2022‑2023

The Parliament of the

Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

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| **EXPOSURE DRAFT** |

Treasury Laws Amendment (Better Targeted Superannuation Concessions) Bill 2023

No. , 2023

(Treasury)

A Bill for an Act to amend the law relating to taxation, and for related purposes

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A Bill for an Act to amend the law relating to taxation, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (Better Targeted Superannuation Concessions) Act 2023*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. |  |
| 2. Schedule 1 | At the same time as the *Superannuation (Better Targeted Superannuation Concessions) Imposition Act 2023* commences.  However, the provisions do not commence at all if that Act does not commence. |  |
| 3. Schedules 2 and 3 | The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent. |  |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Better targeted superannuation concessions

Corporations Act 2001

1 After paragraph 1053(2)(c)

Insert:

(ca) subsection 134‑140(1) in that Schedule; or

Defence Force Retirement and Death Benefits Act 1973

2 Part VIB (heading)

Repeal the heading, substitute:

Part VIB—Release of benefit to meet deferred Division 293 or 296 tax liability

3 Section 49K

After “item 3”, insert “or 4”.

4 Section 49K (note)

After “Subdivision 133‑C”, insert “or 134‑C”.

5 Paragraph 49M(1)(a)

After “item 3”, insert “or 4”.

6 At the end of section 49N

Add:

(4) If more than one release authority lump sum is paid in relation to release authorities issued to a person, a reference in the formula in subsection (2) to the release authority lump sum is taken to be a reference to the total amount of those release authority lump sums.

Governor‑General Act 1974

7 Subsection 2A(2)

Insert:

***Division 293 tax law*** has the meaning given by the *Income Tax Assessment Act 1997*.

***Division 296 tax law*** has the meaning given by the *Income Tax Assessment Act 1997*.

8 Section 4BA (heading)

Repeal the heading, substitute:

4BA Release of money to meet deferred Division 293 or 296 tax liability

9 Subsection 4BA(1)

After “item 3”, insert “or 4”.

10 Subsection 4BA(1) (note)

After “Subdivision 133‑C”, insert “or 134‑C”.

11 Subsection 4BA(2)

Omit “(within the meaning of the *Income Tax Assessment Act 1997*) applies”, substitute “and the Division 296 tax law apply”.

12 At the end of section 4BA

Add:

(11) If more than one release authority lump sum is paid in relation to release authorities issued to a person, a reference in the formula in subsection (7) to the release authority lump sum is taken to be a reference to the total amount of those release authority lump sums.

Income Tax Assessment Act 1997

13 Section 12‑5 (after section headed “superannuation—deductibility of contributions”)

Insert:

|  |  |
| --- | --- |
| superannuation—Division 296 tax |  |
| no deduction for | 26‑99A |

14 After section 26‑99

Insert:

26‑99A Division 296 tax cannot be deducted

You cannot deduct under this Act any of the following:

(a) an amount of \*Division 296 tax that you pay;

(b) an amount of \*Division 296 debt account discharge liability that you pay.

15 After Division 295

Insert:

Division 296—Better targeted superannuation concessions

Table of Subdivisions

Guide to Division 296

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296‑B Better targeted superannuation concessions

296‑C Transferrable negative superannuation earnings

296‑D When tax is payable

296‑E Exclusion of certain earnings

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Guide to Division 296

296‑1 What this Division is about

This Division reduces the concessional tax treatment of superannuation earnings for individuals with total superannuation balances greater than the large superannuation balance threshold at the end of an income year.

There are special rules for foreign superannuation funds, constitutionally protected State higher level office holders, certain Commonwealth justices, non‑complying superannuation plans and temporary residents who depart Australia.

Note: Part 3‑20 in Schedule 1 to the *Taxation Administration Act 1953* contains rules about the administration of the Division 296 tax.

Subdivision 296‑A—Object of this Division

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296‑5 Object of this Division

Operative provisions

296‑5 Object of this Division

The object of this Division is to reduce the concessional tax treatment of superannuation earnings for individuals with \*total superannuation balances greater than the \*large superannuation balance threshold at the end of an income year.

Subdivision 296‑B—Better targeted superannuation concessions

Guide to Subdivision 296‑B

296‑10 What this Subdivision is about

This Subdivision reduces the superannuation tax concessions for individuals with large total superannuation balances.

Subject to certain exceptions, a tax is payable on a proportion of any increase in your total superannuation balance during an income year (after adjusting for total withdrawals and total contributions made during the year and applying negative earnings from previous years), if your total superannuation balance at the end of the year exceeds the large superannuation balance threshold.

Note: Negative earnings from previous years are dealt with by Subdivision 296‑C.

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Liability for tax

296‑15 Liability for tax

Subject to sections 296‑20 to 296‑30, you are liable to pay \*Division 296 tax for an income year if you have \*taxable superannuation earnings for the year.

Note: The amount of the tax is set out in the *Superannuation (Better Targeted Superannuation Concessions) Imposition Act 2023*.

296‑20 Exception—child recipients of superannuation income streams

You are not liable to pay \*Division 296 tax for an income year if you are a \*child recipient of a \*superannuation income stream at the end of the year.

296‑25 Exception—structured settlement contributions

You are not liable to pay \*Division 296 tax for an income year if a \*structured settlement contribution is made in respect of you in that year or in any earlier income year.

296‑30 Exception—death

You are not liable to pay \*Division 296 tax for an income year if you die before the last day of the year.

Taxable superannuation earnings, superannuation earnings and adjusted total superannuation balance

296‑35 Your taxable superannuation earnings

(1) You have ***taxable superannuation earnings*** for an income year of an amount equal to the amount worked out using the following formula if:

(a) your \*total superannuation balance at the end of the year is greater than the \*large superannuation balance threshold; and

(b) the amount of your \*superannuation earnings for the year is greater than nil.



(2) For the purposes of the formula in subsection (1), the percentage is the amount (expressed as a percentage) worked out using the following formula:



(3) The result of the formula in subsection (2) must be rounded to 2 decimal places (rounding up if the third decimal place is 5 or more).

296‑40 Your superannuation earnings and basic superannuation earnings

(1) The amount of your ***superannuation earnings*** for an income year is:

(a) if section 296‑110 does not apply in relation to the year—the amount of your \*basic superannuation earnings for the year; or

(b) if section 296‑110 applies in relation to the year—the amount worked out under that section.

(2) The amount of your ***basic superannuation earnings*** for an income year is worked out using the following formula:



where:

***current adjusted total superannuation balance*** means the greater of:

(a) your \*adjusted total superannuation balance at the end of the year; and

(b) the \*large superannuation balance threshold.

***previous total superannuation balance*** means the greater of:

(a) your \*total superannuation balance just before the start of the year; and

(b) the \*large superannuation balance threshold.

Note: Section 296‑305 affects the amount of your basic superannuation earnings in certain circumstances.

296‑45 Your adjusted total superannuation balance

Your ***adjusted total superannuation balance*** at the end of an income year is the amount worked out using the following formula:



where:

***your contributions total*** for the year means the amount worked out under section 296‑55 (as affected by section 296‑60) for the year.

***your withdrawals total*** for the year means the amount worked out under section 296‑50 (as affected by section 296‑60) for the year.

