

The Flexi Self Invested Personal Pension

Flexi SIPP



Owning Commercial Property and Land through a Pension Scheme

The Retirement Planning Specialists

www.minervasipp.co.uk

Owning Commercial Property and Land through a Pension Scheme

What is a Self Invested Personal Pension (SIPP)?

SIPPs were introduced in 1989, and in essence they are a type of Personal Pension scheme with far wider investment options than traditional types of pension plan.

HMRC set a number of rules that aim to limit what these schemes can invest in, and there are various tax penalties for investing in assets that it doesn't approve.

We only allow investments that, in our view, should not attract tax charges, although we will not be held responsible should tax charges ultimately apply. We encourage a healthy amount of caution, and certainly would not want to go beyond the limit of anything we believe may cause HMRC concern.

Fortunately, this still allows a huge amount of flexibility, though as with any investment you should always seek professional advice. InvestAcc Pension Administration Limited does not provide financial advice.

What can the Flexi SIPP (Self Invested Personal Pension) invest in?

The Flexi SIPP is a full SIPP - that means you can choose from the wide range of investments permitted by HMRC, including:

- Stocks and shares listed, or dealt in, on any recognised stock exchange including the Alternative Investment Market (AIM). These must be purchased and held by UK based Stockbroker / Investment Manager who is regulated by the Financial Services Authority (FSA). Securities covered can be as follows:
 - Equities
 - Fixed interest securities issued by governments or other bodies
 - Debenture stock and other loan stock
 - Warrants (for equities)
 - Permanent interest bearing shares
 - Convertible Securities
 - Exchange traded funds
- Futures and options, relating to stocks and shares traded on an HMRC or FSA recognised futures exchange.
- Contracts for Differences (CFD) provided the stock the CFD relates to is on an HMRC or FSA recognised stock exchange.
- Depositary Interests, which must be held by the UK based Stockbroker / Investment Manager.
- The following investments must be listed, or dealt in, on an HMRC or FSA recognised stock exchange and held by a UK based Stockbroker / Investment Manager who is regulated by the Financial Services Authority (FSA):
 - Investment Trusts
 - UK Real Estate Investment Trusts (REITs)
- Units / Shares in Collective Investment Schemes as follows:
 - Unit Trust
 - Open Ended Investment Companies (OEIC)
 - Undertaking for Collective Investments in transferable securities (UCITS) which are recognised schemes
- Insurance company managed funds and multi-linked funds
- Offshore Bonds capable of being held by a UK registered pension scheme
- Endowment policies traded by a FSA regulated broker (TEP)
- Deposit accounts held with any UK based deposit taker in any currency
- National Savings and Investments
- Commercial property

In this particular guide, we focus on commercial property which is a popular investment for SIPPs.

Examples of Commercial Property

When specifically looking at Commercial Property, here are examples of investments we have been able to accept in the past (although note that each investment should be considered on its own merits):

- Shops
- Offices
- Factory Units
- Hotel Rooms
- Agricultural Land
- Overseas Commercial Property
- Woodland
- Land for Development
- Freehold Property
- Leasehold Property (if lease is at the very least 50 years - otherwise HMRC class it as a depreciating asset which we won't allow in the Flexi SIPP scheme)
- Property with split ownership
- Commercial Property *with a specific type of residential element:*
 - For instance, a shop with a flat above it, where the manager of the shop is a completely unconnected party and is required to live in the flat upstairs as a condition of their contract of employment. This is one of the few examples where HMRC allow a residential element.

As the SIPP operator, we reserve the right to check that any investment is "acceptable" to us, which on occasion means that we decline some investments even though they might have been acceptable to HMRC.

Note that we do not "approve" or "recommend" any particular investments - that is the job of your financial adviser and we're not responsible in any way for the performance, or lack of, as a result of any particular investment.

A case study - XYZ Accountants

Here we look at how XYZ Accountants plan to use the Flexi SIPP in a way that suits the individual members, and also presents some possible advantages to the business.

Scenario:

XYZ Accountants is a long established business with:

- 7 equity partners (2 of which plan to retire within the next year)
- 3 non-equity partners (that are to be offered the chance to take equity in the firm on the retirements of the existing partners)
- 20 further staff of various grades.

They operate from two sites - their main office is owned personally by the current equity partners in equal shares. The satellite office is 15 miles away and is rented from an unconnected third party (the current lease is to be re-negotiated within the next five years).

On retirement, the partnership rules state that they must dispose of their share of the property at market rates. The remaining partners are to be given first option to buy the property, or to introduce willing third parties by unanimous agreement. If this fails to secure a buyer, then the retiring partners are allowed to sell their shares on the open market, possibly forcing a sale of the whole building.

