For Financial Adviser use only

Unquoted share purchase.

A case study

Mrs Roberts is aware of an information technology business, Telltek Limited, with a niche market and potential for growth. The business is based in the UK and is privately owned. She wants to use her existing pension savings held through a platform to purchase 5% of the shareholding in Telltek Limited from a new issue of shares. Her husband, a Director, already personally owns 9% of the shareholding in Telltek Limited; there are 6 other shareholders.

The facts

- Dentons only permits investment in unquoted company shares provided the criteria for exemption from the HMRC 'taxable property' rules are satisfied
- Taxable property includes residential property and tangible moveable property (please see definition overleaf)
- Failure to satisfy the criteria could mean the investment gives rise to severe tax charges on both the SIPP member and their SIPP
- The HMRC taxable property rules are designed to prevent indirect investment in taxable property using a vehicle such as an unquoted trading company (please see overleaf for where this applies).

The process

- Mrs Roberts completes the Dentons 'Shares in an Unquoted UK Limited Company' questionnaire (available on request or can be downloaded from the Dentons website)
- She submits this with an indicative valuation of the shareholding
- Dentons' internal Investment Committee undertakes an assessment of the investment proposal to ensure it adheres to Dentons' understanding of HMRC rules and Dentons own restrictions*
- Mrs Roberts' SIPP is viewed as effectively 'owning' 14% of the shares of the unquoted company (5% directly and 9% indirectly). This is considered acceptable (subject to meeting other rules) as it is below the 20% 'controlling director' shareholding threshold and there is sufficient diversification of shareholders to prevent a control issue
- As the relevant criteria are met, Mrs Roberts can proceed with the investment through a SIPP
- Mrs Roberts establishes a SIPP with funding from a pension transfer from her existing personal pension
- A formal valuation may be required from a Chartered Accountant or Chief Financial Officer, depending on whether or not the new shares are being offered at a discounted price.

The result

- The 5% shareholding of Telltek Limited investment is purchased and held as an asset in Mrs Roberts' SIPP
- Ability to invest in unquoted company shares through a bespoke pension which is usually not possible through conventional insured or platform pensions
- Tax free capital growth of the investment

Definitions

Taxable property means residential property and/or tangible moveable property (e.g. plant and machinery; motor vehicles; fixtures, fittings and furnishings that are not part of the fabric of a building; and office equipment). However any item that is worth no more than £6,000 and is held solely for the purposes of the administration or management of the company/vehicle and is not available for the personal use of a SIPP or SSAS member or a connected person is exempt. The direct/indirect holding of taxable property by a SIPP or SSAS is an unauthorised payment and may give rise to tax penalties on the SIPP or SSAS member(s) and the scheme administrator. If security for a loan includes residential property and the legal charge is not drawn up correctly and the SIPP or SSAS ends up holding the property or an interest in it then there could be tax charges.

HMRC taxable property rules are designed to prevent indirect investment in taxable property using a vehicle such as an unquoted trading company where:

- The company is controlled directly or indirectly by the SIPP member and/or any other party connected with them
- The SIPP member, or any other party connected with them, is a controlling director of the company
- The SIPP member, or any other party connected with them, is allowed to occupy or use taxable property held, directly or indirectly, by the company.

Notes

- This case study is for Financial Adviser use only and not for use by retail clients
- To avoid the taxable property rules applying to unquoted shares, Dentons requires company ownership or control to be diversified between a minimum of 5 persons unconnected to the SIPP member. Or the company can be fully controlled by an unconnected party
- No scheme member or a connected party can have any personal use of any taxable property owned by the company
- *Dentons requires a minimum fund size of £100,000 and the maximum amount of shares held overall in an unquoted company is limited to 25% of the value of the SIPP net assets. The total value of unquoted shares and unsecured loans within a SIPP must not exceed 75% of its value.
- 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
- 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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