

# EXPOSURE DRAFT

2022-2023

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

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**

**EXPOSURE DRAFT**



# EXPOSURE DRAFT

---

## Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedules.....	2
<b>Schedule 1—Better targeted superannuation concessions</b>		<b>3</b>
	<i>Corporations Act 2001</i>	3
	<i>Defence Force Retirement and Death Benefits Act 1973</i>	3
	<i>Governor-General Act 1974</i>	4
	<i>Income Tax Assessment Act 1997</i>	5
	<i>Income Tax (Transitional Provisions) Act 1997</i>	28
	<i>Judges’ Pensions Act 1968</i>	28
	<i>Parliamentary Contributory Superannuation Act 1948</i>	30
	<i>Superannuation Act 1976</i>	31
	<i>Superannuation Act 1990</i>	32
	<i>Taxation Administration Act 1953</i>	32
<b>Schedule 2—Definition of total superannuation balance</b>		<b>51</b>
	<i>Income Tax Assessment Act 1997</i>	51
<b>Schedule 3—Other amendments</b>		<b>54</b>
	<i>Income Tax Assessment Act 1997</i>	54



# EXPOSURE DRAFT

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

3     The Parliament of Australia enacts:

4     **1 Short title**

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

7     **2 Commencement**

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

---

No.     , 2023

*Treasury Laws Amendment (Better Targeted Superannuation*  
*Concessions) Bill 2023*

1

EXPOSURE DRAFT

# EXPOSURE DRAFT

1

---

## 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 <i>Superannuation (Better Targeted Superannuation Concessions) Imposition Act 2023</i> 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.	
----------------------	--	--

---

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

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

## 3 Schedules

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

---

2

*Treasury Laws Amendment (Better Targeted Superannuation  
Concessions) Bill 2023*

No. , 2023

# EXPOSURE DRAFT

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1 **Schedule 1—Better targeted superannuation**  
2 **concessions**  
3

4 *Corporations Act 2001*

5 **1 After paragraph 1053(2)(c)**

6 Insert:  
7 (ca) subsection 134-140(1) in that Schedule; or

8 *Defence Force Retirement and Death Benefits Act 1973*

9 **2 Part VIB (heading)**

10 Repeal the heading, substitute:

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

13 **3 Section 49K**

14 After “item 3”, insert “or 4”.

15 **4 Section 49K (note)**

16 After “Subdivision 133-C”, insert “or 134-C”.

17 **5 Paragraph 49M(1)(a)**

18 After “item 3”, insert “or 4”.

19 **6 At the end of section 49N**

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

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1 ***Governor-General Act 1974***

2 **7 Subsection 2A(2)**

3 Insert:

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

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

8 **8 Section 4BA (heading)**

9 Repeal the heading, substitute:

10 **4BA Release of money to meet deferred Division 293 or 296 tax**  
11 **liability**

12 **9 Subsection 4BA(1)**

13 After “item 3”, insert “or 4”.

14 **10 Subsection 4BA(1) (note)**

15 After “Subdivision 133-C”, insert “or 134-C”.

16 **11 Subsection 4BA(2)**

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

19 **12 At the end of section 4BA**

20 Add:

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



# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1 ***Income Tax Assessment Act 1997***

2 **13 Section 12-5 (after section headed “superannuation—**  
3 **deductibility of contributions”)**

4 Insert:

5 **superannuation—Division 296 tax**  
no deduction for 26-99A

6 **14 After section 26-99**

7 Insert:

8 **26-99A Division 296 tax cannot be deducted**

9 You cannot deduct under this Act any of the following:

- 10 (a) an amount of \*Division 296 tax that you pay;
- 11 (b) an amount of \*Division 296 debt account discharge liability
- 12 that you pay.

13 **15 After Division 295**

14 Insert:

15 **Division 296—Better targeted superannuation concessions**

16 **Table of Subdivisions**

17		Guide to Division 296
18	296-A	Object of this Division
19	296-B	Better targeted superannuation concessions
20	296-C	Transferrable negative superannuation earnings
21	296-D	When tax is payable
22	296-E	Exclusion of certain earnings
23	296-F	Modifications for temporary residents who depart Australia
24	296-G	Other provisions

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1 **Guide to Division 296**

2 **296-1 What this Division is about**

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

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

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

13 **Subdivision 296-A—Object of this Division**

14 **Table of sections**

15 **Operative provisions**  
16 296-5 Object of this Division

17 **Operative provisions**

18 **296-5 Object of this Division**

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

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1 **Subdivision 296-B—Better targeted superannuation**  
2 **concessions**

