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LENDING BY A SIPP OR SSAS

Can a SIPP or SSAS lend money?

Yes. But note that HMRC state that **all** loans are only acceptable if they are genuine investments of pension schemes. They should be "prudent, secure and on a commercial basis".

However, we no longer allow lending from an MW SIPP. So whilst the rest of this leaflet explains the HMRC position, it is not possible for an MW SIPP to lend money. An MW SSAS is permitted to make a loan, provided the required criteria is met.

Who can it lend to?

A SIPP can lend money to any unconnected third party, be it an individual or a company. However, it **cannot** lend any money to any business or individual who is connected in any way with the member eg it cannot make a loan to a family member or to a business associated with the member.

A SSAS has the same restrictions as a SIPP, except a SSAS is allowed to loan money to a sponsoring employer. A SSAS cannot however loan money to a connected company that is not a Participating Employer in the SSAS

How much can be loaned?

A SIPP can loan up to 100% of its net assets.

If a SSAS is lending to an unconnected party, the same rules apply i.e. it can loan up to 100% of its net assets. But if a SSAS is lending to a sponsoring employer, the maximum loan is 50% of the net assets.

Having said that, the Trustees would need to look carefully at any proposal for a SIPP or SSAS to lend more than 50% of its net assets to a third party. They have a "duty of care" to the member and would need to be comfortable with the proposed investment. They would need the member to confirm in writing that they were aware of the associated risks, not least of potential default.

Who makes the loan?

Remember that it is the trustees who make the loan and accordingly they will be responsible for agreeing the terms and conditions etc, not the member.

What if the loan is to an unconnected party?

The loan must be on a "commercial" basis. This is not specifically defined by HMRC. As we know, bank lending has for many banks, virtually ceased. Our understanding is that SIPP or SSAS lending should be on the same basis that a bank would lend the money, assuming the bank was a willing lender.

What if the rules are broken eg if a SIPP or a SSAS makes a loan to a connected party?

The loan will be treated an Unauthorised Payment and attract a tax charge of 40%. If the Unauthorised Payment exceeds 25% of the total fund value, there is a Scheme Payment surcharge of a further 15%, bringing the total tax charge up to 55%.

What about security?

If at all possible, the loan should be secured against assets which, if there was a default, could be taken into the SIPP or SSAS as a wholly tax free investment – commercial property, for example. If there is any Taxable Property within the security eg residential property, there would be tax charges imposed at the time the loan was made (i.e. even if there was never any default). For that reason we do not permit any Taxable Property to be used for security.

An unsecured loan is possible but the same overriding test would apply – it could only be done on an unsecured basis if a bank (assuming it was a willing lender) would offer an unsecured loan on the same terms.

In this context “secure” does not necessarily infer that the SIPP holds 100 % tangible security - it can mean the repayment source is excellent. However it will be on very, very rare occasions that we will permit lending against anything but full security.

The remaining questions specifically apply to SSAS loans to a sponsoring employer.

How long can the loan be for?

Up to 5 years, but no more. The loan can be rolled over no more than once, but only provided there is adequate security (see below).

What about security?

The loan must be secured as a first charge against real assets (eg property) that have a value at least equal to the outstanding loan.

What interest must apply?

The rate must be a minimum of 1% above base lending rate of the following 6 banks, Bank of Scotland, Barclays Bank, HSBC, Lloyds TSB. National Westminster and Royal Bank of Scotland. The rate is rounded up to the next 0.25%.

What about repayment terms?

The monies lent must be repaid by equal instalments of capital and interest each year.

We do not give financial advice. nor do we advise on the suitability of a SIPP. No comments here are intended as such. The above information is based on our understanding of the legislation governing pensions at the time of writing. Before taking any action you should consult a qualified financial and/or tax adviser. Levels, bases of and reliefs from taxation may be subject to change.

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**MW Pensions Ltd
Oaklands Park
Hooton Road
Hooton
South Wirral
CH66 7NZ**

**Tel: 0151 328 1777
Fax: 0151 328 0707**

**website: www.mwpensions.co.uk
e-mail: admin@mwpensions.co.uk**

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