296‑50 Your adjusted total superannuation balance—your withdrawals total

(1) For the purposes of the definition of ***your withdrawals total*** in section 296‑45, and subject to section 296‑60, the amount is the total of the following amounts (other than an amount mentioned in subsection (4) of this section):

(a) the amount of a \*superannuation benefit paid from a \*superannuation interest of yours during the year;

(b) the amount of a \*contributions‑splitting superannuation benefit rolled‑over, transferred or allotted for the benefit of another person during the year from a superannuation interest of yours;

(c) the amount of a \*family law superannuation payment made to another person during the year because a superannuation interest of yours is subject to a \*payment split;

(d) the amount of a \*superannuation death benefit paid from a \*superannuation income stream during the year if, when the benefit is paid, you are a \*retirement phase recipient of the superannuation income stream because of the death of another person;

(e) the amount of a payment made during the year by a \*superannuation provider:

(i) from a superannuation interest of yours; and

(ii) in relation to a release authority issued under Division 131 or 135 in Schedule 1 to the *Taxation Administration Act 1953*, other than a release authority that relates to a \*first home saver determination;

(f) if you have an \*assessable FHSS released amount for the year—the amount worked out under subsection (2) of this section for the year;

(g) if:

(i) a \*roll‑over superannuation benefit is paid from a superannuation interest of yours during the year; and

(ii) the benefit consists, to any extent, of an \*element untaxed in the fund;

the amount worked out under subsection (3) in relation to the benefit;

(h) an amount prescribed by the regulations for the purposes of this paragraph in relation to the year.

FHSS released amounts

(2) For the purposes of paragraph (1)(f), the amount is the amount worked out using the following formula:



Excess untaxed roll‑over amounts

(3) For the purposes of paragraph (1)(g), the amount is the amount worked out using the following formula:



where:

***withheld amount*** means:

(a) if:

(i) the \*roll‑over superannuation benefit consists, to any extent, of an \*excess untaxed roll‑over amount; and

(ii) an amount is withheld under section 12‑312 in Schedule 1 to the *Taxation Administration Act 1953* from the excess untaxed roll‑over amount:

the amount withheld; or

(b) otherwise—nil.

Exclusions

(4) Do not include in the total mentioned in subsection (1):

(a) the amount of a \*roll‑over superannuation benefit; or

(b) the amount of a payment under a \*continuous disability policy; or

(c) an amount paid under the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; or

(d) an amount in relation to which all of the following subparagraphs apply:

(i) the amount arose, in circumstances mentioned in one or more of the paragraphs of subsection (1), as a result of fraud or dishonesty;

(ii) an individual has been convicted of an offence involving that fraud or dishonesty;

(iii) you notify the Commissioner in the \*approved form of the matters mentioned in subparagraphs (i) and (ii); or

(e) an amount prescribed by the regulations for the purposes of this paragraph.

Avoidance of double‑counting

(5) To avoid doubt, do not include an amount, or part of an amount, in the total mentioned in subsection (1) more than once, even if more than one paragraph of that subsection applies to the amount or part of the amount.

Exclusion of interests in foreign superannuation funds

(6) Subsection (1) does not apply in relation to a \*superannuation interest of yours in a \*superannuation plan that is a \*foreign superannuation fund at the end of the year.

(7) Paragraph (1)(d) does not apply in relation to a \*superannuation income stream that is supported by a \*superannuation interest in a \*superannuation plan that, at the end of the year, is a \*foreign superannuation fund.

Note: The value of interests in foreign superannuation funds are not included in your total superannuation balance: see paragraph 307‑230(1)(a).

296‑55 Your adjusted total superannuation balance—your contributions total

(1) For the purposes of the definition of ***your contributions total*** in section 296‑45, and subject to section 296‑60, the amount is the total of the following amounts (other than an amount mentioned in subsection (3) of this section):

(a) the amount of a contribution made to a \*superannuation plan for you during the year (see subsection (2));

(b) the amount of a \*contributions‑splitting superannuation benefit rolled over, transferred or allotted to a superannuation plan for your benefit during the year;

(c) the amount of a \*family law superannuation payment that:

(i) is made for your benefit during the year; and

(ii) is a transfer or roll‑over to a superannuation plan; and

(ii) is made because a \*superannuation interest of another person is subject to a \*payment split;

(d) the \*total superannuation balance value, on a day during the year on which you start to be a \*retirement phase recipient of a \*superannuation income stream benefit because of the death of another person, of the superannuation interest in a superannuation plan that supports the superannuation income stream;

(e) the amount of a benefit that:

(i) is paid to a superannuation plan for your benefit during the year under an insurance policy other than a \*continuous disability policy; and

(ii) is payable because of the death or total and permanent disability of the insured person, or because of the happening of a contingency dependent on the termination of the life of the person;

(f) an amount allocated by the \*superannuation provider of a \*complying superannuation plan for you for the year in accordance with conditions specified by the regulations for the purposes of subsection 291‑25(3);

(g) an amount transferred to a superannuation plan from a \*foreign superannuation fund for your benefit during the year;

(h) the amount by which the total superannuation balance value of a superannuation interest of yours in a superannuation plan is increased during the year as a result of:

(i) a payment for compensation for a loss suffered as a result of fraud or dishonesty; or

(ii) a remediation payment;

(i) an amount prescribed by the regulations for the purposes of this paragraph in relation to the year.

Concessional contributions

(2) A reference in paragraph (1)(a) to the amount of a contribution is taken to be a reference to the amount worked out using the following formula, if the contribution is a \*concessional contribution:



Exclusions—general

(3) Do not include in the total mentioned in subsection (1):

(a) the amount of a \*roll‑over superannuation benefit that is paid into a \*superannuation plan; or

(b) an amount paid under the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; or

(c) an amount prescribed by the regulations for the purposes of this paragraph.

Avoidance of double‑counting

(4) To avoid doubt, do not include an amount, or part of an amount, in the total mentioned in subsection (1) more than once, even if more than one paragraph of that subsection applies to the amount or part of the amount.

Exclusion of foreign superannuation funds

(5) Subsection (1) does not apply in relation to a \*superannuation plan that is a \*foreign superannuation fund at the end of the year.

296‑60 Modifications

(1) Section 296‑50 or 296‑55 has effect in relation to an individual subject to any modifications prescribed by the regulations for the purposes of this subsection.

(2) Regulations made for the purposes of subsection (1) may modify section 296‑50 or 296‑55 in relation to an individual in different ways depending on any of the following matters:

(a) the individual to whom the modification relates;

(b) whether a \*superannuation interest is in the \*retirement phase;

(c) whether a superannuation interest is a \*defined benefit interest;

(d) a \*superannuation income stream;

(e) a \*superannuation plan;

(f) the \*superannuation provider in relation to a superannuation plan;

(g) any other matter.

(3) Regulations made for the purposes of subsection (1) may specify circumstances in which your withdrawals total or your contributions total is nil.

(4) Subsections (2) and (3) do not limit the regulations that may be made for the purposes of subsection (1).

Subdivision 296‑C—Transferrable negative superannuation earnings

Guide to Subdivision 296‑C

296‑100 What this Subdivision is about

Your superannuation earnings for an income year are reduced by losses from previous years.

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296‑105 Your transferrable negative superannuation earnings and unapplied transferrable negative superannuation earnings

296‑110 Applying transferrable negative superannuation earnings

Operative provisions

296‑105 Your transferrable negative superannuation earnings and unapplied transferrable negative superannuation earnings

(1) You have ***transferrable negative superannuation earnings*** for an income year if:

(a) the amount of your \*superannuation earnings for the year is less than nil; and

(b) your \*total superannuation balance just before the start of the year is greater than the \*large superannuation balance threshold.

