

## The complaint

Mr S complains that Niche Private Clients Ltd (“Niche”) failed to correctly calculate, or explain, how some income he wished to take from his pension savings would be taxed.

## What happened

Mr S holds pension savings on which he received ongoing advice and support from Niche. In January 2024 Mr S got in touch with Niche to request some support in taking some income from his pension savings. He says that he wanted £17,000 in order to purchase a campervan. Niche agreed to assist Mr S with his withdrawal and requested information about Mr S’ earnings from his employment so it could calculate the income tax he would need to pay.

Mr S provided the requested information. And Niche used that information to calculate the income tax that Mr S would need pay on the withdrawal. But Niche made an error in those calculations. Despite being aware that Mr S had previously crystallised his pension savings by taking the maximum permitted Pension Commencement Lump Sum (“PCLS” – otherwise known as tax free cash) it treated Mr S’ pension savings as being uncrystallised. So it underestimated the income tax that Mr S would need to pay, and therefore it underestimated the gross amount Mr S would need to withdraw from his pension savings to achieve a net income payment of £17,000.

Mr S complained to Niche that the income he’d received was less than he had requested. And he later complained that HMRC had reduced his tax code so the pay he received from his employment was reduced for the next two months. He said that if he’d been made aware of the taxation impacts of making the withdrawal he wouldn’t have proceeded with the request.

Niche accepted that it had provided incorrect information to Mr S about the amount of income tax he would need to pay, and so the net amount of his withdrawal was less than he had asked for. But it said it had no control over how HMRC had dealt with the tax situation. It said the approach HMRC had taken was different to what had happened in the past, but the correct amount of tax would be resolved when HMRC had all the information it needed. It offered to assist Mr S in resolving things with HMRC if he wanted. Niche offered Mr S £150 in recognition of the inconvenience he’d been caused by the incorrect tax calculations. Unhappy with that response Mr S asked us to consider his complaint.

Mr S’ complaint has been assessed by one of our investigators. He thought that the amount of income tax Mr S had actually paid was correct. But he agreed Mr S hadn’t received as much net income as he’d wanted. He noted that Mr S would need to make an additional withdrawal from his pension savings if he wanted the extra income. But the investigator didn’t think the amount Niche had offered for Mr S’ inconvenience was sufficient. He asked Niche to pay Mr S £300 for the inconvenience he’d been caused.

Niche agreed to pay the proposed compensation. But Mr S didn’t agree with what the investigator had said. So, as the complaint hasn’t been resolved informally, it has been

passed to me, an ombudsman, to decide. This is the last stage of our process. If Mr S accepts my decision it is legally binding on both parties.

### **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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr S and by Niche. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

I think it is clear, and Niche accepts, that an error was made when the pension withdrawal amount was calculated. Niche incorrectly allowed for some of the withdrawal to be taken as a PCLS. So, since Mr S had already taken the maximum amount of PCLS, that meant that Mr S would need to pay more income tax than Niche's calculations had estimated, and so the net amount of income Mr S received was lower than he required.

But I am satisfied that the actual amount of income tax Mr S has paid is correct. And that would have been the income tax he'd have been told he needed to pay had Niche not made any errors in its calculations. So what I need to decide here is whether the incorrect information Niche gave to Mr S caused him to act differently, and lose out.

Mr S has said that he wouldn't have proceeded with the withdrawal had he understood how much income tax he needed to pay. Of course that comment is being made with the benefit of hindsight – and against some obvious disappointment that the amount of income tax due was greater than Niche had predicted. And Mr S' disappointment was further increased by some changes to his tax code that I will discuss later in this decision.

I've thought carefully about the request that Mr S made to Niche. He told the firm that he needed a specific amount of net income (£17,000) so that he could purchase a campervan. It seems to me that Mr S had decided on the amount he wanted to spend on his purchase, but was reliant on Niche to tell him how much of his pension savings he needed to withdraw. I'm not persuaded that, had Niche provided Mr S with the correct withdrawal amount at the outset, he would have considered it to be too great.

So on balance I don't think Niche's error, in assuming Mr S could take part of his income as a PCLS, meant that the withdrawal took place when otherwise it would have been cancelled. I am persuaded that Mr S' intention was to receive a net sum of £17,000, and he simply needed Niche to tell him how much of a gross withdrawal was required. I don't think the actual value of that withdrawal, given that Mr S was entirely aware he would need to pay tax on it, was of the greatest importance here.

I appreciate that Niche's error has meant Mr S' withdrawal was insufficient for his needs. But if that additional income is still required it would be available to Mr S through a further

withdrawal from his pension savings. And there is even the possibility that, given we have now moved into a new tax year, the overall amount of income tax he might pay is a little lower.

Mr S has also complained that Niche failed to explain to him how his payment would affect the income he was receiving from his employment. In particular he says that taking the withdrawal meant that HMRC made a significant reduction to his tax code that meant his normal income was reduced for the last two months of the tax year.

When it set out the tax that Mr S would need to pay (albeit including the error I have discussed above), Niche took account of the income Mr S was receiving from his employment. So, taken in the round, Niche provided Mr S with an estimate of the total tax he would need to pay on his pension withdrawal after accounting for the tax he was already committed to paying on his employment income.

But it is for HMRC to decide how best to ensure all that tax is paid. In my experience, and in line with what Niche has said, it is unusual for any changes to be made to a tax code for employment income. More usually the pension income is over-taxed, and that is what Niche asked HMRC to repay to Mr S when it submitted a P55 form on his behalf. I don't know why HMRC changed Mr S' tax code, but I am satisfied that it wouldn't have resulted in him paying more tax than he was required to by the end of the tax year. If he paid too much tax, either on his pension withdrawal or his employment income, that would have been refunded to him by HMRC at the end of the tax year. And whilst I accept the tax code change will have had some short-term impact on Mr S' cash flow, I don't think it reflects something that Niche has done wrong.

So taking all that into account, I don't think the error that Niche made when it provided the calculations to Mr S has caused him any financial loss – he has paid the correct amount of income tax. But the error will undoubtedly have caused some distress and inconvenience to Mr S, both in not receiving the income that he expected, and in potentially needing to make a further withdrawal to achieve the income he required.

I've thought carefully about what a reasonable award would be to compensate Mr S for that distress and inconvenience. Our investigator recommended that an amount of £300 would be appropriate. And taking everything into account, and considering what I would normally award in circumstances such as these, I think that amount is fair.

I appreciate that this decision will be disappointing for Mr S. And I can see that he has now terminated his relationship with Niche as a result of these problems. But I am satisfied, on the balance of probability, that correct information about the tax he would need to pay wouldn't have resulted in Mr S not taking the withdrawal from his pension.

### **Putting things right**

Niche should pay Mr S £300 as compensation for the distress and inconvenience he has been caused.

### **My final decision**

My final decision is that I uphold part of Mr S' complaint and direct Niche Private Clients Ltd to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 December 2024.

Paul Reilly  
**Ombudsman**