



## What deductions may be made from my benefits?

## Deduction of losses suffered by the employer: Section 37D

When do I become entitled to a withdrawal benefit?

When you resign, are dismissed or retrenched, you become entitled to a withdrawal benefit in terms of the rules of the fund.

No deductions may be made from your withdrawal benefit other than the deductions stated below.

What deductions may be made from my withdrawal benefit?



- 01 Tax payable on any lump sum withdrawal benefit.
- 02 Home loans granted or secured by the fund.
- 03 Arrear tax owed to SARS.
- 04 Employer losses (theft, fraud and dishonesty) (see below).
- 05 Maintenance orders in relation to arrear maintenance.
- 06 Divorce orders where the fund is ordered to make a payment to your ex-spouse.



What may be deducted from my withdrawal benefit with regard to “Employer Losses”?

Any damages suffered by your employer by reason of your:

- ⊘ Theft;
- ⊘ Dishonesty;
- ⊘ Fraud or
- ⊘ Misconduct (in terms of a court judgment, dishonest conduct is envisaged).

The employer may also claim any legal costs that are recoverable from you and were incurred in order to obtain judgment against you.



What are the requirements for the deduction of Employer Losses?

The fund may only make a decision on whether or not to make a deduction if the employer submits:

- ⊘ A written declaration that you signed in terms of which you admitted to causing the damage in a stated amount to the employer due to theft, fraud, dishonesty or (dishonest) misconduct; or
- ⊘ A court order in terms of which you were ordered to compensate the employer for the damage you caused to the employer due to theft, fraud, dishonesty or (dishonest) misconduct.

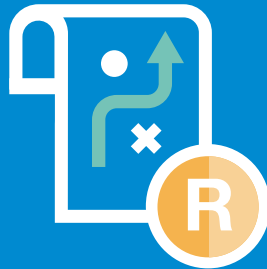


## What may, for example, not be deducted?



- ① Damages to the employer that are related to non-compliance with your contract of employment e.g.:
  - Overpayment of salary, bonus or other remuneration;
  - Not working out your notice period;
  - Damages as a result of contravention of a restraint of trade agreement;
  - Income earned for work done independently or for another employer without the consent of your fulltime employer;
- ② Damages caused as a result of your negligence, for example damaging the car of your employer in an accident or damages as a result of not following prescribed work processes.
- ③ Loans, other than home loans, made by your employer to you, for example, study loans.

## What steps are followed when the employer applies for a deduction?



- 01 The employer submits the admission of liability or the court order to the fund, together with the withdrawal form. The fund must then determine if the deduction is allowed in terms of the Pension Funds Act and decide whether or not it will grant the request for a deduction. The fund will inform you and the employer of their decision.
- 02 If the employer is still in the process of investigating a possible claim for theft, fraud, dishonesty or misconduct, the employer may request the fund to withhold payment of your benefit or part thereof pending the completion of the investigation, provided sufficient information is made available to the fund.
- 03 The fund will decide whether or not there are reasonable grounds to grant the request to delay payment, based on the information provided by the employer. The fund may also request you to provide information that can assist the fund in making a decision. The fund will inform you and the employer of the decision to delay payment.
- 04 If the employer lays a charge of theft or fraud with the police, proof of the criminal complaint must be provided to the fund within 3 weeks of request to withhold your benefit. Within 4 months, the employer shall submit a copy of the charge sheet to the fund which shall contain relief in the form of a section 300 compensation order. The fund shall request monthly updates from the employer on the progress of the criminal investigation to determine whether or not it is still reasonable to delay payment of your benefit.
- 05 If the employer institutes civil action against you to claim damages, the employer must submit a copy of the letter of demand sent to the member within 4 weeks of its request to withhold payment of your benefit. Within 4 months, the employer shall submit to the fund, a copy of the summons along with the sheriff's return of service. The fund shall also request monthly updates on the progress of the civil action from the employer to establish whether or not it is still reasonable to delay payment.
- 06 If a court order in terms of which you are ordered to compensate the employer for the damage you caused due to theft, fraud, dishonesty or misconduct is eventually obtained and submitted to the fund, the fund may decide to allow a deduction from your benefit.
- 07 However if the fund should at any stage decide that it is no longer reasonable to delay payment, your benefit will no longer be withheld and the fund shall proceed to make payment of your benefit immediately.



## What do I do if I am not happy with the deduction or delay in the payment?

- 01 Contact the fund and inform them of your objection to the proposed deduction or delay in payment and the reasons why the fund should not make the deduction or delay the payment of your withdrawal benefit.
- 02 If you are still unhappy with the decisions or actions of the fund, you may lodge a complaint with the office of the Pension Funds Adjudicator.