DRN-5129325

The complaint

A complains that St James's Place Wealth Management Plc ("SJP") gave it wrong information about the tax charge on a life plan policy. A complains about the charge itself and that SJP wrongly told it that the trust wouldn't incur a tax liability.

A is a trust and the complaint is brought by the trustees.

The trustees also complain that the policy was mis-sold. This is being considered as a separate complaint.

What happened

A life plan policy was held in the trust. When the second-named policy holder passed away, the plan was crystallised, and the trust received the proceeds in or around November 2020. On 3 December 2020, one of the trustees asked SJP if the crystallisation of the policy gave rise to any chargeable gain or other taxable event. SJP replied to say, "*I can confirm that this life assurance policy does not attract a chargeable event*".

But on 14 December, the trustees received a chargeable event certificate. And in January 2021, SJP confirmed there was a tax liability payable by the estate of the second-named policy holder and that the trust had a tax liability of almost £44,000.

The trustees complained about the tax charge.

When SJP investigated, it found that contributions should have been reduced following the 2016 plan review. This would have resulted in a lower tax charge. It set out its calculations and offered to pay the trustees £47,581.04.

The trustees accepted SJP's offer for the overpaid contributions. But it said this didn't settle their complaint about being given the wrong information about the tax charge.

Our investigator thought SJP's offer in respect of the overpaid contributions was fair. He didn't think the liability to tax was as a result of a mistake by SJP. And he thought the tax charge was as outlined in the product's key features document. But he thought the initial wrong information given by SJP – that there wouldn't be a tax liability – caused the trustees a loss of expectation, trouble and upset. He thought SJP should pay the trustees £300 compensation.

The trustees didn't agree with our investigator's conclusions. They said, in summary, that:

- An explanation of the tax consequences wasn't made clear at the outset.
- The terms of the plan and the tax consequences should have been made clear to the trustees.
- The key features document, which the trustees hadn't seen before, is contradictory and ambiguous.

- The suitability letter, which was sent to the lives assured, wasn't clear about the tax consequences.

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.

Firstly, it's important to note that this complaint is only about the tax charge when the plan crystalised and the incorrect information provided by SJP about that charge. The trustees' and executors' complaint about the mis-sale of the policy is being considered separately. This means I can't comment on the sale of the policy, including the information, or lack of information, provided to the trustees about the tax implications of the plan when it was taken out.

Having carefully considered everything, I find I have come to the same conclusion as the investigator for the following reasons:

SJP clearly gave the trustees wrong information in its email dated 4 December 2020 when it told them there wouldn't be any tax liability following the crystallisation of the policy.

I don't find this wrong information led to a financial loss for the trust. I say that because a tax charge was always going to be payable in the particular circumstances. So I don't find there's any obligation on SJP to reimburse the trustees for the tax that's had to be paid.

In investigating this complaint, SJP found it should have advised the trustees to reduce their contributions following the 2016 review. I'm satisfied that it's fairly compensated the trustees for this error and the trustees have accepted this compensation in settlement.

Whilst the tax charge remains payable, it's fair that the trustees should be compensated for being given the wrong information. I've no doubt it was upsetting to find that, rather than no tax liability, the trust was due to pay a not insubstantial sum. In deciding how much compensation is fair and reasonable I've taken into account that the trustees found out within a relatively short space of time that there would in fact be a liability. And I've not seen anything to show that the money required to meet the tax liability had been "spent" by the trustees, for example by making a distribution to a beneficiary. Taking all this into account, I agree with the investigator that £300 is fair and reasonable compensation in the circumstances.

My final decision

My final decision is that St James's Place Wealth Management Plc should pay A £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask A to accept or reject my decision before 4 December 2024.

Elizabeth Dawes
Ombudsman