factors

2008 is now recognised as the worst year in a generation for investments. During this year the following asset returns were recorded in the major asset classes:

The option for pension investors to buy commercial property is now well established. However since A Day connected party transactions have been radically altered. In plain English this means you can now legitimately buy an asset that you are connected with, the restrictions have, in the main, been removed. So if you own a commercial property your pension fund could buy it from you. Any such transaction must be done on an arms length basis, which means it must be transacted at its true value.

This means owners of commercial property might be able to release money by selling their property to their pension fund.

Likewise there is no *absolute* restriction on pensions buying unlisted shares (although there are plenty of mini restrictions, which can often be quite limiting), but in essence a pension (SIPP or SSAS) can buy shares in an unquoted company. So if you own shares in your Company you could sell them to your pension fund or you could set up a new company, issue shares in this, and then the pension could subscribe for the shares.

HOWEVER please note that the mini restrictions come into play in these considerations. Your pension fund, either alone or acting in conjunction with a connected party, cannot own a company which it controls. Also any share transaction has to be on an arms length basis, and finally you cannot invest into a company that will hold residential property or any form of tangible property.

But with a bit of imagination and with carefully structured advice many things can still be achieved as we will outline in the examples below.

Of course if you have or can establish a SSAS then the loan back facility from the scheme to the sponsoring employer could be very useful

4. The scope of HM Revenue & Customs' rules and guidelines

The landscape has changed very significantly in the past few years and there is a definite trend to free up the pension rules: to allow individuals and businesses to use their pensions in an ever more flexible fashion.

HM Revenue & Customs rules are now fairly generous and allow a great deal of scope. There is plenty of scope to invest your pension in a wide variety of assets and for the member to control or direct the investment.

The limits on contributions into pensions have been radically improved, albeit with some restrictions on the total fund that can be built up. But individuals can now get tax relief on contributions up to the limit of £245,000 (current tax year). Larger contributions can be made but there will be no tax relief on any contribution over the limit. Recent budget changes (April 2009) have put further restrictions on high earners getting tax relief. However we do not believe at the current time that this restricts the self investment options. These changes, as ever, are not straightforward and highlight the need for anyone with a pension to get very specific advice as to the consequences.

Pensions, used correctly, are dynamic tax planning vehicles that allow for an individual and their Business to direct monies into a scheme under their control with the investment possibly going into an asset of their choosing and one that may benefit their Business requirement.

The Revenue's rule book is now very wide indeed and is very flexible, with a great deal of emphasis placed back on to the trustees of schemes and the administrators. The rules allow for many imaginative arrangements to be put in place, albeit with some of the restrictions to be avoided or respected as shown below.

5. Some pitfalls to avoid

If you go ahead and use your pension to self invest into unlisted shares or property and fall foul of the rules then the penalties are very severe. The tax charges imposed upon you and the pension are, put bluntly, horrific.

You need to make sure you do not impinge on the rules.

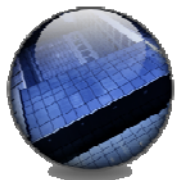
There are some rules which may cause an obvious problem:

1. Avoid any investment into residential property. This is the biggest no-go; even a small element of residential property can cause a problem, so for example if you buy a commercial building which has a small flat within it (e.g. a flat above a shop) this could pose a problem.
2. Make sure all transactions are on an arms length basis. This is not always clear or easy to understand but in essence your pension fund should not buy something for more than it is worth or less than it is worth. If you own a commercial building, for example, and sell it to your own pension fund for £250,000, when it is really worth £500,000 you will be in trouble!
3. Make sure you don't invest your fund directly or indirectly in "taxable property." Taxable property basically means anything that is movable OR depreciates. Think of anything you might want to use your pension fund to buy and if you can move it, it will fail on the taxable property definition! Common examples are: works of art, racehorses, furniture, cars etc.
4. Don't extract personal value from the pension. There may be ways that you can invest your pension fund which is perfectly within the rules but you get some form of personal benefit. If this occurs you may well fall foul of the rules which say that you cannot extract personal value from your pension.

But there are also rules which may be less obvious but will still cause a problem and this is where professional advice is so important.

6. Some real examples of what can be done

All of the examples are based on real cases, although some of the detail may have been changed for reasons of privacy or simplicity.



A businessman owns a commercial property that houses his business, valued at £250,000 with a £100,000 loan secured against it. He has £200,000 in his pension funds. He needs some cash for his business. In the past he could have leveraged on his property and borrowed against this to raise funds. Banks are currently unwilling to help. Instead he sells his property to his pension fund for £250,000 by investing a further £50,000 into the pension (on which he gets tax relief, saving around £13,000 in tax) and then using his fund to buy the property. The loan of £100,000 is cleared: he keeps the additional £150,000 proceeds. There are costs, including stamp duty and possibly Capital Gains Tax, although it did not apply in this case.



A company of many years standing has 6 shareholders, one of whom, the original founder, holds 35%. He wishes to sell his shares as he is retiring. The shares are unlisted. The valuation of his shareholding is assessed as £600,000. The other shareholders are given first refusal and wish to instigate a purchase of the founder's shares. Some of them have the money to instigate the buy out, some do not. Those that have not got sufficient cash do however have monies in pensions and they use these to buy the residual shares that they are entitled to, making the buy out possible.



