

Technical Note

Solar Panels

We receive many enquiries as to whether solar panels can be held tax efficiently in the SIPP. The concern arises as to whether they are classified as "Tangible Moveable Property" (TMP). See www.hmrc.gov.uk/manuals/cgmanual/cg76550.htm . Assets which are deemed TMP attract punitive tax charges if held by a SIPP, in the same way as residential property, yachts or works of art do.

Solar panels are clearly tangible (they can be touched) and property (they can be owned), and so the matter simplifies to whether they are moveable. Some insight can be gleaned from the Capital Allowances Manual www.hmrc.gov.uk/manuals/camanual/CA26025.htm

In that manual, HM Revenue & Customs say: "Property law distinguishes between chattels and fixtures. A chattel is an asset, which is tangible and moveable. A chattel may become a fixture if it is fixed to a building or land. For example, before it is installed in a building as part of a central heating system, a central heating radiator is a chattel. Once installed, it becomes a fixture."

It follows from this that once installed, solar panels are likely to be deemed a fixture of the building and so not treated as tangible moveable property. There can be practical issues in getting solar panels installed without the SIPP owning the panels, though with care we believe these can be overcome. Broadly, the pension scheme will not incur taxable property charges provided that the trustees only acquire the panels after they have been fixed to the building. Free standing solar panels would remain a chattel, and hence likely to be treated as taxable TMP.

With regard to the Feed In Tariff income, if the SIPP receives the income and if the tenant benefits by having lower bills then the scheme should charge the tenant at broadly neutral cost, or the Tenant receives the income the lease can account for this e.g. by charging slightly more.

We are also asked about holding free standing arrays of solar panels in fields, particularly in farm fields not used for crops. In our view the SIPP could not do this tax efficiently, because the panels would constitute Tangible Moveable Property.

However, it is permitted to lease the land held within the SIPP to a tenant for an agreed rent. The tenant could acquire the solar panels and the right to the feed in tariff income. If that were done the lease should make specific reference to the solar panels being the property of the tenant along with the feed in tariff income and that the tenant will remove them upon leaving the land.

If the tenant is connected to the SIPP member, in order to ensure these matters are completed on an arms-length unconnected basis, the tenant should provide independent evidence that the rent paid is arm's length, taking account of the effect of the solar panels on income.

It should be pointed out that whilst the above is our interpretation of the various legislation which governs Taxable Property, it is possible that HM Revenue and Customs may still investigate a scheme which purchases solar panels. We believe that if the Scheme follows our guidelines above regarding the purchase then the Scheme can provide a good defence against any penal tax charges for the holding of Taxable Property. However, we cannot guarantee that HM Revenue and Customs will agree with this defence and so there is still the possibility that they may seek to levy penal tax charges for the holding of Taxable Property. Even if the defence is successful, please bear in mind that it is likely that the scheme will spend time and money to make that defence.