SIPP v SSAS guide

The information contained in this guide is based on our understanding of current law, practice, and taxation, which may be subject to change.

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SIPP basics

A self-invested personal pension, or SIPP, is a type of personal pension scheme where you choose the investments, can manage your own funds, and have flexibility as to how and when you take benefits once you reach retirement age.

When you join a SIPP you become a member of an existing personal pension scheme where you will have your own arrangement in which you can manage your funds. As you are joining an established pension scheme you can usually apply and pay in money in a very short space of time.

SSAS basics

If you own your own business you may also have the option of setting up a SSAS – a "small self-administered scheme". A SSAS is a type of occupational pension scheme that is set up by an employer for the benefit of one or more of its employees. You can have a maximum of 11 members in a SSAS, although in practice most schemes only have 2-4 members. It is also possible to have one member schemes.

Most employers who set up a SSAS are trading companies, but if your business is an investment company, partnership or you are even a sole trader, then provided you have at least one employee for whom your business is setting up the scheme to benefit, then it will be eligible.

The key condition is that there is at least one employee whom the sponsoring employer invites to join the scheme. It is also possible for the employer to invite others to join the scheme, for example directors or partners who may not have contracts of employment, or family members not employed by the business.

In practice, SSASs are most commonly used for directors of small businesses to pool their pension funds and make investments in commercial property for the business to operate from, or to make loans to the sponsoring employer.

Although it is a requirement for a SSAS to be set up by a sponsoring employer, it does not have to have one on a continuing basis. This means if your business is sold or wound up at some point in the future, the link between the SSAS and the sponsoring employer can be removed and your SSAS can continue.

Setting up a new SSAS

If you decide to set up a SSAS an individual trust deed will need to be drawn up. Usually a template will be used, but it is possible for each SSAS to have a slightly different trust deed and rules. The establishing trust deed sets out who the parties are to the scheme, which must include the employer establishing the scheme, the trustees, and the scheme administrator.

In order to qualify as a relevant small scheme, and avoid extra reporting requirements, all members must be trustees. There must always be at least two trustees, so for one-member schemes another trustee will need to be appointed. This is often a professional trustee, but it can be any other eligible adult.

Most people over the age of 18 are eligible to be a trustee, but there are restrictions on undischarged bankrupts, anyone disqualified as acting as a company director, anyone with unspent convictions for dishonesty or deception, etc.

You, along with your co-trustees, will have the freedom to name your SSAS as you choose. Traditionally this might be the "<name of the company> SSAS" or "<name of the company> Directors Pension Scheme" but it could be the "<family name> Family Pension Trust" or similar if more appropriate.

The scheme administrator is an important role, and legally responsible for complying with certain functions and responsibilities (found in Part 4 of the Finance Act 2004) so should not be undertaken lightly. These include registering the scheme with HMRC, paying certain taxes, reporting events, making returns of information to HMRC and providing information to scheme members regarding the lifetime allowance, pension input payments, benefits and transfers.

The scheme administrator must be a 'fit and proper' person – HMRC may decide someone does not meet this definition if the individual *"does not have sufficient working knowledge of pensions and pension tax legislation to be fully aware and capable of assuming the significant duties and liabilities of the scheme administrator, or does not employ an adviser with this knowledge"* (Pension Tax Manual PTM153000). The role can be held individually or jointly.

Although you can set up a SSAS with no professional trustee or scheme administrator this can lead to issues. If you are not on top of all the pension rules and reporting requirements, you could inadvertently make an unauthorised payment, or simply not complete the appropriate returns correctly or on time and end up with fines and/or tax charges.

Once the scheme administrator has registered the scheme with HMRC, they will receive the scheme's pension scheme tax reference (PSTR) number. Only once this is received is the scheme established and able to accept contributions and transfers-in. The registration process with HMRC can take anything from a couple of weeks to several months. HMRC may carry out background checks on the parties involved and will only send out confirmation once it is satisfied. When deciding whether to open a SIPP or establish a SSAS, this should be considered if there are any urgent requirements – e.g. transfer values that will expire or investment deadlines. The time taken to establish a SSAS is significantly longer than someone opening a SIPP.

Regulation

Personal pensions, including SIPPs, are regulated by the Financial Conduct Authority (FCA) and the provider must be FCA registered.

Occupational pension schemes, including SSASs, are regulated by The Pension Regulator (TPR). All schemes with two or more members must be registered with TPR after the scheme is registered with HMRC. Again, this may take some time to come through and, although contributions can be made before the TPR registration is confirmed, some ceding providers may ask for this before allowing you to transfer existing pension benefits to your new SSAS.

Contributions and tax relief

Both SIPP and SSAS are registered pension schemes and benefit from tax relief on contributions.

