
Sippchoice Bespoke SIPP

Guidance for a non-standard investment (from 24 August 2021) Shares in, or a loan to, an unquoted UK limited company Shares or units in a collective investment scheme

Please note: terms in *bold italic* are defined at the end of the form.

Under HM Revenue and Customs (HMRC) pension tax rules, investment by a SIPP in '*taxable property*' (i.e. residential property and/or tangible moveable property) whether directly by the SIPP or *indirectly* by acquiring shares in, or making a loan to, a vehicle (which includes individuals, companies, partnerships, trusts and collective investment schemes) is an 'unauthorised member payment'.

Unauthorised payments

Under HMRC rules, a loan to a connected person is automatically an unauthorised member payment.

An unauthorised member payment can give rise to severe tax charges on the SIPP member and on the SIPP itself via the scheme administrator. In some cases the total tax charge could be as high as 70% of the amount of the unauthorised member payment.

Exemption from the taxable property rules

A vehicle can however be exempt from the *taxable property* rules if it qualifies as a 'Genuinely Diverse Commercial Vehicle (GDCV)' and the conditions to qualify depend on whether the vehicle is trading or non-trading. A vehicle is trading if its main activity is the carrying on of a trade, profession or vocation and is taxed as such by HMRC.

As a result of these complicated HMRC rules, the Sippchoice Bespoke SIPP can only:

- (a) acquire shares in, or make a loan to, an unquoted UK limited trading company (which for these purposes includes Alternative Investment Market (AIM) listed UK companies) provided it is a GDCV at all times that the SIPP holds the investment;
- (b) make a loan to an unquoted UK limited non-trading company provided it is a GDCV or that it is not controlled directly or indirectly by a SIPP member or a connected person and will not hold, directly or indirectly, any *taxable property* at any time while the loan is outstanding; and
- (c) acquire shares or units in an unquoted UK limited non-trading company or collective investment scheme provided it is either a GDCV or it will not hold, *directly or indirectly*, any *taxable property* at any time while the SIPP holds the investment and HMRC borrowing limits will not be exceeded.

Proposed investment requirements

Details of how to establish whether a proposed investment satisfies our requirements are set out below:

Part A - Unquoted UK limited trading companies

Part B - Unquoted UK limited non-trading companies and collective investment schemes

Other points to note:

- **Shares in, or unsecured loans to, unquoted UK limited trading companies:**
 - are only permitted where the company is financially sound with a minimum of 3 years' positive trading accounts.
 - are each restricted to 25% of the net market value of the SIPP fund. at the point of advance/ purchase
 - in aggregate, cannot exceed 75% of the net market value of the SIPP fund at the point of advance/ purchase, and the remaining 25% must be held in readily realisable investments. If the investments are in the same company, the maximum is restricted to 50%.
 - the term for an unsecured loan must not exceed two years.
- For **secured loans to unconnected UK limited trading companies**, up to 95% of the net market value of the SIPP fund can be used provided it is secured by a first charge on property (with a loan up to the value of 70%) and there will be a balance of at least £5,000 in the SIPP default bank account after the loan has been made.
- **Security for a loan must be in the form of property.**
- **Loans** cannot be made to collective investment schemes, trusts, partnerships or individuals.
- Where the investment vehicle is a **collective investment scheme** that is not regulated or recognised by the Financial Conduct Authority (FCA) or regulated by the European Union, it is an Unregulated Collective Investment Scheme or UCIS and the SIPP member will also need to complete our Investment Request Form to confirm they are either a sophisticated investor or a high net worth individual.
- Investment in Limited Liability Partnerships or overseas unquoted companies is not permitted.

Part A - unquoted UK limited trading companies

Establishing whether a SIPP can acquire shares in, or make a loan to, an unquoted UK limited trading company

Step 1: Establishing if the UK limited trading company is a GDCV

Is the company <i>controlled</i> , directly or indirectly, by the SIPP member (i.e. is it controlled by the member and/or any <i>associated person</i>)?	Yes	No
Is the SIPP member or a <i>connected person</i> , a <i>controlling director</i> of the company?	Yes	No
Is the proposed purchase of the shares to enable the SIPP member, or a <i>connected person</i> , to occupy or use <i>taxable property</i> held by the company?	Yes	No

If the answer to any of the above is Yes, the company is not a GDCV. The SIPP cannot acquire shares in or make a loan to the company.

