Case study: Investments/Funds

COMPLAINANT BELIEVED INVESTMENT ACCOUNTS WERE POORLY ADMINISTERED

Themes: Investment accounts; tax adviser; wrongful administration, tax liability.

This complaint relates to an investor who believed their bank had not followed tax advice the complainant had received when setting up and managing her investment accounts.

In 2012 Mrs D engaged an accountant to assist with setting up her tax affairs in line with her UK non-domiciled residency status. In accordance with her accountant's advice, Mrs D also engaged a tax adviser to provide tax compliance advice which included the completion of Mrs D's tax returns. After receiving the tax adviser's advice, Mrs D requested her local bank to segregate her income within her investment accounts. Mrs D believed her bank had complied with her request.

In 2022 Mrs D became aware that her income had not been declared correctly on her tax returns for the years 2013 and 2017 which resulted in a tax liability charge. Mrs D made a complaint to her bank as she believed they had made an error when segregating the income within her investment accounts and that, due to this error, she had incurred losses totalling approximately £77,000. Mrs D believed her losses related to tax charges, tax adviser fees, investigation charges, penalties and interest fee charges.

Mrs D's bank concluded that there had been no error with setting-up the investment accounts. However, they did acknowledge that they could have been clearer in explaining the requirements for segregating the investment accounts and that Mrs D would need to make further instructions to arrange for bespoke investment account operations. Mrs D's bank agreed that their client service level had fallen short and offered to compensate Mrs D £11,000 to include a distress and inconvenience award. Mrs D rejected their offer and referred her complaint to CIFO.

CIFO investigated and noted that Mrs D had obtained appropriate tax advice in order for her to instruct her bank to set-up and segregate her investment accounts. CIFO also noted that, although Mrs D had received statements regarding her investment accounts, these had not been provided to or requested by her tax adviser who was responsible for ensuring the tax advice they had provided to Mrs D was actioned accordingly. Instead, Mrs D's tax adviser had used an annual consolidated tax certificate provided by Mrs D's bank which did not detail the segregation of income within Mrs D's investment accounts. Had Mrs D's tax adviser been provided with statements from her investment accounts or requested these, it would have been clear within the first year of operation, the required investment account segregation was not in place.

CIFO did not uphold the complaint and concluded that Mrs D's bank was not responsible for ensuring her investment accounts had been set-up and operated in accordance with the tax advice Mrs D had been provided. That responsibility remained solely with her tax adviser throughout.