

SSAS (small self-administered scheme)

SSAS remains the popular term for the type of scheme defined as such in the Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-administered Schemes) Regulations 1991, SI 1991/1614. The equivalent since A-Day (6 April 2006) is a "small scheme" as defined in the Occupational Pension Schemes (Investment) Regulations 2005, SI 2005/3378 (the Investment Regulations 2005).

The original main characteristic denoted by "self-administered" was that some or all of the scheme's assets were invested otherwise than in insurance policies.

A pension scheme is a small scheme if:

- (a) it is an occupational pension scheme, as defined in the Pension Schemes Act 1993, s1;
- (b) it has fewer than 12 members; and
- (c) all its members are trustees of the scheme and either
 - (i) the provisions of the scheme provide that all decisions which fall to be made by the trustees are made by the unanimous agreement of the trustees who are members of the scheme, or
 - (ii) the scheme has a trustee who is independent for the purposes of section 23 of the Pensions Act 1995

(with corresponding requirements for directors of a company which is the sole trustee of the scheme).

SIPP (self-invested pension plan)

A SIPP is a personal pension scheme defined in the Pension Schemes Act 1993, s1 as a pension scheme that

- (a) is not an occupational pension scheme, and
- (b) is established by a person with permission under the Financial Services and Markets Act 2000 (Finance Act 2004 (FA 2004), s154(1)).

At its simplest a personal pension scheme is a contract between an individual and an insurance company or other provider. An employer is not party to a personal pension scheme, but may and usually does contribute to them and might organise the provision of personal pensions through a grouped personal pension plan (GPPP).

similarities and differencesestablishment and registration

An employer, which (or who) can be anybody, may establish a SSAS, and the SSAS's trustees must then register it with HMRC. A SIPP may be established only by person with permission under the Financial Services and Markets Act 2000, but in practice SIPPs, unlike SSAS's are not established and registered individually as and when needed, but are established under a master trust, which is registered, so a person wishing to have a SIPP selects a provider and, if terms are agreed, is given a sub-trust which does not need its own registration.

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control and governance

Trustees manage a SSAS. The trust documents commonly give the power to appoint and remove trustees to the employer but the power could be with the trustees. Even though the member is likely to be a trustee of the sub-trust of a SIPP, ultimate control remains with the provider, which usually has power to remove a member from office as a trustee. A SSAS is yours, but you are permitted to participate in a SIPP.

benefits contributions and taxation

Three differences between a SSAS and a SIPP are that:

- (a) a SIPP does not have an employer, and if an employer contributes to it for the benefits who is a member of a SIPP, it does so not under the SIPP's terms but member's the member's terms of employment;
- (b) a SSAS holds its assets collectively for all the members, so individual members have only a notional interests in them or any part of them, but assets held in a SIPP are held for its member; and
- (c) a SSAS may provide defined benefits.

authorised payments

Member and employer authorised payments are listed in the FA 2004, s160 and s175. Unauthorised payments are not prohibited, but are subject to tax charges.

connected persons

By the FA 2004 s161(5) a payment by a registered pension scheme to or in respect of a person who is connected with member or former member or a sponsoring employer connected with such a person, is treated as made to the member or former member or sponsoring employer.

investments - general

In general the trustees of a SSAS may make any investment that they select, but the range and type of investments that may be held in a SIPP might be restricted by the provider. Both are investment regulated schemes subject to the FA 2004 s174A and sch 29A (see my taxable property update of 14/10/20).

employer related investment and loans

A SSAS, as an occupational pension scheme, is subject to the Investment Regulations 2005, regulation 12 of which prohibits occupational pension schemes from holding more than 5% of their investments in employer-related investments and any of their investments in employer-related loan. These restrictions do not apply to a small scheme, which therefore may hold employer related investments and make loans to the scheme employer. Loans to the scheme employer are taxable unless they are "authorised employer loans" under s179 (see my borrowing and lending update 17/10/18).

By s171(4) a loan by a pension scheme (SSAS or SIPP) to member or former member is not an authorised payment.

A payment to acquire shares in the scheme employer is taxable if the market value of the shares acquired is 5% or more of the market value of the scheme's investments or the total value of the shares held by the scheme is 20% or more: FA 2004 s180.

As a SIPP is not an occupational scheme neither the Investment Regulations 2005 nor the FA 2004 s180 apply, so there is no legal objection to the whole of the SIPP's funds being invested in shares in the member's employer, but, if the employer is a connected person, the payment for the investments is unauthorised. Similarly a SIPP may lend money to any person including the member's employer, but, if the borrower is a connected person, the making of the loan unauthorised.

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