(2) Subject to subsection (3), you have ***unapplied transferrable negative superannuation earnings*** for an income year (the ***current year***) of an amount equal to the amount (expressed as a positive amount) of your \*superannuation earnings for the last income year (the ***last negative year***) that:

(a) occurred before the current year; and

(b) for which you have \*transferrable negative superannuation earnings.

(3) However, you do not have ***unapplied transferrable negative superannuation earnings*** for the current year if:

(a) you do not have \*transferrable negative superannuation earnings for any income year occurring before the current year; or

(b) after the last negative year, but before the current year, there occurred a year:

(i) to which section 296‑110 applies; but

(ii) for which you do not have transferrable negative superannuation earnings.

296‑110 Applying transferrable negative superannuation earnings

(1) This section applies in relation to an income year of yours if:

(a) either or both of the following subparagraphs apply:

(i) your \*total superannuation balance at the end of the year is greater than the \*large superannuation balance threshold;

(ii) your total superannuation balance just before the start of the year is greater than the large superannuation balance threshold; and

(b) you have \*unapplied transferrable negative superannuation earnings for the year.

(2) The amount of your ***superannuation earnings*** for the year is the amount worked out using the following formula:



Note: This subsection:

(a) applies even if the amount of your basic superannuation earnings for the year is less than nil; and

(b) may result in the amount of your superannuation earnings for the year being less than nil.

Subdivision 296‑D—When tax is payable

Guide to Subdivision 296‑D

296‑200 What this Subdivision is about

This Subdivision has rules about payment of Division 296 tax.

Table of sections

Operative provisions

296‑205 When tax is payable—original assessments

296‑210 When tax is payable—amended assessments

296‑215 General interest charge

Operative provisions

296‑205 When tax is payable—original assessments

(1) Your \*assessed Division 296 tax for an income year is due and payable at the end of 84 days after the Commissioner gives you notice of the assessment of the amount of the \*Division 296 tax.

Exception for tax deferred to a Division 296 debt account

(2) However, subsection (1) does not apply to an amount of \*assessed Division 296 tax that is \*deferred to a Division 296 debt account for a \*superannuation interest.

Note 1: For assessments of Division 296 tax, see Division 155 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: For ***deferred to a Division 296 debt account***, see Division 134 in that Schedule.

Note 3: For release of money from a superannuation plan to pay these amounts, see Division 131 in that Schedule.

296‑210 When tax is payable—amended assessments

(1) If the Commissioner amends your assessment, any extra \*assessed Division 296 tax resulting from the amendment is due and payable 84 days after the day the Commissioner gives you notice of the amended assessment.

Exception for tax deferred to a Division 296 debt account

(2) However, subsection (1) does not apply to an amount of extra \*assessed Division 296 tax that is \*deferred to a Division 296 debt account for a \*superannuation interest.

Note 1: For ***deferred to a Division 296 debt account***, see Division 134 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: For release of money from a superannuation plan to pay these amounts, see Division 131 in that Schedule.

296‑215 General interest charge

If an amount of \*assessed Division 296 tax or \*shortfall interest charge on assessed Division 296 tax that you are liable to pay remains unpaid after the time by which it is due to be paid, you are liable to pay the \*general interest charge on the unpaid amount for each day in the period that:

(a) begins on the day on which the amount was due to be paid; and

(b) ends on the last day on which, at the end of the day, any of the following remains unpaid:

(i) the assessed Division 296 tax or the shortfall interest charge;

(ii) general interest charge on any of the assessed Division 296 tax or the shortfall interest charge.

Note 1: The general interest charge is worked out under Part IIA of the *Taxation Administration Act 1953*. For the rate of general interest charge payable under this section, see subsection 8AAC(2A) of that Act.

Note 2: Shortfall interest charge is worked out under Division 280 in Schedule 1 to that Act.

Note 3: See section 5‑10 of this Act for when the amount of shortfall interest charge becomes due and payable.

Subdivision 296‑E—Exclusion of certain earnings

Guide to Subdivision 296‑E

296‑300 What this Subdivision is about

In certain circumstances, your taxable superannuation earnings do not include earnings from an interest in a constitutionally protected fund, an interest you hold in the superannuation fund established under the *Judges’ Pensions Act 1968* or an interest in a non‑complying superannuation plan.

Table of sections

Operative provisions

296‑305 Exclusion of certain earnings

296‑310 Subdivision does not limit Imposition Act

Operative provisions

296‑305 Exclusion of certain earnings

(1) This section applies if:

(a) column 1 of an item of the following table applies to you for an income year; and

(b) at any time in the year, you hold a \*superannuation interest to which column 2 of the item applies; and

(c) the amount of your \*basic superannuation earnings for the year as worked out under subsection 296‑40(2) is greater than nil.

| Excluded superannuation interests | | |
| --- | --- | --- |
| Item | Column 1  Individual to which item applies for a year | Column 2  Superannuation interest |
| 1 | at any time in the year, you are declared by the regulations to be an individual to whom this item applies | a \*superannuation interest in a \*constitutionally protected fund |
| 2 | (a) at any time in the year, you are:  (i) a Justice of the High Court; or  (ii) a justice or judge of a court created by the Parliament; and  (b) just before the start of your 2025-26 income year, you were:  (i) a Justice of the High Court; or  (ii) a justice or judge of a court created by the Parliament | a \*superannuation interest in the \*superannuation fund established under the *Judges’ Pensions Act 1968* |
| 3 | at the end of the year, you hold a \*superannuation interest in a \*superannuation plan that:  (a) is not a \*complying superannuation plan for the year; and  (b) is not a \*foreign superannuation fund | a superannuation interest in that superannuation plan |

(2) Despite subsection 296‑40(2), the amount of your ***basic superannuation earnings*** for the year is:

(a) if the amount worked out under subsection (3) of this section is greater than nil—the lesser of:

(i) that amount; and

(ii) the amount of your basic superannuation earnings for the year as worked out under subsection 296‑40(2); or

(b) otherwise—nil.

(3) For the purposes of subsection (2), the amount is the amount worked out using the following formula:



where:

***current non‑excluded adjusted total superannuation balance*** means your \*adjusted total superannuation balance at the end of the year, worked out in accordance with subsection (4).

***previous non‑excluded total superannuation balance*** means your \*total superannuation balance just before the start of the year, worked out in accordance with subsection (4).

(4) In working out your \*adjusted total superannuation balance or \*total superannuation balance for the purposes of subsection (3), disregard the following:

(a) each \*superannuation plan in which, at any time during the year, you hold a \*superannuation interest specified in column 2 of an item of the table in subsection (1) that applies to you for the year;

(b) without limiting paragraph (a):

(i) anything done in relation to such a superannuation plan during the year (e.g. making a contribution to such a plan); and

(ii) each superannuation interest you hold in the plan during the year; and

(iii) without limiting subparagraph (i) or (ii)—anything done in relation to each of those superannuation interests during the year (e.g. paying a benefit from those interests).

296‑310 Subdivision does not limit Imposition Act

Nothing in this Subdivision limits section 6 of the *Superannuation (Better Targeted Superannuation Concessions) Imposition Act 2023*.

Note: Section 6 of the *Superannuation (Better Targeted Superannuation Concessions) Imposition Act 2023* provides that Division 296 tax is not imposed in relation to a person if the imposition would exceed the legislative power of the Commonwealth.

