

Transfer in-specie between SIPPs.

A case study

Mr Arkwright has an existing SIPP which holds a commercial property and an investment platform managed by his adviser. The property is leased to his own business. His existing SIPP provider has increased its fees and imposed new conditions with regards to the compulsory use of a property manager, for which additional fees are also now payable.

Mr Arkwright was previously able to handle the relatively simple property management himself which consisted of rental invoicing, quarterly VAT returns and annual insurance. This has coincided with a drop in service standards by the existing provider.



The facts

- A SIPP provider can sometimes change its proposition and the terms under which it operates its SIPP: this might be to standardise their client proposition to aid their administration but it doesn't usually offer flexibility for the client.
- The SIPP's cash and/or assets must be transferred to a different SIPP provider if the SIPP member wishes to break the link with their current provider. Any assets that are to be transferred without being converted to cash will go through the process of an 'in-specie transfer' and Title will be moved to the trustees of the new SIPP. In the case of commercial property, Title will be moved to the SIPP member in his/her capacity as trustee of the SIPP. This is done by way of a Declaration of Trust*.
- The Dentons SIPP operates with the member being a co-trustee alongside Dentons' trustee company, Denton & Co. Trustees Limited. It is up to the member trustee to decide who should undertake property management and which solicitors and surveyors should be used. Dentons does not restrict this.
- The adviser determines that although there is a cost for the in-specie transfer, long term savings will be made due to lower ongoing annual fees. Mr Arkwright will also benefit from being able to manage his own property with minimal additional costs as well as Dentons' award winning service standards.

The process

- The adviser reviews the market to find a flexible property specialist SIPP provider, such as Dentons
- Dentons, as the new SIPP provider, must first review the current SIPP assets to determine if they can be accepted. In terms of the property, this would involve collection of data relating to the property address, if it is freehold/leasehold, the terms of tenancy and if the property is opted to tax for VAT purposes. Certain other details such as asbestos management plans and Energy Performance Certificates (EPCs) might also be necessary
- It is confirmed that the investment platform only holds regulated funds
- Once all assets have been confirmed as acceptable, a new Dentons SIPP can be established and a new (and initially empty) investment platform account is opened with the same platform provider. The new SIPP must be registered for VAT in this case, as the property is opted to tax. The transferring SIPP provider is then instructed to transfer in specie all current holdings into the new platform account
- Solicitors are instructed to re-register title of the property into the name of the new SIPP's member trustee only: Dentons' professional trustee will require that a Restriction on title is placed on the Land Register.

- Finally, any residual cash is transferred from the transferring SIPP to the new Dentons SIPP.

The result

- The assets are moved in-specie to the new SIPP resulting in no sale/repurchase property costs. Mr Arkwright is able to continue to self manage his property meaning ongoing annual fees will be less than his old SIPP
- The adviser is able to continue to manage the current portfolio of funds with the same platform provider with potential to invest current cash holdings and future rental receipts
- Mr Arkwright is reassured that due to Dentons' bespoke approach to their services, all the necessary requirements of the SIPP are being met and he can call upon Dentons' other services as required.

Key Points

- > You need to take into account the costs of re-registration of title of assets to be transferred in specie, including solicitor's legal fees and Land Registry charges. Dentons' professional trustee will not be registered as the legal owner of the property at the Land Registry but will add a 'Restriction on title' to prevent the property being sold or mortgaged without their consent, i.e. no 'disposition' takes place without their consent
- > Dentons' approach offers flexible SIPP administration. Dentons will make sure all necessary reporting requirements are met but other tasks can be undertaken as required
- > Dentons will require copies of all relevant property documents including environmental risk assessments, tenancy agreements, EPCs and asbestos management plans
- > Properties with an outstanding mortgage debt will take longer to transfer and may be more expensive due to the necessary agreement of the lender to re-document the loan.
- > Properties with rental arrears or other tenancy problems may be more problematical to transfer
- > The new SIPP trustees will need to register for VAT and opt to tax a property before being able to accept a property that has been opted to tax. It should also be noted that VAT will be payable on the transfer of such a property unless it qualifies as a Transfer of a Going Concern (TOGC)
- > *The Declaration of Trust is a transparent tax neutral arrangement. The SIPP or SSAS Member(s) as trustees will be the registered owners of the property at the Land Registry and there will be a Restriction placed on the Land Register to prevent sale or mortgage of the property without the consent of Dentons' bare trustees company.

Notes

- > This case study is for Financial Adviser use only and not for use by retail clients
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- > 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
- > 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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