DRN-3493569

The complaint

Mr S complains that Halifax Share Dealing Limited ("HSDL") took too long to transfer shares into his account. He lost out on the opportunity to save capital gains tax on the sale of his shares. He wants compensation for his loss, and for the distress and inconvenience he's been caused.

What happened

Mr S receives shares, which I'll refer to as "A", from his employer. He wanted to transfer some of those A shares into his HSDL account, and from there transfer them into his wife's account so that, when he wanted to sell them, he could utilise her annual capital gains tax ("CGT") allowance.

He says he requested a transfer in January 2021, but it wasn't completed until May 2021, after the tax year had ended.

He needed to sell A shares to realise money for house improvements. The transfer hadn't been completed, so he says he incurred a CGT liability.

HSDL said it was responsible for the delay in transferring the shares and paid him £500.

Our investigator thought £500 was fair to compensate Mr S for the distress and inconvenience caused. But he concluded Mr S should also be compensated for the loss he'd incurred – he'd had to pay CGT which he wouldn't have incurred if the transfer hadn't been delayed.

HSDL didn't agree. It said, if the transfer hadn't been delayed, it's unlikely the transfer to Mr S's wife's account would have completed before the end of the tax year. It explained why, saying, in summary, that if the stock had been received in Mr S's account on 24 March 2021, he would have needed to have requested an internal transfer to his wife's account. Her account hadn't been fully activated and she would have needed to complete and return a customer application form before the transfer could be completed. So it didn't agree it should reimburse Mr S for any CGT he had to pay.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

This complaint is only about the transfer instructions Mr S gave in January 2021. He'd also instructed HSDL to transfer shares in 2020, but that does not form part of this complaint.

HSDL didn't respond to our request for its file. It has only provided some limited information in response to our investigator's view. As the evidence is incomplete, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Mr S requested the transfer of shares in January 2021. The employee stock plan administrator contacted HSDL on 29 January 2021 to coordinate the transfer. The transfer didn't take place until May 2021. I can see Mr S told HSDL that it was important the transfer took place before the end of the tax year. And he was in regular contact with HSDL to try to find out what was happening – I can see he contacted it at least 20 times, but only received acknowledgements and no information about the transfer.

Following Mr S's complaint, HSDL told him that, "*HSDL has solely contributed to the delays in your transfer. There has been a clear service issued identified….".* And it offered him £500 which I consider is fair and reasonable for the distress and inconvenience it caused.

But I also need to decide whether the delay – which HSDL says was solely its fault – resulted in Mr S having to pay CGT on the sale of his shares. Or whether, as HSDL claims, the shares wouldn't have been transferred in time if it hadn't caused the delay.

Firstly, I'm satisfied Mr S needed to sell the shares. He told us he needed the money for home renovations, and he sold the shares for this purpose on 16 April 2021.

I've thought about what HSDL has told us. The shares were being transferred to Mr S's account and then needed to be transferred to his wife's account – which still needed to be fully set up – before they could be sold without incurring CGT. HSDL suggests the earliest it could have received the shares in Mr S's account was 24 March. But, as the other party had let HSDL know it was ready to move the shares on 29 January, I think it's more likely than not that there was enough time for everything to have been completed before the end of the tax year if HSDL had not caused a delay. In coming to this conclusion, I've taken into account that Mr S had told HSDL what he planned to do. So it was reasonable to expect HSDL to set out the likely timescales for him and tell him at the outset if it didn't think he'd given his instruction in enough time.

For these reasons I agree with our investigator that HSDL should reimburse Mr S for any CGT liability he had to pay following the sale of the shares on 16 April 2021.

Putting things right

Mrs S has provided evidence of the CGT he paid in 2020/2021. But the CGT liability for this sale will fall in the 2021/2022 tax year. Mr S hasn't been able to provide this figure to date.

On receipt of evidence from Mr S, Halifax Share Dealing Limited should pay Mr S the CGT he has, or had, to pay on the 16 April 2021 sale of his A shares. HSDL should be mindful that the tax payable may not be clear until Mr S has submitted his tax return for the tax year 2021/2022.

Halifax Share Dealing Limited should pay interest on the amount it pays Mr S at 8% simple per annum from the date Mr S paid the CGT, to the date of settlement, to reflect the time he's been without the money.

Halifax Share Dealing Limited should pay Mr S £500, if it hasn't already done so, to compensate him for the distress and inconvenience caused.

My final decision

My final decision is that I uphold this complaint. Halifax Share Dealing Limited should pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 25 October 2022.

Elizabeth Dawes
Ombudsman