

The complaint

Mr R complains that Halifax Share Dealing Limited, trading as Lloyds Bank Direct Investments ('Lloyds'), won't provide him with the paperwork that he states is needed to reclaim Swiss withholding tax on his shares.

What happened

Mr R held 3,500 Nestle shares through Lloyds, who acted as the custodian of his investment. In trying to organise his tax affairs, in January 2024 Mr R asked Lloyds for information about his investment that would assist him in reclaiming the deduction of Swiss withholding tax on his dividends.

Shortly afterwards, Lloyds wrote to Mr R showing the dividend payments made in April 2020 and April 2021 had been subject to foreign withholding tax at 35% - the aim of the letter being that Mr R could use it in support of his withholding tax reclaim from the Swiss authorities. In addition, Lloyds explained in their letter to him that they didn't support customers with foreign withholding tax reclaims so they wouldn't be able to complete any forms provided to them by the Swiss authorities.

In February 2024, Mr R wrote to Lloyds explaining that the Swiss tax authorities were adamant that they must have a tax voucher and certain assurances from Lloyds to process the withholding tax refund. Mr R explained that the Swiss tax authorities had explained to him that they required confirmation from Lloyds that the tax had been paid on Mr R's behalf to avoid individuals reclaiming tax that had never been paid.

As Mr R didn't receive a further response from Lloyds, he raised his concerns with this service. He was able to do this because Lloyds had treated their telephone call with him in January 2024 as a complaint and issued a summary resolution communication. In summary, Mr R said that Lloyds had refused to issue a tax voucher that he needed to present to the Swiss tax authorities that also contained the appropriate wording that met their requirements. In addition, Mr R said that he'd been denied the right to reclaim withholding tax of £3,273 and even further monies from subsequent years.

In November 2024, Lloyds said that they had provided Mr R with consolidated tax certificates and statements detailing his income, enabling him to manage his taxation affairs.

The complaint was then considered by one of our Investigators. He concluded that Lloyds hadn't treated Mr R unfairly because from what he'd seen of their terms and conditions, they wouldn't support reclaims for withholding tax on foreign dividends.

Mr R, however, disagreed with our Investigator's findings. In summary, he said that the terms and conditions our Investigator signposted were from 9 January 2023, which postdated his dividends that were in question here. In addition, Mr R also explained that he didn't think our Investigator had addressed the fact that Lloyds had failed to reply to the letters that the Swiss tax authority had sent to them in February 2022 and August 2023.

about the matter. Mr R said that Lloyds could've warned him at a much earlier date that they would not cooperate in any way with the Swiss tax authority.

After carefully considering the complaint, I explained that I was issuing a provisional decision on the case as whilst I was minded to reach the same outcome as our Investigator on the matter, I decided to add wider reasoning. This window gave both parties additional time to provide any final evidence that they wished for me to consider before I reached a final decision.

What I said in my provisional decision:

I have summarised this complaint in less detail than Mr R has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Mr R and Lloyds in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mr R's complaint - I'll explain why below.

Mr R holds shares in Nestle which is a Swiss based company. And, like many foreign based companies, dividends paid to UK investors suffers from withholding tax, and in the case of Switzerland it's 35%. Under the UK-Switzerland double taxation agreement, this can often be reduced to 15%, but only if the individual applies for a refund. However, it's not straight forward and here's why – Mr R's Nestle shares are actually held in a nominee account; what that means in practice is whilst he's the beneficial owner of the stock, his 3,500 shares are pooled with other investors' holdings. And, it's this structure that makes it impractical for Lloyds to process individual withholding reclaims for their customers.

But, that's not the case for all foreign dividends - it seems that Lloyds does support the reclamation of US withholding tax on American stocks for their investors, but I suspect that they only do so because the process is less onerous than that of other foreign jurisdictions. For example, the US has a streamlined system for brokers to apply treaty rates at source whereas the Swiss Federal Government requires investors to manually reclaim excess tax via their Form 86. And, as Lloyds holds Mr R's shares in a pooled nominee account, it makes it difficult for them to prove individual beneficial ownership simply – which from what I've seen of the Swiss tax documentation that Mr R sent in, is a key requirement for tax reclaims. Having looked closely at the Swiss process, the requirements to reclaim the tax are very detailed, paper-based and not easily scalable for Lloyds to apply for all their customers which is why I well suspect they've opted out of providing this service. It's really important to be clear here though – just because Lloyds has chosen not to offer this service, it doesn't mean that it has done something wrong.

