

complaint

Mr R complains that because Scottish Equitable Plc delayed paying him his pension he will lose out financially because he will have to pay extra tax.

background

Mr R asked Scottish Equitable to pay him £3,100 as income withdrawal from his pension before the end of the 2014/2015 tax year. This was the most he could draw without having to pay tax at a higher rate.

At first Scottish Equitable told Mr R it wouldn't be able to make the payment before the year end. But, later, it said on the phone that it would, because he made his request one day before its cut off date. It ended up paying him it in the 2015/2016 tax year.

Mr R planned to take further income withdrawal from his pension of £3,100 in 2015/2016. Because the payment was delayed, he said if he took this, likely he would have to pay tax at the higher rate.

One of our adjudicators looked into Mr R's complaint and upheld it. He thought Scottish Equitable should pay compensation to cover Mr R's likely additional tax liability of £620 i.e. 20% of £3,100. He also said it should pay Mr R £300 for the trouble and upset caused by the delay in payment.

Scottish Equitable didn't accept our adjudicator's view. It said, in summary, that:

- It didn't feel it was inevitable that Mr R would suffer an additional tax charge as he had control over how much income he could take. If he didn't go over the higher rate income tax threshold he wouldn't suffer a loss.
- It would only be if he knowingly took an additional £3,000 in the 2015/16 tax year that he would suffer a 40% charge.
- Mr R was not relying on the income; instead he was taking it to use up his tax allowance.
- It did accept that it had led Mr R to believe the money would be paid out in the 2014/15 tax year, but felt its offer of £300 for the trouble and upset caused was reasonable.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, on what I consider is most likely to have happened in light of the available evidence and the wider circumstances. Having done so, I have come to the same conclusions as the adjudicator, and largely for the same reasons.

Scottish Equitable did clearly tell Mr R that he would get the income payment of £3,100 in the 2014/2015 tax year.

This service aims to put a person back in the position they would've been in but for the error or omission. Had Scottish Equitable paid Mr R the money in the 2014/15 tax year, he more likely than not, would be able to take around another £3,000, as planned, in this tax year

without having to pay tax at a higher rate. Mr R still stands to lose out financially even if his reason for taking the income is to manage his tax affairs, rather than because he needs the money.

Mr R would've paid basic rate income tax on the income withdrawal had it been paid in 2014/2015. He planned to draw income of £3,100 again in the 2015/2016 tax year, and likely that would've meant his basic rate tax allowance was accounted for.

So, I agree with the adjudicator that it is reasonable for Scottish Equitable to cover the additional tax that Mr R is likely to incur in the 2015/2016 tax year as a result of the delayed payment. Mr R has provided evidence that his current income is at the same level as last year. Therefore, I think it is likely that he will suffer an additional tax liability of £620 (the difference between tax at 20% and 40% on £3,100).

I also agree that Scottish Equitable should pay Mr R, as it offered, £300 for the trouble and upset caused by this.

my final decision

I uphold this complaint and direct Scottish Equitable Plc to pay Mr R a sum of £620 to cover his likely additional tax liability.

Scottish Equitable should also pay Mr R £300 for the trouble and upset caused because of the delayed payment.

Under the rules of the Financial Ombudsman Service I'm required to ask Mr R to accept or reject my decision before 19 February 2016.

Kim Parsons
ombudsman