SIPPs operate tax relief on a "relief at source" basis. This means any personal contributions you pay into the scheme are net of basic rate tax and the scheme administrator claims the basic rate relief from HMRC which is paid into your SIPP 7-11 weeks later. So if you pay in £800, £200 will be claimed from HMRC (based on basic rate tax at 20%) to give you £1,000 gross in your SIPP. If you pay Income Tax at a higher rate you can claim the additional relief via self-assessment or contacting HMRC. Your employer can also pay gross contributions into your SIPP, and these will usually be a tax-deductible expense for the business.

As an occupational scheme, a SSAS can operate on either a "net pay" or "relief at source" basis. In practice though, there will often only be employer contributions paid to the scheme, so no tax relief is claimed by the scheme – only your business as the employer.

As the sponsoring employer your business can choose for the scheme to operate net pay if appropriate. This would mean personal contributions are deducted from your gross pay before tax and paid into the SSAS. This means you get full tax relief without the need to contact HMRC. However, unlike employer contributions, National Insurance (NI) (and the Health and Social Care Levy (HSCL) from 2023/24) for both you as the employee and your business as the employer, will still be payable. This means making employer contributions are more efficient (as no NI or HSCL will be payable) then personal contributions under net pay.

Alternatively, the scheme administrator can register the scheme for relief at source so personal contributions can be made and basic rate tax claimed from HMRC in the same way as with a SIPP. Usually this would only be appropriate if the employer asked non-employees (such as family members) to join the SSAS and they wanted to make personal contributions. If the SSAS operated on a net pay basis and non-employees joined they can still make personal contributions and get full tax relief – but all the relief would have to be claimed personally from HMRC, none would go directly into the SSAS.

Each SSAS can operate net pay or relief at source – it cannot operate net pay for some members and relief at source for others.

Investing

Whether you join a SIPP or set up a SSAS you will have a wide range of investment options. The choice may depend on the provider but with AJ Bell Platinum both SIPP and SSAS have options to use discretionary managers or investment platforms of your choice and access to a wide range of funds and direct shares.

In your SIPP your investments will be held under your own personal arrangement within the scheme. A SSAS however is a pooled fund with each member owning a share of all assets within the trust. This split of assets will be determined by the contributions and transfers-in in respect of each member, less any benefits taken or transfers-out. Although it is possible to notionally earmark particular assets to an individual member (if the scheme rules allow), all trustees must agree to make all the investments.

One of the big advantages of having a SSAS is that it can make a loan to your business as the sponsoring employer. A SIPP does not have a sponsoring employer and any loan to you as the scheme member, or any person or company connected to you, would automatically be an unauthorised payment. For this reason AJ Bell do not allow their SIPPs to make any loans.

Loans to sponsoring employers

If you want to use a SSAS to make a loan to your business you need to be aware there are five key conditions that must be met for the loan to be an authorised payment.

These relate to:

- security;
- interest rate;
- term of loan;
- maximum amount of loan; and
- repayment terms.

Security

The loan must be secured with a first charge over property that is of at least equal value to the loan including interest. Ideally, this would be a commercial property owned by your business, but where there is a mortgage already in place this cannot be used, as no other charge can take priority.

It is possible to use taxable property, such as residential property or plant and machinery, but care is needed. At the point the charge is put in place, an interest is acquired, and the SSAS is treated as having made an unauthorised payment. However, the amount of the payment will be the amount of consideration given for the interest, plus any fees in connection with the acquisition. Generally there is no consideration given when the charge is put in place, and if the fees are paid by the sponsoring employer, rather than the SSAS, then no unauthorised payment charge will occur when the charge is put in place.

However, if your business defaults on the loan, then the SSAS may be forced to call in the charge. At this point, the SSAS will acquire rights in the taxable property and the unauthorised payment charge will be based on the value of the property. In practice you want to be very confident that the security will never be called in before using taxable property as security.

The asset used for security does not have to be owned by your business; it is possible for you or any of the members to put up personal security. Although residential property can be used, caution would be needed before using your main residence as, realistically, you don't want the situation to arise where your business is struggling, so defaults on the loan repayments, and then you also lose your home. If you have a buy-to-let property or holiday home that can be used, then this may be more palatable.

Interest rate

HMRC rules state that all loans must charge interest of at least the prescribed rate. The minimum rate is calculated by reference to 1% above the average of the base lending rate of six high street banks specified in the regulations (Bank of Scotland, Barclays, HSBC, Lloyds, NatWest and Royal Bank of Scotland). The average rate is rounded to the nearest multiple of 0.25%.

Whilst there is no maximum interest rate specified in regulations, the loan does need to be commercial, so if the rate the business wishes to pay is significantly higher than the minimum, then it may need to evidence that it is a commercial rate. This is to avoid directors or senior employees using this as a means of getting tax deductible payments into their pension whilst avoiding the annual allowance.

