TECHNICAL NOTE
SSAS VS SIPP

Scottish Widows Platform

For Professional Advisers only

Before A-Day, SSASs and SIPPs were subject to different tax rules regarding contributions, investments and benefits. While a SSAS may have been the most attractive vehicle for those directors of profitable small companies looking to maximise their pension contributions and/ or take advantage of the greater self investment opportunities, the SIPP offered far greater flexibility in the payment of benefits. However, the introduction of the new pension rules post A-Day has meant that SSAS and SIPP are subject largely to the same legislation. This factsheet considers the relative attractions of both these self-invested pension arrangements.

Investments

The new pension regime has one set of investment rules that apply to all schemes, including SSAS and SIPP. There are, however, the following two areas where the investment rules differ for SSAS and SIPP.

a) Loan to sponsoring employer

Only a SSAS is able to make a loan of up to 50% of net scheme assets to a sponsoring employer. Although such a loan can be made for any purpose, the loan must comply with each of the following five requirements if it is to avoid being treated as an unauthorised employer payment.

- The loan must be secured by a first charge on assets at least equivalent to the value of the loan.
- The loan may not exceed 50% of the net value of the SSAS.
- Interest on the loan must be charged at a commercial rate which must be at least 1% higher than the average base rate of the 6 main UK clearing banks.
- The loan must be for a term of less than 5 years.
- The loan must be repaid by equal instalments of capital and interest.

It is worth remembering that the requirement for any loan to be appropriately secured may result in a number of potential loans being unable to proceed.

A loan by a SIPP to an employer who is connected to the scheme member will be regarded as an unauthorised member payment and result in a tax charge on the member.

b) Purchase of shares in sponsoring employer

There is a restriction under a SSAS (or any occupational scheme) that the scheme may not hold more than 5% of the scheme's assets in shares of the sponsoring employer (up to 20% of the scheme's assets where they relate to the shares of more than one sponsoring employer, i.e. up to a maximum of four sponsoring employers).

By contrast a SIPP can invest up to 100% of the scheme assets in shares of the sponsoring employer. In practice, however, in view of the potential tax charges that could arise if any unquoted shares are included (those are regarded as 'taxable property') many SIPP (and SSAS) providers are unwilling to accept unquoted shares as assets under their scheme.

Contributions and benefits

There are no differences in the legislation regarding contributions to, and benefits that can be paid from, a SSAS or SIPP.

Although technically either a SSAS or a SIPP may provide a member with a scheme pension, in practice the structure of the majority of SIPP providers do not allow them to offer this option.

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The provision of a scheme pension out of the SSAS assets can sometimes be seen as advantageous where a member's overall benefits are close to his/her lifetime allowance. In most cases where a member crystallises his retirement benefits under a SSAS or SIPP it will be the value of those crystallised benefits that is set against his/her lifetime allowance. This is not, however, the case where the member's benefits are being paid as a scheme pension out of scheme funds. In such a case the member's scheme pension is determined by the scheme actuary taking account of the size of the member's fund, the likely investment returns on the assets and the member's expected longevity. The amount assessed against the member's lifetime allowance will be 20 times the scheme pension being paid, which will commonly result in a lower value being set against the lifetime allowance than the member's fund value and may help avoid any lifetime allowance charge.

Structure and allocation of benefits

A SSAS is usually set up under trust by an employer with the scheme members as trustees. The investments are registered in the name of the trustees. The SSAS will be established as a common trust fund, so that where it includes more than one member there will be no need for the benefits to be earmarked for the members concerned.

While a SSAS will normally be exempt from most of the requirements imposed by the Pensions Act 1995 (e.g. member nominated trustees, dispute resolution etc.) the members/directors, as Managing Trustees, will still need to have a good understanding of pensions issues and investments.

A SIPP can be established in many ways, although commonly it will be set up as one 'master' scheme by the provider concerned, to which individual arrangements are linked. The investments are registered in the name of the SIPP provider, although the member may hold sub-trustee status. The member's benefits are specifically earmarked.

A SIPP will often be seen as advantageous as there is generally less administration, while members may prefer their benefits to be earmarked.

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0330 024 2345 **service@scottishwidowsplatform.co.uk** **scottishwidows.co.uk/platform**

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