KnowHow

Government’s proposed changes to the taxation of super

1 April 2023

The Government has announced its intention to change to tax concessions on certain superannuation accounts if you have a total super balance of more than $3 million. While it is important to understand that this is just a proposal at this time, we understand that you may have some questions about whether this proposal could apply to you.

Note: At this stage, the measure is a proposal only and has not been made law. The information included below is based on the announcement made by the Government, a **Factsheet** and a consultation paper released by Treasury on 31 March 2023. It is necessary to wait until the measure is legislated as some of the details relating to this proposal may change.

What is proposed to change?

Currently, tax on investment earnings within the accumulation phase of superannuation is at a maximum rate of 15%. It is proposed that for individuals with a ‘total super balance’ (TSB) that exceeds $3 million, additional tax of 15% will apply on a portion of account earnings.

If your total super balance is less than $3 million, this change will not impact you, and investment earnings on your accumulation balance will continue to be taxed at the maximum rate of 15%.

For more information about these accounts and the separate limit called the ‘transfer balance cap’ that applies to these types of accounts, see **ato.gov.au.**

What is ‘total super balance?’

Generally, your TSB is the sum of all amounts you have in the superannuation system (certain exceptions apply*). At a high level, it includes:

- your accumulation account balances
- your superannuation pension accounts, and
- the outstanding balance of a Limited Recourse Borrowing Arrangement (if you have a self- managed super fund which has borrowed to invest), in certain circumstances.

* Exceptions and modifications may apply, for example if you’ve made a personal injury contribution to super. The Government has indicated that to avoid unintended consequences, amounts included in TSB for this purpose may be amended. Calculating TSB can be complex, so it is important to seek advice.

There are a few ways you can track your TSB. A useful source of information is your myGov account. Other options include contacting your superannuation funds and looking at your fund’s statements and records. When reviewing your annual statement, the TSB figure your fund reports to the ATO is usually referred to as ‘exit value’ or ‘withdrawal benefit’. This may be different to the 30 June ‘closing balance’

When will this change start?

At the moment, this is a proposal only. Based on the information released by the Government, it is currently intended that this change will commence on 1 July 2025. The first notices for the additional tax liability will be sent in the 2026/27 financial year. Legislation will need to pass to implement the proposal and some of the details about the proposal may change.

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How will earnings on my account be determined and any tax liability calculated?

Actual account earnings will not be used to calculate additional tax payable. A simplified method has been proposed to calculate fund earnings and any resulting tax liability. Broadly, this looks at your TSB at the beginning and end of the relevant financial year, adjusted for any contributions (net of contributions tax) and withdrawals that you've made during the year.

If instead you're assessed as having a loss for the year, it has been proposed that you'll be able to carry this loss forward to a future year, to offset a tax liability you may have in the future under this proposed regime.

More detail about this formula and some worked examples can be found in the consultation paper **'Better Targeted Superannuation Concessions.'**

How will the additional tax be paid, and will I need to report my balances to the ATO?

The ATO will use data provided by superannuation funds to work out who is liable for the additional tax and will calculate the amount of tax payable. It is expected that the ATO will issue tax notices when the time comes, separate to personal income tax.

Can I withdraw any of my superannuation to reduce my balance below $3 million?

Unless you've met a 'condition of release' you won't be able to withdraw any amounts from super above this threshold to prevent the additional tax. Super law limits the conditions under which you can access your funds. Generally, this is limited to when you reach age 65, meet the definition of retirement, and in certain other limited circumstances when you're in financial hardship. For more information about conditions of release, see **ato.gov.au.**

What if I have more than one fund?

As explained above, TSB takes into account the sum of all of your superannuation interests, including all of your accumulation accounts and superannuation income streams. The $3 million threshold also considers the total of all your savings within the super system and will combine all balances.

How will the additional tax be paid?

The Government has indicated that the excess tax can be paid:

- directly by you to the ATO, or
- by making an election to release the funds from super.

If you hold multiple funds, you can elect the fund from which the tax is paid.

I have a defined benefit fund. Will this apply to me?

Yes. The Government intends to include defined benefit funds and constitutionally protected funds (CPFs) in the measure. However, because defined benefit funds and CPFs operate differently to other types of super funds such as public offer funds and self-managed super funds (SMSFs), the Government has sought feedback via the consultation paper as to how the measure can apply to these types of super funds.

I have an SMSF. Will this apply to me?

Yes. There is no exemption for SMSFs. The $3 million threshold applies per individual, which means that if, for example the total value of your SMSF is $8 million, but each of the four members has an account balance of $2 million, the additional taxation will not apply.

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Should I make any changes now to my retirement savings strategy and is superannuation still worthwhile?

At this time, it is best to be aware of the possible change, await the final legislation and detail before considering the best option for your circumstances. It is important to understand that the most appropriate option can be different for everyone and may even change as your personal circumstances change.

For many people with super savings above $3 million, superannuation may still offer concessional tax rates on earnings when compared to your marginal rate of tax, which could be as high as 47%.

There are other potential benefits to superannuation, aside from what for many is a concessional rate of tax on earnings.

Please contact your financial adviser if you’d like more information about how this proposal could apply to you if it does become law, and to ensure the strategies you put in place are right for you.