Subdivision 296‑F—Modifications for temporary residents who depart Australia

Guide to Subdivision 296‑F

296‑400 What this Subdivision is about

If you receive a departing Australia superannuation payment, you are entitled to a refund of any Division 296 tax you have paid.

Table of sections

Operative provisions

296‑405 Who is entitled to a refund

296‑410 Amount of the refund

296‑420 Entitlement to refund stops all Division 296 tax liabilities

Operative provisions

296‑405 Who is entitled to a refund

You are entitled to a refund if:

(a) you have made payments of any of the following:

(i) \*assessed Division 296 tax;

(ii) a voluntary payment made under section 134‑70 in Schedule 1 to the *Taxation Administration Act 1953* for the purpose of reducing the amount by which a \*Division 296 debt account for a \*superannuation interest is in debit;

(iii) \*Division 296 debt account discharge liability; and

(b) you receive a \*departing Australia superannuation payment; and

(c) you apply to the Commissioner in the \*approved form for the refund.

Note: How the refund is applied is set out in Part IIB of the *Taxation Administration Act 1953*.

296‑410 Amount of the refund

(1) The amount of the refund to which you are entitled is the sum of the payments mentioned in paragraph 296‑405(a) that you have made.

(2) However, the amount of the refund is reduced by the amount of any refunds to which you are entitled under a previous application of this Subdivision.

Exception—Division 296 tax attributable to period when you are an Australian resident

(3) Despite subsection (1), if:

(a) at any time in your 2025‑26 income year, or a later income year, you are an Australian resident (but not a \*temporary resident); and

(b) a payment mentioned in paragraph 296‑405(a) that you have made relates, or is reasonably attributable, to that income year;

the payment is to be disregarded in working out under subsection (1) of this section the amount of the refund to which you are entitled.

296‑420 Entitlement to refund stops all Division 296 tax liabilities

(1) The Commissioner may decide to release you from any existing or future liability to pay \*Division 296 tax or \*Division 296 debt account discharge liability if:

(a) you become entitled to a refund under section 296‑405; or

(b) you would become entitled to such a refund, if you were to pay the liability and paragraph 296‑405(c) were disregarded.

(2) The Commissioner may take such action as is necessary to give effect to a decision under subsection (1).

Subdivision 296‑G—Other provisions

Guide to Subdivision 296‑G

296‑500 What this Subdivision is about

Disregard LRBA amounts in working out your total superannuation balance value for the purposes of this Division.

This Division has effect despite subsection 73(3A) of the *Australian Capital Territory (Self‑Government) Act 1988*.

Table of sections

Operative provisions

296‑505 Disregard LRBA amounts in working out total superannuation balance

296‑510 Interaction with the Australian Capital Territory (Self‑Government) Act 1988

Operative provisions

296‑505 Disregard LRBA amounts in working out total superannuation balance

For the purposes of this Division, disregard paragraph 307‑230(1)(d).

Note: If you have an LRBA amount under section 307‑231 (about limited recourse borrowing arrangements), paragraph 307‑230(1)(d) includes the amount in your total superannuation balance.

296‑510 Interaction with the *Australian Capital Territory (Self‑Government) Act 1988*

This Division has effect despite subsection 73(3A) of the *Australian Capital Territory (Self‑Government) Act 1988*.

Note: That subsection relates to the remuneration of judges and magistrates of the Australian Capital Territory.

16 Section 303‑20 (heading)

Repeal the heading, substitute:

303‑20 Payments from release authorities—paying debt account discharge liability or Division 296 debt account discharge liability

17 Section 304‑20 (heading)

Repeal the heading, substitute:

304‑20 Excess payments from release authorities—paying debt account discharge liability or Division 296 debt account discharge liability

18 Subsection 995‑1(1)

Insert:

***adjusted total superannuation balance*** has the meaning given by section 296‑45.

***assessed Division 296 tax*** means \*Division 296 tax, as assessed under Schedule 1 to the *Taxation Administration Act 1953*.

***basic superannuation earnings*** has the meaning given by subsection 296‑40(2) and section 296‑305.

***deferred to a Division 296 debt account***, for a \*superannuation interest, in relation to \*assessed Division 296 tax, has the meaning given by section 134‑10 in Schedule 1 to the *Taxation Administration Act 1953*.

***defined benefit Division 296 tax*** has the meaning given by section 134‑15 in Schedule 1 to the *Taxation Administration Act 1953*.

***Division 296 debt account*** has the meaning given by section 134‑60 in Schedule 1 to the *Taxation Administration Act 1953*.

***Division 296 debt account discharge liability*** has the meaning given by section 134‑120 in Schedule 1 to the *Taxation Administration Act 1953*.

***Division 296 deferral reversal***, for a \*superannuation interest, has the meaning given by section 134‑25 in Schedule 1 to the *Taxation Administration Act 1953*.

***Division 296 end benefit*** has the meaning given by section 134‑130 in Schedule 1 to the *Taxation Administration Act 1953*.

***Division 296 tax*** means tax imposed by the *Superannuation (Better Targeted Superannuation Concessions) Imposition Act 2023*.

***Division 296 tax law*** means:

(a) the *Income Tax Assessment Act 1997*, so far as it relates to the \*Division 296 tax; and

(b) any Act that imposes Division 296 tax; and

(c) the *Taxation Administration Act 1953*, so far as it relates to any Act covered by paragraphs (a) and (b) (or to so much of that Act as is covered); and

(d) any other Act, so far as it relates to any Act covered by paragraphs (a) to (c) (or to so much of that Act as is covered); and

(e) regulations and other legislative instruments under an Act, so far as they relate to any Act covered by paragraphs (a) to (d) (or to so much of that Act as is covered).

***large superannuation balance threshold*** means $3 million.

***superannuation earnings*** has the meaning given by subsection 296‑40(1) and section 296‑110.

***taxable superannuation earnings*** has the meaning given by section 296‑35.

***transferrable negative superannuation earnings*** has the meaning given by subsection 296‑105(1).

***unapplied transferrable negative superannuation earnings*** has the meaning given by subsection 296‑105(2).

Income Tax (Transitional Provisions) Act 1997

19 After Division 295

Insert:

Division 296—Better targeted superannuation concessions

Table of Subdivisions

296‑A Application of Division 296 tax rules

Subdivision 296‑A—Application of Division 296 tax rules

Table of sections

296‑10 Application of Division 296 of the Income Tax Assessment Act 1997

296‑105 Application of subsection 296‑105(1) of the Income Tax Assessment Act 1997

296‑10 Application of Division 296 of the *Income Tax Assessment Act 1997*

Section 296‑15 of the *Income Tax Assessment Act 1997* applies to the 2025‑26 income year and later income years.

296‑105 Application of subsection 296‑105(1) of the *Income Tax Assessment Act 1997*

You do not have ***transferrable negative superannuation earnings*** for an income year occurring before your 2025‑26 income year.

Judges’ Pensions Act 1968

20 Subsection 4(1)

Insert:

***Division 296 tax law*** has the meaning given by subsection 995‑1(1) of the *Income Tax Assessment Act 1997*.

21 Subsection 6(2) (note)

Omit “sustaining the superannuation contribution concession”, substitute “the Division 293 and 296 tax laws”.

22 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Division 293 and 296 tax laws

23 Section 17AK

Omit “applies”, substitute “and Division 296 tax law apply”.

