DRN-5985393

The complaint

Mrs W is represented.

Her complaint is about the 2023/2024 Consolidated Tax Certificate ('CTC') issued for the *Invest Direct* account she holds with HSBC UK Bank Plc. She says the CTC wrongly omitted the dividend payable on 27 March 2024 from her Vanguard FTSE Developed Europe ETF holding (the 'Vanguard holding'). HSBC disputes the complaint. It says the omission was not an error, because the dividend was received in, and applies to, the 2024/2025 tax year.

What happened

I issued a Provisional Decision ('PD') for the complaint on 17 November 2025.

The PD summarised Mrs W's position as follows –

"*Mrs W brought the matter to HSBC's attention in May 2024, and in the correspondence that followed she clarified the complaint in these terms –*

"My complaint is that HSBC has refused to correct my 2023/24 Consolidated Tax Certificate so as to meet HMRC requirements. The CTC omitted the VERX ETF dividend payment of £303.06 made by Vanguard on 27 March 2024 and received in my Invest Direct Account on 22 April 2024.

HMRC state in their internal manual, available on-line, that dividends are treated as paid for the purposes of the Corporation Tax Acts on the date when they become due and payable (SAI M 5040).

The VanguardInvestor.co.uk website conforms that the payable date was 27 March 2024. The VERX payment should therefore have been included in the CTC for 2023/24. The date the dividend was credited to my Invest Direct cash account is irrelevant for HMRCs purposes — it is the date the dividend became payable that meets their requirements.

I have previously made similar requests for CTCs to be corrected in 2018 and 2021 and in both years HSBC did so. In the latter case (your complaint ref 1448873) I was assured that the team which produces CTCs will monitor this for you each year to ensure all dividends are included. I am disappointed that this has not happened.

To resolve this complaint I am looking to HSBC to issue me with a corrected CTC for 2023/24 which includes the VERX March 2024 dividend payment.""

HSBC's position was summarised as follows –

"*HSBC's response included the following –*

"There are two types of dividends that can be declared —final and interim. The date of the payment for tax purposes depends on the type of dividend:

-The tax date of a final dividend is the date on which it is expressed to be payable, i.e. the date the company says it is paid irrespective of when it is received by the shareholders.

-The tax date of an interim dividend is the date payment arrives, i.e. when the shareholder receives it.

We understand that HMRC take a similar view to the above: https://www.gov.uk/hmrc-internal-manuals/savings-and-investment-manual/saim5040

In this case the dividend your enquiry was about was the interim dividend, which was received by us as nominee on 18th Apri1 2024 and therefore we will include it in the CTC for 2024/25.

On the company's website it stated that the dividend was payable on 27th March 2024, however unfortunately we don't know why it took so long for the payment to be made and received by us.""

The PD's main provisional findings were –

"*The CTC is a tax related document, so it is unsurprising that all parties (including the investigator) having taken guidance from HMRC's internal manual. My approach is no different. In this respect, SAIM5040 has been referenced by all, for good reason, given that it includes content that addresses when HMRC deems a dividend to have been paid – this being the issue in dispute between the parties.*

I disagree with HSBC's interpretation of the manual's treatment of final and interim dividends. HSBC says – "The date of the payment for tax purposes depends on the type of dividend …"; "The tax date of a final dividend is the date on which it is expressed to be payable, i.e. the date the company says it is paid irrespective of when it is received by the shareholders."; and "The tax date of an interim dividend is the date payment arrives, i.e. when the shareholder receives it." This is not what SAIM5040 says.

SAIM5040, as quoted above, first addresses all dividends and defines the basis on which they are all to be deemed as paid. It says – "… <u>dividends</u> <u>are treated as paid</u> for the purposes of the Corporation Tax Acts 'on the date <u>when they become due and payable'</u>." [my emphasis]

The distinction it proceeds to draw out relates to the different mechanics by which final and interim dividends are payable, but the text maintains references to the same defining basis – that being when the dividends become 'due and payable'. I illustrate this, with emphasis on the repetitions of the due and payable basis, next.

For final dividends, SAIM5040 says – "The date when a final dividend becomes <u>due and payable</u> is usually established by a resolution of the company. The dividend becomes due when the date on which it is expressed to be payable arrives. Only then is payment enforceable. In the case of a final dividend where a date for payment is not specified, an immediately enforceable debt is created so that the date of declaration of the dividend is the <u>due and payable date</u>." [my emphasis]

For interim dividends, it says – "An interim dividend can be varied and rescinded at any time before payment and can therefore only be regarded as <u>'due and payable'</u> when the date for payment arrives." [my emphasis]

Therefore, the test appears to be the same, for both final and interim dividend payments, *and that test rests on when the payment is deemed to be due and payable.*

It also looks like HSBC has misinterpreted the areas of SAIM5040 in which the word 'arrives' is used. I do not consider that the manual's use of the word has anything to do with the receipts of dividend payments. The relevant sentences refer to when dates (not dividends) arrive. As follows (with my emphasis) – "The dividend becomes due <u>when the date</u> on which it is expressed to be payable <u>arrives</u>"; "An interim dividend can be varied and rescinded at any time before payment and can therefore only be regarded as 'due and payable' <u>when the date</u> for payment <u>arrives</u>.