Term of loan

The loan repayment period cannot be longer than five years from the date the loan is taken out. If your business gets into financial difficulty, then the loan can be rolled over for a further period of up to five years from the standard repayment date. The loan can only be rolled over once and is not treated as a new loan. This means the maximum amount is not retested and the existing security can continue without the need for new valuations.

The scheme administrator would need evidence of your business's financial difficulty to grant a rollover (copies of company accounts, etc.) without it being classed as an unauthorised payment.

Amount of loan

The maximum loan the SSAS can make is 50% of net assets. This is a one-off test at the date of the loan, so if the value of other assets held drops below after the loan is taken out, this does not automatically result in an unauthorised payment.

Repayment terms

All loans must be repayable at least in equal instalments of capital and interest for each complete year of the loan (a 'loan year').

The amount of capital and interest repayments payable by the end of each loan year must not be less than the 'required amount'.

This is calculated as follows:

[(loan + total interest payable)/total number of loan years] x number of loan years in period

Example

Loan £100,000 for five years. Total interest over the period is £5,000.

[(£100,000 + £5,000)/5] x 1 = **£21,000**

[(£100,000 + £5,000)/5] x 2 = **£42,000**

[(£100,000 + £5,000)/5] x 3 = **£63,000**

[(£100,000 + £5,000)/5] x 4 = **£84,000**

[(£100,000 + £5,000)/5] x 5 = **£105,000**

The figures in bold on the right show the amount required to be paid in total by the end of that loan year. In practice, it may be that more is paid in some years than others, and that payments are made quarterly or monthly. As long as the total payments made at the end of each loan year are of at least the required amount, then no unauthorised payment charge will arise.

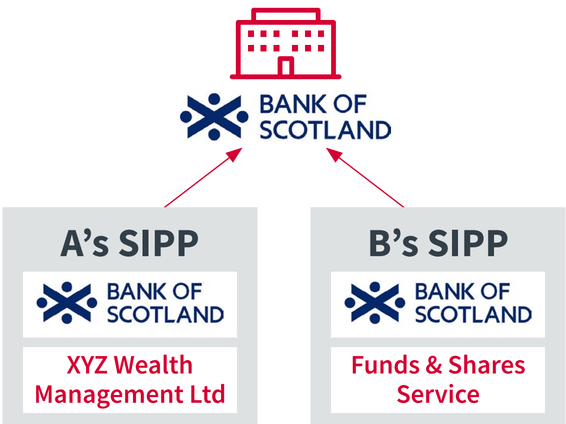
Property purchase

Pensions can be used to purchase commercial property, either for your business to operate from, or to rent to an unconnected third party.

A SSAS is commonly used for two or more members to pool their pension savings and invest in commercial property. Commercial property can also be purchased via a SIPP with some providers, so often there is a decision to be made as to which type of pension is more appropriate.

A property purchased by a SSAS is held in the name of the trustees as trustees of the pension scheme – the SSAS is a single entity that holds the entire property, regardless of the number of members in the scheme. If the scheme is borrowing to fund the property purchase, then only one loan is taken out in the name of the SSAS.

Some providers will offer a group SIPP that operates on a similar basis, but more commonly what is often referred to as a group SIPP is actually a group of SIPPs. Effectively this is two, three, or more SIPPs grouped together to jointly purchase a commercial property. In this instance you would still have your own SIPP which can hold assets separately from other members. Each individual SIPP then purchases a fixed percentage share of the property based on how much each pays towards the purchase price. The property is held on a tenants-in-common basis between the SIPPs. If borrowing is required then each SIPP will take out a separate loan as appropriate. Any commercial lender will want security, so in practice all members will need to use the same lender as they will all be secured on the same jointly-owned property.



There are advantages and disadvantages of each method of property purchase. Both types of schemes can borrow up to 50% of net scheme assets to help fund the purchase. HMRC rules allow schemes to borrow from any source, including a connected party, as long as it is on commercial terms. In practice, it is more likely that a SSAS will be able to borrow from the sponsoring employer than a SIPP borrow from the member or the member's company – but this may vary between SIPP providers.

Under a group of SIPPs arrangement, members will have their own portfolios completely separate from each other – it is only the property that is held jointly. There will usually be more transactions involved in a group of SIPPs, as the rent generally comes into the joint bank account, then into the individual SIPP accounts to pay off any mortgage or to be invested in the individual SIPP.

Property purchase is only available with AJ Bell Platinum under a SSAS, not a SIPP.

Fees

When it comes to costs, then obviously these will vary significantly between providers. As a general rule of thumb, a SIPP is usually cheaper than a one-member SSAS, and a SSAS with three or more members will generally be cheaper than three SIPPs.

