



Royston Capital

Technical and Strategy Update

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Superannuation Division 296

The Better Targeted Superannuation Concessions Tax, commonly referred to as Division 296, will take effect on **1 July 2026 (FY27)** and will introduce higher tax rates for individuals with super balances exceeding \$3 million.

- The provision applies at an individual level only. It does not apply where, for example, an SMSF has \$4m in total but each individual member holds \$2m
- The additional tax is applied on a tiered system with an additional tax of 15% for members with a balance between \$3m and \$10m. And an additional tax of 10% to a member's balance over \$10m.
- The tax will apply to realised gains, not unrealised gains.
- The thresholds of \$3m and \$10m will be indexed with Consumer Price Index (CPI).
- First Year Special Rules: Optional Capital Gain Reset & Total Super Balance Date.

Unrealised Gains

The new law will not proceed in line with the original proposal, which included taxing unrealised gains. Instead, the additional tax will be applied on a realised earnings basis, capturing income such as dividends, interest, rental income, and realised capital gains (i.e. when assets are sold). The 33% Capital Gains Discount will continue to be applied for assets held for greater than 12 months.

Indexing

The \$3m and \$10m thresholds will be indexed in line with CPI, consistent with other superannuation caps such as the Transfer Balance Cap (TBC). While indexation is generally intended to occur every three years on average, recent economic conditions have resulted in more frequent adjustments. In particular, the TBC has been indexed every two years since 2021 and is scheduled to increase again from 1 July 2026, following a prior increase a year earlier, on 1 July 2025.

The indexing rates are set to be:

- \$150,000 for a balance between \$3m - \$10m
- \$500,000 for a balance over \$10m

When will DIV296 come into effect

The provision will come into effect on 1 July 2026. The first assessment for Division 296 will be based on an individual's superannuation earnings at the conclusion of the 2026/27 financial year (1 July 2026 and 30 June 2027). Therefore, an individual would be required to pay the tax **from 1 July 2027**.

How much additional tax will I pay?

We consider the examples of a client with over \$3m but less than \$10m (example 1) and a client with greater than \$10m (example 2) and the estimated additional DIV296 tax payable.

	EXAMPLE 1	EXAMPLE 2
<i>End of year TSB (30 June)</i>	\$4,000,000	\$11,500,000
<i>Realised earnings (5%)</i>	\$200,000	\$575,000
<i>Proportion of earnings over \$3m</i>	25%	74%
<i>Proportion of earnings over \$10m</i>	0%	13%
<i>Division 296 tax calculation over \$3m (15% tax)</i>	\$7,500	\$63,750
<i>Division 296 tax calculation over \$10m (10% tax)</i>	0	\$7,500
<i>Division 296 tax</i>	\$7,500	\$71,250

It should be noted that this is an additional tax on top of the regular superannuation fund taxation system.

I don't have more than \$3m – Does this impact me?

In the short term, no. In the long-term, potentially yes. While your current superannuation balance may be below the \$3m threshold, there are a number of scenarios where this position can change.

Spouse Inheritance: Upon the death of a spouse, their superannuation pension may automatically revert to the surviving spouse, increasing their total superannuation balance. A reversionary nomination allows the benefits to remain within the superannuation system and be transferred to the surviving spouse's balance. This can result in a material increase in superannuation assets and may cause the surviving spouse's balance to exceed the proposed \$3 million threshold. This is different from a binding death benefit nomination.

Compound Growth: Another consideration is fund growth. Although the thresholds are proposed to be indexed in line with CPI, this indexing is unlikely to keep pace with long-term investment growth. A balanced investment portfolio, which typically includes a mix of growth and defensive assets, is expected to generate returns above inflation over time. As a result, even in the absence of further contributions, the compounding effect of investment returns can significantly increase your superannuation balance over the long term.

Insurance Payment: Another consideration is the impact of a TPD insurance payment that is held inside of superannuation. If a benefit is paid into your super fund, it will be included in your total superannuation balance and would be assessed as part of the DIV293 thresholds. While these funds would typically be intended to be withdrawn and used for TPD-related purposes (such as medical costs or home and vehicle modifications), there may be a timing consideration where your balance is elevated for Division 296 purposes.

When these factors are considered together, it becomes more likely that balances may approach or exceed the relevant thresholds in the long-term. As such, while the proposed measures may not have an immediate impact, they remain an important consideration in long-term planning and structuring decisions.

Estate Planning Impact

Although an individual ceases to exist as a taxpayer upon death, the calculation for Division 296 is based on movements in the member's total superannuation balance during the financial year. If superannuation assets remain in the fund after death and continue generating earnings before the death benefit is paid out, those earnings may still be attributed to the deceased member for their final financial year. For example, due to estate administration delays or pension continuation arrangements — additional earnings may still be attributed for Division 296 purposes in the deceased's final tax assessment.

