

complaint

Mr L complains that The Prudential Assurance Company Limited (“Prudential”) mis-led him about the type of pension he had. He says he was given information indicating he had a personal pension when, in fact, he had a Retirement Annuity Contract (“RAC”). As a result of this he did not, for a period of time, claim tax relief on contributions he made to the RAC.

background

Mr L took out a RAC with Prudential in 1988. From 1988 and 2002, he made contributions to the RAC gross, i.e. for the actual amount he wanted to invest. He then claimed tax relief directly from HMRC through a self-assessment form.

From the 2001/2002 tax year, tax relief on personal pension plans was granted automatically by the provider. At this time, the self-assessment forms were changed and referred to “qualifying payments” for RACs and “gross qualifying payments” for personal pension plans. Mr L told HMRC that he had made “gross qualifying payments” into a personal pension plan. As a result, HMRC did not provide tax relief on the declared contributions.

In November 2011, Mr L became aware that he had a RAC. Prudential told him at this time that it could not claim any tax relief that Mr L had missed out on - he would have to do this himself.

Mr L then made a complaint to Prudential. Prudential rejected Mr L’s complaint. In summary, it said that Mr L was given sufficient information, before he took out his pension, to make him aware what type of pension he had. In addition, annual statements made Mr L aware that he needed to claim tax relief himself. Finally, it said that no changes had been made to the way tax relief should be claimed. A cheque for £50 was sent to Mr L, but this was for the delay in responding to Mr L’s complaint, rather than for any errors that had been made.

Dissatisfied with Prudential’s responses, Mr L referred his complaint to this service.

The adjudicator did not recommend that Mr L’s complaint be upheld. In summary, he said

- The description of the pension in the policy schedule was not inaccurate.
- The information contained in the annual statements, whilst confusing *in isolation*, ought reasonably to have been queried.
- The way contributions were made to – and the tax relief claimed on – Mr L’s RAC had not changed since it was taken out.

Mr L’s representative did not agree with the adjudicator’s findings. In particular, he said that the adjudicator had attached too little weight to the reliance that an “ordinary” person would give to information provided by an “expert” insurer.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have reached the same conclusion as the adjudicator, for similar reasons.

Whilst I agree that the description of Mr L’s pension as a “personal pension plan” was confusing, I do not think Prudential led Mr L to believe that it was reclaiming tax for him. I

also consider that there was sufficient information made available to Mr L for him to know that he was not receiving tax relief.

From the 2001/2002 tax year, tax relief on personal pension plan contributions was claimed by the pension provider. This did not apply to RACs, taken out before July 1988, such as Mr L's. And I have not seen any evidence of Prudential having led Mr L to believe that it would be treating his contributions any differently after the change.

By declaring himself to have made "gross qualifying payments" into his pension from 2001/2002 onwards Mr L effectively stopped claiming tax relief on his contributions. Before doing this, I consider Mr L had a responsibility to check whether Prudential would claim tax relief for him. However, it would seem that Mr L assumed that this was the case – and I do not consider that Prudential can reasonably be held responsible for Mr L's failure to claim tax relief in those circumstances.

In any event even if it were concluded that, at the time of the change, Mr L's assumption that tax relief was being claimed for him by Prudential was reasonable, given the information available to him at that time, I consider that there was sufficient information available to him after this to make him aware tax relief was not being claimed.

The annual statements provided by Prudential show the same level of contribution being made as had been made previously. They did not show contributions being "grossed up" by Prudential. The statements also informed Mr L that he needed to claim tax relief. They said:

"All payments into your personal pension plans are usually fully tax deductible at your highest marginal rate. Tax relief should be claimed though your yearly tax statement".

So, even if Mr L thought at the outset that Prudential was reclaiming tax for him, he had sufficient information to make him aware that it was not within the six years during which he could backdate his claim for relief.

Mr L's representative has referred to what he considers to be misleading statements in documentation sent to Mr L by Prudential. These statements refer to contributions to pensions benefitting from tax relief. Having carefully considered these statements, I do not think they are misleading. They simply say that you get tax relief on pension contributions – they do not say that Prudential will claim this relief on behalf of the consumer in all circumstances. So I do not consider, taking into account the other evidence available, that Mr L could reasonably have concluded on the basis of these statements that Prudential was reclaiming tax for him on an on-going basis.

my final decision

For the reasons given, I do not uphold this complaint.

John Pattinson
ombudsman