3 **Guide to Subdivision 296-B**

4 **296-10 What this Subdivision is about**

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

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

13 Note: Negative earnings from previous years are dealt with by  
14 Subdivision 296-C.

15 **Table of sections**

16 **Liability for tax**

17	296-15	Liability for tax
18	296-20	Exception—child recipients of superannuation income streams
19	296-25	Exception—structured settlement contributions
20	296-30	Exception—death

21 **Taxable superannuation earnings, superannuation earnings and adjusted**  
22 **total superannuation balance**

23	296-35	Your taxable superannuation earnings
24	296-40	Your superannuation earnings and basic superannuation earnings
25	296-45	Your adjusted total superannuation balance
26	296-50	Your adjusted total superannuation balance—your withdrawals total
27	296-55	Your adjusted total superannuation balance—your contributions total
28	296-60	Modifications

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1 **Liability for tax**

2 **296-15 Liability for tax**

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

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

8 **296-20 Exception—child recipients of superannuation income**  
9 **streams**

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

13 **296-25 Exception—structured settlement contributions**

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

17 **296-30 Exception—death**

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

20 **Taxable superannuation earnings, superannuation earnings**  
21 **and adjusted total superannuation balance**

22 **296-35 Your taxable superannuation earnings**

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

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

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

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

3 The percentage worked out under subsections (2) and (3)  $\times$   $\frac{\text{The amount of your *superannuation earnings for the year}}{\text{Your *total superannuation balance at the end of the year}}$

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

7 
$$\frac{\text{Your *total superannuation balance at the end of the year} - \text{The *large superannuation balance threshold}}{\text{Your *total superannuation balance at the end of the year}} \times 100$$

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

## 11 **296-40 Your superannuation earnings and basic superannuation** 12 **earnings**

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

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

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

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

22 
$$\frac{\text{Current adjusted total superannuation balance} - \text{Previous total superannuation balance}}{\text{Current adjusted total superannuation balance}}$$

23 where:

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

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

28 (b) the \*large superannuation balance threshold.

---

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

- 1                    *previous total superannuation balance* means the greater of:  
2                    (a) your \*total superannuation balance just before the start of the  
3                    year; and  
4                    (b) the \*large superannuation balance threshold.

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

### 7                    **296-45 Your adjusted total superannuation balance**

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

10                    Your \*total                    Your                    Your  
                         superannuation balance + withdrawals total – contributions total  
                         at the end of the year                    for the year                    for the year

11                    where:

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

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

### 16                    **296-50 Your adjusted total superannuation balance—your** 17                    **withdrawals total**

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

- 22                    (a) the amount of a \*superannuation benefit paid from a  
23                    \*superannuation interest of yours during the year;  
24                    (b) the amount of a \*contributions-splitting superannuation  
25                    benefit rolled-over, transferred or allotted for the benefit of  
26                    another person during the year from a superannuation interest  
27                    of yours;  
28                    (c) the amount of a \*family law superannuation payment made to  
29                    another person during the year because a superannuation  
30                    interest of yours is subject to a \*payment split;

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

- 1 (d) the amount of a \*superannuation death benefit paid from a  
2 \*superannuation income stream during the year if, when the  
3 benefit is paid, you are a \*retirement phase recipient of the  
4 superannuation income stream because of the death of  
5 another person;
- 6 (e) the amount of a payment made during the year by a  
7 \*superannuation provider:
- 8 (i) from a superannuation interest of yours; and  
9 (ii) in relation to a release authority issued under  
10 Division 131 or 135 in Schedule 1 to the *Taxation*  
11 *Administration Act 1953*, other than a release authority  
12 that relates to a \*first home saver determination;
- 13 (f) if you have an \*assessable FHSS released amount for the  
14 year—the amount worked out under subsection (2) of this  
15 section for the year;
- 16 (g) if:
- 17 (i) a \*roll-over superannuation benefit is paid from a  
18 superannuation interest of yours during the year; and  
19 (ii) the benefit consists, to any extent, of an \*element  
20 untaxed in the fund;
- 21 the amount worked out under subsection (3) in relation to the  
22 benefit;
- 23 (h) an amount prescribed by the regulations for the purposes of  
24 this paragraph in relation to the year.