The Swiss tax authorities forewarned Mr R in their letter to him of 29 January 2021, that *“For future reference, an application for refund of Swiss withholding tax must not only be accompanied by the coupon calculation of the dividend payment, but also by a tax voucher issued by a foreign bank or custodian”*. As Mr R had suffered withholding tax on his Nestle dividends in April 2020 and April 2021, he submitted a reclaim application to the Swiss

authorities on 5 June 2021 and 13 October 2022. However, those claims were unsuccessful because Mr R didn't have the necessary evidence that the Swiss authorities needed to process his claim.

Whilst I don't think it's necessary to repeat the wider evidence here that Swiss authorities required to support the reclaim (as it's well known to both parties as our Investigator set it out in his initial view), having seen the paperwork that Lloyds were able to provide to Mr R, it's my opinion that it doesn't meet the threshold needed for Mr R to make a successful reclaim of withholding tax. I say that because whilst Lloyds are able to produce a tax certificate for Mr R that satisfies the needs of HMRC, the paperwork needed to satisfy the Swiss authorities is more detailed and includes a tax voucher set out in a specific format with signed declarations (according to Circular 21 Appendix 1, page 5). But, this is something that Lloyds say they're unable to support.

So, I've gone on to consider whether this has been made clear to Mr R in Lloyds' terms and conditions. And, from what I've seen, it was. When Mr R started his relationship with Lloyds, he would've been provided with a copy of the terms and conditions that set out what he could expect from them. For a number of reasons, those terms inevitably evolve over the course of a relationship, and when they do, Lloyds adds the updated version to its website.

In his initial review of the complaint, our Investigator highlighted those terms and conditions which stated that Lloyds were unable to support customers with any paperwork relating to the reclaim of foreign withholding tax. However, Mr R explained that as the terms and conditions that both Lloyds and our Investigator pointed to were published on 9 January 2023, they post-dated the dividends that he'd received.

The earliest reference that I could find to Lloyds setting out that they were unwilling to support their customers' withholding tax reclaims that coincided with Mr R's dividends from April 2020 and April 2021 was within their terms and conditions booklet that was printed in November 2020:

Share dealing terms and conditions – effective from 1 April 2021 (Lloyds document reference 1_338070-1 (11/20)).

“Funding and withdrawing amounts from your account

Income

7.11 We will not provide relief at source or support reclaims for withholding tax on foreign securities”.

The terms and conditions booklet printed in December 2019 (Lloyds document reference 1_338070-1 (12/19)), doesn't make any reference to whether support for reclaiming foreign withholding tax will be provided or not. I don't think that matters though because I'm satisfied that at the point that Mr R made his withholding tax reclaim on 5 June 2021 and 13 October 2022 (to reclaim the withholding tax that was paid in April 2020 and April 2021), Lloyds' terms did make it clear to customers that they wouldn't support any such claim.

Mr R has explained that he's unhappy Lloyds failed to reply to the letters that the Swiss tax authority had sent to them in February 2022 and August 2023 about the matter. Mr R said that Lloyds could've warned him at a much earlier date that they would not cooperate in any way with the Swiss tax authority. But, as I've already explained, I'm satisfied that Lloyds' terms did make clear to customers prior to any letters being received that they wouldn't support any such claims. And in any event, I don't think it was unreasonable for Lloyds to have likely concluded that Mr R would've also received a copy of any such letters, even if he

didn't, because given it was his tax reclaim, it was his responsibility to keep track of its progress with the Swiss tax authority, not Lloyds.

Just because Lloyds won't support their customers' foreign withholding tax reclaims (aside from US dividends), it doesn't mean that they're doing something wrong. The level of information needed in each tax jurisdiction is likely to vary so I can well imagine the challenges any provider would face in trying to stay up to date and compliant with those requirements. Indeed, from a cursory internet search of the main providers, it would appear Lloyds' approach is not dissimilar to their peers.

Mr R has explained that he's since moved his Nestle holdings to a new provider who is able to support with the reclamation of foreign withholding tax, so he's now found a more suitable fit for his needs in the future.

Responses to my provisional decision:

After reviewing what I had to say, Mr R wrote in, explaining that he accepted the outcome and didn't wish to add any further comment.

Lloyds didn't provide any further comments.

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.

As neither party has provided any new evidence that's made me change my mind, it therefore follows that I've reached the same conclusion for the same reasons that I set out in my provisional decision above.

My final decision

I'm not upholding Mr R's complaint, so I won't be instructing Halifax Share Dealing Limited, trading as Lloyds Bank Direct Investments, to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 19 September 2025.

Simon Fox
Ombudsman