



IPM PERSONAL PENSION SCHEME

These notes are intended to provide technical guidance on the principles and procedures involved in property investment including its purchase or sale, leasing, valuation and management, mortgages, borrowings, lending, VAT and insurance. They are not intended to cover every detail of the subject matter, they outline the relevant provisions of the IPM Personal Pension Scheme.

1 BACKGROUND

- 1.1 The Rules of the Scheme (Part 1, Rule 6) sets out the powers of the Operator, I.P.M. SIPP Administration Limited, in relation to buying, selling and leasing property and land and borrowing and lending money. Ownership of all Scheme investments is in the name of the Asset Trustee.
- 1.2 As far as any legal documents are concerned, e.g. conveyances, transfers, leases, mortgages, legal charges and debentures, they will be completed by the Operator. The registration of any property will be in the name of I.P.M. Personal Pension Trustees Limited, appointed by the Operator as Asset Trustee to the IPM Personal Pension Scheme.
- 1.3 There are a variety of circumstances where it is necessary to protect the position of the Operator. There are also certain functions which the Operator will not be able to perform and it therefore reserves the right to appoint a property manager to carry out these functions (see Section 5). In addition there are HMRC requirements which must be satisfactorily met before any legal document is signed by the Operator.
- 1.4 IPM will appoint its own Solicitors to act for it in relation to the purchase, sale or leasing of any property. Their fees and any other charges incurred in the transactions will be payable by the Member.
- 1.5 Apart from giving general advice, work undertaken by IPM staff in relation to property investments is chargeable (see Terms of Business) and payable from the Member's portion of the Scheme unless paid personally to the Operator by the Member. A major reason for IPM appointing its own Solicitors is to keep costs and charges to a minimum.
- 1.6 IPM will require an undertaking (incorporated in the property questionnaire) by the Member to meet the costs and fees involved whether or not the proposed property investment is completed.

2 PROPERTY SELECTION

- 2.1 It is important to establish at the outset the nature of the property being acquired by the Operator. A “Property Purchase Questionnaire” must be completed in order that consideration can be given to the proposed investment. Generally all commercial property including land is acceptable to HMRC. IPM will not purchase residential property. Any commercial property investment which contains a residential element will need special consideration. It is understood that HMRC are prepared to accept commercial property with a residential element where the latter is occupied solely by a caretaker or by managers or staff who are not connected persons and are required to live on the premises e.g. the staff of a hotel.
- 2.2 The Operator may purchase property from and sell it to anyone including the Member or any person “connected” with the Member. In broad terms a person is connected with the Member if the person is:-
- related to the Member
 - a partner in business of the Member or a relative of a partner
 - a Operator of a settlement of which the Member or a relative is the settlor
 - a company of which the Member or the Member and persons connected with the Member have control
- However, in such circumstances the transaction must always be substantiated by an independent professional valuation. The price paid for the property must be the amount detailed in the report. Any amount above or below the specified amount must be reported to HMRC and will result in a tax liability, usually paid for by the member personally.
- 2.3 An independent valuation report will be required in all cases, including where appropriate a structural report. The Operator will require a surveyor to give a description of the property, commenting on any environmental risk, to provide an open market valuation, reinstatement value for insurance purposes and an open market assessment of the rent. The Operator or the lender if appropriate will appoint a suitably qualified valuer and/or surveyor to undertake this.
- 2.4 Property may be leased to an unconnected third party or to the Member, a partnership of which the Member or anybody connected with the member. A formal lease or tenancy agreement must be executed in every case. The Operator will require an independent professional valuation of the rent payable under the lease (see 5.6).
- 2.5 The purchase and/or leasing of a property should not involve the use of the Scheme to achieve tax avoidance otherwise the Scheme’s bona fides could be prejudiced resulting in a tax charge.

3 LIQUIDITY

- 3.1 Commercial property may be purchased in respect of a Scheme Member at any time irrespective of age however liquidity issues need to be considered.
- 3.2 There will be no objection to the Operator investing 100% of the Member’s fund in property. However, the cash needs of the fund need to be considered carefully, especially where the member is planning to draw retirement benefits, including a Pension Commencement Lump Sum of 25% of the value of the fund. Additionally, if an annuity is to be purchased the property will need to be sold well before this date.
- 3.3 The Operator may hold property on behalf of two or more Members. Such pooled investments will still be owned by the Operator, but the value of each share of the property in such cases will be identified and allocated to each individual Member’s fund. On the acquisition of such property the members will need to consider what action should be taken regarding the property if one of them dies, retires or wants a transfer value.
- 3.4 If the Operator borrows money on the security of a property (see 4.1 - 4.3) the period of repayment should end before the term of the lease of that property expires.