XYZ Limited, a small recruitment consultancy specialising in the City, wish to expand. In order to do so they decide they need to increase their marketing from the current year's £50,000 budget to a budget of £200,000. They also wish to construct a brand new web site at a cost of £40,000. The total expenditure on these two items is £240,000: but they don't have the funding to achieve this. Between various parties (including friends) the owners invest some of their pension monies in to a brand new company XYZ No.2 Ltd. Six of them each invest £40,000 of their pension funds into the new company. This gives the new company £240,000 in cash (it has no other assets and no other liabilities), which means it is worth £240,000: making this an exact valuation. XYZ no. 2 Ltd under contract to XYZ Ltd now builds the new web site and spends (over the next 12 months) £200,000 on marketing. The deal with XYZ (no 1) is that for every successful placement XYZ no. 2 will receive 20% until the £240,000 has been repaid and doubled. This is a fantastic deal for all parties: if successful the pension fund for each person is doubled. XYZ Ltd gets additional marketing and a brand new web site and is able to expand and the pressure for funding and on cash flow is removed.

7. How to take matters forward

There is no question that these areas have tremendous potential and many individuals can use their pensions to an extent which they may not realise. However a pension is often one of the biggest and most certainly important assets held by an individual and should not be treated lightly and any self directed investment should be very carefully considered.

Just as relevant is the fact that these areas are riddled with complexity and any arrangement needs to be considered and investigated only with the very best advisers helping.

You will need an independent financial adviser who is experienced in these matters and then any possible scenario will have to be tested and covered off with a trustee/administrator.

Our service incorporates putting you in touch with an adviser who will be able to look at the possibilities with you and discuss with you what may be achievable and the scope of any plan you could put in place.

To make an initial enquiry click here (<LINK>) and complete our initial enquiry form, which will only take you a couple of minutes. An adviser will then get in touch and discuss your requirements with you.

8. Summary

Whatever one thinks about with-profits investments on a general level, there are some companies that have simply failed to produce results whatever the measure or benchmark used.

1. Pensions legislation allows for individuals to self invest their pensions. This means that individuals can direct where their pension fund is invested.
2. The range of assets that can be used is generally much greater and wider than is realised.
3. Assets include commercial property and unlisted shares, which opens up the possibility that individuals may be able to use their fund to help with their business/company requirements.
4. Pensions can buy assets from the individual. This means you might be able to buy assets from yourself!
5. Contribution levels into pensions are much higher today than they were even a couple of years ago.
6. Pensions are complex in the small print. This is no area for the novice, advice is absolutely essential. Whilst you may decide where you want to invest your pension and to self “direct” where the money goes, you must make sure that you get expert technical advice to make sure whatever your plan of action it does not break any of the myriad of restrictive rules and incur heavy penalties.

9. Key contacts

Getting Independent Advice:

We have Independent Advisers, regulated by the FSA, across the whole of the UK, qualified to help you with these matters. To get further help from an adviser please complete our short enquiry form <LINK TO ENQUIRY FORM>

Details of AMPS (Association of Member-Directed Pension Schemes)

A whole host of information about pensions schemes and pension scheme trustees and administrators can be found at www.ampsonline.co.uk

HMRC Details

Likewise the HMRC web site contains a great deal of information including all the technical details of how you can use your pension fund. Go to www.hmrc.co.uk Tip: if you do this use the search facility "SIPPs technical pages" to get to the right place.

MC Trustees details

We believe MC Trustees are one of the foremost firms in this area, offering really sensible and detailed solutions. They are trustees and administrators. Please see their web site for further details www.mctrustees.co.uk

10. Regulatory statement and contact points

Regulatory statement

Please note the web site www.howmuchdoineedto retire.co.uk is not regulated. The document you have read is not a regulated document. Anything on the site and/or in the pages of this or any other document produced or made available by the site is not regulated and has not been approved by a regulated person or firm. Any information provided is for guidance only and should not be relied upon as advice without taking individualised regulated advice from an appropriate source, before you take any action. It is very important that if there is anything within these pages that you are not sure about you must take regulated advice from an authorised firm or individual.

Contact Points

DMP Marketing Ltd has produced the booklet as information to assist readers with their understanding of the market.

To contact the author or distributors of this document please use one of the following contact points:

DMP Marketing Ltd
Cirencester Office Park
Tetbury Road
Cirencester
Glos
GL7 6JJ

Telephone: 01285 700759

E-mail: info@dmpmarketing.co.uk

11. Enquiry form

1 Personal Information

Your name

Address

Postcode

Is this your work or home address?

Work Home

Contact telephone

Email address

Is this your work or home email?

Work Home

2..Your current pension position (if known. Approximations are fine)

How many pensions do you have

What type of pension do you have?

Personal Pensions

Stakeholder Pensions

SSAS

Company Scheme

Mixture

Other (please provide details)

What is the current value of your pensions?

£

Company or companies your pension is/are with

Your current age

Your desired retirement age

3 Supplementary information

Please tell us anything else that may be relevant and/or anything else about your requirements