

# Article

## A case for caution

*August Edition*

The current economic conditions have fuelled an increased focus on the things that affect our day-to-day finances. I watched with interest a recent news piece where members of the public volunteered their views on how much tax we pay. One individual stood tall and said “I am proud to pay taxes in this country”. With good reason, many of us would perhaps question such an honourable stance. The truth is you can split the nation into two classes of people who will all look to mitigate, avoid or reduce the tax they pay i.e. men and women.

Why start this article with a summary of our views on taxation? It is something you must consider when looking at a question that continues to crop up. Should SIPP providers allow investment in unquoted shares?

Ask SIPP providers this question and the answer will be “no”, or “yes” with caveats that apply. Both camps will volunteer views to support the logic that surrounds their stance. At A J Bell we have been talking to clients and advisers about the merits of holding unquoted shares and we ran a pilot where we considered a range of requests. If anything, this has strengthened the views that we expressed three years ago. There are few situations where the benefits of holding unquoted shares outweigh the taxation risks.

We operate in an environment where investments that are not consistent with a tax-privileged regime lose those tax privileges. The onus is on SIPP providers to consider whether to allow certain asset classes.

When dealing with requests for unquoted shares it is impossible to summarise the issues you must consider in the number of words available here. With this in mind, I will focus on the main issues surrounding taxable property. A more detailed brief will be available shortly from A J Bell.

The primary purpose of the taxable property legislation is to discourage investment by registered pension schemes into residential property, works of art, racehorses, vintage cars, fine wine and the like.

Taxable property includes all moveable assets that may be purchased by an unquoted company, although there is an exemption for assets costing £6,000 or less.

### **Tax consequences – a case for caution?**

The tax consequences are something that simply cannot be ignored. If taxable property is acquired by a registered pension scheme taxes may apply at:

- **40%** of the purchase price as an unauthorised payment.
- **15%** of the purchase price as an unauthorised payment surcharge.
- **15%** of the purchase price as a scheme sanction charge.
- **40%** of the income and or gains as a scheme sanction charge.

Why is this all relevant? It is relevant because unless one of the available exemptions applies, if a pension scheme holds unquoted shares in a company that buys taxable property (e.g. plant and machinery) then the pension scheme is deemed to have purchased that plant and machinery for the purposes of the taxable property rules (to the extent of the pension scheme’s fractional ownership of the company). This would then immediately trigger the aforementioned tax charges.

The exemption that will typically apply to an unquoted company states that the pension scheme investment, i.e. the unquoted company, must satisfy all the conditions set out below in order for the exemption to apply. If it does then we do not need to look under the bonnet and see what the company is investing in.

If at any subsequent time any of these conditions are not met, any purchase of taxable property by the company will trigger the aforementioned tax charges.

- The company is carrying on a trade, profession or vocation (i.e. it is a trading company). This will therefore exclude investment companies. If the trading company subsequently converts to an investment company, then this could have serious tax consequences. This could easily happen without the SIPP provider being consulted.

- The company is not controlled by the member, connected persons and/or the SIPP acting either individually or together. Clearly this is easy to establish at outset, but future share transactions could occur without the SIPP provider's knowledge.
- Neither the member, nor a connected person, is a controlling director. This brings the ownership threshold down from 50% to 20% in conjunction with a directorship. In many unquoted companies, it would be normal for an investor holding 20% or more to be a director or at least have family representation on the board.

There are other conditions to be met, but the above summarises the ones that are most relevant.

So at the core of the decision to hold or not to hold unquoted shares must be appreciation of a simple problem. Does the SIPP provider have the capabilities or the desire to monitor transaction by transaction, or asset by asset, what an unquoted company invests in? If the answer is no you have a clear case for caution.

I think most will agree there is a price to pay for living in an organised society; it comes in the shape of tax. I understand why some are "proud" to pay tax for that benefit. However, I could be just as proud at half the price. I understand there are many investment reasons for wanting to hold unquoted shares. However, no matter how hard you try, it is impossible to lose sight of the potential for tax and the case for saying no.

**END**

**Please note this document is intended for trade and national press individuals.**

### Notes for Editors

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Established in 1995, A J Bell specialises in providing administration, trustee and actuarial services for SIPP and SSAS.

A J Bell is now one of the largest SIPP trustee and administrators in the UK with in excess of 36,000 individual SIPPs and assets under administration exceeding £8.4bn\*. It provides third party SIPP administration services for Barclays Stockbrokers, Halifax Share Dealing, Skandia and E\*Trade.

Research by CoreData Research placed Sippcentre as one of the two most preferred SIPPs.

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