

Can employees who do not wish to become members of a fund, refuse to join?

One must distinguish between two scenarios:

- Where a new fund is instituted, all existing employees who are eligible for membership must decide, within 12 months of inception of the fund, whether or not they wish to become members. Should they decide not to become members, once the 12 month period has expired, they are permanently ineligible unless a special concession is received from the South African Revenue Services.
- Where an employee becomes employed by an employer who already has a fund and is eligible to join, he or she may not refuse to become a member. It is a condition of approval of the fund by the South African Revenue Service that membership of the fund be a condition of employment for all eligible employees.

One of the immediate consequences for an employer who does not ensure that all eligible employees are in fact members of the fund, is that the South African Revenue Service may withdraw the tax approval of the fund.

Income Tax Act 1962

Section 1

Definition of a Pension Fund – CII Paragraph bb