I have multiple Superannuation funds

For the purposes of assessing the relevant thresholds, all superannuation balances will be aggregated and treated as a single total. This means the combined value of all accounts, rather than each individual fund, will determine whether the thresholds are exceeded.

I have Accumulation and Pension benefits

For the purposes of the Division 296 thresholds, all superannuation interests are taken into account, regardless of whether they are in accumulation or pension phase.

What is included in Total Superannuation Balance (TSB)

For most individuals, TSB is simply the combined value of all superannuation accounts as shown on their statements. TSB includes the value of all super interests across both **accumulation and pension phases**, aggregated across all funds.

Key adjustments for Division 296

- **Limited Recourse Borrowing Arrangements are excluded** from the TSB calculation for Division 296 (*but remain included for other purposes, such as contribution caps*)
- **Defined benefit interests are included**, using prescribed valuation methods
- **Roll-over super benefits are included**; these are rollovers that are in transit between super funds

- **Insurance proceeds retained in super (e.g. TPD) are included**
- TSB is measured on a **gross basis**, with no adjustment for tax or liquidity

Contributions and withdrawals do not directly reduce Division 296 exposure, they are adjusted for in the calculation so that the tax is based on underlying investment earnings, not cash movements.

Total Super Balance Special rule for 2026/27 (first year only)

A specific transitional rule applies in the first year of Division 296 (2026/27). In this initial year, only your total superannuation balance at 30 June 2027 is used to determine whether the tax applies.

This means that if your balance was \$5m on 30 June 2026 but reduces to \$2m by 30 June 2027, only the \$2m closing balance is assessed. As this is below the \$3 million threshold, no Division 296 tax would apply for that year. This is different after the first year.

Total Super Balance for 2027/28 and Ongoing

Ongoing purposes, TSB for a financial year is based on the **higher of**:

- Your balance on **30 June (prior year)** → your opening balance
- Your balance **30 June (current year)** → your closing balance

As a result, large withdrawals during the year are less effective, and Division 296 tax may still apply based on earlier higher balances.

Cost Base Reset – Special Rule for 2026/27 (first year only)

A further transitional rule applies to SMSFs, in the first year of Division 296. This allows for a cost base reset for Division 296 purposes only. Under this rule, assets are effectively reset to their market value as at 30 June 2026. This means that any unrealised capital gains accrued prior to this date are excluded from future Division 296 calculations. As a result, only investment earnings and capital gains generated from 1 July 2026 onwards will be relevant in determining any future Division 296 tax liability.

There is a requirement to opt in via an approved form — it is not automatic — and must be completed by the due date of the 2026–27 SMSF annual return.

This special rule is available for all SMSF holders, not just for those over \$3m.

You may initially think this is an automatic opt-in strategy. However, because the proposed reset applies at the fund level rather than to selective assets, the cost base would be reset across all investments, including those currently **in a loss position**. This may be detrimental where assets are below their original purchase price and subsequently recover, as part of that recovery could be treated as a gain for Division 296 purposes despite no real economic gain being achieved. Importantly, the reset does not alter the fund's standard capital gains tax position and is available regardless of whether members are currently above the \$3 million threshold, making it a relevant consideration where future growth may bring balances within scope of the rules.

Asset	Original Cost	Value at 30 June 2026	Unrealised Gain / Loss	Reset Value (Div 296)
Property	\$1,000,000	\$2,000,000	\$1,000,000	\$2,000,000
Shares (Portfolio A)	\$500,000	\$800,000	\$300,000	\$800,000
Shares (Portfolio B)	\$400,000	\$300,000	-\$100,000	\$300,000
Total	\$1,900,000	\$3,100,000	\$1,200,000	\$3,100,000

Outcome

- **\$1.3m of pre-2026 gains are excluded** from Division 296
- Only **future growth** is subject to the tax

Detriment

- The reset also applies to loss positions. If Portfolio B recovers from \$300k back to \$400k, the **\$100k increase is treated as a gain** for Division 296 purposes — whereas without the reset, it would have simply offset prior losses.

Note: While the cost base reset may be effective where an SMSF holds a large single asset with significant unrealised gains, its benefit is less clear where the fund holds a diversified portfolio (e.g. shares, managed funds, unlisted or alternative assets) that includes positions in loss. As the reset applies to all assets, it is important to assess whether resetting the entire portfolio is appropriate, or whether a more targeted strategy, such as selectively realising gains, may provide a better outcome.

