Proposed Division 296 tax: Key issues and implications

The proposed Division 296 tax, which is proposed to start on 1 July 2025, introduces an extra 15% tax on superannuation earnings above a $3 million super threshold. Everyone supports a fair and sustainable superannuation system, but the new tax is unpopular for many reasons.

Two big reasons people don't like the new tax is that the:

» Tax will apply on asset growth even if the asset hasn't been sold

» $3 million dollar threshold will not be adjusted with inflation

Let's look at how the tax will apply on asset growth. The new 15% tax will apply on your super fund 'earnings' on the proportion of your super balance that exceeds $3 million. You might think that earnings are simply the profits you have made or locked in but that is not the case when it comes to this tax. Instead, earnings are based on how much your super balance has increased over the year. This includes 'paper gains' or increases in the value of assets not yet sold. This is a problem because your assets might be higher this year but may be lower when you sell them. In that case you have paid tax on 'unrealised' growth even though you didn't make a profit. In fact you may subsequently sell the asset for a loss.

Another problem with taxing asset growth before the asset is sold is that you or your fund may not have the cash to pay the tax. In that case it is likely that you will be forced to sell an asset you were not planning to sell just to pay the new tax.

Only 'earnings' attributable to assets over $3 million are subject to the additional 15% tax. The threshold might sound high but with inflation the threshold in today's dollar value will fall. A young person entering the workforce today can expect to pay Division 296 in the future unless this threshold is adjusted for inflation.

Keep in mind that this new tax has not yet been legislated and it may be premature to withdraw money from super to avoid the tax.

If you are concerned about how Division 296 tax may impact your retirement savings give us a call and we can help you understand its implications and explore strategies to optimise your superannuation.