24 Section 17AK (note)

After “***Division 293 tax law***,”, insert “***Division 296 tax law***,”.

25 Subsection 17AL(1)

After “item 3”, insert “or 4”.

26 Subsection 17AL(1) (note 1)

After “Subdivision 133‑C”, insert “or 134‑C”.

27 Subsection 17AL(1) (note 1)

After “Division 293 tax”, insert “or Division 296 tax”.

28 Subsection 17AL(1) (note 2)

After “Division 293 tax”, insert “or Division 296 tax”.

29 At the end of subsection 17AL(1)

Add:

Note 3: There are special rules in relation to Division 296 tax for Justices of the High Court and justices and judges of a court created by the Parliament (see Subdivision 296‑E of the *Income Tax Assessment Act 1997*).

30 At the end of section 17AN

Add:

(5) If more than one release authority lump sum is paid in relation to release authorities issued to a Judge, a reference in the formula in subsection (2) to the release authority lump sum is taken to be a reference to the total amount of those release authority lump sums.

Parliamentary Contributory Superannuation Act 1948

31 Subsection 18(1) (note)

Omit “sustaining the superannuation contribution concession”, substitute “the Division 293 and 296 tax laws”.

32 Part VC (heading)

Repeal the heading, substitute:

Part VC—Division 293 and 296 tax laws

33 Section 22SA

Insert:

***Division 296 tax law*** has the meaning given by subsection 995‑1(1) of the *Income Tax Assessment Act 1997*.

34 Section 22SB

Omit “applies”, substitute “and Division 296 tax law apply”.

35 Subsection 22SC(1)

After “item 3”, insert “or 4”.

36 Subsection 22SC(1) (note)

After “Subdivision 133‑C”, insert “or 134‑C”.

37 At the end of section 22SE

Add:

(5) If more than one release authority lump sum is paid in relation to release authorities issued to a person, a reference in the formula in subsection (2) to the release authority lump sum is taken to be a reference to the total amount of those release authority lump sums.

Superannuation Act 1976

38 Part IXC (heading)

Repeal the heading, substitute:

Part IXC—Release of benefits to meet deferred Division 293 and 296 tax liabilities

39 Subsection 146RB(1)

After “item 3”, insert “or 4”.

40 Subsection 146RB(1) (note)

After “Subdivision 133‑C”, insert “or 134‑C”.

41 Subsection 146RE(2) (definition of *reduced release authority lump sum)*

Repeal the definition, substitute:

***reduced release authority lump sum*** means:

(a) the amount of the release authority lump sum, reduced by the sum of each reduction made under a previous application of this section to a lump sum benefit to which the person is entitled; or

(b) if more than one release authority lump sum is paid in relation to release authorities issued to the person—the total amount of those release authority lump sums, reduced by the sum of each reduction made under an application of this section, before the last of those release authority lump sums is paid, to a lump sum benefit to which the person is entitled.

Superannuation Act 1990

42 Subsection 16(8A)

After “item 3”, insert “or 4”.

43 Subsection 16(8A) (note)

After “Subdivision 133‑C”, insert “or 134‑C”.

Taxation Administration Act 1953

44 Subsection 2(1)

Insert:

***Division 296 general interest charge rate*** has the meaning given by subsection 8AAD(1A).

45 Subsection 8AAB(4) (after table item 15B)

Insert:

|  |  |  |  |
| --- | --- | --- | --- |
| 16 | 296‑215 | *Income Tax Assessment Act 1997* | payment of Division 296 tax or shortfall interest charge |

46 Subsection 8AAB(4) (after table item 45C)

Insert:

|  |  |  |  |
| --- | --- | --- | --- |
| 45D | 134‑115 in Schedule 1 | *Taxation Administration Act 1953* | payment of Division 296 debt account discharge liability |

47 After subsection 8AAC(2)

Insert:

(2A) If the charge is payable under Division 296 of the *Income Tax Assessment Act 1997* on an amount that remains unpaid, then the charge is worked out by multiplying the Division 296 general interest charge rate for that day by the sum of so much of the following amounts as remains unpaid:

(a) the charge from previous days;

(b) the original unpaid amount.

48 Subsection 8AAC(3)

After “section 8AAZF”, insert “of this Act or Division 296 of the *Income Tax Assessment Act 1997*”.

49 Subsection 8AAC(4)

Omit “neither subsection (2) nor (3) applies”, substitute “none of subsections (2), (2A) and (3) apply”.

50 After subsection 8AAD(1)

Insert:

(1A) The ***Division 296 general interest charge rate*** for a day is the rate worked out by:

(a) adding 3 percentage points to the base interest rate for that day; and

(b) dividing that total by the number of days in the calendar year.

51 Section 131‑1 in Schedule 1

After:

(b) a notice of assessment of an amount of Division 293 tax; or

insert:

(ba) a notice of assessment of an amount of Division 296 tax; or

52 After paragraph 131‑5(1)(c) in Schedule 1

Insert:

(ca) a notice of assessment of an amount of \*Division 296 tax payable for the income year that corresponds to the financial year;

53 Paragraph 131‑10(1)(a) in Schedule 1

After “3”, insert “, 3A”.

54 Subsection 131‑10(1) in Schedule 1 (after table item 3)

Insert:

|  |  |  |
| --- | --- | --- |
| 3A | an assessment of an amount of \*Division 296 tax | that amount of Division 296 tax |

55 At the end of section 131‑15 in Schedule 1

Add:

Issuing if you have an unpaid amount of assessed Division 296 tax that is not deferred to a Division 296 debt account

(5) If:

(a) for an income year, you are given a notice of assessment of an amount of \*Division 296 tax that is not \*deferred to a Division 296 debt account for a \*superannuation interest; and

(b) on the 60th day after the day the Commissioner issues that notice, the sum of the following falls short of that amount of tax:

(i) any payments of that tax for the income year that you have already made;

(ii) any amounts that have already been released under this Subdivision for that assessment;

the Commissioner may issue a release authority to one or more \*superannuation providers that hold superannuation interests for you.

56 Subparagraph 131‑20(1)(b)(ii) in Schedule 1

Omit “or (4)”, substitute “, (4) or (5)”.

57 At the end of section 131‑65 in Schedule 1

Add:

Exception for voluntary payments of Division 296 tax debt account

(4) Also, if the amount paid in relation to the release authority relates to an amount of \*assessed Division 296 tax that is \*deferred to a Division 296 debt account for a \*superannuation interest:

(a) subsection (1) does not apply in relation to the payment; and

(b) treat the payment as if it were a voluntary payment under section 134‑70 in relation to that \*Division 296 debt account.

58 After Division 133 in Schedule 1

Insert:

Division 134—Division 296 tax

Table of Subdivisions

Guide to Division 134

134‑A Deferral determination

134‑B Division 296 debt account

134‑C Compulsory payment

Guide to Division 134

134‑1 What this Division is about

Payment of Division 296 tax is deferred to the extent to which the tax is attributable to defined benefit interests from which no superannuation benefit has yet become payable.

This reflects the fact that money generally cannot be released from defined benefit interests until a superannuation benefit is paid, usually upon retirement.

Subdivision 134‑A—Deferral determination

Guide to Subdivision 134‑A

134‑5 What this Subdivision is about

The Commissioner determines the amount of your tax that is deferred to a Division 296 debt account by working out the extent to which your assessed tax is attributable to defined benefit interests.

