

GENERAL SUBJECT: APPROVAL OF RETIREMENT FUNDS

SPECIFIC ASPECT: GROUP LIFE BENEFITS PROVIDED BY PROVIDENT FUNDS

STATUS: DECISION

BACKGROUND: With effect from 1 July 1986 the definition of “provident fund” in section 1 of the Income Tax Act (the Act) required a provident fund to be registered under the provisions of the Pension Funds Act as a prerequisite for approval under the Income Tax Act. The Financial Services Board does not register a retirement fund that was established solely for purposes of providing benefits to dependants or nominees of deceased members or former members, which means that funds of this nature cannot be approved under the Income Tax Act since that date. A number of umbrella-provident funds only providing death benefits operated prior to 1 July 1986. While, prior to 1 July 1986, the South African Revenue Service approved these funds, they were never registered under the Pension Funds Act, yet they continue to permit new employers to participate in the fund on a death-benefit-basis only.

DECISION: It is not acceptable that funds of this nature continue to accept new participating employers. It is clear that, had the participating employers each been required to register a fund of this nature on or after 1 July 1986, they would have been unsuccessful, which in turn means that the South African Revenue Service would not have approved the funds.

The South African Revenue Service has already approach a number of these umbrella funds, and arrangements were made to

remove those employers (and the affected members) who started participating after 1 July 1986. In terms of the arrangements the approved status of the funds would continue only if they have employers in the fund that commenced participation prior to 1 July 1986.

Retirement funds operating on this basis that have not yet been approached by the South African Revenue Service are advised to make arrangements for participating employers and the affected members to be removed from the funds before 31 July 2002, failing which the fund's approval for income tax purposes will be withdrawn.

ISSUED BY THE SOUTH AFRICAN REVENUE SERVICE

2 April 2002

ARCHIVED