

Division 296 tax revisited

Big news for anyone with a large super balance – the government has gone back to the drawing board on the controversial Division 296 tax, and the changes are a big step toward fairness and common sense.



A quick recap

When the Division 296 tax was first announced in 2023, it caused an uproar. The main problem? It would have taxed unrealised gains, that is, paper profits you haven't actually made yet and set a \$3 million threshold that wasn't indexed meaning it wouldn't rise with inflation.

After a wave of feedback from the industry, the government has listened. The Treasurer's new announcement, made in October 2025, fixes some of the biggest issues. The revamped version is designed to be fairer, simpler, and more in line with how tax usually works.

The plan is to start the new system from 1 July 2026, with the first tax bills expected in 2027–28.

What's changing

Here's what's new under the revised Division 296 tax:

- » Only real earnings will be taxed. No more tax on unrealised gains as you'll only pay on earnings you've actually made.
- » Super funds will work out members' real earnings and report this to the ATO.
- » The \$3 million threshold will be indexed to inflation in \$150,000 increments, keeping pace with rising costs.

- » A new \$10 million threshold will be introduced. Earnings above that will be taxed at a higher rate of 40%, and that threshold will also rise with inflation.
- » The start date is pushed back to 1 July 2026, giving everyone more time to prepare.
- » Defined benefit pensions are included, so all types of super funds are treated the same.

So what does this mean in practice? Think of it as a tiered tax system:

- » Up to \$3 million – normal super tax of 15%.
- » Between \$3 million and \$10 million – taxed at 30%.
- » Over \$10 million – taxed at 40%.

Basically, the more you have in super, the higher the tax rate on your earnings above those thresholds.

How it will work

Super funds will continue reporting members' balances to the ATO, which will figure out who's over the \$3 million mark. If you are, your fund will tell the ATO your actual earnings (not paper gains). The ATO will then calculate how much extra tax you owe.

We don't yet have the fine print on what exactly counts as "realised earnings," but it's likely to mean profits you've actually made, similar to how taxable income is treated now.

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This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation or needs.

Home Equity Access Scheme... cont

You can also nominate an amount to exclude from your property value if you want to preserve equity and leave something for your family.

WHAT ABOUT INTEREST AND REPAYMENT?

The current interest rate is currently 3.95% per annum (compounding fortnightly). The loan does not need to be repaid until:

- » You sell the property.
- » You pass away.
- » You choose to repay early.

When the loan ends, your estate or surviving partner will repay the debt. The scheme's "No Negative Equity Guarantee" ensures that you'll never owe more than your home is worth.

KEY BENEFITS

- » No regular repayments required during your lifetime.
- » You remain the owner of your home.
- » Flexibility to adjust or stop payments.
- » Peace of mind through the No Negative Equity Guarantee.

THINGS TO CONSIDER

Before applying, think about:

- » How much of your home equity you're willing to give up.
- » The long-term impact on your estate and inheritance.
- » Alternative options like downsizing or private loans.
- » Making sure your property stays well maintained and insured.

FINAL WORD

HEAS can be a smart way to boost your retirement income while staying in your home. But it's a long-term decision. If you would like to know more, give us a call so we can weigh your options carefully to make sure it suits your lifestyle and future plans. 💰

Division 296 tax revisited... cont

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What's still up in the air

While these updates make the system much fairer, there are still a few unanswered questions:

- » **What exactly counts as "earnings"?** Will it only include profits made after 1 July 2026, or could older gains that are sold later be included too?
- » **What happens with capital gains?** Super funds usually get a one-third discount on capital gains for assets held over a year, but it's unclear whether that will still apply.
- » **How will pension-phase income be handled?** Some super income is tax-free when you're in the pension phase, and we don't yet know how that will interact with the new rules.
- » **Can people with over \$10 million move money out?** If your earnings above \$10 million are taxed at 40%, you might want to shift funds elsewhere but the government hasn't said if that'll be allowed.

What it means for you

If your super balance is over \$10 million, the proposed rules mean that a portion of your superannuation earnings could attract a higher tax rate of up to 40%.

For people with between \$3 million and \$10 million, the new system could also change how much tax applies to their super earnings, depending on how the final legislation defines "realised gains."

But don't rush. These rules aren't law yet, and if you take your super out, it's hard to put it back because of contribution limits. It's best to wait for the final legislation and get professional advice before making any decision to withdraw benefits from super. 💰

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