

Business properties

Down to business



Nigel Bennett explains that the one area that tends to capture the imagination of business owners is the ability to hold their business premises in their pension scheme

So far in 2021, InvestAcc has seen volumes of new property acquisition requests increase by over 80% in the last three months compared to the average for the previous 12 months, partly driven by returning confidence as the economy recovers, with businesses in some sectors beginning to plan for their future with more certainty. We are also seeing an increase in transfers from other providers, with members having been let down by poor service and/or high charges from their previous provider.

The advantages of buying business property in a self-invested personal pension (SIPP) include:

- Use of tax-relieved funds to purchase property.
- Purchase of existing owned property can release cash into the business.
- No tax on any growth in increased value of the property or rents received.
- Rent payments are an allowable business expense.
- Rent payments from the business to the member's SIPP do not count against the annual allowance.
- Rental yields can make property an attractive investment.
- Being your own landlord can provide some additional security, knowing that the decision to renew a lease does not rely on a third party.
- The property is held outside the business or personal ownership, offering some protection from potential creditors should the business fail.

However, the advantages should be weighed against the disadvantages, including:

- Property is an illiquid asset.
- Returns are not guaranteed.
- Property may become vacant or have a struggling tenant.
- An empty property still needs to be maintained and insured; service charges, ground rents and business rates may need to be paid.
- Concentration of risk within a single asset.
- Purchase of an existing owned property may give rise to a capital gain upon sale to the SIPP.
- Additional property administration costs.

Many SIPPs are established on a group basis, allowing individuals to share ownership of the property, spreading costs and funding. This can free up funds to allow diversification into non-property investments.

A solicitor will be appointed to act for the SIPP trustees to handle the acquisition of the property, prepare a report on title, conduct searches, review, or create leases and prepare the documentation to deal with the legal transfer of the property, ultimately ensuring the change of ownership is registered at the Land Registry. We allow any Solicitors Regulation Authority (SRA)-regulated firm to act for the SIPP trustees, and we have a panel of six solicitor firms across the UK on hand, should the client prefer us to choose a firm with the required level of expertise and experience in dealing with these transactions for pension schemes.

Many commercial properties are VAT elected; the vendor therefore must charge VAT on the sale price. Fortunately, SIPP trustees can register for VAT and make an 'Option to Tax' the property, enabling reclaim of the VAT payable. For VAT-elected property, VAT must also be charged on the rent; a VAT-registered tenant should be able to offset this against their VAT-able supplies. In some cases, the transfer of VAT-elected property may occur without payment of VAT, if the transfer meets the conditions of a Transfer of Going Concern (TOGC). VAT is a highly specialised and complex subject, so it is essential the client takes advice from an accountant or VAT specialist, to ensure the correct treatment.

The costs of holding property in a SIPP will depend partly on the SIPP provider (which range from very competitive to very

expensive), but there will also be other costs to consider. For instance, it may be necessary to revalue the property from time to time, such as when there is a benefit crystallisation event, or the rent needs to be reviewed for a connected party tenant. These costs can be mitigated somewhat by developing a long-term relationship with a surveyor, agreeing the cost of future revaluations that may be provided in a simple side letter.

Choosing the right SIPP provider is essential, bearing in mind these investments are typically held for many years. Providers may come and go, with some moving their business models away from property administration.

We know that most advisers do not come across clients of this type on a regular basis, so many of the conversations we have are with firms and advisers who need some help and support in understanding how these transactions work and the steps involved.

We have a dedicated team of Business Development Managers offering practical and technical support to advisers, they can chat through enquiries including whether the investment is likely to meet our requirements, funding issues, timescales, fees and likely other costs, illustrations, navigating our website and providing the appropriate forms and guides.

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