CURTIS BANKS

CASE STUDY

PURCHASING A BED AND BREAKFAST

APPROVED FOR ADVISER USE ONLY | JANUARY 2024

A client wants to use their SIPP to buy a bed and breakfast, however they have concerns over whether this would be allowable.

The Challenges

Alec is based in Scotland and has a SIPP with Curtis Banks, currently worth around £250,000. He is looking to diversify his SIPP and add some commercial property, and having researched online, he understands that this is possible subject to certain regulations.

Alec's research clearly outlines that he is able to acquire commercial property, but that he cannot buy residential property via the SIPP, as this would impose onerous tax charges which Alec is obviously keen to avoid.

Having seen a property that he wishes to acquire local to him, which is a bed and breakfast, Alec is unsure as to whether he can acquire this type of property via the pension, noting the residential use of the property.

He consults his financial adviser, Mark to discuss his options.

The Actions

Alec sends a copy of the link to the property advert to Mark, who looks at the particulars of the property and notes that there is no manager's accommodation on site. Mark asks Alec what the intention is in respect of the use of the property, and Alec explains that he will take a lease of the property in his personal capacity, but he isn't sure whether he and his wife will reside in the property in order to run the property. Mark tells Alec that this wouldn't be possible from an HMRC regulation perspective. If anyone was to reside in the property to run the bed and breakfast, they would need to be unconnected to Alec and unconnected to the tenant company also, amongst other requirements.

Bearing this in mind, Alec reconsiders and confirms that he will take a lease of the property on completion, running the property as a bed and breakfast, but that he would not reside on site. He lives fairly close to the property so would commute each day. Mark reminds Alec that as he will be a connected tenant, the lease terms will need to be determined by a RICS qualified valuer, in order to satisfy HMRC regulations. Mark warns Alec that there will be a set rent under the lease, but this will be payable regardless of the occupancy levels of the property.

Alec remains unsure of how the regulations work in practice, so Mark explains: HMRC regulations allow for the acquisition of commercial property, but they deem any property 'capable for use as a dwelling' to be taxable. If taxable property is held by the SIPP, then onerous tax charges could be levied against both the SIPP and Alec personally. Therefore, advice will be required from a qualified valuer that the property is not taxable under the regulations, and is not deemed residential, in order to proceed with the purchase via the SIPP.

Mark further explains that assuming that the property has the appropriate planning use, and there are no catering facilities in the individual rooms, then the property might be acceptable for acquisition by the SIPP. Mark adds that if there were catering facilities in the room, then this would likely result in the property being deemed taxable by HMRC as someone could technically live at the room without the need for a centralised dining area, or indeed no dining area on site.

Alec is comfortable that the rooms do not have any kitchen or dining facilities and therefore he wishes to proceed with submitting an offer for the property, which is on the market for £200,000. He manages to agree a purchase price of £190,000 for the property, which is acceptable as he is unconnected to the seller. In the event that there was a connection, the property would need to be purchased at market value, as advised by a qualified valuer.

Mark and Alec complete the Property Acquisition Form obtained from the Curtis Banks website, and send this in via the secure online portal, thus eradicating the need to send the original via post. Curtis Banks receive the form and within 5 working days, issue formal instructions to the solicitor and valuer of Alec's choosing. Mark receives a copy of the formal instructions and shares these with Alec for his information. The instructions outline the due diligence requirements for each professional, which need to be satisfied before the purchase can complete.

The Results

As part of the acquisition process, the RICS qualified valuer acting in the transaction confirms that there are no catering facilities in the individual letting rooms, and as such they advise that the property is not deemed taxable under HMRC regulations.

The valuer also advises appropriate lease terms for the lease to be granted to Alec personally. The solicitor proceeds with drafting the lease on these terms and Alec takes his own legal advice on the lease from a solicitor. The lease completes simultaneously with the purchase, and rent is received from the date of completion, which is received in the SIPP tax free.

Important points to consider

The value of pension funds may fall as well as rise. Your money is tied up until you take your benefits. Benefits can generally be taken any time after age 55, although this is due to increase to 57 in 2028.

This information is based on our understanding of current legislation, including (but not limited to) FCA, PRA and HMRC regulation. It does not constitute any form of advice.

Contact details

If you'd like to speak to us about anything in this case study, please contact us on:

T 0370 414 7000

We may record and monitor calls. Call charges will vary.

E enquiries@curtisbanks.co.uk

Please remember not to send any personal, financial or banking information via email as it is not a secure method of communication.