If the answer to all three of the above is **No**, the company is a GDCV. **A secured loan can be made at this stage.** Please complete the relevant sections of the Investment Questionnaire.

Step 2: Where the proposed investment is shares or an unsecured loan

Does the company have trading accounts for at least three years and is it currently trading profitably?	Yes	No
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If the answer is **No**, the SIPP cannot acquire shares or make an unsecured loan.

If Yes, an unsecured loan can be made at this stage. Please complete the relevant sections of the Investment Questionnaire.

Please note: we will need copies of these accounts to check that the company is trading profitably.

Part A - unquoted UK limited trading companies (continued)

Step 3: Additional requirements for where the proposed investment is in unquoted shares

Is the SIPP acquiring the shares from a <i>connected person</i> ?	Yes	No
If No , the SIPP can acquire the shares at the agreed price.		
If Yes :		
For AIM listed shares , the SIPP must acquire the shares at the market price.		
For unquoted shares , the market price of the shares will need to be established by an independent professional (e.g. the company's auditor) and the SIPP can then acquire the shares at that price. Please complete the relevant sections of the Investment Questionnaire.		

Part B - non-trading limited companies and collective investment schemes

Establishing whether an investment can be made in an unquoted UK limited non-trading company or a collective investment scheme (CIS)

Step 1: UK Real Estate Investment Trust (REIT) will be a GDCV provided:

- (a) The SIPP does not hold *directly or indirectly* an interest in the UK REIT for the purposes of enabling the SIPP member to occupy or use property held by the UK REIT.
- (b) Any rights and/or entitlements in the company or collective investment scheme that come with the investment by the SIPP, when aggregated with any similar rights and/or entitlements of any *associated persons*, must be less than the following limits:
 - 10% of the share capital or issued share capital
 - 10% of the voting rights
 - 10% of the income
 - 10% of the amounts distributed on a distribution
 - 10% of the assets on a winding up or in any other circumstances.

In addition, the SIPP must not have a right or entitlement to income and gains from a specific property.

Step 2: A company or collective investment scheme (other than a UK REIT) will only be a GDCV provided it satisfies all of the following at any time while the SIPP holds shares or units in it:

- (a) Either:
 - (i) the total value of the assets held directly by the company or collective investment scheme is at least £1 million, or
 - (ii) it holds at least three residential properties, and in either case, no single directly held item of taxable property has a value of more than 40% of the total value of directly held assets.
- (b) If it is a company and resident in the UK and is not a *close company*.
- (c) It does not have as its main purpose, or one of its main purposes, the direct holding of animals used for sporting purposes.
- (d) The SIPP's interest in it is not to enable the SIPP member or a *connected person* to occupy or use taxable property it holds directly or *indirectly*.

Part B - non-trading limited companies and collective investment schemes (continued)

(e) Any rights and/or entitlements in the company or collective investment scheme that come with the investment by the SIPP, when aggregated with any similar rights and/or entitlements of any *associated persons*, must be less than the following limits:

- 10% of the share capital or issued share capital
- 10% of the voting rights
- 10% of the income
- 10% of the amounts distributed on a distribution
- 10% of the assets on a winding up or in any other circumstances.

In addition, the SIPP must not have a right or entitlement to income and gains from a specific property.

Step 3: A company or any collective investment scheme that is not a GDCV may still satisfy our requirements provided it is not controlled, directly or *indirectly*, by the SIPP member or connected person and will not hold, directly or *indirectly*, any interest in *taxable property* at any time while the SIPP holds the investment and HMRC borrowing limits will not be exceeded.

