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Private and Confidential
Mr Tom & Catherine Glanfield
7 Western Parade
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Hants
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20 January 2012

Dear Tom and Cat,

LAWRENCE HARVEY SEARCH & SELECTION LIMITED SSAS

I understand that an offer has been accepted for the purchase of property at London Bridge for a price of £2.15m subject to contract for the unexpired long leasehold interest

The sale is on the basis that there is a deferred completion of 9 months from the date of exchange of contracts and that each party is to be responsible for their own legal costs.

Michael has prepared schedule of how this is to be costed out:

	Owns %	Invests cash	Secured loan	Share of rent	Share of interest	Profit	Capital reps – 20 yrs	Cash return
Adam	4	100,000	-	7,500	-	7,500	-	7,500
Julian	4	100,000	-	7,500	-	7,500	-	7,500
SSAS	14	350,000	-	26,250	-	26,250	-	26,250
Tom	78	200,000	1,750,000	146,250	(87,500)	58,750	(51,090)	7,660
Total	100	750,000	1,750,000	187,000	(87,500)	100,000	(51,090)	48,910

This position has now changed given that Judy Rix is willing to invest £400,000 and as such the amount of borrowing required and/or expenses requires less capital from Tom/LHSS.

There are a few options available which I have set out below, there is no one recommendation at this stage but it may be the case that we undertake a combination of these options.

Investment Rules regarding LHSS SSAS

Tom and Cat as Trustees self-direct and manage the assets of the pension scheme free from outside "interference". Your borrowing is limited to 50% of the net assets of the scheme from time to time and the assets are registered in your names as trustees.

Investment Rules for non-investment regulated occupational scheme.

Under a non-investment regulated occupational scheme, you are not able to influence investment decision making nor can either of you be managing trustees of the pension scheme. Simply put, you appoint an external trustee (this cannot be a blood relative) who appoints an investment manager.

The investment manager is the person responsible for arranging the purchase of commercial property and the external trustee holds the assets of the pension scheme for you and Cat as beneficiaries.

The self-direction condition is met if you or Cat is or has been able (whether directly or indirectly from the date it becomes non-investment regulated) to direct, influence or advise on the manner of investments held for the purposes of the scheme. It also applies where the condition is satisfied by a person related to the member. For this reason the investment manager is independent of you.

The power of their appointment and removal (including that of the indepdent trustee) can vest in you.

Whilst this all sounds very complicated, there are benefits of operating a pension scheme in this way and that is:

- You are not generally subject to the taxable property regulations.
- Large employer contributions are easier to justify.

The taxable property regulations is a piece of legislation designed to ensure that pension schemes do not invest in residential property and tangible assets.

Tangible assets can include inventory and fixtures that do not form the fabric of the building. As your pension scheme would in this instance not be investment regulated, the scheme could hold taxable property.

Large employer contributions up to £500,000 could be paid, provided that this meets the wholly and exclusively for the purposes of trade test. Employer contributions into an non-investment regulated scheme are not subject to the same degree of scrutiny as that to say, your SSAS.

A contribution of £500,000 into your SSAS could be difficult to support as a tax deduction as you have used up all relief and there are no other family members. Whilst the same personal limit is true in respect of the scheme operating as an non-investment regulated scheme, we are not required to report large employer contributions and such schemes are used to meet future pension liabilities in a more purposeful way.

Were we to assume that the scheme becomes non-investment regulated, a £500,000 contribution was also paid (utilising Judy's £400,000), your two colleagues transferred in £100,000 and on a purchase price of £2.1m the position would be as follows:

	Owns %	Invests cash	Secured loan
Pension	66.28	950,000	475,000
Tom	33.72	200,000	525,000
Total	100	1,100,000	1,000,000

Investment via a specific purpose vehicle – share ownership

It is quite common that where commercial property arises and there are several participators then each party holds their interest in the form of shares.

Through this route, the pension scheme acquires share in the vehicle as part of a subscription offer to purchase commercial property. The borrowing is held in full by the vehicle (this can be a company limited by shares) and it also avoids the 50% SSAS borrowing limit.

