

In response to recent queries, this note details the Revenue position in relation to certain aspects of property investments by pensions schemes and individual pension policyholders.

**Section 16 Finance Act 2004**

“A retirement benefits scheme shall neither cease to be an approved scheme nor shall the Revenue Commissioners be prevented from approving a retirement benefits scheme for the purposes of this Chapter because of any provision in the rules of the scheme which makes provision for borrowing by the scheme”.

There was no legislative change in relation to borrowing by any other pension products.

**Borrowing Rules:**

The following rules must apply:

1. Only assets purchased by borrowing may be used to provide security to the lender.
2. Assignment of rental income to the lender is not permitted.
3. Life cover on the amount of the debt may only be provided outside the scheme.
4. No cross collateralisation.
5. Interest only loans & loans for a period of more than 15 years are not permissible. The loan should be repaid in full prior to normal retirement age.
6. Use of other scheme assets to clear residual debt is not permissible.

The purpose of the Revenue rules is primarily to ensure the success of the legislative change. This is best achieved by limiting the scheme's exposure to borrowing and having measures to protect scheme assets.

## **Holiday Property**

The existing prohibition on investing in holiday property remains.

## **Self Administered Pension Schemes**

There is no objection to schemes borrowing to acquire assets.

There is **no change** in the other rules relating to scheme investments.

## **New Investment Rules.**

Revenue have decided that all property investments by pension schemes and products must now comply with the investment rules for Small Self-Administered Schemes. The essential point is that any property investment must be on a totally arms length basis. This applies to purchases, lettings and sales. The rules apply to both direct and indirect investments; including investments made using geared investment funds and unit trusts. In relation to investments made by retirement annuity contracts via geared investment funds, it is now possible to link an investment to a particular apartment provided the arms length rules apply.

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