Loan to an unquoted UK limited non-trading company

Is the UK limited non-trading company a GDCV?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If Yes, the investment can be made.				
If No, will the company be controlled, directly or indirectly, by the SIPP member or a connected person at any time while the SIPP holds the investment?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If Yes, the investment cannot be made.				
If No, will the company hold, directly or indirectly, any interest in taxable property at any time while the SIPP holds the investment?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If Yes, the investment cannot be made.				
If No, will the SIPP's deemed 'share' of any borrowing by the company, when aggregated with any other borrowing by the SIPP, exceed 50% of the net market value of the SIPP?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If No, the investment can be made. If Yes, the investment cannot be made.				

Shares/units in an unquoted UK limited non-trading company/collective investment scheme

Please note: if the investment is an unregulated collective investment scheme (UCIS), the SIPP member must also be able to complete and return our Non-Standard Investment Declaration to confirm they are either a sophisticated investor or a high net worth individual.

Is the UK limited non-trading company or collective investment scheme a GDCV?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If Yes, the investment can be made.				
If No, will the investment vehicle hold, directly or <i>indirectly</i> , any <i>taxable property</i> ?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If Yes, the investment cannot be made.				
If No, will the SIPP's deemed 'share' of any borrowing by the investment vehicle, when aggregated with any other borrowing by the SIPP, exceed 50% of the net market value of the SIPP?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If No, the investment can be made. If Yes, the investment cannot be made.				

Definitions

Associated person includes the SIPP member, any connected person, any pension scheme relating to the member or a connected person and any associated pension scheme.

Close company broadly means a company:

- (a) which is under the control of five or fewer participators or any number of participators if those participators are all directors; or
- (b) more than half the assets of which would be distributed to five or fewer participators or to participators who are directors, in the event of the winding up of the company.

Connected person in relation to the SIPP member includes their spouse or civil partner, their relatives (including children, brother, sister, parent, grandparent, grandchild), the relatives of the member's spouse or civil partner, the spouse or civil partner of a relative of the member, the spouse or civil partner of a relative of the member's spouse or civil partner, partners in a partnership business in which the member or a connected person is a partner, companies controlled by the member and/or associated person(s) and trustees of certain settlements.

Control - a person has control of a company if they exercise, are able to exercise, or are entitled to acquire, direct or indirect control over the company's affairs.

Controlling director - includes any person who is:

- occupying the position of director by whatever name called and any person in accordance with those directions or instructions the directors are accustomed to act, or is a manager of the company or otherwise concerned in the management of the company's trade or business, and
- is either on his or her own or with one or more associated persons the beneficial owner of, or able, directly or through the medium of other companies, or by any other indirect means, to control not less than 20% of the ordinary share capital of the company.

The expression 'with one or more associated persons' means that a person is treated as owning, or as the case may be, controlling, what any associated person owns or controls, even if he or she does not own or control share capital of his or her own.

Indirectly means through another vehicle (including – but not exclusively – individuals, partnerships, companies, trusts and collective investment schemes).

Taxable property means residential property and/or tangible moveable property (e.g. plant and machinery; motor vehicles; fixtures, fittings and furnishings that are not part of the fabric of a building; and office equipment). However, any item that is worth no more than £6,000 and is held solely for the purposes of the administration or management of the company/vehicle and is not available for the personal use of the SIPP member or a connected person is exempt.

The direct/indirect holding of taxable property by the SIPP is an unauthorised payment and may give rise to tax penalties on the SIPP member and the scheme administrator.

If security for a loan includes residential property and the legal charge is not drawn up correctly and the SIPP ends up holding the property or an interest in it then there could be tax charges.

Trading company (for Corporation Tax purposes) is, broadly, a company that is engaged in any business activity (i.e. carrying on a trade or profession, or buying and selling goods and services with a view to making a profit or surplus) and that only a small part, if any, of its profits or surplus relate to non-trading activities.

The Sippchoice Bespoke SIPP has been registered with HM Revenue & Customs under the Pension Scheme Tax Reference 00738995RG. Dentons Pension Management Limited is the Provider and Scheme Administrator of the Sippchoice Bespoke SIPP and it is authorised and regulated by the Financial Conduct Authority under reference number 461094. Sippchoice Trustees Limited is the Trustee of the Sippchoice Bespoke SIPP.

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