

The complaint

Mrs. B complains that Secure Trust Bank PLC (STB) applied funds sent to it in error to her ISA before returning them and then refused to refer the matter to HMRC in respect of the tax implications.

What happened

In September 2023 Mrs B successfully applied for a Cash ISA with STB. It received and processed two sums, of around £60,000 and £19,000, from her previous provider. The latter sum was sent by the previous provider in error, and it attempted to recall it from STB. However STB's system sent a message to that provider saying that no account had been found. This was because its system was not set up to provide an automatic recall. This had to be carried out manually and STB advised that the £19,000 would have to be applied to Mrs B's ISA first before it could be sent back. STB arranged to do this and credited Mrs B's ISA with both £19,000 and £60,000 on 25 September and returned the former sum to the previous provider the next day.

Mrs B was concerned about how this had affected her tax status and enquired why the £19,000 had to be applied to her ISA before returning it. STB initially said that it had to be done in that way. When Mrs B complained, it said that although the receipt of the £19,000 was not an error on its part, it could understand that she would have been distressed. It also said that there would have been an alternative method of returning the funds without applying them to the ISA first. But it was able to assure Mrs B that its Finance Team had provided substantial reassurance that its annual Bank and Building Society interest report would be correct and that no adverse effects would occur regarding her ISA position. It declined to report the matter to HMRC. However due to the issues Mrs B had encountered it offered £150 compensation.

Mrs B later referred the matter to HMRC herself. It did respond that it would appear there was no tax liability on the amounts, as this had been dealt with "ISA Manager" the monies had not left the ISA Wrapper.

On referral to the Financial Ombudsman Service our Investigator said that Mrs B had received adequate written confirmation and comfort from STB that explained the circumstances of her situation and the mistakes it'd made. And that STB would be reporting the incident accurately to HMRC as part of the annual audit. He thought that the offer of £150 was reasonable.

On Mrs B's behalf Mr B replied and said that because the matter had affected Mrs B for several months before they got a response from HMRC she was concerned about a potential ongoing tax liability. And that the compensation should reflect that. He also believed that we should not look at the matter with hindsight, rather that we should consider what could have happened.

The matter has been passed to me for an Ombudsman's consideration.

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.

I should explain to Mr and Mrs B that I have to consider the position as it is rather than what it could have been and will take that into account in considering the appropriate compensation.

I can understand that Mrs B would have been disturbed to find that £19,000 was sent to her ISA before being returned to her previous provider, and that this could have had a tax liability for her. Although I do think that the tax liability, if there was one, would only have affected her in the financial year 2023 to 2024. And, as it transpires STB could have returned the £19,000 without it having to go through her ISA.

However whilst I understand that Mrs B wanted to get reassurance directly from HMRC, I think it was reasonable, as a bank that would have dealt with tax matters all the time, for STB to provide the reassurance, from its Finance Team, that it didn't affect her tax position. And the response from HMRC did confirm that. In my view it is pointless to speculate about the reasons for HMRC's response. The fact is that STB advised Mrs B that it was able to provide substantial reassurance that her tax position was unaffected.

Having said that, as I've said, I can understand Mrs B's concern about her tax position, and that concern was brought about by STB placing the funds received in error into her ISA even if only for one day. I think in the circumstances the £150 offered by STB is fair and reasonable. It was Mrs B's choice to refer the matter to HMRC but ultimately its response was a justification of STB's earlier response.

My final decision

Secure Trust Bank Plc has already made an offer to pay £150 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Secure Trust Bank Plc should pay £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 1 November 2024.

Ray Lawley
Ombudsman