

## **complaint**

Mr and Mrs A complain about the potential tax liability arising out of the chargeable gains on their bond sold by The Prudential Assurance Company Limited.

They say they weren't told about the children's bond which would have avoided any potential tax.

## **background**

In 1999, Mr and Mrs A were advised to take out a Prudential Investment Bond (the bond) as they wanted to put money away for their son's future education. The bond had no fixed end date and allowed savings to be withdrawn at any time. Mr and Mrs A contributed £60 a month for a term of 18 years.

One of our adjudicators considered the complaint and thought it should be upheld. In summary he said:

- It was evident from the point of sale documents that the bond was for Mr and Mrs A's son.
- It would have been reasonable for the adviser to recommend or discuss putting the bond in their son's name, so as to avoid paying tax on encashment.
- The business should therefore pay the tax liability that's arisen.

The Prudential disagreed with the adjudicator's view. In summary it said:

- The application form completed by Mr and Mrs A was dual purpose. It was an investment bond, but also an investment bond for children. There was a section for the child's details to be submitted but this wasn't completed.
- The fact find records that Mr and Mrs A wanted to save for their son's further education, until aged 18.
- If a children's bond was arranged the child would have had control of it from the age of 16, allowing the child to withdraw the funds and spend it, regardless of who paid in the premiums. It's unlikely Mr and Mrs A would have wanted this.
- The policy documentation would have shown how the bond was taxed so Mr and Mrs A would have been aware of the tax position.
- The bond wasn't incorrectly arranged and it's not responsible for the tax liability.

As no agreement has been reached, the matter has been sent to me for review.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I agree with the adjudicator's conclusions for much the same reasons. I'm going to uphold this complaint.

Mr and Mrs A wanted to put some money away for their son for his future education. Despite what the business has said, it's not entirely clear why therefore the bond was set up in their name.

Notwithstanding Mr and Mrs A's objective to save money for their son's future education, if they were advised about the tax advantages of the children's bond I think it's more likely than not they would have chosen it over the bond they had. In other words, I don't think the fact their son could've accessed the account from 16 would've made them think it was unsuitable to provide money for future educational needs. But I don't think they were given that choice. Instead it seems the business unilaterally decided that it wasn't for them without any discussion.

I appreciate what the business says about making the tax position clear for the bond. But even if they were aware of this, it only told them about the tax position for the bond they were advised to take out. There is no reason to think they were told or were aware that there was an alternative which would've meant no tax would be payable. So it doesn't appear Mr and Mrs A were given the full picture enabling them to make a choice between the bond and the children's bond.

I note the concerns raised by the business about the children's bond, but I've seen no evidence to suggest that Mr and Mrs A's son was likely to withdraw the funds at 16 years of age and spend it, or that this was a concern for them. So I'm not persuaded the children's bond wouldn't have been suitable for them on that basis.

Most, if not all children's bonds allowed the child access to the funds aged 16. This wasn't uncommon within the industry and certainly not a feature that was limited to this business. They were popular given their tax concessions.

I'm conscious the application form allowed for Mr and Mrs A to apply either for the bond they took or a children's bond. But I don't think the fact the children part of the application wasn't completed means they chose not to have the children's bond.

### **my final decision**

For the reasons set out above, I uphold this complaint.

The Prudential Assurance Company Limited should pay the relevant tax liability that has arisen from the chargeable gains on the Prudential Investment Bond.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs A to accept or reject my decision before 15 December 2018.

Dara Islam  
**ombudsman**