4 BORROWINGS

- 4.1 The Operator may borrow money from a commercial lender to assist in the purchase of property. The borrowings must be secured and arranged via a mortgage or legal charge (see Section 5). Although the Member can provide personal security for any borrowing, this should not be necessary and should be avoided where possible. If a guarantee is given and this is subsequently called in, this may give rise to a tax charge.
- 4.2 The legislation limits on the amount the Operator may borrow. This is restricted to 50% of the net value of the scheme assets less any existing borrowing. As borrowing is restricted to this limit personal security should not be required (4.1 refers)
- 4.3 The Operator will not give a charge over its own property in respect of a loan to a third party.

5 LEGAL REQUIREMENTS

- 5.1 As the Operator is the legal owner of the investments representing the Member's share of the Scheme, the Operator has specific requirements relating to property transactions. Paragraphs 5.2 - 5.10 outline these requirements.

Contracts For Sale

- 5.2 Full searches will be required, including local, drainage and any others deemed appropriate in the circumstances
- 5.3 Adequate insurance cover must be in force prior to exchange of contracts. Any additional clauses that place an obligation on the Operator will be considered before signing (see 5.3) as will the VAT position (see 6.1 - 6.3).

Conveyances and Transfers

- 5.4 If the property investment places obligations, positive covenants or contingent liabilities on the Operator the Operator's position must be considered before signing. For instance, ownership of the property may carry obligations on the owner to maintain access roads, fences, ditches, keep the building in good repair etc. The Operator itself is not in a position to fulfil such obligations. It will therefore appoint the Member (or a suitably qualified professional selected by the Member) as the property manager to ensure that the necessary actions are carried out or arrange where appropriate for the lessee/tenant to undertake them. **The Property Management Agreement should be completed and returned.**
- 5.5 Title deeds relating to property owned by the Operator will be retained by the solicitors acting for the Operator.

Leases, Sub-Leases and Tenancy Agreements

- 5.6 Formal documents will be drawn up and executed whenever the Operator leases property which it owns or is the lessee of property owned by someone else.
- 5.7 The Operator will take advice from its appointed valuer and solicitors in relation to the terms of the lease or tenancy agreement. These will include its length, date from which it is effective, rental, review period, landlord's and tenant's obligations. The Operator may seek assurance as to the financial standing of the lessee and the lessee's ability to pay the rent. Where the letting is to the Member or a connected party, the rent payable must be the same as in the independent valuation. For example, any rent free period from the commencement of occupation must be evidenced in the valuation with the reason for the rent free period, e.g. refurbishments paid for by the lessee/tenant. A rent payment of any other amount will result in a tax charge
- 5.8 The Operator as landlord or tenant will need to consider carefully the question of covenants. In general terms, the Operator as landlord will undertake no obligations other than the normal "quiet enjoyment" to the lessee/tenant, the payment of insurance premiums or an obligation to pursue payment of the rent.
- 5.9 IPM staff will make arrangements for payment of insurance premiums normally from the Member's portion of the Scheme and remind for payment of rent. Similarly if the Operator is the lessee and pays rent to a landlord IPM staff will handle payments of rent.
- 5.10 Originals or certified copies of all finally completed leases, sub-leases, tenancy agreements and deeds will be retained by the Operator

Mortgages and Legal Charges

- 5.11 The Operator will take advice as necessary from its solicitors in relation to the terms of the mortgage or legal charge. The terms of the document and/or accompanying facility letter will limit the liability of the Operator by the inclusion of a clause along the following lines:-

"Notwithstanding anything contained in this mortgage the liability hereunder of the Operator shall not be personal but shall be limited to the value of the assets of the arrangements for [Member] under the IPM Personal Pension Scheme".

6 VALUE ADDED TAX

- 6.1 The VAT position will need to be considered before the purchase of a property. The VAT authorities have confirmed that each Member's fund will be treated as a separate scheme and can be registered for VAT accordingly. If input tax is charged on the purchase price of the property, the Operator can therefore register the fund for VAT and recover the tax. It will, of course, have to charge output tax on the rent.
- 6.2 If input tax is not being charged, the contract for sale (or ancillary document) should include a provision to the effect that the vendor agrees not to exercise the option to charge VAT in the period between contract date and completion.
- 6.3 If the Member's fund is registered for VAT, the registration must remain in force for as long as the property is owned by the Operator.
- 6.4 **IPM is not a VAT expert. They strongly recommend that the member take's professional advice regarding the advantages and disadvantages of registering for VAT. IPM will act on the member's instructions but are not in a position to offer any advice relating to VAT.**

7 INSURANCE

- 7.1 As legal owners of the property, it is the responsibility of the Operator to effect property insurance. This is arranged under a block policy arranged by a specialist firm of property insurers.