Table of sections

Operative provisions

134‑10 Determination of tax that is deferred to a Division 296 debt account

134‑15 Your defined benefit Division 296 tax

134‑20 How to attribute the defined benefit Division 296 tax to defined benefit interests

134‑25 Determination reducing tax deferred to a Division 296 debt account

134‑30 General provisions applying to determinations under this Subdivision

Operative provisions

134‑10 Determination of tax that is deferred to a Division 296 debt account

(1) The Commissioner must make a determination specifying the amount the Commissioner has ascertained as being the extent to which your \*assessed Division 296 tax for an income year is \*defined benefit Division 296 tax attributable to a \*superannuation interest.

Note 1: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

Note 2: For general provisions, including review, see section 134‑30.

(2) The amount of \*assessed Division 296 tax specified in the determination is ***deferred to a Division 296 debt account*** for the \*superannuation interest.

(3) However, the Commissioner must not make a determination under this section in relation to a \*superannuation interest if, at the time the determination is to be made, the \*Division 296 end benefit for the superannuation interest has become payable.

Note: For ***Division 296 end benefit***, see section 134‑130.

(4) Subsection (1) does not apply if the Commissioner ascertains that no part of your \*assessed Division 296 tax for an income year is \*defined benefit Division 296 tax attributable to a \*superannuation interest.

134‑15 Your defined benefit Division 296 tax

(1) Your ***defined benefit Division 296 tax*** for an income year is the amount worked out using the formula:



where:

***defined benefit interest value*** means:

(a) if, at the end of the year, you have \*defined benefit interests—the sum of the \*total superannuation balance values of those interests at the end of the year; or

(b) otherwise—nil.

(2) For the purposes of the formula in subsection (1), work out your \*total superannuation balance at the end of the year in the same way as you would work it out for the purposes of Division 296 of the *Income Tax Assessment Act 1997*.

Note: Section 296‑505 of the *Income Tax Assessment Act 1997* affects how you work out your total superannuation balance for the purposes of Division 296.

Exception—defined benefit interest value is nil

(3) However, if the defined benefit interest value mentioned in subsection (1) is nil, no part of the \*assessed Division 296 tax for the income year is ***defined benefit Division 296 tax***.

134‑20 How to attribute the defined benefit Division 296 tax to defined benefit interests

(1) If you have one \*defined benefit interest at the end of a \*financial year, your \*defined benefit Division 296 tax for the corresponding income year is attributable to that interest.

(2) If you have more than one \*defined benefit interest at the end of a \*financial year, your \*defined benefit Division 296 tax for the corresponding income year is attributable to each such interest in proportion to the \*total superannuation balance value of the interest at the end of the year.

134‑25 Determination reducing tax deferred to a Division 296 debt account

(1) If an amount of \*assessed Division 296 tax that is \*deferred to a Division 296 debt account for a \*superannuation interest is reduced as a result of an amended assessment, the Commissioner must make a determination under this section in respect of the reduced amount.

(2) The amount so determined is a ***Division 296 deferral reversal*** for the \*superannuation interest.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

134‑30 General provisions applying to determinations under this Subdivision

(1) The Commissioner must:

(a) make a determination as soon as practicable after:

(i) for a determination under section 134‑10—assessing the amount (whether by way of a first assessment or an amended assessment); or

(ii) for a determination under section 134‑25—amending the assessment; and

(b) give you notice in writing of the determination as soon as practicable after making it.

(2) The validity of the determination is not affected because any of the provisions of this Act have not been complied with.

Review

(3) If you are dissatisfied with a determination made under this Subdivision in relation to you, you may object against the determination in the manner set out in Part IVC.

(4) If you are dissatisfied with a decision of the Commissioner not to make a determination under this Subdivision:

(a) you may object against the decision in the manner set out in Part IVC; and

(b) for the purpose of working out the period within which the objection must be lodged, notice of the decision is taken to have been served on you on the day notice is given to you of:

(i) for a determination under section 134‑10—the assessment of the amount; or

(ii) for a determination under section 134‑25—the amended assessment.

Note: For the period within which objections must be lodged, see section 14ZW.

Subdivision 134‑B—Division 296 debt account

Guide to Subdivision 134‑B

134‑55 What this Subdivision is about

The Commissioner keeps Division 296 debt accounts for Division 296 tax that is deferred to a Division 296 debt account for a superannuation interest.

You can make voluntary payments of the Division 296 debt account.

Table of sections

Operative provisions

134‑60 Division 296 debt account to be kept for deferred Division 296 tax

134‑65 Interest on Division 296 debt account balance

134‑70 Voluntary payments

134‑75 Commissioner must notify superannuation provider of Division 296 debt account

Operative provisions

134‑60 Division 296 debt account to be kept for deferred Division 296 tax

Accounts to be kept

(1) The Commissioner is to keep a debt account (a ***Division 296 debt account***) for \*Division 296 tax for you for a \*superannuation interest, if an amount of your \*assessed Division 296 tax is \*deferred to a Division 296 debt account for the superannuation interest.

Account to be debited for Division 296 tax

(2) The Commissioner must debit the \*Division 296 debt account for the amount of \*assessed Division 296 tax that is \*deferred to a Division 296 debt account for the \*superannuation interest.

134‑65 Interest on Division 296 debt account balance

Interest to be debited at end of financial year

(1) If a \*Division 296 debt account for a \*superannuation interest is in debit at the end of a \*financial year, the Commissioner is to debit the account for interest on the amount by which the account is in debit, calculated at the \*long term bond rate for that financial year.

Note: Interest would not be debited to a Division 296 debt account that is no longer being kept by the Commissioner because the assessed Division 296 tax liability being tracked in the account has been finally discharged as mentioned in subsection 134‑105(3).

Remission of interest—Division 296 deferral reversal

(2) The Commissioner may remit the whole or any part of an amount of interest debited, or to be debited, from a \*Division 296 debt account under subsection (1) if:

(a) the Division 296 debt account is credited:

(i) under section 134‑70 because of a \*Division 296 deferral reversal; or

(ii) because a determination under section 134‑10 is varied or revoked; and

(b) the Commissioner is satisfied that, because of that credit, it would be fair and reasonable to do so.

Remission of interest—special circumstances

(3) The Commissioner may remit the whole or any part of an amount of interest debited, or to be debited, to a \*Division 296 debt account under subsection (1) if the Commissioner is satisfied that, because special circumstances exist, it would be fair and reasonable to do so.

134‑70 Voluntary payments

(1) You may make payments to the Commissioner for the purpose of reducing the amount by which a \*Division 296 debt account for a \*superannuation interest is in debit.

(2) The Commissioner is to:

(a) acknowledge receipt of the payment to you; and

(b) credit the payment to the \*Division 296 debt account; and

(c) notify you of the revised balance of the Division 296 debt account.

The credit mentioned in paragraph (b) is to be made when the payment is received.

(3) The amount of a \*Division 296 deferral reversal for the \*superannuation interest is to be treated as if it were a voluntary payment under this section in relation to the \*Division 296 debt account for that interest. However, paragraphs (2)(a) and (c) do not apply in relation to that amount.

134‑75 Commissioner must notify superannuation provider of Division 296 debt account

If the Commissioner starts to keep a \*Division 296 debt account for you for a \*superannuation interest, the Commissioner must give the \*superannuation provider in relation to the superannuation interest a notice saying so.