There is a caveat to this. HM Revenue & Customs requires that where a pension scheme such as a SSAS owns shares in a connected company, that company cannot hold tangible assets of more than £6000. A connected company is one that you/Cat are a director of but does not contribute to the SSAS.

This tangible property issue can cause a problem in respect of commercial property and I would require a review of the lease as to what the purchase is made up of. Fixtures and fittings which form part of the fabric of the building are not considered tangible assets as they are not deemed "moveable". Whereas, equipment, general machinery is and therefore cannot be owned by the company, as this is deemed an indirect interest in tangible property and it would be taxed on the pension scheme.

Assuming that the taxable property issue can be resolved, the specific purpose vehicle would operate as follows:

A company is formed which you and Cat are directors of. It makes an offer of £1,100,000 ordinary shares. This is taken up by:

Pension Scheme - £950,000 (86.36%)
Tom - £200,000 (13.63%).

Those funds are used to acquire a commercial building with gearing by the company. As the borrowing is held by the company and not the pension scheme, this avoids the 50% borrowing limit. The mortgage is charged on the company.

The rent is collected by the company which services loans and other expenditure paying a dividend back to the pension scheme and you as shareholders. Rental income is paid via a dividend distribution.

Investment via a specific purpose vehicle – via a debenture

Having a distribution post corporation tax is not necessarily most tax efficient however it does allow for the pension scheme to have a greater share of the property.

In order to maintain this share interest, but achieve corporation tax deduction on the distribution of income to the pension scheme the specific purpose vehicle can issue a debenture, as an alternative to shares.

Companies Act 2006 (Section 755) prohibits the public offer by a private company of a debenture. To meet this regulation, a company would be formed which is limited by guarantee and not having a share capital. The pension scheme would purchase a debenture for the amount of £950,000 and Tom would acquire the balance. The Company would then gear further borrowing to acquire the commercial property. Distributions to the pension scheme in respect of net rent received would be tax deductible on the company.

Through this route, you cannot be directors of the company but would be shareholders. Michael or someone independent of you can be a director.

In Summary:

I have given a lot of thought on this over the last few days and my preference would be to retain the existing SSAS and avoid converting the pension scheme to a non-investment regulated pension scheme.

The reasons are increased running costs and complexity of a non-investment regulated pension scheme. Under your SSAS, the running cost remains broadly the same as they are at the moment. Your colleagues Adam and Julian can be admitted to the SSAS but they would be member trustees and not managing trustees and their interests would be ring-fenced from yours and Cat.

The bigger problem we have is justifying a contribution of £500,000 into a SSAS. We have seen HMRC challenge such large payments and where they have been successful the contribution is spread for tax relief purposes over future years. In addition, you would not be able to make future pension contributions for some years as this amount is set off against future annual allowances. I will need to give further thought to this and speak with one of my colleagues, such as Simon Carlin who is a former Senior Pensions Examiner at HMRC and whom I have worked with for some years.

I would consider the special purpose vehicle – debenture to be the preferred route, however it will depend on whether the bank will understand this. If you are using Lloyds TSB then I would like to run this past our contacts there as they are familiar with similar work I have done in the past.

In respect of Judy, she will fit in well with this as we can repeat the exercise from three years ago in which Cat received tax relief on a payment of £66,000 and for you, £84,000. The numbers in this transaction are higher and as such my approach will evolve over the next few weeks. Judy will be a pensioner member of the scheme to the value of £400,000 plus investment income.

With regard to our costs, this will depend on which route is chosen but similar to that undertaken on your last property purchase, it will be a fraction of the tax rebate you will secure. For example, the corporation tax saving through a contribution of £500,000 would be circa £130,000, plus the credit to the director's loan account on £400,000 would be circa £160,000. If we can get the SDLT and other costs meet through the tax reliefs, then it will be a worthwhile exercise.

You will appreciate that I need to develop this further and do some more number crunching. I will require a further meeting with you and Michael between 1 Feb and 4 Feb and need to speak with your chosen lender; perhaps you can let me know this week.

I will issue Michael a copy of HMRC pensions tax material used to support my advice for compliance and professional indemnity purposes before we proceed.

Kind regards

Yours sincerely

Gavin McCloskey
For Pension Practitioner .Com

Cc M Lansdell