Selling a personal stake in commercial property is treated as a disposal for Capital Gains Tax (CGT) purposes and may lead to a CGT liability for the two retiring members. This may be reduced by any available annual exemption, indexation allowance and business property relief.

All partners have pension savings of various sizes. All of their existing funds can be transferred without penalty or the loss of valuable benefits.

XYZ Accountants have sought advice from their financial adviser on how a SIPP arrangement could help them.

Adviser's Proposal

The adviser recommends a Flexi SIPP as follows:

- A new Flexi SIPP scheme to be established for XYZ Accountants.
- InvestAcc Pension Administration Limited will produce all the documentation, open a pension scheme bank account, register the scheme with HMRC and admit the initial members to the scheme.
- All partners, excluding the two about to retire, will be offered to participate in the XYZ Accountants Flexi SIPP pension scheme. This includes the current non-equity partners, making a total of up to 8 members at inception.
- Each member will be able to transfer in some, or all, of their existing pension plans. They will also be able to make further contributions to the scheme, and may be eligible for tax relief on those contributions if within available allowances.
- Providing the pension scheme has sufficient assets, it will purchase the main office premises from the existing 7 owners at current market value. See below for ways that funds can be raised.
- All 8 members of the pension scheme will firstly be given the chance to purchase equal shares of the main office property via their share of the pension scheme. If they don't have sufficient value in their pension plan, they can pay further contributions. Their pension scheme can also borrow up to 50% of the value of their plan, allowing them additional flexibility in bridging shortfalls. If they still can't raise sufficient assets to purchase in equal shares, they can be given the option to purchase unequally by unanimous agreement.
- Contributions can be made in monetary terms, or "in specie" e.g. assignment of their personal share of the property to the pension scheme.
- Personal contributions by the partners are deemed to be paid net of basic rate tax relief. For every £80 paid, the pension scheme claims £20 on the scheme's behalf, making £100 invested. For higher or upper rate tax payers, they can claim the balance of tax relief from HMRC via Self Assessment. In specie contributions are treated the same.
- A lease will be granted by the pension scheme to the partnership. The partnership will pay rent to the pension scheme at market rates, which will normally be treated as allowable business expenses for tax purposes. Rental income will be credited to each member's share of the Flexi SIPP in proportion to their notional share of ownership of the property.
- In order to provide a framework for future retirements, and other events, a "Property Syndicate Agreement" is to be put in place. See later.
- As and when the satellite office lease is to be renegotiated, the partners will consider making an offer for those premises too, via the Flexi SIPP.
- By using a Flexi SIPP, some or all of the assets can be held in the name of the professional trustee, InvestAcc Pension Trustees Limited, on behalf of the members. This makes it easier to maintain records of changing membership over the years ahead, without having to report to HM Land Registry each time.

Advantages and disadvantages of holding Commercial Property / Land via the Flexi SIPP

Advantages:

- No Capital Gains Tax (CGT) on any increase in the value of the property whilst held within the SIPP
- The purchase can be funded by contributions that will usually qualify for tax relief (or already have done, in the case of transfer of existing pension funds)
- Tenants pay rent to your pension fund, and the receipts of these are classed as investment returns that are tax free
- On retirement, current legislation allows you to take up to a quarter of your fund as a tax free lump sum - even though you would probably have received tax relief on the contributions
- You may accumulate up to the Lifetime Allowance (currently £1.8 Million but reducing to £1.5 Million from 6th April 2012)
- Commercial Property is an asset class in its own right, and can be a useful part of a balanced portfolio. Returns tend to be uncorrelated to other investments, and are a useful way to diversify your investments.

Disadvantages:

- If you currently own the property / land, then passing it to your SIPP is classed as a disposal for Capital Gains Tax purposes, and may trigger a tax charge if more than available allowances.
- There could be excessive concentration of risk – in other words if the majority of your pension fund is invested in one single property then the performance of the investment will be subject to the fortunes of one particular asset.
- Once contributions are paid to the SIPP, you can't access retirement benefits until earliest age 55 under current legislation
- Property is an illiquid asset, and the value at any time is a matter of opinion rather than absolute fact. At times, it may be very difficult to sell a property in a hurry, and prices can fluctuate very rapidly. A quick sale often means a knock down price, particularly in a difficult market.
- There are fixed costs associated with purchasing, owning and selling property in a SIPP (see later in this guide). For smaller pension funds these charges can make it uneconomical to hold Property in this way.
- If jointly purchasing a property, then you are entering into a relationship with another party who may decide to sell the property at a time when you would prefer not to.