25 *FHSS released amounts*

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

28 
$$\text{Your *assessable FHSS released amount for the year} \times \frac{\text{Your *FHSS releaseable contributions amount}}{\text{Your *FHSS maximum release amount}}$$

29 *Excess untaxed roll-over amounts*

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

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1 
$$\left( 0.15 \times \begin{array}{l} \text{The amount of the *element} \\ \text{untaxed in the fund} \end{array} \right) + \text{Withheld amount}$$

2 where:

3 **withheld amount** means:

4 (a) if:

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

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

10 the amount withheld; or

11 (b) otherwise—nil.

### 12 *Exclusions*

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

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

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

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

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

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

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

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

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



# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1 *Avoidance of double-counting*

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

6 *Exclusion of interests in foreign superannuation funds*

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

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

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

16 **296-55 Your adjusted total superannuation balance—your**  
17 **contributions total**

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

- 22 (a) the amount of a contribution made to a \*superannuation plan  
23 for you during the year (see subsection (2));
- 24 (b) the amount of a \*contributions-splitting superannuation  
25 benefit rolled over, transferred or allotted to a superannuation  
26 plan for your benefit during the year;
- 27 (c) the amount of a \*family law superannuation payment that:  
28 (i) is made for your benefit during the year; and  
29 (ii) is a transfer or roll-over to a superannuation plan; and  
30 (ii) is made because a \*superannuation interest of another  
31 person is subject to a \*payment split;
- 32 (d) the \*total superannuation balance value, on a day during the  
33 year on which you start to be a \*retirement phase recipient of

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

- 1 a \*superannuation income stream benefit because of the death  
2 of another person, of the superannuation interest in a  
3 superannuation plan that supports the superannuation income  
4 stream;
- 5 (e) the amount of a benefit that:
- 6 (i) is paid to a superannuation plan for your benefit during  
7 the year under an insurance policy other than a  
8 \*continuous disability policy; and
- 9 (ii) is payable because of the death or total and permanent  
10 disability of the insured person, or because of the  
11 happening of a contingency dependent on the  
12 termination of the life of the person;
- 13 (f) an amount allocated by the \*superannuation provider of a  
14 \*complying superannuation plan for you for the year in  
15 accordance with conditions specified by the regulations for  
16 the purposes of subsection 291-25(3);
- 17 (g) an amount transferred to a superannuation plan from a  
18 \*foreign superannuation fund for your benefit during the  
19 year;
- 20 (h) the amount by which the total superannuation balance value  
21 of a superannuation interest of yours in a superannuation plan  
22 is increased during the year as a result of:
- 23 (i) a payment for compensation for a loss suffered as a  
24 result of fraud or dishonesty; or
- 25 (ii) a remediation payment;
- 26 (i) an amount prescribed by the regulations for the purposes of  
27 this paragraph in relation to the year.

### 28 *Concessional contributions*

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

33  $0.85 \times$  The amount of the \*concessional contribution

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1

## *Exclusions—general*

2

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

3

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

4

5

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

6

7

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

8

9

## *Avoidance of double-counting*

10

(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.

11

12

13

14

## *Exclusion of foreign superannuation funds*

15

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

16

17

## **296-60 Modifications**

18

(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.

19

20

21

(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:

22

23

24

(a) the individual to whom the modification relates;

25

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

26

27

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

28

29

(d) a \*superannuation income stream;

30

(e) a \*superannuation plan;

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

- 1 (f) the \*superannuation provider in relation to a superannuation  
2 plan;  
3 (g) any other matter.
- 4 (3) Regulations made for the purposes of subsection (1) may specify  
5 circumstances in which your withdrawals total or your  
6 contributions total is nil.
- 7 (4) Subsections (2) and (3) do not limit the regulations that may be  
8 made for the purposes of subsection (1).

### 9 **Subdivision 296-C—Transferrable negative superannuation** 10 **earnings**

#### 11 **Guide to Subdivision 296-C**

#### 12 **296-100 What this Subdivision is about**

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

#### 15 **Table of sections**

##### 16 **Operative provisions**

- 17 296-105 Your transferrable negative superannuation earnings and unapplied  
18 transferrable negative superannuation earnings  
19 296-110 Applying transferrable negative superannuation earnings

#### 20 **Operative provisions**

#### 21 **296-105 Your transferrable negative superannuation earnings and** 22 **unapplied transferrable negative superannuation** 23 **earnings**

- 24 (1) You have *transferrable negative superannuation earnings* for an  
25 income year if:  
26 (a) the amount of your \*superannuation earnings for the year is  
27 less than nil; and