One advantage of a SSAS is that your business can pay the SSAS fees, and this is a tax-deductible business expense as it is an occupational scheme set up for the benefit of your employees. Effectively, this will reduce Corporation Tax for the business in the same way that employer contributions do, but if you have already used up your annual allowance this allows more funds to remain in your pension. This is not possible under a SIPP.

Death benefits

You can nominate any individual(s) to receive your pension funds following your death, whether you have a SIPP or a SSAS. They will have the option of taking the funds as a lump sum or keeping them in a pension and accessing them as and when they want.

There can be many tax advantages of keeping death benefits in a pension environment as opposed to the lump sum being taken out.

If you die over the age of 75, any income taken by your beneficiaries will be subject to Income Tax when they withdraw it. If appropriate it can be tax-efficient to skip generations and leave some of the pension to lower-tax-paying grandchildren rather than adult children. However, this can raise questions around control, with some members having concerns about young people inheriting large sums. If you die before age 75 benefits can usually be passed on tax-free.

When a SIPP member dies, their beneficiary must have a pension in their own name to receive the benefits, unless they withdraw it all as a lump sum. If they are under 18, then a Junior SIPP is an option, with the parent or legal guardian having control until the age of 18. However, once they reach age 18, they have complete control regardless of their parent's wishes.

Whether an adult or child, there has to be a transfer of the deceased's funds from a SIPP to the pension of the beneficiary. Where property is held jointly, the share of the property may be able to be transferred in specie to the beneficiary's SIPP if they wish to continue holding it, and it is appropriate for them to do so. Otherwise the property may need to be sold (potentially to the other joint owners). Either way, there will be a change in legal ownership and associated costs.

With a SSAS, these options are also available, but as an alternative your beneficiary could join the SSAS. A child under the age of 18 can join as a beneficiary member, without the requirement to be a trustee. The remaining trustees would be making the decisions over the investments in the SSAS, and the legal guardian (who may also be a trustee) will make any request to take income for the benefit of the child (for example to pay school fees).

A SSAS may also be appropriate for young adult beneficiaries (even if they are trustees). As the request to take benefits will be made to the member trustees, rather than just to the provider, the beneficiary could not take all the fund and 'blow it' without the knowledge of the other members. When the request is made this would give the other trustees the opportunity to discuss it with the individual before the funds are withdrawn. This can be particularly attractive for family trusts where all members are related.

Another advantage of SSASs with property involved is that, even though the underlying members/trustees of the SSAS may change, the ownership of the property does not – it is still held by the SSAS trust so there is no change in legal ownership and associated costs.

Transfers and takeovers

It is possible to transfer your existing pension benefits to a SSAS in the usual way; you just need to remember that it may take longer to establish the scheme initially and no transfers can be accepted before the scheme has the PSTR from HMRC.

Unfortunately, SSASs have been used in the past by scammers, so have received some bad press. This has made providers more wary of making transfers to a SSAS, especially where there is no recognised pension provider involved. If you are making a transfer to a SSAS, you can expect the ceding provider to ask more questions and carry out more due diligence than if transferring to a recognised scheme. This may include asking for evidence of the earnings link with the sponsoring employer (payslips, etc.) and the reason for transfer. You may be referred to MoneyHelper for a Pension Safeguarding Guidance appointment before you can make the transfer.

As well as transferring other pensions to a SSAS, if you have an Executive Pension Plan (EPP) you may be able to convert this into a SSAS. This keeps the EPP intact, but effectively the SSAS rules are wrapped around it. This can be useful if there are guaranteed annuity rates or protected lump sums associated with the EPP that would be lost on transfer, as they will be unaffected, but you want to boost the value of the SSAS for the purposes of either borrowing for property purchase, or to make a loan to the sponsoring employer.

When it comes to transfers out of a SSAS, each member can transfer out individually in the usual way, but if you want to change the provider (or appoint a professional trustee where there wasn't one previously), then this would be a takeover. As the scheme is a distinct entity from any previous provider, trustees and scheme administrators can be removed and appointed via deed. This means a new provider can take over the existing scheme without any transfer needing to take place. If there is property in the scheme this makes it much easier than trying to change provider with property in a SIPP where an in specie transfer is necessary.

Summary

SIPP	SSAS
Personal pension	Occupational pension
Master trust (usually)	Individual trust
Member not always trustee	All members are trustees
FCA regulated	TPR regulated
Relief at source	Usually net pay (although often only employer contributions are made)
Assets held in individual SIPP arrangement	Assets are pooled
Funds must be transferred out on death (either as a lump sum payment or to another pension)	Beneficiaries can join the scheme or have funds transferred elsewhere

For more information on SSAS, or to contact one of the AJ Bell Platinum consultants, please see:
ajbellplatinum.co.uk/aj-bell-platinum-ssas