

## **The complaint**

Mr C has complained about Halifax Share Dealing Limited (Halifax). He said Halifax's inability to act is resulting in him paying higher than necessary tax on a dividend payment received from one of his shareholdings.

Mr C would like Halifax to explain why it is not claiming tax relief and has asked it to put in place plans to do so in the future.

## **What happened**

Mr C has a trading account with Halifax. Mr C holds shares in Diversified Energy Company Plc Ord (Diversified Energy) on this account. Mr C has complained about the amount of tax he has to pay on dividends received by this company.

Diversified Energy is listed on a UK exchange but the income it receives has been sourced in the USA. Under US domestic tax laws, a non-US resident or business is generally subject to a 30% withholding tax on the gross amount of US sourced income. In certain circumstances, US derived dividends are subject to this tax.

The US has entered tax treaties with recipient countries. The US currently has a treaty in place where, UK residents or businesses can claim a lower rate of tax of 15% if they complete the necessary paperwork.

The US internal revenue service has created a form, that non-US residents or businesses can complete to verify their country of residence for tax purposes. This would certify they qualify for a lower rate of withholding tax. They are called W8 forms.

Mr C said Diversified Energy is a UK listed company that is distributing US sourced income, so if Halifax completed a W8 form, and submitted it, he would pay 15% withholding rate of tax and not 30% rate that he and other shareholders of this company are doing with it. He complained to Halifax about this.

Halifax said in response, that the correct rate of tax had been applied to Mr C's dividend. It said the tax is taken at source prior to the funds being sent to it to distribute.

Halifax said it acknowledge that in most cases completing a W8 form means UK shareholders will pay only 15% withholding rate of tax instead of 30%. It said that for its account holders, UK listed shares paying US sourced dividends will attract a 30% rate of tax and this is stipulated within its terms and conditions. It said this is also made clear on its website.

Mr C was not happy with Halifax's response and referred his complaint to our service. He said Halifax didn't answer his question. He wanted to know why Halifax couldn't claim back half the tax on UK shares distributing US sourced income.

An investigator from our service looked into Mr C's complaint. He said he didn't think Halifax needed to take any action. He said he didn't think Halifax had acted unfairly or

unreasonably. He said information was clearly provided on Halifax's website about the rate of tax applied and this is given in the terms too.

Mr C is not in agreement with the investigator's view. So as this is the case his complaint has been passed to me, an ombudsman, to look into.

### **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 am not upholding Mr C's complaint. I will explain why.

Mr C said he doesn't know why Halifax isn't claiming a lower rate of withholding tax on the dividend payment of one of his shareholdings, Diversified Energy. He said he would like Halifax to explain why it isn't claiming tax relief.

Halifax has provided the terms and conditions for Mr C's account. These were updated in January 2023. Within the terms Halifax state, the following:

"If you wish to buy US listed shares that may pay US sourced income, we require you to complete certain documents in order to satisfy US tax authority requirements. For UK listed shares paying US sourced income, no reduced withholding tax rate is applied even if you have certain documents in place."

Halifax said it has made its stance clear within its own terms and conditions and on its website. It said that a reduced rate of withholding tax is not available for a UK listed shareholding that pays US sourced income.

Mr C said other brokers and trading platforms can claim a lower rate of withholding tax for dividend payments from Diversified Energy and so has asked why Halifax is not able or willing to do the same.

First, I have looked into what Halifax has said. I can see that it has made clear what its stance is within its terms and on its website. I have looked into the terms it has provided and can see clearly, that it has said no reduced withholding rate is applied [by Halifax] on UK listed shares paying US sourced income. So, when Halifax distributed the dividend to Mr C with 30% US withholding tax taken off, it did so having operated within its own terms and conditions. It was distributing the dividend payments as it said it was going to do. So, I can't say Halifax was being unfair here when it distributed Mr C's dividend payment with 30% withholding tax taken off.

I have also read an email from Halifax sent to Mr C on 12 January 2023 where it stated that it "did not have any arrangements or agreements in place with our custodian to claim tax back on these [Diversified Energy dividend payments] assets." I think when I read this, I can see Halifax are being clear as to what its current position with this shareholding is too.

I know my conclusions won't have answered Mr C's question though. He is seeking an answer as to why Halifax has not applied the correct paperwork and claimed the lower rate of tax, even if it is operating within its own terms. Ultimately, Halifax are not obligated to claim a lower rate of tax on Mr C's dividend payment and are operating within the terms and conditions of his account, so I don't think it has done anything wrong here. Halifax is within its rights to make commercial decisions on how it administers its services and what it provides, so long as it does this within the rules set by the regulator. As I have already concluded, I think on this occasion, it hasn't done anything wrong.

I appreciate that my decision will not be what Mr C was looking for but based on what I have in front of me and what has been said by both sides, I don't uphold his complaint.

**My final decision**

My final decision is that I do not uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 9 February 2024.

Mark Richardson  
**Ombudsman**