



TC01632

Appeal number TC/2010/09151

NATIONAL INSURANCE – Appellant working in Hong Kong from 1973 to 1979 – Entitled to pay voluntary class 3 National Insurance contributions in this period but none paid – Appellant permitted after retirement in 2008 to pay contributions in respect of that period – Appellant contending that his former employer would have paid those contributions but that due to maladministration HMRC did not provide the necessary documents before his former employer went into administration – Whether Tribunal has jurisdiction to determine a claim for compensation for maladministration by HMRC officials – No – Appeal dismissed for lack of jurisdiction

FIRST-TIER TRIBUNAL

TAX

MR DAVID ASHWORTH

Appellant

- and -

**THE COMMISSIONERS FOR HER MAJESTY'S
REVENUE AND CUSTOMS**

Respondents

**TRIBUNAL: DR CHRISTOPHER STAKER (Tribunal Judge)
MR ANTHONY HUGHES (Tribunal Member)**

Sitting in public in London on 17 November 2011

The Appellant in person

Mr Greenshields for the Respondents

DECISION

1. At the hearing of this appeal it emerged that the following facts are not in dispute between the parties. In the period 1974 to 1979, while working outside the United
5 Kingdom, the Appellant was entitled (but not required) to pay Class 3 National Insurance contributions. No such contributions were paid by him or on his behalf. If Class 3 National Insurance contributions had been paid by him in this period for at least two of those years, he would now be entitled to a full state pension. HMRC will permit him now to pay contributions for two of those years, at a cost of £1205. If he
10 accepts this offer, he will be entitled to a full pension.

2. In this appeal, the Appellant contends that during the period when he worked overseas, his contract of employment provided that his employer would pay the National Insurance contributions on his behalf. The Appellant now accepts that his employer did not do so. The Appellant contends as follows. That failure of his
15 employer came to light in 2008, when the Appellant reached retirement age. The Appellant then raised the issue with his former employer, who indicated a willingness to pay the necessary additional National Insurance contributions, if the Appellant could provide a required statement from HMRC confirming that they had not been paid. Due to maladministration by HMRC officials, there was a delay in providing
20 the necessary documentation. By the time HMRC did so, his employer had gone into receivership, and could no longer pay the National Insurance contributions. Because of HMRC's maladministration and delay, the Appellant contends that he should not be required to pay the sum of £1205 in order to obtain the additional 2 years' contributions, since these contributions would have been paid by his employer if
25 HMRC had acted diligently. In effect, the Appellant makes a claim for compensation for maladministration by HMRC officials.

3. The Tribunal dismissed the appeal on the basis that the only matters in dispute between the Appellant and HMRC are matters which do not fall within the jurisdiction of the Tribunal. The Tribunal understands that the Appellant has also
30 taken this matter up with the Adjudicator's Office, and it may be that the matter can be pursued further in that forum.

4. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later
35 than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

40

Christopher Staker

TRIBUNAL JUDGE

RELEASE DATE: 6 December 2011

5