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

- 1 (b) your \*total superannuation balance just before the start of the  
2 year is greater than the \*large superannuation balance  
3 threshold.
- 4 (2) Subject to subsection (3), you have ***unapplied transferrable***  
5 ***negative superannuation earnings*** for an income year (the ***current***  
6 ***year***) of an amount equal to the amount (expressed as a positive  
7 amount) of your \*superannuation earnings for the last income year  
8 (the ***last negative year***) that:
- 9 (a) occurred before the current year; and  
10 (b) for which you have \*transferrable negative superannuation  
11 earnings.
- 12 (3) However, you do not have ***unapplied transferrable negative***  
13 ***superannuation earnings*** for the current year if:
- 14 (a) you do not have \*transferrable negative superannuation  
15 earnings for any income year occurring before the current  
16 year; or  
17 (b) after the last negative year, but before the current year, there  
18 occurred a year:  
19 (i) to which section 296-110 applies; but  
20 (ii) for which you do not have transferrable negative  
21 superannuation earnings.

## 22 **296-110 Applying transferrable negative superannuation earnings**

- 23 (1) This section applies in relation to an income year of yours if:  
24 (a) either or both of the following subparagraphs apply:  
25 (i) your \*total superannuation balance at the end of the year  
26 is greater than the \*large superannuation balance  
27 threshold;  
28 (ii) your total superannuation balance just before the start of  
29 the year is greater than the large superannuation balance  
30 threshold; and  
31 (b) you have \*unapplied transferrable negative superannuation  
32 earnings for the year.
- 33 (2) The amount of your ***superannuation earnings*** for the year is the  
34 amount worked out using the following formula:

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1                           The amount of your                           The amount of your  
                         \*basic superannuation earnings   —   \*unapplied transferrable negative  
   for the year   superannuation earnings for the year

- 2                   Note:        This subsection:  
3                           (a)   applies even if the amount of your basic superannuation earnings  
4   for the year is less than nil; and  
5                           (b)   may result in the amount of your superannuation earnings for the  
6   year being less than nil.

### 7   **Subdivision 296-D—When tax is payable**

### 8   **Guide to Subdivision 296-D**

#### 9   **296-200 What this Subdivision is about**

10   This Subdivision has rules about payment of Division 296 tax.

#### 11   **Table of sections**

##### 12                   **Operative provisions**

- 13                   296-205   When tax is payable—original assessments  
14                   296-210   When tax is payable—amended assessments  
15                   296-215   General interest charge

#### 16   **Operative provisions**

#### 17   **296-205 When tax is payable—original assessments**

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

21   *Exception for tax deferred to a Division 296 debt account*

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

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

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

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

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

## 7 **296-210 When tax is payable—amended assessments**

8 (1) If the Commissioner amends your assessment, any extra \*assessed  
9 Division 296 tax resulting from the amendment is due and payable  
10 84 days after the day the Commissioner gives you notice of the  
11 amended assessment.

12 *Exception for tax deferred to a Division 296 debt account*

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

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

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

## 20 **296-215 General interest charge**

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

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

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

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

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

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

- 1 Note 1: The general interest charge is worked out under Part IIA of the  
2 *Taxation Administration Act 1953*. For the rate of general interest  
3 charge payable under this section, see subsection 8AAC(2A) of that  
4 Act.
- 5 Note 2: Shortfall interest charge is worked out under Division 280 in  
6 Schedule 1 to that Act.
- 7 Note 3: See section 5-10 of this Act for when the amount of shortfall interest  
8 charge becomes due and payable.

### 9 **Subdivision 296-E—Exclusion of certain earnings**

#### 10 **Guide to Subdivision 296-E**

#### 11 **296-300 What this Subdivision is about**

12 In certain circumstances, your taxable superannuation earnings do  
13 not include earnings from an interest in a constitutionally protected  
14 fund, an interest you hold in the superannuation fund established  
15 under the *Judges' Pensions Act 1968* or an interest in a  
16 non-complying superannuation plan.

