For Financial Adviser use only

Mixed use Property Purchase.

A case study

Mr Tomlins runs a successful pet supplies business through his limited company from a busy rented shop in a high street location. He is interested in purchasing the freehold of the property which includes a flat above the shop but he has limited available personal and company capital. His financial adviser explains that there might be the chance of purchasing the premises through his pension but the flat above could cause complications.

The facts

- Mr Tomlins has a personal pension with a value of £235,000
- The flat above the shop is held on a 125 year long leasehold interest with 98 years remaining
- The freehold is to be marketed for £200,000 plus VAT
- Mr Tomlins' business is a tenant of the shop and he has 2 years to run on his existing occupational lease
- As the purchase of the property will be with the benefit of an existing lease, an exemption from the need to pay VAT on the purchase could apply under the rules of a Transfer of Going Concern (TOGC)
- A Dentons' SIPP cannot hold even a reversionary interest in the residential property in this case as this would create a tax charge because the residential property is not occupied by an unconnected employee of the shop business as a condition of employment
- The Dentons' SIPP can purchase just a long leasehold interest in the shop premises, rather than have any entitlement under the freehold
- The financial adviser reviews Mr Tomlins' personal pension and finds no penalties to transfer.

The process

- A new Dentons SIPP is created with Dentons to receive the transfer and the SIPP establishment (if applicable) and transfer cancellation rights periods commence
- The Dentons SIPP is registered for VAT and opts to tax the shop which is required as a condition of a TOGC. VAT will be charged on the rent for the shop, the VAT paid on the rent could be reclaimed by the company if the company is registered for VAT
- Mr Tomlins enters into negotiations to acquire the freehold of the entire premises personally with the intention of simultaneously granting a long leasehold interest in the shop premises which will be acquired by his SIPP, as the Dentons' SIPP cannot hold a reversionary interest in this residential property
- Mr Tomlins selects his own solicitor who is instructed to commence work on the freehold purchase. The same firm of solicitors may be able to act for the SIPP trustees when acquiring the long leasehold interest in the shop
- The purchase of the leasehold interest in the shop will be a connected transaction and thus a professional opinion of value is required to confirm the market value. Mr Tomlins selects an RICS Registered Valuer* who reports the leasehold interest in the shop has a value of £195,000.

The result

- The cancellation rights periods having expired, Mr Tomlins acquires the freehold of the property and simultaneously sells the leasehold interest in the shop to his SIPP with the benefit of the continuing lease to his company. The interest in the freehold reversion remains with Mr Tomlins personally.
- Mr Tomlins can select his own solicitor and valuer for the purchase and may if he wishes self manage the property, including submitting the VAT returns
- Purchasing his own business premises through a SIPP provides a tax efficient arrangement for Mr Tomlins within which to hold the commercial property
- Mr Tomlins' financial adviser opens a fund platform account within the SIPP to reinvest the excess funds above those needed for the shop acquisition and to receive future rental income and contributions.

Tax efficiency

- The payment of rent for the shop into the SIPP by Mr Tomlins' company should be an allowable business deduction and is now being paid for his benefit rather than to a third party landlord
- The SIPP receives the rent and pays no income tax on it
- Any future growth in the value of the long leasehold interest in the shop is exempt from capital gains tax
- The property and remaining pension assets are outside of Mr Tomlins' estate and are therefore not subject to inheritance tax if he were to die.

Additional information

- In this example two transactions are required to complete the purchase of the shop through the SIPP which means that some fees and Stamp Duty Land Tax (SDLT) may be duplicated as it will already have been paid by Mr Tomlins personally as a result of the initial purchase of the freehold of the property. However, if the vendor was prepared to sell the long leasehold interest to the SIPP directly, with the purchase of the freehold by Mr Tomlins personally following afterwards, there may be a lower amount of SDLT payable overall as a result.
- The management of the commercial element of the property is the responsibility of the pension scheme, either directly or through a duly appointed professional property manager. If required, Dentons can issue rent invoices and complete VAT returns, for which we will charge in accordance with our Fee schedule.
- Dentons will arrange for the property to be insured under a block policy arrangement unless alternative arrangements are already in place or the property is a leasehold and the freeholder arranges the insurance.
- Should the business fail, the property will be protected from creditors as the SIPP is a separate legal entity from both Mr Tomlins' company and himself personally. Should Mr Tomlins become bankrupt the Trustee in Bankruptcy usually has no call on his pension assets
- *Transactions between the SIPP and vendor or tenant who is connected with the SIPP member, are allowed provided they are conducted on an 'arm's length' commercial basis and an independent valuation is undertaken. Valuations must be carried out by a registered valuer of the Royal Institution of Chartered Surveyors (RICS) who is a member (MRICS) or a fellow (FRICS) and whose report and opinion should comply with RICS professional standards.
- Dentons' administers nearly 3,900 properties within its SIPP and SSAS book.

Notes

- This case study is for Financial Adviser use only and not for use by retail clients
- 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. Dentons does not provide VAT 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.

Dentons
Pensions

Dentons Pension Management Limited
Sutton House, Weyside Park
Catteshall Lane, Godalming
Surrey GU7 1XE

T 01483 521 521
F 01483 521 515
E enquiries@dentonspensions.co.uk
W www.dentonspensions.co.uk