

Residential Property: what is allowed: SIPP/SSAS/QROPS/QNUPS

This leaflet is solely for the technical use of financial/other professional advisers and should not be relied upon by members of general public.

<p>What is allowed? SIPPs and SSAS can invest in residential property, either in the UK or overseas, provided it is via what is called a "genuinely diverse commercial vehicle" (see below). This means that a SIPP or SSAS cannot directly wholly own a residential property. It must be a part owner (not more than 10%) and there must be no right for any personal use.</p> <p>What is residential? Not surprisingly HMRC's definition of "residential" for pension schemes is a bit long and complicated, but in essence:</p> <ol style="list-style-type: none"> 1. A building or structure that is used or is suitable for use as a dwelling. 2. It includes land associated with it eg garden. 3. any building classified as "Residential" under Building Regulations is not allowed - and vice versa i.e. if it is not classified by Building Regs as being "residential" then it is classed as "commercial". 4. A beach hut is residential. 5. Timeshare is not allowed. 6. If part ownership of a hotel allows the member to stay in the hotel (either the part they own or any other room), that is "residential". But if part ownership gives no preferential rights, it is "commercial" and allowed. 7. If an entire hotel or inn is owned, that is acceptable i.e. "commercial". 8. Halls of residence are allowed, but not individual student lets. 9. Residential homes for children, the elderly, the sick etc, are allowed. 10. A hospital or hospice is allowed. 11. Prisons are allowed 12. If there is a shop with a connected flat above it, that is classed as "residential" but will be allowed if it is a condition of the lease that the shopkeeper lives in the connected accommodation. <p>HMRC has also clarified that if a commercial property investment is converted to residential, the investment can continue to be held directly within the SIPP or SSAS whilst the conversion is taking place, but it must be sold before it becomes habitable eg "Certificate of Habitation" is issued.</p>	<p>Grounds rents on residential property are not permitted</p> <p>If a building is not currently in use checks need to be made as to its history. If it was last used for one of the residential purposes set out here then it is still treated as residential property.</p> <p>"Genuinely diverse commercial vehicles" SIPPs and SSASs can invest in residential property, so long as it is via something called a "genuinely diverse commercial vehicle". There are 3 types:</p> <ol style="list-style-type: none"> 1. A UK REIT 2. A vehicle whereby the SIPP or SSAS owns no more than 10% of the property and has absolutely no right to any personal use, and where the following 3 conditions also apply: <ol style="list-style-type: none"> a) The total asset value is at least £1M, or at least 3 residential properties are held in the vehicle and in either case no one property is more than 40% of the whole portfolio. b) If the vehicle is a company, it must be in the UK and must not be a close company or, if it is a non-UK company, it would not be a close company if it were a UK company. c) It must not have as one of its main purposes the direct or indirect holding of an animal for sporting purposes eg: no racing stables. <p>Note that the 10% limit includes "Connected Parties" i.e. if the member also personally makes an investment in that property, and/or a SIPP of a party connected to the member makes an investment in the property, the total investment of these "connected parties" cannot exceed 10%.</p> 3. Arms length trading vehicles, with no possibility of the member having personal use of any of the properties.
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Offplan

It is acceptable for SIPPs and SSASs to invest directly in offplan residential developments. However, the investment **MUST** be sold by the SIPP or SSAS before the development is habitable – defined as having a “Certificate of Habitation” or the local equivalent.

Trading

But before SIPPs and SSASs leap into investing in offplan residential developments all around the world – words to the wise. A SIPP or SSAS is not allowed to “trade”. A SIPP or a SSAS investing in offplan developments and “flipping” is leaving itself open to potentially being taxed as having “traded”.

QROPS

HMRC have said that direct investment by QROPS in residential property using monies that have been transferred to the QROPS from a UK Registered Pension Scheme will always be treated as ‘taxable property’, even after the initial 5 year reporting period is finished. Some QROPS schemes may allow direct investment in residential property but no UK tax relieved monies can be used for that purpose. Absolute care is needed by advisers to ensure that future tax charges are avoided. Extreme caution is advised.

QNUPS

It may be possible to use a QNUPS structure to invest in both residential and commercial property, possibly through an in-specie contribution. The Isle of Man, for example, allows direct investment in residential property (provided there is absolutely no chance of any personal use by the member or any connected party). **But once again, good due diligence is needed by advisers.**

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

Tel: 0151 328 1777

Fax: 0151 328 0707

Email: admin@mwpensions.co.uk

Website: www.mwpensions.co.uk

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