#### 17 **Table of sections**

18	<b>Operative provisions</b>	
19	296-305	Exclusion of certain earnings
20	296-310	Subdivision does not limit Imposition Act

#### 21 **Operative provisions**

#### 22 **296-305 Exclusion of certain earnings**

- 23 (1) This section applies if:
- 24 (a) column 1 of an item of the following table applies to you for  
25 an income year; and
- 26 (b) at any time in the year, you hold a \*superannuation interest to  
27 which column 2 of the item applies; and



# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

- 1 (c) the amount of your <sup>\*</sup>basic superannuation earnings for the  
2 year as worked out under subsection 296-40(2) is greater  
3 than nil.  
4

---

## 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 <sup>*</sup> superannuation interest in a <sup>*</sup> 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 <sup>*</sup> superannuation interest in the <sup>*</sup> superannuation fund established under the <i>Judges' Pensions Act 1968</i>
3	at the end of the year, you hold a <sup>*</sup> superannuation interest in a <sup>*</sup> superannuation plan that: (a) is not a <sup>*</sup> complying superannuation plan for the year; and (b) is not a <sup>*</sup> foreign superannuation fund	a superannuation interest in that superannuation plan

---

- 5 (2) Despite subsection 296-40(2), the amount of your **basic**  
6 **superannuation earnings** for the year is:  
7 (a) if the amount worked out under subsection (3) of this section  
8 is greater than nil—the lesser of:  
9 (i) that amount; and  
10 (ii) the amount of your basic superannuation earnings for  
11 the year as worked out under subsection 296-40(2); or

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

(b) otherwise—nil.

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

$$\text{Current non-excluded adjusted total superannuation balance} - \text{Previous non-excluded total superannuation balance}$$

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*.

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

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

## 5 **Subdivision 296-F—Modifications for temporary residents who** 6 **depart Australia**

### 7 **Guide to Subdivision 296-F**

#### 8 **296-400 What this Subdivision is about**

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

#### 11 **Table of sections**

##### 12 **Operative provisions**

13 296-405 Who is entitled to a refund  
14 296-410 Amount of the refund  
15 296-420 Entitlement to refund stops all Division 296 tax liabilities

#### 16 **Operative provisions**

##### 17 **296-405 Who is entitled to a refund**

18 You are entitled to a refund if:

- 19 (a) you have made payments of any of the following:
- 20 (i) \*assessed Division 296 tax;
  - 21 (ii) a voluntary payment made under section 134-70 in  
22 Schedule 1 to the *Taxation Administration Act 1953* for  
23 the purpose of reducing the amount by which a  
24 \*Division 296 debt account for a \*superannuation  
25 interest is in debit;
  - 26 (iii) \*Division 296 debt account discharge liability; and
- 27 (b) you receive a \*departing Australia superannuation payment;  
28 and

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

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

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

### 5 **296-410 Amount of the refund**

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

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

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

14 (3) Despite subsection (1), if:

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

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

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

### 24 **296-420 Entitlement to refund stops all Division 296 tax liabilities**

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

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

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

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

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1 **Subdivision 296-G—Other provisions**

2 **Guide to Subdivision 296-G**

3 **296-500 What this Subdivision is about**

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

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

8 **Table of sections**

9 **Operative provisions**

10	296-505	Disregard LRBA amounts in working out total superannuation balance
11	296-510	Interaction with the <i>Australian Capital Territory (Self-Government) Act 1988</i>
12		

13 **Operative provisions**

14 **296-505 Disregard LRBA amounts in working out total**  
15 **superannuation balance**

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

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

21 **296-510 Interaction with the *Australian Capital Territory***  
22 ***(Self-Government) Act 1988***

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

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

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1 **16 Section 303-20 (heading)**

2 Repeal the heading, substitute:

3 **303-20 Payments from release authorities—paying debt account**  
4 **discharge liability or Division 296 debt account discharge**  
5 **liability**

6 **17 Section 304-20 (heading)**

7 Repeal the heading, substitute:

8 **304-20 Excess payments from release authorities—paying debt**  
9 **account discharge liability or Division 296 debt account**  
10 **discharge liability**

11 **18 Subsection 995-1(1)**

12 Insert:

13 *adjusted total superannuation balance* has the meaning given by  
14 section 296-45.

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

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

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

23 *defined benefit Division 296 tax* has the meaning given by  
24 section 134-15 in Schedule 1 to the *Taxation Administration Act*  
25 *1953*.

26 *Division 296 debt account* has the meaning given by  
27 section 134-60 in Schedule 1 to the *Taxation Administration Act*  
28 *1953*.

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

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

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

7 **Division 296 end benefit** has the meaning given by  
8 section 134-130 in Schedule 1 to the *Taxation Administration Act*  
9 *1953*.

