



SIPP & SSAS

OUR GUIDE TO BORROWING

Following the changes in HMRC regulations, in April 2006, the amount a SIPP or SSAS can borrow has reduced significantly. The maximum that either can now borrow is 50% of the value of a scheme's net assets immediately before the borrowing takes place.

Valuing Scheme Assets

For the purposes of establishing the net value of a scheme, assets must be valued strictly in accordance with HMRC regulations. The regulations state – *“The 50% limit is strictly applied to the value of the fund immediately before the borrowing takes place”*. This is taken to mean that the net asset value has to be established at the time the loan is drawn down. This can present problems where the amount to be borrowed is at, or close to, the maximum.

For example, on commencing discussions with a lender, the net scheme assets are £500,000 giving a maximum loan of £250,000. However, when the loan is drawn down some weeks later, due to a fall in market prices, the net scheme assets are £450,000 and the maximum loan is £225,000. If a loan of £250,000 is agreed and drawn down there would be an unauthorised borrowing of £25,000 and a tax charge of £10,000 would be payable.

It is, therefore, important where a scheme includes market assets that some margin is allowed for to take account of potential changes to asset values. This is particularly relevant when borrowing to undertake property development over a period of months with the loan being drawn down in stages. HMRC will insist on each drawing being tested against the limit.

Taylor Patterson believes the solution is to agree with the lender that the whole of the loan is drawn down in one transaction and held on a development account at the bank with an interest set off arrangement.

Should the total amount borrowed exceed the permitted maximum, HMRC will impose penal tax charges based on the amount of the unauthorised borrowing.

Example	
Value of scheme's assets	£775,000
Less existing borrowing	£175,000
Net value of scheme's assets	£600,000
Maximum borrowing	£300,000
Less existing borrowing	£175,000
Additional borrowing permitted	£125,000

The net asset value of the scheme is the value of its assets less any liabilities including the balance on any existing loan(s).

VAT Considerations

A SIPP and SSAS can no longer borrow a separate amount, in excess of HMRC limits, to pay VAT when purchasing or developing a property. Therefore when calculating the finance needed to fund the transaction, any VAT payable has to be taken into account notwithstanding it will be recovered shortly afterwards. Also stamp duty together with the legal and other costs of the purchase should be taken into account when calculating the finance needed.

Purpose of the Borrowing

SIPP and SSAS can borrow for purposes other than property purchase and development, for example, to provide cash to fund a retirement lump sum or the transfer of a member's benefits out of a scheme.

Source of Borrowing

Schemes are not restricted to borrowing from banks or other commercial lenders; they can borrow from a member or connected party or any other third party provided the transaction is on commercial terms and the arrangement is acceptable to Taylor Patterson.

Mortgage Servicing

Delays or non receipt of rent may mean that borrowing repayments cannot be paid. If there are insufficient funds to cover borrowing repayments then the property may be at risk of repossession. Taylor Patterson cannot be held liable for failure to pay borrowing repayments where there are insufficient funds in the scheme bank account.

Professional Advice is Essential

Taylor Patterson has considerable experience with property loans and will give guidance on arranging loans to avoid the pitfalls of HMRC regulations but cannot accept any responsibility if a scheme enters into an arrangement that gives rise to tax charges.

Furthermore, in its capacity as pension administrator and professional trustee, Taylor Patterson is not able to broker and negotiate commercial mortgage terms with lenders.

The guidance notes are aimed at financial advisers and do not constitute advice. If you are a private investor, you should always seek independent financial advice.

Taylor Patterson Trustees Ltd is the Principal Trustee of the Taylor Patterson SIPP and is the Professional Trustee and Scheme Administrator of the SSAS. Mattioli Woods plc is the Provider, Operator and Administrator of the Taylor Patterson SIPP.

Taylor Patterson is a trading name of Mattioli Woods plc which is authorised and regulated by the Financial Conduct Authority. A SSAS is not a FCA regulated product and does not come within the remit of the FCA.

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