The policy will cover the rebuilding costs (as recommended by the member or the appointed surveyor), 3 years loss of rent, property owners liability (normally £1,000,000), terrorism cover and, if appropriate, engineering cover (typically for a lift).

The terms of the lease will normally provide for the Operator to reclaim the premium from the tenant(s). The apportionment and re-charge will be handled by the IPM property department.

IPM's insurance broker rebates a share of their commission to IPM to cover the cost of administering the arrangement. This is not an additional cost to the scheme members it is simply a portion of the commission paid to the broker by the insurance company.

8 PROPERTY MANAGER

- 8.1 IPM will not insist on the appointment of an external property manager where the member agrees to undertake this role personally. In this connection the member will be appointed as an agent of the Operator and will be responsible for the collection of rent, rent reviews, property maintenance etc. The appointment of the member as the Property Manager will be evidenced by an agreement, a copy of which is attached.

9 ENVIRONMENTAL MATTERS

- 9.1 The Environmental Agency is now actively pursuing property owners to clean up contaminated land. As I.P.M. SIPP Administration Limited is the sole Operator of the IPM Personal Pension Scheme and the legal owner of any land purchased, it is essential that every precaution be taken to ensure that no contaminated land is acquired. In this connection IPM will insist that a satisfactory environmental risk report be produced by Argyll Environmental, at a typical cost of £190. If the initial report recommends that further investigations be undertaken at additional cost, usually between £300 and £600, then such investigations must be completed. It is also possible that more expensive investigations will be required, such as a phase one report, which will usually cost around £1,500. Ultimately, if these investigations do not result in the property being cleared as safe to acquire, then we will not be able to proceed with the purchase.
- 9.2 An environmental liability indemnity policy will not be acceptable under any circumstances.

10 GROUP INVESTMENT

- 10.1 It is possible for two or more members to purchase property jointly between their SIPPs, this purchase may be made in equal or unequal shares.
- 10.2 All members who participate in a joint purchase will be required to sign our deed of joint ownership.
- 10.3 Members participating in a joint purchase should consider how instructions are to be provided to IPM. Will there be a lead member or will the consent of all members be required to all decisions?
- 10.4 Consideration should also be given to how we should proceed, if one or more members wish to liquidate their share of the property.
- 10.5 It is important to note that while members may own the property jointly, the pensions themselves remain personal. We do not provide group pensions and therefore each member's share of the property will be fixed and future costs must be funded according to the initial purchase shares.
- 10.6 While joint property purchase can be an excellent way to facilitate the purchase of commercial properties, which would otherwise be beyond the finances of individual members; it can also bring significant problems. While it may seem unlikely now, it is always possible that in the future members may have major disagreements, which make the management of the scheme extremely difficult. In this event, it is possible that IPM will have no choice but to force the sale of the property.

11 GENERAL

- 11.1 If the property purchase is to be funded by new contributions it is important to remember that personal contributions are paid net of basis rate tax. The refund of tax is not refunded by the HMRC until 21st of the month after the reclaim is made (each reclaim is made at the end of the fiscal month). e.g. any personal contribution received, during the period 6th January to 5th February, will be added to the reclaim made in February and the refund will be returned to IPM on 21st March.

If the reclaim is required to buy the property, completion may be delayed if contributions are paid late and the refund is not to hand. This procedure **cannot** be short-circuited by paying personal contributions gross.
- 11.2 It is important to remember that the pension fund is not used for "trading" property, i.e. buying, developing and selling as a property company would. Unfortunately there is no definition of trading, but if HMRC decide that the fund is trading rather than buying investments, it will charge the fund to tax in relation to the trading element.
- 11.3 If any building or refurbishment work is to be carried out on the building you must seek permission of IPM prior to any work being carried out. You must provide plans and costings, please be aware that only work, which improves the capital value of the property and improves the rental potential can be paid for via SIPP funds.
- 11.4 **IN ALL CIRCUMSTANCES, THE LIABILITY OF I.P.M. SIPP ADMINISTRATION LIMITED MUST BE LIMITED TO THE VALUE OF THE ASSETS OF THE ARRANGEMENTS FOR THE MEMBERS INVOLVED**

I.P.M. SIPP Administration Limited is authorised and regulated by the Financial Conduct Authority



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