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

12 **Division 296 tax law** means:

- 13 (a) the *Income Tax Assessment Act 1997*, so far as it relates to  
14 the \*Division 296 tax; and  
15 (b) any Act that imposes Division 296 tax; and  
16 (c) the *Taxation Administration Act 1953*, so far as it relates to  
17 any Act covered by paragraphs (a) and (b) (or to so much of  
18 that Act as is covered); and  
19 (d) any other Act, so far as it relates to any Act covered by  
20 paragraphs (a) to (c) (or to so much of that Act as is covered);  
21 and  
22 (e) regulations and other legislative instruments under an Act, so  
23 far as they relate to any Act covered by paragraphs (a) to (d)  
24 (or to so much of that Act as is covered).

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

26 **superannuation earnings** has the meaning given by subsection  
27 296-40(1) and section 296-110.

28 **taxable superannuation earnings** has the meaning given by  
29 section 296-35.

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

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

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

### 3 *Income Tax (Transitional Provisions) Act 1997*

#### 4 **19 After Division 295**

5 Insert:

#### 6 **Division 296—Better targeted superannuation concessions**

##### 7 **Table of Subdivisions**

8 296-A Application of Division 296 tax rules

#### 9 **Subdivision 296-A—Application of Division 296 tax rules**

##### 10 **Table of sections**

11 296-10 Application of Division 296 of the *Income Tax Assessment Act 1997*  
12 296-105 Application of subsection 296-105(1) of the *Income Tax Assessment Act*  
13 1997

#### 14 **296-10 Application of Division 296 of the *Income Tax Assessment Act*** 15 **1997**

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

#### 18 **296-105 Application of subsection 296-105(1) of the *Income Tax*** 19 ***Assessment Act 1997***

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

### 22 *Judges' Pensions Act 1968*

#### 23 **20 Subsection 4(1)**

24 Insert:

---



# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

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

## 3 **21 Subsection 6(2) (note)**

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

## 6 **22 Part 4 (heading)**

7 Repeal the heading, substitute:

## 8 **Part 4—Division 293 and 296 tax laws**

## 9 **23 Section 17AK**

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

## 11 **24 Section 17AK (note)**

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

## 13 **25 Subsection 17AL(1)**

14 After “item 3”, insert “or 4”.

## 15 **26 Subsection 17AL(1) (note 1)**

16 After “Subdivision 133-C”, insert “or 134-C”.

## 17 **27 Subsection 17AL(1) (note 1)**

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

## 19 **28 Subsection 17AL(1) (note 2)**

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

## 21 **29 At the end of subsection 17AL(1)**

22 Add:

23 Note 3: There are special rules in relation to Division 296 tax for Justices of  
24 the High Court and justices and judges of a court created by the  
25 Parliament (see Subdivision 296-E of the *Income Tax Assessment Act*  
26 *1997*).

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1 **30 At the end of section 17AN**

2 Add:

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

7 ***Parliamentary Contributory Superannuation Act 1948***

8 **31 Subsection 18(1) (note)**

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

11 **32 Part VC (heading)**

12 Repeal the heading, substitute:

13 **Part VC—Division 293 and 296 tax laws**

14 **33 Section 22SA**

15 Insert:

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

18 **34 Section 22SB**

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

20 **35 Subsection 22SC(1)**

21 After “item 3”, insert “or 4”.

22 **36 Subsection 22SC(1) (note)**

23 After “Subdivision 133-C”, insert “or 134-C”.

24 **37 At the end of section 22SE**

25 Add:

---

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

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

## 5 *Superannuation Act 1976*

### 6 **38 Part IXC (heading)**

7 Repeal the heading, substitute:

## 8 **Part IXC—Release of benefits to meet deferred** 9 **Division 293 and 296 tax liabilities**

### 10 **39 Subsection 146RB(1)**

11 After “item 3”, insert “or 4”.

### 12 **40 Subsection 146RB(1) (note)**

13 After “Subdivision 133-C”, insert “or 134-C”.

### 14 **41 Subsection 146RE(2) (definition of *reduced release*** 15 ***authority lump sum*)**

16 Repeal the definition, substitute:

17 *reduced release authority lump sum* means:

- 18 (a) the amount of the release authority lump sum, reduced by the  
19 sum of each reduction made under a previous application of  
20 this section to a lump sum benefit to which the person is  
21 entitled; or  
22 (b) if more than one release authority lump sum is paid in  
23 relation to release authorities issued to the person—the total  
24 amount of those release authority lump sums, reduced by the  
25 sum of each reduction made under an application of this  
26 section, before the last of those release authority lump sums  
27 is paid, to a lump sum benefit to which the person is entitled.

