

Joint property transactions.

A case study

Commercial property has been a popular form of investment for both SIPPs for many years but reductions in the annual allowance and borrowing limits mean that such pension schemes may have insufficient buying power to secure a commercial property outright on day one. A SIPP or SSAS can however jointly own a property with one or more other parties (e.g. other pension schemes, individuals, companies) and possibly go on to acquire the entire property in stages. To achieve this in an efficient manner, we propose the use of a Declaration of Trust.



What a Declaration of Trust is and how it works

- › The trust is a transparent tax neutral arrangement
- › Up to four trustees will be appointed to hold the property as nominee for the beneficial owners (i.e. the contributing parties, including the SIPP and/or SSAS)
- › The trustees will be selected from the beneficial owners and will include one of Dentons' bare trustee companies
- › The SIPP or SSAS Member(s) as trustees will be the registered owners of the property at the Land Registry and there will be a Restriction placed on the Land Register to prevent sale or mortgage of the property without the consent of Dentons' bare trustees company
- › Each contributing party's beneficial interest in the property will be shown as a percentage of the entire property
- › Any subsequent purchase/sale of beneficial interests between the parties, is recorded by changing their allocated percentages by an amendment to the trust. To avoid any subsequent purchase/sale of beneficial interests being deemed 'linked transactions' for Stamp Duty Land Tax (SDLT) purposes, there must be no prior arrangement or understanding between the parties that there would be a series of transfers
- › The trustees hold the property as nominee for the beneficial ownership of the underlying contributing parties
- › Enables a streamlined means of adjusting the allocated proportions between parties if there are subsequent purchases/sales between the parties
- › The diagram below shows how different entities might hold part ownership of a property



Independent valuation requirements

A change in the proportional ownership of a jointly held property involving connected parties will usually require an independent professional valuation by a Fellow of the Royal Institution of Chartered Surveyors (FRICS) or a Member of RICS (MRICS) who is a Registered Valuer, to ensure the change is at market value.

Notes

- > This case study is for Financial Adviser use only and not for use by retail clients
- > Please note: Any borrowing taken out by a party to a joint property purchase must limit the lender's recourse to the value of that party's beneficial interest in the property. A lender's permission will also be required for any changes in the proportional ownership, particularly if the borrower's proportion is reduced
- > All statements concerning the tax treatment of products and their benefits are based on our understanding of the current law and HM Revenue & Customs (HMRC) rules. These are for general guidance only and do not constitute professional advice. The tax treatment depends on the individual client circumstances and may be subject to change. Whilst every effort has been made to ensure accuracy, no liability can be accepted for any errors or omissions
- > If VAT may be applicable, you should seek specialist advice
- > Whilst the names used in this case study are fictitious, the processes described have been used in actual cases
- > Every care has been taken to ensure that the information provided is correct and in accordance with our understanding of current law and HMRC rules, which are both subject to change.



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