SSAS Loan Guide

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2 Introduction

One of the key investments which a SSAS can offer is the ability to loan funds back to the sponsoring employer. This can help the sponsoring employer to develop and grow.

Loans can be used for various reasons such as purchasing stock or fixed assets such as buildings and machinery.

3 Things to consider

The following points need to be considered when loaning funds from a SSAS:

- Loans are restricted to 50% of the net asset value of the SSAS.
- Loans must be secured with a first charge on assets which must always be valued more than the value of the loan and any interest.
- The SSAS will use a solicitor to draw up the necessary legal charge, and this must be in place before the loan can be drawn.
- Loans have a maximum term of 5 years.
- Level capital and interest repayments must be made over the term of the loan on an arm's length basis.
- The interest rate must be at an appropriate commercial rate which benefits both the SSAS and the business.
- Loans cannot be made for working capital or for cash flow and should be for a legitimate business purpose.
- The borrower must pay for all the related fees/expenses which are incurred in relation to the loan e.g. solicitor fees.
- The member trustees will need to consider liquidity in the SSAS in the event of retirement or death benefits.

4 Key Tests

There are five key tests that a loan must satisfy to qualify as an authorised employer loan. If a loan fails to meet one or more of these tests there will be an unauthorised payment.

The unauthorised payment is calculated separately for each of the five key tests. If the loan fails on more than one test the unauthorised payment will be the greatest amount calculated under each test. The amount of the unauthorised payment will not exceed the amount of the loan when it was made.

The five key tests are:

Security

Loans must be on a secured basis, and the issue of security is a key consideration. The SSAS must be able to register a first legal charge over the asset offered as security and the value of the security must be an amount equal to or more than the value of the loan capital plus the total interest payable over the entire period of the loan.

Although HMRC will permit a wide range of assets to be used as security, some types of assets will create tax problems and liabilities in the event of default. For example, plant and machinery often realises much less than anticipated in the event of a company failing. It also needs to be borne in mind that the act of seizing any such 'tangible moveable property' by the trustees on default of the sponsoring employer immediately gives rise to tax charges on the members and the SSAS.

As part of our due diligence process, we need to approve any asset that will be used as security and an independent open market valuation of the asset will be necessary. The security must be fully in place and registered prior to the payment of the loan.

Interest Rates

The interest rate on a SSAS loan must be at a market rate, and this is typically viewed as 3% over base rate. HMRC guidelines specify that the rate cannot be less than 1% over the average lending base rate of six clearing banks specified by HMRC, rounded up to the nearest quarter percent.

The trustees can choose to charge a higher rate if the commercial terms can be supported independently for a similar business loan. The Interest rate will be fixed for the duration of the term.

Term of Loan

The loan must be payable within 5 years. There are specific rules allowing a qualifying rollover of the loan in certain circumstances.

Maximum amount of Loan

The loan cannot exceed 50% of the SSASs net assets immediately before the loan Is made. This is calculated using the schemes cash and market value of the assets.

Repayment Terms

The loan must be repayable in equal annual instalments of capital and interest over the loan term. The required amount must be paid by the end of each loan year. The loan cannot be on an "interest only" basis.

5 Costs

It is an HMRC requirement that the costs associated with the registration and valuation of the security must be met by the borrower i.e. the sponsoring employer.

Morhart charge additional fees in connection with a SSAS loan which can be paid by the SSAS or the sponsoring employer.

6 Case Study

Sue owns and runs a successful manufacturing business with members of her family. They have won a new contract which will expand the business and Sue requires some new machinery to meet the demand.

Sue, together with other members of her family, have a Morhart SSAS which has grown to a value of £500,000. After consulting her accountant and the member trustees of the SSAS, it is agreed that a loan of £150,000 will be made from the SSAS to the business to help purchase the machinery.

The loan is made over a 5-year period, with a fixed interest rate of 6.75% p.a., with monthly capital and interest repayments and is secured as a first legal charge against assets owned by the business.

The loan is made and the machinery purchased helps the business expand, with the SSAS having an investment with a good rate of return for the members.