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1 ***Superannuation Act 1990***

2 **42 Subsection 16(8A)**

3 After “item 3”, insert “or 4”.

4 **43 Subsection 16(8A) (note)**

5 After “Subdivision 133-C”, insert “or 134-C”.

6 ***Taxation Administration Act 1953***

7 **44 Subsection 2(1)**

8 Insert:

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

11 **45 Subsection 8AAB(4) (after table item 15B)**

12 Insert:

13  
16 296-215 *Income Tax Assessment Act* payment of Division 296 tax or  
*1997* shortfall interest charge

14 **46 Subsection 8AAB(4) (after table item 45C)**

15 Insert:

16  
45D 134-115 in *Taxation Administration* payment of Division 296 debt  
Schedule 1 *Act 1953* account discharge liability

17 **47 After subsection 8AAC(2)**

18 Insert:

19 (2A) If the charge is payable under Division 296 of the *Income Tax*  
20 *Assessment Act 1997* on an amount that remains unpaid, then the  
21 charge is worked out by multiplying the Division 296 general  
22 interest charge rate for that day by the sum of so much of the  
23 following amounts as remains unpaid:

24 (a) the charge from previous days;

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1 (b) the original unpaid amount.

2 **48 Subsection 8AAC(3)**

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

5 **49 Subsection 8AAC(4)**

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

8 **50 After subsection 8AAD(1)**

9 Insert:

10 (1A) The *Division 296 general interest charge rate* for a day is the rate  
11 worked out by:

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

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

15 **51 Section 131-1 in Schedule 1**

16 After:

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

19 insert:

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

22 **52 After paragraph 131-5(1)(c) in Schedule 1**

23 Insert:

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

27 **53 Paragraph 131-10(1)(a) in Schedule 1**

28 After “3”, insert “, 3A”.

---

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

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

2 Insert:

3

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

4 **55 At the end of section 131-15 in Schedule 1**

5 Add:

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

8 (5) If:

- 9 (a) for an income year, you are given a notice of assessment of  
10 an amount of \*Division 296 tax that is not \*deferred to a  
11 Division 296 debt account for a \*superannuation interest; and  
12 (b) on the 60th day after the day the Commissioner issues that  
13 notice, the sum of the following falls short of that amount of  
14 tax:  
15 (i) any payments of that tax for the income year that you  
16 have already made;  
17 (ii) any amounts that have already been released under this  
18 Subdivision for that assessment;  
19 the Commissioner may issue a release authority to one or more  
20 \*superannuation providers that hold superannuation interests for  
21 you.

22 **56 Subparagraph 131-20(1)(b)(ii) in Schedule 1**

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

24 **57 At the end of section 131-65 in Schedule 1**

25 Add:

26 *Exception for voluntary payments of Division 296 tax debt account*

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

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

- 1 (a) subsection (1) does not apply in relation to the payment; and  
2 (b) treat the payment as if it were a voluntary payment under  
3 section 134-70 in relation to that \*Division 296 debt account.

## 4 **58 After Division 133 in Schedule 1**

5 Insert:

## 6 **Division 134—Division 296 tax**

### 7 **Table of Subdivisions**

8		Guide to Division 134
9	134-A	Deferral determination
10	134-B	Division 296 debt account
11	134-C	Compulsory payment

## 12 **Guide to Division 134**

### 13 **134-1 What this Division is about**

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

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

### 20 **Subdivision 134-A—Deferral determination**

#### 21 **Guide to Subdivision 134-A**

### 22 **134-5 What this Subdivision is about**

23 The Commissioner determines the amount of your tax that is  
24 deferred to a Division 296 debt account by working out the extent

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

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



# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1                   \*defined benefit Division 296 tax attributable to a \*superannuation  
2                   interest.

## 3           **134-15 Your defined benefit Division 296 tax**

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

6                   \*Division 296 tax for the year  $\times \frac{\text{Defined benefit interest value}}{\text{Your *total superannuation balance at the end of the year}}$

7                   where:

8                   *defined benefit interest value* means:

- 9                   (a) if, at the end of the year, you have \*defined benefit  
10                   interests—the sum of the \*total superannuation balance  
11                   values of those interests at the end of the year; or  
12                   (b) otherwise—nil.

