

This form must be completed before Yorssas (Trustees) Limited will consider allowing a loan from the scheme to a Sponsoring Employer. Loans to any other party will not be permitted. This includes third parties and parties connected to the scheme that are not Sponsoring Employers. See attached Loan Guidelines for further information.

Scheme Name

## Details of Borrower

Full Company Name

Registered Address

Postcode

Company Registration Number

Is the company the Principal Employer or a Participating Employer under the SSAS?

Yes

No

**If no, the loan will not be permitted**

Is the company in liquidation or administration?

Yes

No

**If yes, the loan will not be permitted**

## Details of Loan

Amount of loan

£

What will the loan be secured against?

An independent valuation of the asset(s) being used as security has been obtained and this is attached / enclosed.

Is the asset being used as security classed as Taxable Property or hold any asset(s) classed as Taxable Property AND in the event of a default on the loan, the scheme would take ownership of the asset? (see Note 2)

Yes

No

**If yes, the loan will not be permitted**

Purpose of the loan

***If the loan is not for a genuine business purpose it will not be permitted***

## Loan Agreement

The loan must be documented in a loan agreement signed by all trustees. The loan agreement must meet the relevant requirements of Section 179 and schedule 30 of the Finance Act 2004, a high level summary of which is detailed in the attached SSAS Loan Guidelines. We recommend that the member trustees seek professional advice in relation to the drafting of a suitable loan agreement. Yorssas (Trustees) Ltd must be party to the loan agreement. The loan agreement must limit the liability of Yorssas (Trustees) Ltd to the assets of the pension scheme.

The loan agreement must be sent to Yorssas (Trustees) Ltd for approval. The loan should not be made until this approval has been obtained.

Copy of loan agreement attached:

## Declaration

*The declaration must be signed by all member trustees.*

I/We have read the attached SSAS Loan Guidelines and referred to the relevant legislation and understand the terms on which the scheme can lend to a Sponsoring Employer.

I/We have taken financial advice which is relevant to my/our personal situation.

I/We understand that Yorssas (Trustees) Ltd or Yorssas Ltd do not have responsibility for the ability of the borrower to repay the loan.

The information provided, to the best of my/our knowledge, is true and not misleading. Any false declaration may result in prosecution.

Should value shifting, an indirect benefit or financial gain occur to me/us or a party connected to me/us then a tax charge may arise.

I/we confirm that I/we will notify Yorssas (Trustees) Ltd of any change in circumstances in relation to the loan.

**Signature**

Trustee

Date

**Signature**

Trustee

Date

**Signature**

Trustee

Date

## SSAS Loan Guidelines

A SSAS can lend money from the pension scheme to a company or an individual.

Yorssas (Trustees) Ltd **only allow loans to Sponsoring Employers**, i.e. employers who have been formally admitted to the SSAS as either Principal Employer or Participating Employer. Loans to Connected parties (*see Note 1*) other than Sponsoring Employers are not allowed by Yorssas (Trustees) Ltd, due to the risk of Unauthorised Payment Charges and Scheme Sanction Charges being imposed by HM Revenue & Customs (HMRC).

### Requirements for loans to Sponsoring Employers

Loans to a Sponsoring Employer(s) must meet the following criteria, otherwise HMRC will impose Unauthorised Payment Charges and Scheme Sanction Charges:

#### Amount

The maximum amount of loan is 50% of the net value of the scheme assets, immediately before the loan is made. This limit applies to the total of all loans made by the scheme to Sponsoring Employers.

#### Term

The term of the loan must not exceed 5 years. If at the end of the term there is any amount of the loan and/or interest outstanding (due to difficulty in making the repayments) the loan may be rolled over once, for a maximum of 5 years.

#### Interest

The minimum interest rate is 1% above the average of the base lending rates of 6 of the leading high street banks. This rate, including the 1% addition, is the same as the Corporation Tax Self-Assessment rate of 'Interest charged on underpaid quarterly instalment payments' which HMRC publish here: <http://www.gov.uk/government/publications/rates-and-allowances-hmrc-interest-rates-for-late-and-early-payments/rates-and-allowances-hmrc-interest-rates#other-corporation-tax-self-assessment-interest-rates>

#### Security

The loan must be secured by way of a first charge on an asset that is at least equal in value to the amount of the loan plus interest. There is no requirement for the asset to be owned by the SSAS or the Sponsoring Employer. The requirement for the asset to be at least equal in value to the amount of the loan plus interest only applies at the outset, i.e. the asset may reduce in value during the term of the loan. However, no action must be taken which reduces or removes the security.

The asset can be replaced during the term of the loan, provided that the value of the replacement asset is at least the lower of:

- The amount of loan plus interest outstanding at the date of replacement
- The market value of the asset it replaced at the date of replacement

If any asset used as security is classed as Taxable Property, then Unauthorised Payment Charges can arise. Although the pension scheme would not own the asset by creating a first charge, it may do so in the event of a default on the loan. An asset classed as Taxable Property can be used as security, but the security must be documented such that the pension scheme would not take ownership of the asset in the event of a default on the loan, for example a residential property could be used as security but on the condition that there is a forced sale of the property rather than a transfer of ownership to the scheme. There may also be costs involved in creating the first charge and if this is the case and any such costs are paid by the scheme then Unauthorised Payment Charges can arise.

#### Repayment

Repayments must be made in equal instalments of capital and interest, payable at least annually.

## Notes

### 1. Connected

The definition of a connected person is found in Section 1122 of the Corporation Tax Act 2010. Broadly this is:

- An individual's wife or husband or civil partner or their relatives.
- A person in his capacity as a trustee of a settlement or who is connected with any individual who is a settlor.
- A company is connected with another company if the same person(s) or someone connected to them has control of both. (See below for the definition of control.)
- Any two persons acting together to control a company shall be treated as connected.

### 2. Taxable Property

Taxable Property includes residential property and most tangible moveable property. Tangible moveable property is property that can be touched and is moveable, such as art and antiques, but also includes plant and machinery. Investment grade bullion is not classed as Taxable Property, despite being tangible movable property. Property that is not physical, such as intellectual property is not tangible moveable property.

If security of a loan results in the SSAS holding Taxable Property (directly or indirectly), the financial consequences are severe. Any charges incurred would be paid from the SSAS.

The member trustees are responsible for notifying Yorssas (Trustees) Ltd of any change in circumstances that may result in the scheme holding Taxable Property (directly or indirectly) or result in the loan security being classed as Taxable Property.

Indirect holding of Taxable Property does not incur tax charges in two situations:

- i) Where the asset is a Genuinely Diverse Commercial Vehicle.
- ii) Where it falls under the Investment Regulated Pension Schemes (Exception of Tangible Moveable Property) Order 2006. The criteria are:
  - The market value of the asset must not be greater than £6,000.
  - The interest in the asset is held indirectly by the pension scheme.
  - The asset is held solely for the purposes of the administration or management of the vehicle that holds it directly.
  - Neither a scheme member, nor anyone connected to a scheme member personally occupies or has use of the asset.

We recommend that the member trustees seek professional advice before using any asset as security that may be classed as Taxable Property.

**These notes are based on our understanding of the legal position as at November 2015 and are intended for information only and do not constitute advice and should not be relied upon. They are a high level summary only, of what is a very complex subject, in particular the possible Taxable Property implications.**

**Yorssas (Trustees) Limited does not give financial advice. We strongly advise you seek professional advice prior to making any decisions.**



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