Subdivision 134‑C—Compulsory payment

Guide to Subdivision 134‑C

134‑100 What this Subdivision is about

The deferred Division 296 tax liability must be paid when a superannuation benefit becomes payable from the superannuation interest.

Table of sections

Division 296 debt account discharge liability

134‑105 Liability to pay Division 296 debt account discharge liability

134‑110 When Division 296 debt account discharge liability must be paid

134‑115 General interest charge

134‑120 Meaning of Division 296 debt account discharge liability

134‑125 Notice of Division 296 debt account discharge liability

Division 296 end benefit

134‑130 Meaning of Division 296 end benefit

134‑135 Superannuation provider may request Division 296 debt account status

134‑140 Division 296 end benefit notice—superannuation provider

134‑145 Division 296 end benefit notice—material changes or omissions

Division 296 debt account discharge liability

134‑105 Liability to pay Division 296 debt account discharge liability

(1) You are liable to pay the amount of your \*Division 296 debt account discharge liability for a \*superannuation interest if the \*Division 296 end benefit for the interest becomes payable.

(2) The liability arises:

(a) unless paragraph (b) applies—at the time the \*Division 296 end benefit becomes payable; or

(b) if the Division 296 end benefit is a \*superannuation death benefit—just before you die.

Note 1: For paragraph (a), a release authority allows money to be released from the superannuation plan to pay this amount: see subsection 135‑10(1).

Note 2: For paragraph (b), the debt will be recovered from your estate: see Subdivision 260‑E.

(3) Payment of your \*Division 296 debt account discharge liability for a \*superannuation interest discharges your liability for so much of your total \*assessed Division 296 tax for all income years as is \*deferred to a Division 296 debt account for the superannuation interest.

134‑110 When Division 296 debt account discharge liability must be paid

The amount of your \*Division 296 debt account discharge liability for a \*superannuation interest is due and payable at the end of 21 days after the day on which the \*Division 296 end benefit for the superannuation interest is paid.

134‑115 General interest charge

If your \*Division 296 debt account discharge liability remains unpaid after the time by which it is due and payable, you are liable to pay the \*general interest charge on the unpaid amount for each day in the period that:

(a) begins on the day on which the Division 296 debt account discharge liability was due to be paid; and

(b) ends on the last day on which, at the end of the day, any of the following remains unpaid:

(i) the Division 296 debt account discharge liability;

(ii) general interest charge on any of the Division 296 debt account discharge liability.

Note: The general interest charge is worked out under Part IIA. For the rate of general interest charge payable, see subsection 8AAC(3).

134‑120 Meaning of *Division 296 debt account discharge liability*

The ***Division 296 debt account discharge liability*** for a \*superannuation interest for which the Commissioner keeps a \*Division 296 debt account is the amount by which the Division 296 debt account is in debit at the time the \*Division 296 end benefit for the superannuation interest becomes payable.

134‑125 Notice of Division 296 debt account discharge liability

(1) The Commissioner must give you a notice under this section if the \*Division 296 end benefit becomes payable from a \*superannuation interest for which the Commissioner keeps a \*Division 296 debt account.

(2) The notice must state that you are liable to pay your \*Division 296 debt account discharge liability for the \*superannuation interest and specify:

(a) the amount of that debt; and

(b) the day on which that debt is due and payable.

(3) If you are dissatisfied with a notice given under this section in relation to you, you may object against it in the manner set out in Part IVC of this Act.

(4) However, you cannot object against a notice stating that the amount you are liable to pay is the amount by which the \*Division 296 debt account is in debit.

Division 296 end benefit

134‑130 Meaning of *Division 296 end benefit*

(1) A \*superannuation benefit is the ***Division 296 end benefit*** for a \*superannuation interest if it is the first superannuation benefit to become payable from the interest, disregarding a benefit that is any of the following:

(a) a \*roll‑over superannuation benefit paid to a \*complying superannuation plan that is a \*successor fund;

(b) a benefit that becomes payable under the condition of release specified in item 105 of the table in Schedule 1 to the *Superannuation Industry (Supervision) Regulations 1994* (about severe financial hardship);

(c) a benefit that becomes payable under the condition of release specified in item 107 of that table (about compassionate ground);

(d) a benefit specified in an instrument under subsection (2).

(2) The Minister may, by legislative instrument, specify a \*superannuation benefit for the purposes of paragraph (1)(d).

134‑135 Superannuation provider may request Division 296 debt account status

(1) If:

(a) a \*superannuation provider has been given a notice under section 134‑75 saying that the Commissioner has started to keep a \*Division 296 debt account for a \*superannuation interest; and

(b) the superannuation provider receives a request to pay the \*Division 296 end benefit from the superannuation interest or the Division 296 end benefit becomes payable from the superannuation interest;

the superannuation provider may, in the \*approved form, request the Commissioner to advise as to the status of the Division 296 debt account.

(2) If the Commissioner receives a request, the Commissioner must advise the \*superannuation provider as soon as practicablewhether or not the \*Division 296 debt account is in debit.

134‑140 Division 296 end benefit notice—superannuation provider

(1) If the \*Division 296 end benefit becomes payable from a \*superannuation interest for which the Commissioner keeps a \*Division 296 debt account, the \*superannuation provider in relation to the interest must give the Commissioner a notice stating the expected date of payment of the benefit.

Note: If a person is dissatisfied with a notice given to the Commissioner under this subsection, the person may make a complaint under the AFCA scheme (within the meaning of the *Corporations Act 2001*).

(2) The notice must be given within 14 days after the earlier of:

(a) the \*superannuation provider receiving a request (if any) to pay the \*superannuation benefit; and

(b) the superannuation benefit becoming payable.

(3) However, this section does not apply if the \*superannuation provider has not been given a notice under section 134‑75 saying that the Commissioner has started to keep a \*Division 296 debt account for the \*superannuation interest.

(4) A notice under this section must be given in the \*approved form.

134‑145 Division 296 end benefit notice—material changes or omissions

(1) If an entity that gives the Commissioner a notice under section 134‑140 becomes aware of a material change or material omission in any information given to the Commissioner in the notice, the entity must:

(a) tell the Commissioner of the change in the \*approved form; or

(b) give the omitted information to the Commissioner in the approved form.

(2) Information required by this section must be given no later than 7 days after the entity becomes aware of the change or omission.

59 Subsection 135‑10(1) in Schedule 1 (at the end of the table)

Add:

|  |  |  |  |
| --- | --- | --- | --- |
| 4 | You become liable to pay your \*Division 296 debt account discharge liability for a \*superannuation interest | The amount of your Division 296 debt account discharge liability | On the giving of the notice under section 134‑125 |

60 At the end of section 135‑40 in Schedule 1

Add:

(4) Also, a release authority issued under item 4 of the table in subsection 135‑10(1) (for Division 296 debt account discharge liability) may only be given to the \*superannuation provider that holds the \*superannuation interest to which the \*Division 296 debt account relates.

61 After section 135‑95 in Schedule 1

Insert:

135‑97 Defined benefit interests—releasing amounts to pay Division 296 debt account discharge liability

The exclusion of \*defined benefit interests from subsection 135‑75(4) and paragraph 135‑85(c) is to be disregarded for a release authority issued under item 4 of the table in subsection 135‑10(1) (about Division 296 debt account discharge liability).

