DIVISION 296 WEBINAR Q&A

17 June 2025

Question: Do they take a notional tax off contributions to an Untaxed Fund for this calculation?

Answer: We don't believe so

Question: So, there is no accounting for time weighted or money weighted rate of return in the formulae?

Answer: That is correct. The calculation of Div 296 tax is based on the TSB at the previous 30 June, the TSB at the end of the current financial year, adjusted for withdrawals and contributions. Withdrawals and contributions are not time or money weighted.

Question: How are we going to track the losses. Are they thinking of MyGov again?

Answer: We anticipate that losses will be recorded on MyGov as with other ATO amounts

Question: Practically, how would someone get a valuation on a property/land etc.? By when? That could cost $4-5k alone. Forget the tax, what about valuation costs every year!

Answer: SMSF trustee are required to value their fund's asset at market value at least annually. While SMSFs with real property are not required to obtain a qualified independent valuation, the valuation must be carried by a person with the necessary skills and expertise to value property. This is an existing requirement. Details on valuation requirements for SMSFs can be found here: Guide to valuing SMSF assets | Australian Taxation Office

Question: So, if partner passes and it is reversionary when does it count towards $3m?

Answer: Yes. When a member of a superannuation fund passes away and their benefit is paid as a death benefit or reversionary pension to an eligible beneficiary (e.g. surviving spouse) the benefit is counted towards the beneficiary's total superannuation balance.

Question: With defined benefit that is untaxed do they take this into consideration for the actual balance

Answer: Members of defined benefit superannuation funds will generally have the benefit they are entitled to if they voluntarily left the fund on 30 June, included in their total superannuation balance. This balance will be included for the purpose of determining any liability for Div 296 tax.

Question: For Defined Benefit pensions being paid, is this still going to be 16 times the income for a balance and is this calculated on the latest pension payment statement amount for each year?

Answer: The Bill originally tabled included a proposal that the total superannuation balance of all defined benefit pension would need to be revalued annually. When defined benefit pension commence to be paid, the special value (16 times the first years annualised pension income) is locked in for the life of the pension. As the capital value of a defined benefit pension declines over time, revising the value of the pension on an annual basis should generally be favourable for the income recipient.

Question: For a DBF member who dies and is bankrupt who pays the tax? Is Anthony Albanese's super exempt and if so why?

Answer: Where a a member of a defined benefit has accrued a Div 296 debit, I understand it will be deducted from any death benefit that becomes payable. Superannuation benefits are generally excluded being distributed amongst creditors. There are conflicting reports around whether members of the Parliamentary Contributory Superannuation Scheme (open only to parliamentarians that entered Parliament before October 2004) would be subject to Division 296 tax. For further information, see: Bragg casts doubt on pollies being included in $3m super tax - ifa

Question: I have heard that some accountants are recommending that clients get valuation of illiquid assets now and that those valuations are favourable to the client. What is the ATO's view on this?

Answer: As mentioned in an earlier response, trustees of superannuation funds have an obligation to value assets at market value at least annually. This includes real property, listed and unlisted securities etc. Illiquid assets would be subject to the same requirement. As this is an ongoing obligation, illiquid assets should already be being valued at market value.

Suggestions

1. Love to see a seminar on DBF's and its impact on clients
2. It would be great to get the info on the comparisons of withdrawing from super and investing in the other tax structures
3. Can we have some case studies with alternatives outside super?
4. Break even case studies with much higher TSB

Prepared by Peter Kelly
National Technical Manager
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