<i>Planning Consideration</i>	<i>Recommended Timing</i>
<i>SMSF cost base reset election</i>	<i>Before 2026–27 SMSF tax return submission</i>
<i>Reduce TSB below \$3m for the initial assessment</i>	<i>Before 30 June 2027</i>
<i>Commence liquidity and cashflow planning</i>	<i>Before 30 June 2028</i>

Cost Base Reset – Alternative

Another strategy that may be considered is selectively realising unrealised capital losses within the portfolio prior to 30 June 2026, allowing those losses to be carried forward for future ordinary tax purposes within the SMSF. At the same time, trustees may utilise the proposed first-year Division 296 cost base reset for assets with significant unrealised gains, effectively resetting those assets for Division 296 purposes and reducing future exposure on gains accrued prior to commencement.

Used together, this strategy may help minimise future capital gains tax outcomes by preserving carried forward losses while also limiting the portion of long-term unrealised gains that may be exposed to future Division 296 calculations.

Importantly, anti-avoidance provisions, including Part IVA, may apply depending on how the strategy is implemented. As such, further tax advice and detailed consideration should be obtained prior to proceeding.

Investment Strategy

This now leads to the investment strategy considering capital gain positions and long-term planning. The composition of your superannuation portfolio becomes increasingly important, as different asset classes generate returns that are taxed in different ways.



Growth assets such as shares and property typically produce capital gains, which are taxed when realised. This can defer tax but may result in larger, one-off liabilities when assets are sold.

In contrast, income-generating assets such as cash and fixed income produce regular earnings (e.g. interest and dividends), leading to a more consistent annual tax outcome.

Balancing these outcomes is key to managing tax efficiency, cashflow, and long-term returns. It also highlights the importance of structuring investments across entities (e.g. superannuation, family trusts, and personal ownership), as a coordinated approach can improve overall tax outcomes and portfolio efficiency.

Planning for Payment of Division 296 Tax

Division 296 tax is assessed personally and is not automatically paid from superannuation (although payment from super may be elected). This creates an important liquidity consideration for higher balance members, particularly where most wealth is held within super. In some cases, individuals may need to withdraw funds from super to meet the liability, potentially impacting long-term investment strategies and the tax effectiveness of the structure.

This may be particularly relevant for SMSFs, where assessments could be issued well after year end due to additional reporting requirements. As such, maintaining adequate liquidity or investment cashflow to meet future liabilities will be an important consideration.

Key considerations when responding to Division 296

While it may be tempting to withdraw any superannuation balance above \$3 million, this is not always the most appropriate or tax-effective course of action. Any decision should be assessed within the context of your broader investment structure, tax position, cashflow requirements, estate planning objectives, and long-term retirement strategy. In many cases, retaining the current structure may remain appropriate, although in some circumstances, withdrawing funds or making adjustments may be beneficial.



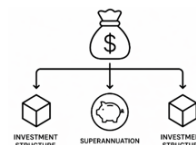
Gifts to Children

Bringing forward intergenerational wealth planning by gifting surplus funds to children can reduce your superannuation balance and associated tax exposure. This strategy should be carefully structured, considering control, asset protection, and the children's financial maturity.



House Renovations or Upgrades

Allocating capital toward improving your principal place of residence can be a tax-effective use of funds, as any capital gains are generally exempt from tax upon sale. This approach allows you to enhance lifestyle outcomes while deploying excess capital outside the superannuation environment.



Investing in Other Structures

Excess funds can be redirected into alternative structures such as a Family Trust, company or personal name subject to other assets. Consideration must be given to superannuation withdrawal restrictions, as well as the fund's liquidity position and underlying asset composition.

It is important not to make decisions in relation to Division 296 without carefully considering all the implications and seeking appropriate professional advice

Who Should Review Their Position Now?

The proposed Division 296 tax may warrant early review for individuals who fall into any of the following categories:

- *Individuals with total superannuation balances approaching or exceeding \$2 million*
- *Couples who have combined balances approaching or exceeding to \$3m.*
- *SMSFs holding significant unrealised capital gains*
- *SMSF with illiquid assets*
- *Families with complex estate planning or beneficiary arrangements*
- *Second marriage or blended family structures where estate outcomes may be more sensitive*
- *Members with large pension balances or concentrated superannuation wealth*
- *Individuals considering major contribution or asset restructuring strategies prior to commencement*

Summary

Division 296 introduces an additional layer of taxation for individuals with higher superannuation balances, with the aim of better targeting superannuation tax concessions. While the measure may not immediately impact all investors, it becomes increasingly relevant over time due to factors such as investment growth, ongoing contributions, and the potential receipt of reversionary benefits. As a result, it is important to consider the broader implications on investment strategy, cashflow, and overall structuring across superannuation and non-superannuation assets.

Importantly, the presence of an additional tax does not automatically mean benefits need to be withdrawn from superannuation, and in many cases retaining funds within the concessionally taxed environment remains appropriate. Engaging with an accountant or tax adviser is critical to assess the most effective approach, ensuring decisions are tailored to your broader financial position and long-term retirement objectives.

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