Case study: Investments/Funds

UNSUITABLE FINANCIAL ADVICE LEADS TO COMPLAINANTS’ TAX LIABILITIES

Themes: Tax liability; non-qualifying for UK tax purposes; investment advice

An investor received unsuitable investment advice which led to excessive tax implications when investment withdrawals were later made.

Mrs G requested investment advice from an investment firm and, based on that advice, invested £175,000 into a bond. The bond was a non-qualifying investment for UK tax purposes which meant any withdrawals from the initial investment would potentially be considered taxable by the UK tax authorities.

Mrs G had requested that the investment adviser recommend an investment that she could make withdrawals from without incurring a sizable tax liability, essentially a short-to-medium term investment. However, the investment adviser had recommended a medium-to-long term investment which only permitted 5% of the investment amount to be withdrawn free of tax.

When Mrs G discovered that such withdrawals were potentially taxable, she complained to her investment adviser. The investment adviser stated that they did not provide tax advice and felt that Mrs G had discussed her tax position regarding the recommended investment with her accountant and referred Mrs G to CIFO. Mrs G complained to CIFO and requested a lump sum of £25,000 to cover her potential tax liabilities on her future investment withdrawals.

CIFO investigated and noted that the investment adviser was required to make proper suitability enquiries before providing investment advice to Mrs G and, in this case, CIFO concluded that the investment advice led to Mrs G investing in an investment that was unsuitable for her. CIFO also decided that Mrs G’s investment adviser had failed to explore Mrs G’s personal circumstances as Mrs G had clearly intended to make withdrawals from the bond beyond the 5% allowed as regular non-taxable payments.

CIFO upheld the complaint and recommended that the investment adviser compensate Mrs G for either the tax liability for that financial year upon Mrs G’s surrender of the investment or on a portion of the original investment sum if Mrs G wished to retain the investment, a compensation value of approximately £35,000.