Flexi SIPP Costs for Property Purchase

	Flexi SIPP (1 member)	Flexi SIPP (3 members)	Flexi SIPP (8 members)
Scheme Set Up (£450)	£450	£450	£450
Member Set Up (£50 per member)	£50	£150	£400
Total Set Up Charges	£500	£600	£850

Scheme Annual (£650)	£650	£650	£650
Member Annual (£100 per member)	£100	£300	£800
Total Annual Charges (excl. property)	£750	£950	£1,450

Property Annual (Charged from year 2)	£250	£250	£250
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Total Year 1	£1,250	£1,550	£2,300
Total Year 2 onwards	£1,000	£1,200	£1,700

All the above fees are subject to Value Added Tax (VAT).

Note that the above charges are levied by InvestAcc Pension Administration Limited and do not include additional costs which may include:

- Solicitors costs and disbursements
- Valuation costs
- VAT
- Stamp Duty
- Adviser fees
- Bank fees / interest on any loans
- Insurance costs
- Fees for sale of a property (£250)
- Fees for taking income drawdown payments (additional £100 per year)

Planning for the future - using a Property Syndicate Agreement

Issues that may arise for pension schemes holding commercial property or land with insufficient liquidity to cope with issues like:

- A member that wants to retire
- Death of a member
- A member who no longer wishes to hold the property investment

Whilst current relationships between participating scheme members can be good, there are a number of predictable events that can arise, meaning it's better to have a written agreement in place at the start, covering what happens in particular circumstances.

Property Syndicate Agreement

This is usually a written document, signed by those members of the pension scheme that are to jointly purchase property.

Typically, on the happening of an event (retirement, death or a member that simply no longer wishes to participate in the investment), then the agreement may dictate that:

- An independent valuation of the property should be obtained within a given timescale
- Notice should be served on the other members, giving them the chance to purchase at the agreed price (or another price agreed by all parties). This offer could be for equal shares, or in proportions agreed by all members.
- If the members cannot, or do not wish to purchase the available share of the property, they can introduce someone new to the SIPP that may be offered a share on the same terms.
- If, after a set period of time, none of these parties wish to, or have the means to purchase the exiting member's share, then the agreement may dictate that the whole property may be placed for sale on the open market.

Whilst current relationships between participating scheme members can be good, there are a number of predictable events that can arise, meaning it's better to have a written agreement in place at the start, covering what happens in particular circumstances.

Advantages of the agreement

- This gives the continuing members the first option to purchase some or all of the shares of the property that are available.
- It prevents the member (or beneficiaries) from receiving less than market value.
- It sets out specific timescales, and removes the possibility of dispute or argument.
- Although this agreement specifically stipulates that a sale of the entire property may be forced on the owners, in practice this could be the position anyway and it makes it clear upfront to all parties.

Notes

1. It may be possible for members to take out life insurance policies that would pay a lump sum on death to the remaining members, thereby giving them sufficient liquidity to buy out the deceased member's share of the property. An Independent Financial Adviser should be able to arrange this.
2. With the removal of the connected party rules in April 2006, this means that property assets may be sold or transferred to and from connected parties at market value. Prior to April 2006, the rules made it more problematic.
3. InvestAcc Pension Administration Limited recommends that all SIPPs purchasing commercial property, with two or more members, put in place an effective Property Syndicate Agreement.

Who are InvestAcc Pension Administration Limited?

Based in Carlisle, Cumbria, we are a long established specialist in self invested pensions, and our products are available via Independent Financial Advisers across the UK.

Our focus is on delivering the best products, with terrific service, at a very competitive price.

We are privately owned, and expect to remain so for the foreseeable future, meaning that you can count on us to be around for the long term.

For more information, please contact your financial adviser.

The Flexi SIPP is offered without pensions advice. A SIPP may not be suitable for all investors. If in doubt you should consult an independent financial adviser.

InvestAcc Pension Administration Limited is the Operator and Scheme Administrator and is responsible for the maintenance and running of the scheme.


InvestAcc Pension Trustees Limited is the Scheme Trustee.

The levels of and bases of taxation can change. The value to an investor of any tax benefits will depend on that investor's tax position. Investors should consult their own tax advisers in order to understand any applicable tax consequence.

InvestAcc Pension Administration Limited is authorised and regulated by the Financial Services Authority.

InvestAcc Pension Administration Limited is registered in England and Wales, Company number 7118349.

InvestAcc Pension Trustees Limited is registered in England and Wales, Company number 2875892.



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