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Your Legal Questions

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Q I run a family business. We need to finance capital expenditure but bank borrowing is not available. I have heard that it is possible to use personal pension funds as an alternative. How does this work?

A Self Invested Personal Pension schemes (SIPPs) can be used to release funds into a business in two ways; either to purchase an asset from the business, often the trading premises, or as a loan to the business.

Ask your financial advisor if your pension arrangements allow you to take advantage of these options, or whether it is worthwhile consolidating your existing funds into a SIPP to enable you to do so.

Using pension funds to purchase an asset allows you to borrow a further 50% of the funds already available, e.g. with a fund of £250,000 you could buy a building valued up to £375,000. If two or more persons pool their pension funds the borrowing power is correspondingly increased. Once purchased the trading premises can be leased back to the business to produce a rental to help repay the borrowing. The advantages are:

- tax relief on pension contributions going into the fund;
- rental income is not taxed in the fund;
- rental payments are a deductible business expense;
- tax free capital growth of the building;
- the property is moved away from the creditors in the event of insolvency.

The alternative is to lend the business up to 50% of the pension fund. Special rules govern the loan which must be secured against a business asset with interest at a commercial rate. The loan is repaid over a fixed period and the interest payments are a deductible business expense. In the pension fund the interest payments attract no tax.

If in doubt consult a solicitor.

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