As Mrs W's representative has said, there is nothing in the SAIM5040 quote that refers to the arrival (or receipt) of dividend payments. This indicates that the manual did not intend for the date dividends are received to play a part in determining when they were/are due and payable.

It follows, from the above, that HSBC's argument about using the payment receipt date as the payable (or payment) date falls away. When it (as nominee) received the dividend payment and, for the sake of completeness, when the payment was passed on to Mrs W are irrelevant to the terms set out in SAIM5040. What is relevant is the date on which the dividend was due and payable.

The concluding text of SAIM5040 says as follows – "The main case law authority for the above propositions is Potel v CIR (1970) 46TC658 which emphasises that the declaration of a dividend by a company and its payment are two separate matters." I acknowledge that there is no dispute in Mrs W's case about the date on which the Vanguard holding's dividend was declared. However, this case law provides helpful insight into the status that should be given to the date expressed as when the dividend would be payable.

In the case, the pursuit appears to have been to use the date of the dividend declaration as the date on which the dividend was due and payable, even though the declaration expressed a distinct and different payable date. The High Court upheld the distinct payable date expressed in the declaration – not the date of the declaration itself – as being the date on which the dividends were payable. SAIM5040 broadly says the same thing. It essentially says the date of payment expressed for the dividend is the date on which it is due and payable.

In Mrs W's case, there is no dispute that the payable date for the dividend set by Vanguard was 27 March 2024. Based on the above analysis, this was the date on which the dividend was due and payable to Mrs W. As I understand it, this also determines, for the purposes of the CTC, the tax year into which the dividend payment fell, so it fell within the 2023/2024 tax year (that is, the tax year ending 5 April 2024).

The most recent input/comment Mrs W's representative obtained from HMRC supports the above conclusion. HSBC disagrees with HMRC's comment, and it said it intended to discuss that disagreement directly with them.

I have considered whether (or not) the outcome of any discussion it is having with HMRC should be awaited before progressing the complaint. On balance, I am not persuaded that should happen, hence why I am issuing this PD and intend to follow-up with a further decision after the deadline for responses from the parties. It should be noted that my reference to HMRC's recent comment has happened after concluding my findings, and after I set out grounds derived from SAIM5040 itself and associated caselaw to support my findings. Whilst HMRC's recent comment supports the conclusion I have reached, the conclusion does not rest wholly on the comment. In this context, and unless I am given good and persuasive reason to consider otherwise, an outcome to the complaint should not need *to await the outcome of any discussion between HSBC and HMRC about the comment*."

Mrs W's representative says she accepts the PD.

HSBC says it does not agree with everything in the PD, but it confirms that in order to bring the matter to a close it will accept the PD and provide the remedy as directed. However, it asked us to convey notice to Mrs W that it cannot be certain how long it will take to produce the remedy we direct, as it will likely need to be done manually.

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 welcome, with thanks, the parties' responses to the PD.

Mrs W accepts the PD. I acknowledge that HSBC does the same, but it also does not agree with everything said in the PD. Its disagreement(s) has not been set out, so I am not in a position to know what it is (or what they are), and I am not in a position to address it/them. I have reviewed the complaint. I retain the findings in the PD, and I incorporate them into this decision. I uphold Mrs W's complaint.

Putting things right

In the conclusion of the PD, I said –

"*I provisionally uphold Mrs W's complaint. If I retain this outcome in a final decision, I intend to order HSBC UK Bank Plc to resolve her complaint by issuing a corrected 2023/2024 CTC for her Invest Direct account that includes and reflects the Vanguard holding's dividend payment that was due and payable on 27 March 2024.*"

Following my retention of the PD's findings (and its afore quoted conclusion), I order HSBC to resolve Mrs W's complaint by issuing a corrected 2023/2024 CTC for her Invest Direct account that includes and reflects the Vanguard holding's dividend payment that was due and payable on 27 March 2024. If HSBC does not meet this order within 14 days of being informed that Mrs W has accepted this decision, I also order HSBC to provide her with meaningful weekly updates on its progress in issuing the corrected CTC.

I have conveyed the notice HSBC asked us to pass to Mrs W. I appreciate reasonable time will be needed for HSBC to carry out the order I have given. I have made an additional provision for updates from HSBC to Mrs W if the order is not met within 14 days of the former being informed about the latter's acceptance of this decision. I consider this should help in keeping Mrs W properly informed throughout the process.

My final decision

I uphold Mrs W's complaint, and I order HSBC UK Bank Plc to resolve it as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 30 December 2025.

Roy Kuku
Ombudsman