DRN-5123151

The complaint

Mr J's complaint against Halifax Share Dealing Limited - trading as IWeb Share Dealing ("IWeb") – is about what happened when he wanted to dispose of some shares before the end of the tax year.

What happened

Mr J has a share dealing account with IWeb. At the end of the 2023/24 tax year, he decided to sell his holdings in two companies to crystalise his loses for Capital Gains Tax (CGT) purposes. Mr J wanted to carry forward the losses to offset against future gains as he had not made any other disposals in that tax year.

Mr J sold his shares in one of the companies but was unable to sell his other holding online as the market value was just £4.00, which was less than the commission charge on the transaction. That valuation represented a loss of £1,090 to Mr J.

Mr J called IWeb's dealing line on 4 April 2024 and was told that he could gift his shareholding to charity. After checking, IWeb's agent informed Mr J the shares could be gifted that day and therefore within that tax year. Mr J agreed to proceed.

Mr J subsequently found out that gifting the shares to charity meant he couldn't offset the loss against other gains. He complained to IWeb that if he had known that he wouldn't have disposed of his shareholding. He raised two points in his complaint:

- That he was unable to sell his shares in the usual way because their value was less than the commission charge, even though there was sufficient cash in his account to make up the commission shortfall.

- That IWeb's agent didn't warn him about the CGT issue. He appreciates that IWeb can't offer tax advice but feels this situation must be fairly common and that IWeb shouldn't make the suggestion of gifting shares to charity when a customer has said they wish to crystallise a loss.

In response to Mr J's complaint, IWeb said that, as an execution-only broker, they would not expect their agent to warn customers of any tax implications. Their agents are not trained to give tax advice and it's a customer's responsibility to carry out their own research. When Mr J called, he asked what his options would be and their agent offered share gifting, which Mr J accepted. They also said they are unable to offer to exclude the commission from the proceeds of a trade.

Unhappy with IWeb's response, Mr J referred his complaint to our service. He said that although any potential financial loss (in the form of possible future tax relief against gains) is relatively trivial he felt this was a common situation that might affect other customers.

Our investigator thought that Mr J's complaint should be upheld. He said:

- He had asked IWeb for a copy of their terms and conditions relevant to the sale of shares where the net proceeds are less than the commission payable on the transaction but IWeb had not responded.

- Mr J hadn't been given a full explanation of the issues he raised and had potentially lost out on being able to offset his losses against a future CGT liability.

- In their response to Mr J, IWeb had said their agents were not trained to give tax advice. However, as Mr J had suggested, giving the option of gifting the shares could be considered as giving advice.

- When IWeb's agent gave Mr J the option of gifting his shares, it would have been reasonable for them to make Mr J aware that he would not be able to offset any losses against other gains. That is not giving tax advice but providing important information about what a customer is agreeing to.

- IWeb should pay Mr J £100 for the distress and inconvenience caused by giving him incomplete information and answer his question about the sale of low value shares.

IWeb disagreed with our investigator's view and asked for an ombudsman to make a final decision. They said:

- Mr J called on the last day of the tax year and explained that as the value of his investment had fallen below the minimum threshold of £5.00, he was unable to sell. Mr J did not wish to wait for his investment to increase in value above the minimum threshold and asked, "is there a way round that?" Their agent then gave Mr J the option of gifting the investment to charity which he chose to do.

- Their agreement with Mr J makes clear that they will not provide legal, tax or other advice in connection with his investments and that if Mr J is in any doubt about making his own decisions, he should seek advice from a suitably qualified financial adviser.

It was therefore Mr J's responsibility to seek appropriate advice before making any investment decision. They do not agree that providing Mr J with the option of gifting his investment to charity represented advice.

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.

Mr J has said he accepts that IWeb cannot give tax advice. The terms and conditions of his account make clear that IWeb will not provide legal, tax or other advice and if necessary, customers should seek advice from a suitably qualified financial adviser.

Mr J called IWeb to request information, namely whether there was a way he could dispose of his shareholding so that he could crystalise a loss for tax purposes. And IWeb had a responsibility to ensure that any information they provided to Mr J was clear, fair and not misleading.

I've listened to a recording of the phone call between Mr J and IWeb's agent on 4 April 2024 and noted the following:

- Mr J explained at the start of the call that he wanted to sell a “virtually worthless” shareholding to crystalise a loss but was unable to do so because the valuation was less than the dealing charge.

- He asked if there was a way round that and IWeb’s agent said she would check if it was possible to donate that stock to charity.

- Mr J said later in the call that he was looking to dispose of the shares in the current tax year. And while Mr J was on hold, the agent explained to a colleague that Mr J wanted to incur the loss in the current tax year.

- Once IWeb’s agent had confirmed that it was possible to donate the shares, and that the donation could be processed that day, Mr J agreed to go ahead.

So, I think IWeb’s agent understood what Mr J was asking and the reason why he wanted to sell his shareholding. In these circumstances and having suggested the option of donating his shares to charity, I think it would be reasonable to expect the agent to explain to Mr J that he might not be able to offset any losses against other gains, or at least to remind him that he might want to seek advice on the tax implications.

Given that, I don’t think I can fairly say that the information the agent provided in response to Mr J’s query was clear, fair and not misleading. If it had been then I’m satisfied that it’s most likely Mr J wouldn’t have gone ahead and donated his shareholding to charity.

In order to put things right, I won’t be asking IWeb to compensate Mr J for any financial loss, which he has described as “potential” and “relatively trivial”. But I think IWeb have caused distress and inconvenience to Mr J by their failure to provide clear information in the phone call and their subsequent response to him. I therefore agree with our investigator that IWeb should:

- Pay Mr J £100 in compensation for the distress and inconvenience caused to him.

- Provide Mr J with information about the options available when selling low value shares.

My final decision

For the reasons I’ve explained, my final decision is that I uphold Mr J’s complaint.

Halifax Share Dealing Limited should put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr J to accept or reject my decision before 23 April 2025.

Matthew Young
Ombudsman