

## CASE STUDY

# BUYING A REMAINDER SHARE IN A SIPP COMMERCIAL PROPERTY (NOMINEE STRUCTURE)

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*A client currently holds a share in a commercial property via their SIPP, and they now wish to acquire the remaining interest into the pension.*

### The Challenges

Polly has a SIPP with Curtis Banks. Around 5 years ago she acquired a percentage share in a mixed use property comprising both industrial and office accommodation. The property was owned entirely by her company at the time that the share was purchased via her pension. At the time, Polly's SIPP couldn't acquire the whole of the property as there were insufficient funds available to facilitate this. Therefore, on the advice of her financial adviser Adrian, Polly acquired a 78% interest in the property. At the time of purchase, the property was valued at £400,000, and Polly purchased a share from her registered company.

The property was acquired via a 'nominee structure', and therefore the legal title of the property was retained by the company (acting as nominee for the SIPP) on behalf of both the pension, and the company which retained the remaining 22% interest. On completion, both parties entered into a Declaration of Trust which clearly outlined the ownership percentage split, and also the management obligations. The nominee is required under the Declaration of Trust to provide the SIPP with 78% of the rental income and full accounts to record any rent received and any property related expenditure.

Through further personal and employer contributions, and a build up of rental income, Polly is now in a position to acquire the remaining

22% interest in the property. However, she is unsure of the process for this, especially considering that the property is VAT elected. She contacts Adrian to discuss her next options.

### The Actions

Adrian and Polly arrange a call to discuss the process for acquiring the remaining share. Adrian explains that the first step is to complete and return a Further or Remaining Share Purchase Form, which is available on the Curtis Banks website. This form acts as the instruction to Curtis Banks to proceed with the acquisition, and also includes key details such as which professionals Polly would like to use in the transaction.

Polly isn't sure which solicitor to use, so agrees with Adrian to use one of Curtis Banks's panel solicitors, who are experienced in dealing with these transactions. Polly hopes that this will be more cost effective than an off panel solicitor and streamline the transaction.

Adrian explains that the property will need to be revalued to ensure that the purchase takes place at market value, in order to comply with HMRC regulations regarding connected party purchases.

Additionally, Adrian explains that it is critical that the company, in its capacity as nominee, provides

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up to date accounting information to Curtis Banks as this is required to complete the transaction. Polly is unsure what would happen with the existing VAT election on the property. Adrian explains that as the property is currently VAT elected, Curtis Banks will elect the property for VAT on behalf of the SIPP prior to completion. This will replace the existing VAT election which records the current ownership structure. Adrian also adds that as the property is currently let and the property is being transacted subject to this lease, then the transaction might be considered a Transfer of Going Concern, meaning that no VAT is payable on the additional purchase share. Adrian explains that the solicitor acting in the transaction should be able to confirm whether the matter can proceed as a Transfer of Going Concern. If the criteria are not met then VAT may be payable on the purchase price. The SIPP will need to pay the VAT, although it may be able to reclaim it following completion.

Finally, Adrian confirms to Polly that as Curtis Banks will own the entirety of the property on her SIPP's behalf on completion, responsibility for the management of the property (including arranging insurance) will pass to Curtis Banks.

Polly is comfortable to proceed and arranges for the relevant form to be completed and returned to Curtis Banks via post.

### **The Results**

Curtis Banks receive the form and arrange for formal instructions to be issued to Polly's chosen professionals. A copy is sent to Adrian, who in turn shares this with Polly. Polly instructs the same solicitor to act for her company as seller. The solicitor confirms that there is no conflict of interest in acting for both parties, which satisfies Curtis Banks's requirement in this regard.

The valuer provides a valuation of the property, advising that the market value has increased to £460,000. Therefore, Polly's SIPP will pay £101,200 for the remaining 22% interest. Polly and Adrian arrange for the funds to be available in cash in the SIPP ready for completion.

The solicitor updates the legal searches and provides documentation to the SIPP and Polly's

company to sign, in their capacities as buyer and seller respectively. The purchase completes, at which point the property is placed on Curtis Banks's block insurance policy. Curtis Banks becomes responsible for the ongoing management of the property, including collecting rent.

The company, having disposed its share of the property, no longer has any obligations in respect of the ownership of the property. The Declaration of Trust also falls away, noting that the Nominee Structure has been dissolved.

The SIPP collects 100% of the rent payments moving forward, which are collected into the SIPP tax free. The SIPP also oversees the VAT accounting going forward with HMRC, which will have previously been handled by the nominee when the property was held under a Nominee Structure.

### **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.

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