Newsletter
JULY 2025

Div 296 super tax and practical things to consider

Division 296 super tax is a controversial Federal Government proposal to impose an extra 15% tax on some superannuation earnings for individuals if their total superannuation balance (TSB) is over $3 million as at 30 June of the relevant income year.

This measure is not yet law and must still pass both Houses of Parliament. At the time of publication, the start date had not been confirmed, although the Government was originally hoping that the measure would apply from 1 July 2025, with the first tax bills to be sent out sometime after 30 June 2026.

How does it work?

While we are waiting to see whether the measure will become law, let's assume for the moment that the Government passes legislation which is consistent with the Government's announcements to date. If so:

- If your TSB is over $3 million at 30 June, a portion of your annual superannuation earnings above that threshold will be taxed at an additional 15%.
- The tax is assessed to you personally and can be paid from your super or your own funds.
- Superannuation earnings for this purpose reflect the increase in your net super balance for the year, adjusted for certain contributions (eg, inheritance via death benefit pension) and withdrawals.
- Some exclusions apply: children on super pensions, structured settlements (personal injury), and the deceased.

It is important to remember that your TSB is the aggregate of all Australian superannuation interests (including balances with APRA funds, SMSFs and defined benefit schemes) held at the end of the income year.

If the start date is 1 July 2025, then the first test date will be 30 June 2026. An individual's TSB at this date, and each following 30 June, will determine whether they will have a Division 296 tax liability for that income year. Only where the individual has a TSB on 30 June in excess of $3 million will they have a Division 296 tax liability for that income year.

Examples

Sam's account

- 30 June super balance: $4 million.
- Annual growth: $120,000.

- Portion above $3m: ($4m–$3m)/$4m = 25%
- Taxable earnings: $120,000 × 25% = $30,000
- Extra tax: $30,000 × 15% = $4,500

Chris withdraws

- Chris withdraws $200,000 before 30 June so his TSB is below $3 million at year end.
- Chris will not pay Division 296 tax for that year.

Lisa's inheritance

- Lisa's balance rises from $2m to $4.5m after receiving a death benefit pension.
- Only new investment growth (not the transferred amount) is taxed as earnings, but a total balance over $3m means she may still have a liability.

What can you do?

- Review your super fund liquidity and cashflow planning for future tax payments
- Ensure your asset valuations are up to date
- Estimate your combined super balances and plan for any large transactions
- Document asset values, especially for SMSF members
- Seek tailored professional advice before making any changes

While we are waiting to see whether the legislation passes through Parliament and whether any significant amendments or adjustments are made to the proposed measures, if you have any questions or concerns around this in the meantime, reach out – we're here to help.

Important tax update: deductions for ATO interest charges scrapped

If you're carrying an Australian Taxation Office (ATO) debt there is a good chance that it will cost you even more from 1 July 2025 onwards. This is because from 1 July 2025 two types of interest charges imposed by the ATO are no longer deductible.

What are the interest charges?

There are two main types of interest that are charged by the ATO. These are:

- General Interest Charge (GIC): This applies when you pay your tax liability late. The ATO applies GIC to encourage tax liabilities to be paid on time and ensure taxpayers who pay late don't have an unfair advantage over taxpayers who pay on time. GIC is calculated on a daily compounding basis on the overdue amount. The GIC annual rate for the July – September 2025 quarter is 10.78%.
- Shortfall Interest Charge (SIC): This is applied when there is a shortfall in tax paid because of an amendment or correction to your tax assessment. SIC is also calculated on a daily compounding

basis. The SIC annual rate for the July – September 2025 quarter is 6.78%. The ATO applies SIC to the tax shortfall amount for the period between when it would have been due and when the assessment is corrected.

What's changing?

Historically, both GIC and SIC amounts could be claimed as a deduction. This has meant that the net after-tax cost of the interest charges has been reduced for taxpayers who have a positive income tax liability for the relevant income year.

However, the Government has passed legislation to ensure that GIC and SIC amounts incurred on or after 1 July 2025 are no longer deductible, even if the interest relates to a tax debt that arose before this date.

As these interest charges are no longer deductible, this means that the after-tax impact of the charges is higher for many taxpayers. The impact becomes greater as your tax rate increases.

For example, let's take a look at two individuals who have the same level of tax debt owed to the ATO and the same GIC liability of $1,000 for a particular income year:

- Sally is a high income earner and subject to a 45% marginal tax rate (ignoring the Medicare levy). Under the old rules the net cost of the interest charge was only $550 because she could claim a deduction for the GIC amount and this reduced her income tax liability by $450. Under the new rules no deduction is available and the full cost to Sally will be $1,000.
- Adam is subject to a 30% marginal tax rate (again, ignoring the Medicare levy). Under the old rules the net cost of the interest charge was $700 because he could reduce his income tax liability by $300 by claiming a deduction for the GIC amount. As with Sally, under the new rules no deduction is available for the GIC and the full cost to Adam is $1,000.

What can I do to minimise the impact of this change?

The simple answer is to pay down ATO debt as quickly as possible. As you can see, the GIC rate is relatively high and continues to accrue on a daily basis until the debt is paid off. The faster you can pay off that debt, the lower the interest charges that will accrue.

If you can't afford to pay off your ATO debt in the short term then you might want to explore other options, including whether you would be better off borrowing money from another source at a lower interest rate to pay off the ATO debt. In some cases it is possible to claim a deduction for interest accruing on a loan that is used to pay tax debts, although this is normally only possible if the debt arose from business activities. It isn't normally possible to claim a deduction for interest accruing on a loan that is used to pay a tax debt that arose from investment or employment activities.

While the ATO will sometimes allow taxpayers to enter into a payment plan so that tax debts can be paid through instalments, tax debts that are subject to a payment plan still accrue GIC.

On a more proactive basis, a better option is to plan ahead to ensure that upcoming tax payments can be made on time. This will sometimes mean setting aside funds regularly for tax instalments, GST, PAYG withholding and other amounts that need to be paid to the ATO. Keeping these amounts separate will help to ensure you're ready when the ATO bill arrives.

If you're currently carrying tax debt or need help staying ahead of your obligations, we're here to help. Let's work together on a strategy that keeps you compliant and protects your bottom line.