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INTER-GENERATIONAL PLANNING

Pension freedoms have rejuvenated SSAS as a structure to facilitate the passing of wealth down through the generations, says Graham Muir, director, Talbot and Muir

George Osborne's introduction of 'Pensions Freedoms' in the 2015/16 tax year was radical and far reaching and has led to significant behavioural changes amongst clients and their advisers. The ability to extract funds without limitation was, at first sight, thought likely to herald a rush to the showroom of the client's nearest Ferrari or Lamborghini dealer but, whilst some may have pursued their dream car, once the dust settled we started to see a new pattern emerge with many clients looking on their pension pots as a long-term IHT planning tool, enabling assets to cascade down the generations.

Leaving aside the bonanza for 'pension scammers' that followed the introduction of the new freedoms (this warrants a whole article to itself!), one of the most positive outcomes of the 2015 reforms has been the ability for clients to thoroughly rethink the destination of death benefits arising from their pension schemes.

The 2015 freedoms allowed not just dependents but also non-dependents ('nominees') to receive an income from a deceased's pension pot and this opened up many new planning opportunities for adviser firms. Further, the ability to take pension benefits tax free where the deceased died pre age 75 has led to yet more options being available. Finally and on the death of the dependent/nominee, the new rules allowed remaining funds to pass down to a 'successor' who, in turn, might leave residual funds in the pension scheme upon their demise to their successors.

This 'cascading' of pension wealth down the generations is particularly useful where illiquid assets such as commercial property are the principal asset of the pension scheme. Often such properties are tenanted by the client's employer and are a cornerstone to the ongoing viability of that business. For these reasons, pension scheme trustees may not wish to be in a forced sale position to generate death benefits upon the death of a scheme member.

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Using SSAS

The use of Small Self-Administered Schemes (SSAS), often regarded as the poor relation of Self Invested Personal Pensions (SIPPs), has been rejuvenated as a result of pension freedoms and advisers are increasingly turning to SSASs as the structure of choice to facilitate intergenerational planning.

Unlike a SIPP, the SSAS can accommodate multiple members (up to 11) and therefore lends itself to families looking to provide for several generations 'under one roof'. SSAS trustees can acquire commercial property and lease this to the client's employer on commercial terms. Often a sale and leaseback is undertaken whereby a property asset that currently sits on the balance sheet of the employer is sold to the SSAS trustees at market rate and then leased back to the employer. This generates cashflow for the company and houses an income producing asset within the largely tax free wrapper of the SSAS.

Where commercial property is held within the SSAS at the time of a member's death, it may be possible to maintain this investment whilst providing death benefits to dependents and/or nominees. For example, let's assume a client dies and is survived by their spouse and children who also work in the business and are members of the SSAS. At the time of death the SSAS trustees would revalue their assets (including the property) and determine the value of the deceased's pot. Where the deceased has nominated (via an expression of wishes form) a particular beneficiary (in this case let's assume it is the spouse), the trustees will discuss with the spouse the quantum of the death benefits available to that beneficiary and their options for receiving income and/or lump sums.

Option to defer

If the spouse is already independently wealthy and has no immediate requirement for death benefits from the SSAS, then they can defer the drawing of benefits which will continue to roll up largely tax free within the

SSAS (and outside of the client's estate for IHT purposes) during the period of deferral. If the deceased died pre age 75, then at any stage during their lifetime the surviving spouse could request a tax free payment from the trustees of any amount up to the prevailing value of the deceased's pot.

If the surviving spouse requires income and/or ad hoc 'income payments' from the scheme, then these may be funded either from rental income and/or other (non-property) assets of the scheme, thus not disturbing the property investment. Again, due to death occurring pre age 75, these 'income' payments would also be tax free.

In the extreme and where the spouse requires the entirety of the deceased's pot to be paid out on death, then providing the value of the liquid assets (those other than property) covers the value of the death benefit, the property asset could be retained as a scheme investment for the remainder of the family. Failing this, the trustees could consider taking a loan against the property (limited to 50% of the net asset value of the scheme) to create the required liquidity. Other options to create the required liquidity would include the payment of pension contributions for the remaining members and transferring into the SSAS any other pension benefits built up outside the scheme.

Upon the demise of the surviving spouse, the 'successors' (in this example children) would become beneficiaries of both spouse's residual pots and the taxation treatment of these benefits would be dictated by the age at death of the surviving spouse – if they were also aged below 75 at the time of death, then the benefits would continue to be payable tax free and if death occurred after age 75, then these would be taxable at the successor's highest marginal rate when taken. It is important to note that income tax is only payable by beneficiaries when they receive monies from the SSAS and there is no income tax payable whilst benefits are deferred.

In summary, SSASs provide an excellent, long term, inter-generational tax planning tool and should be actively considered for families looking to secure long-term tax advantages and ensure continuing control of valuable assets such as commercial property.