

The complaint

Mr P complains that when transferring his ISA to Clydesdale Bank Plc trading as Virgin Money ("Virgin Money") due to a mistake on Virgin Money's part £40,000 of his funds lost the ISA tax free wrapper status.

What happened

Mr P had £40,000 invested in an ISA with another provider which the interest rate had matured on and he wanted to move his ISA to Virgin Money's 1-year fixed rate cash ISA which was offering 5.85% until 30 September 2024. The maximum amount you could invest in an ISA in the 2023/2024 tax year was £20,000.

Mr P contacted Virgin Money on 1 November and asked how he should move the money from his ISA over to it. Virgin Money incorrectly told him to transfer the money to his current account held with it and then on to his new cash ISA. Mr P followed this advice and transferred £40,000 from his ISA to his current account but on attempting to transfer the funds into the new ISA wasn't able to. On contacting Virgin Money about this Mr P was told that the cash held within his ISA had lost its ISA tax free wrapper status due to the incorrect advice.

Mr P complained to Virgin Money about this. Virgin Money upheld his complaint and paid him £300 for the distress and inconvenience caused.

Mr P was dissatisfied with this and brought his complaint to this service. He says as a result of the incorrect advice he will now have £40,000 invested subject to tax as he has lost the ISA tax free wrapper. Mr P says he has other savings accounts that will fund the future years ISA allowances and that this error will cost him a considerable amount of money in tax as a higher rate taxpayer.

Mr P has told us that these funds are now held in a mixture of accounts at other providers some earning up to £5.15% interest and that he moves money frequently to get the best interest rates. Mr P says he doesn't believe he has lost much in actual interest in year one, but it is the taxation going forward year on year that is his biggest concern.

One of our investigator's looked into Mr P's complaint and thought that Virgin Money had failed to take into account the financial losses Mr P suffered as a result of its errors – mainly the loss of the ISA tax free wrapper on £40,000.

Virgin Money has now offered to settle Mr P's complaint by compensating Mr P on top of the £300 already paid for distress and inconvenience for a five-year tax loss (assuming Mr P is taxed at 40%) at the following calculations:

A 5-year tax loss:

On a balance of £40,000 the annual interest at 2.5% would be £1,000 in the first year. Tax at 40% would be £400. Over 5 years we have compounded the interest - the tax losses in the subsequent years are £410.00, £420.25, £430.76, and £441.53. Total tax

loss across the 5 years is £2,102.54.

Comparing 5.85% tax free with 5.08% subject to tax:

Over the period 1/11/23 to 30/9/24 the interest on £40,000 at 5.85% would be £2,147.68.

Over the period 1/11/23 to 30/9/24 the interest on £40,000 at 5.08% would be £1,864.99. Tax at 40% on £1,864.99 is £746.00.

The difference between £2,147.68 and £1,864.99 is £282.69.

Adding the losses:

$£2,102.54 + £282.69 + £746.00 = £3,131.23.$

Virgin Money are also willing to provide a letter of comfort to Mr P's previous ISA provider confirming the withdrawal made by Mr P was an error based on incorrect advice so that it can see if the ISA could be reinstated.

Our investigator thought this offer was fair and reasonable as we can make some assumptions over a five-year period such as the customers tax status not changing, ISAs remaining available and average savings rates but any longer than this is too difficult to predict. Furthermore, normally a customer can make up the ISA's losses within five years as cash holdings are normally used to meet expenses first, rather than cashing in investments. And although Mr P has said he has further cash to invest, they still thought the lost ISA could be potentially made up in less than 5 years.

Mr P was not willing to accept this as he doesn't believe 2.5% interest rate is fair and is unhappy that he will only be compensated for 5 years as he believes his losses will continue after that and wants to be compensated for a minimum of 10 years given his life expectancy is 21 years – his average life expectancy. So, Mr P's complaint has been progressed for an ombudsman's decision on the matter.

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.

My role is to look at the problems Mr P has experienced and see if Virgin Money has done anything wrong or treated him unfairly. If it has, I would seek – if possible - to put Mr P back in the position he would've been in if the mistakes hadn't happened. And I may award compensation that I think is fair and reasonable.

In this case there is no dispute that it was Virgin Money's mistake that led to Mr P losing the ISA tax wrapper on £40,000 worth of funds – plus any closing interest due when moving the ISA.

So, all I have to decide is whether the compensation offered by Virgin Money for the loss of the ISA status and loss of interest for year 2023/2024 and compensation for any distress and inconvenience caused as outlined in the background is fair and reasonable. And I think it is.

As I stated above usually when a business has made an error – if possible – we would try and put the customer in this case Mr P back in the position they'd be in if the mistake didn't occur. If this was to happen in this case Mr P's funds would still be held in the ISA tax

wrapper and invested with Virgin Money on a fixed rate of 5.85% expiring on 30 September 2024.

But in this case it is not currently possible to do this so we have to look at alternative ways to put the situation right. I understand Mr P feels strongly that compensation for a 5-year loss of tax free wrapper status isn't enough given he has an average life expectancy of 21 years and so he should be compensated accordingly.

But I don't think it would be reasonable to make assumptions past the five years as it is simply not possible to predict what's going to happen in Mr P's life or indeed, the economy.

Mr P's financial circumstances could change for the better or worse, and he may well not be in a position to invest the entire current ISA allowance of £20,000 each year. His tax status could change, the ISA allowance could change, ISAs could be withdrawn or ISA interest rates could drop to a level where it no longer makes sense to keep investing in them.

And in any case, I'm not persuaded that if Mr P has surplus funds above £100,000 (five years' worth of the current ISA allowance) that he plans to invest in a cash ISA. Indeed, despite losing the ISA tax free wrapper I haven't seen any evidence on his behalf that he has placed what he could back into an ISA and I think Mr P has to take some responsibility to mitigate his losses where he can. And there is still the possibility that the relevant authorities will accept Virgin Money made a mistake and reinstate Mr P's ISA.

I also think the interest of 2.5% offered on expiry of Virgin Money's fixed rate on 30 September 2024 is fair as we can predict what will be available or what Mr P would invest in after this and Mr P is still free to invest his monies back into an ISA now and get a higher interest rate and possibly profit from the situation.

Virgin Money has already compensated £300 for the distress and inconvenience caused by the wrong information it provided. I think this is reasonable overall and with the other compensation on offer I'm not persuaded any uplift on this is warranted. Things don't always go smoothly, and mistakes happen and our role isn't to punish or penalise the businesses we cover and I don't think it would be fair to hold Virgin Money accountable for things that can't be predicted such as Mr P's personal and financial circumstances, tax status, employment or market fluctuations and that are outside of its control.

So having considered everything I think what Virgin Money has offered of £3,131.23 for any financial loss Mr P has suffered is a fair way to settle Mr P's complaint.

So, it follows that I uphold Mr P's complaint and direct Virgin Money pay the fair compensation as outlined in its offer in the background and provide Mr P with a letter of comfort which he can try use to have his ISA status reinstated.

My final decision

For the reasons I've explained, I've decided what Clydesdale Bank Plc have agreed to do to settle Mr P's complaint is fair and reasonable and I'm not going to ask it to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 3 September 2024.

Caroline Davies

Ombudsman