62 After paragraph 155‑5(2)(f) in Schedule 1

Insert:

(fa) an amount of \*Division 296 tax payable for an income year in relation to an individual’s \*taxable superannuation earnings for the income year;

63 Subsection 155‑15(1) in Schedule 1 (note)

After “Division 293 tax,”, insert “Division 296 tax,”.

64 After paragraph 155‑30(3)(a) in Schedule 1

Insert:

(aa) the \*Division 296 tax payable by you in relation to an income year in relation to your \*taxable superannuation earnings for the income year;

65 Subsection 250‑10(2) in Schedule 1 (after table item 37AC)

Insert:

|  |  |  |  |
| --- | --- | --- | --- |
| 37AD | shortfall interest charge on Division 296 tax | 5‑10 | *Income Tax Assessment Act 1997* |

66 Subsection 250‑10(2) in Schedule 1 (after table item 38BB)

Insert:

|  |  |  |  |
| --- | --- | --- | --- |
| 38BBA | Division 296 tax | 296‑205 and 296‑210 | *Income Tax Assessment Act 1997* |

67 Subsection 250‑10(2) in Schedule 1 (after table item 136A)

Insert:

|  |  |  |  |
| --- | --- | --- | --- |
| 136B | Division 296 debt account discharge liability | 134‑105 in Schedule 1 | *Taxation Administration Act 1953* |

68 Section 280‑1 in Schedule 1

After “Division 293 tax,”, insert “Division 296 tax,”.

69 Section 280‑50 in Schedule 1

After “\*Division 293 tax,”, insert “\*Division 296 tax,”.

70 After section 280‑102B in Schedule 1

Insert:

280‑102BA Liability to shortfall interest charge—Division 296 tax

(1) You are liable to pay \*shortfall interest charge on an additional amount of \*Division 296 tax that you are liable to pay because the Commissioner amends your assessment of an amount of Division 296 tax payable in relation to an income year.

(2) However, subsection (1) does not apply to the extent the additional amount of \*Division 296 tax is \*deferred to a Division 296 debt account for a \*superannuation interest.

(3) The liability is for each day in the period:

(a) beginning on the day on which \*Division 296 tax under your first assessment of Division 296 tax for that income year was due to be paid; and

(b) ending on the day before the day on which the Commissioner gave you notice of the amended assessment.

(4) However, if an amended assessment reinstates all or part of a liability in relation to a particular that had been reduced by an earlier amended assessment, the period for the reinstated liability begins at the start of the day on which \*Division 296 tax under the earlier amended assessment was due to be paid.

Note 1: See section 5‑10 of the *Income Tax Assessment Act 1997* for when the amount of shortfall interest charge becomes due and payable.

Note 2: See Subdivision 296‑D of that Act for when the amount of assessed Division 296 tax becomes due and payable. That Subdivision also provides for general interest charge on any part of the additional amount (plus any shortfall interest charge) that remains unpaid after the additional amount is due and payable.

71 Paragraph 280‑105(1)(a) in Schedule 1

Omit “or \*Division 293 tax,”, substitute “, \*Division 293 tax or \*Division 296 tax”.

72 Subsection 280‑110(1) in Schedule 1

After “280‑102B”, insert “, 280‑102BA”.

73 Section 280‑170 in Schedule 1

Omit “or \*Division 293 tax”, substitute “, \*Division 293 tax or \*Division 296 tax”.

Schedule 2—Definition of total superannuation balance

Income Tax Assessment Act 1997

1 Subsection 307‑205(1)

Omit “(1)”.

2 Subsection 307‑205(2)

Repeal the subsection.

3 Paragraphs 307‑230(1)(a) and (b)

Repeal the paragraphs, substitute:

(a) the \*total superannuation balance value, at that time, of each of the following \*superannuation interests (other than an interest in a \*superannuation plan that, at that time, is a \*foreign superannuation fund):

(i) a superannuation interest of yours;

(ii) a superannuation interest that supports a \*superannuation income stream of which you are a \*retirement phase recipient because of the death of another person;

4 Subparagraph 307‑230(1)(c)(iii)

Omit “or the balance in paragraph (b)”.

5 Subsections 307‑230(2) to (4)

Repeal the subsections, substitute:

Modification for structured settlement contributions

(2) However, if a \*structured settlement contribution is made at or before a time in respect of you, your ***total superannuation balance*** at that time is modified by reducing the sum worked out under subsection (1) by the sum of any such structured settlement contributions.

6 After section 307‑230

Insert:

307‑230A Total superannuation balance value

(1) The ***total superannuation balance value***, at a particular time, of a \*superannuation interest is:

(a) if the regulations specify a value, or a method for determining a value, for the purposes of this paragraph—the specified value, or the value determined in accordance with the specified method; or

(b) otherwise—the total amount of the \*superannuation benefits that would become payable if:

(i) the individual to whom the superannuation interest relates had the right to cause the superannuation interest to cease at that time; and

(ii) the individual voluntarily caused the superannuation interest to cease at that time.

(2) Regulations made for the purposes of paragraph (1)(a) may specify a value or method in different ways depending on any of the following matters:

(a) the individual to whom the \*superannuation interest relates;

(b) whether the superannuation interest is in the \*retirement phase;

(c) whether the superannuation interest is a \*defined benefit interest;

(d) the \*superannuation income stream (if any) supported by the superannuation interest;

(e) the \*superannuation plan in which the superannuation interest exists;

(f) the \*superannuation provider in relation to the superannuation plan;

(g) any other matter.

(3) Regulations made for the purposes of paragraph (1)(a) may provide for a value to be determined wholly or partly by reference to methods or factors that are approved by legislative instrument by the Minister for the purposes of the regulations.

(4) Regulations made for the purposes of paragraph (1)(a) may specify circumstances in which a \*total superannuation balance value is nil.

(5) Subsections (2), (3) and (4) do not limit the regulations that may be made for the purposes of paragraph (1)(a).

7 Subsection 995‑1(1) (definition of *accumulation phase value*)

Repeal the definition.

8 Subsection 995‑1(1)

Insert:

***total superannuation balance value*** has the meaning given by section 307‑230A.

9 Subsection 995‑1(1) (paragraph (d) of the definition of *value*)

Omit “subsection 307‑205(1)”, substitute “section 307‑205”.

10 Application of amendments

The amendments of sections 307‑205 and 307‑230 of the *Income Tax Assessment Act 1997* made by this Schedule apply in relation to working out what your total superannuation balance is at a particular time if that time occurs:

(a) just before 1 July 2025; or

(b) on or after 1 July 2025.

Schedule 3—Other amendments

Income Tax Assessment Act 1997

1 Subsection 293‑65(2) (note 3)

Omit “Division 135”, substitute “Division 131”.

2 At the end of Division 293

Add:

Subdivision 293‑H—Other provisions

Guide to Subdivision 293‑H

293‑245 What this Subdivision is about

This Division has effect despite subsection 73(3A) of the *Australian Capital Territory (Self‑Government) Act 1988*.

Table of sections

Operative provisions

293‑250 Interaction with the Australian Capital Territory (Self‑Government) Act 1988

Operative provisions

293‑250 Interaction with the *Australian Capital Territory (Self‑Government) Act 1988*

This Division has effect despite subsection 73(3A) of the *Australian Capital Territory (Self‑Government) Act 1988*.

Note: That subsection relates to the remuneration of judges and magistrates of the Australian Capital Territory.

3 Subsection 294‑80(1) (table item 4)

Omit “payment split”, substitute “\*payment split”.