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

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

20                   *Exception—defined benefit interest value is nil*

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

## 24           **134-20 How to attribute the defined benefit Division 296 tax to** 25           **defined benefit interests**

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

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

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

### 6 **134-25 Determination reducing tax deferred to a Division 296 debt** 7 **account**

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

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

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

### 17 **134-30 General provisions applying to determinations under this** 18 **Subdivision**

- 19 (1) The Commissioner must:  
20 (a) make a determination as soon as practicable after:  
21 (i) for a determination under section 134-10—assessing the  
22 amount (whether by way of a first assessment or an  
23 amended assessment); or  
24 (ii) for a determination under section 134-25—amending  
25 the assessment; and  
26 (b) give you notice in writing of the determination as soon as  
27 practicable after making it.
- 28 (2) The validity of the determination is not affected because any of the  
29 provisions of this Act have not been complied with.

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1

## *Review*

2

(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.

3

4

5

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

6

7

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

8

9

(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:

10

11

12

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

13

14

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

15

16

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

17

18

## **Subdivision 134-B—Division 296 debt account**

19

### **Guide to Subdivision 134-B**

20

#### **134-55 What this Subdivision is about**

21

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

22

23

24

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

25

26

#### **Table of sections**

27

##### **Operative provisions**

28

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

29

134-65 Interest on Division 296 debt account balance

---

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

- 1                   134-70   Voluntary payments  
2                   134-75   Commissioner must notify superannuation provider of Division 296 debt  
3                   account

### 4                   **Operative provisions**

#### 5                   **134-60 Division 296 debt account to be kept for deferred** 6                   **Division 296 tax**

##### 7                   *Accounts to be kept*

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

##### 13                  *Account to be debited for Division 296 tax*

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

#### 17                  **134-65 Interest on Division 296 debt account balance**

##### 18                  *Interest to be debited at end of financial year*

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

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

##### 27                  *Remission of interest—Division 296 deferral reversal*

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

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

- 1 (a) the Division 296 debt account is credited:  
2 (i) under section 134-70 because of a \*Division 296  
3 deferral reversal; or  
4 (ii) because a determination under section 134-10 is varied  
5 or revoked; and  
6 (b) the Commissioner is satisfied that, because of that credit, it  
7 would be fair and reasonable to do so.

8 *Remission of interest—special circumstances*

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

14 **134-70 Voluntary payments**

- 15 (1) You may make payments to the Commissioner for the purpose of  
16 reducing the amount by which a \*Division 296 debt account for a  
17 \*superannuation interest is in debit.
- 18 (2) The Commissioner is to:  
19 (a) acknowledge receipt of the payment to you; and  
20 (b) credit the payment to the \*Division 296 debt account; and  
21 (c) notify you of the revised balance of the Division 296 debt  
22 account.  
23 The credit mentioned in paragraph (b) is to be made when the  
24 payment is received.
- 25 (3) The amount of a \*Division 296 deferral reversal for the  
26 \*superannuation interest is to be treated as if it were a voluntary  
27 payment under this section in relation to the \*Division 296 debt  
28 account for that interest. However, paragraphs (2)(a) and (c) do not  
29 apply in relation to that amount.

**EXPOSURE DRAFT**

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1 **134-75 Commissioner must notify superannuation provider of**  
2 **Division 296 debt account**

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

7 **Subdivision 134-C—Compulsory payment**

8 **Guide to Subdivision 134-C**

9 **134-100 What this Subdivision is about**

10 

The deferred Division 296 tax liability must be paid when a 11 superannuation benefit becomes payable from the superannuation 12 interest.
--

13 **Table of sections**

14 **Division 296 debt account discharge liability**

- 15 134-105 Liability to pay Division 296 debt account discharge liability  
16 134-110 When Division 296 debt account discharge liability must be paid  
17 134-115 General interest charge  
18 134-120 Meaning of *Division 296 debt account discharge liability*  
19 134-125 Notice of Division 296 debt account discharge liability

20 **Division 296 end benefit**

- 21 134-130 Meaning of *Division 296 end benefit*  
22 134-135 Superannuation provider may request Division 296 debt account status  
23 134-140 Division 296 end benefit notice—superannuation provider  
24 134-145 Division 296 end benefit notice—material changes or omissions

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1 **Division 296 debt account discharge liability**

2 **134-105 Liability to pay Division 296 debt account discharge liability**

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

6 (2) The liability arises:

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

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

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

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

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

21 **134-110 When Division 296 debt account discharge liability must be**  
22 **paid**

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

27 **134-115 General interest charge**

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

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

- 1 (a) begins on the day on which the Division 296 debt account  
2 discharge liability was due to be paid; and  
3 (b) ends on the last day on which, at the end of the day, any of  
4 the following remains unpaid:  
5 (i) the Division 296 debt account discharge liability;  
6 (ii) general interest charge on any of the Division 296 debt  
7 account discharge liability.

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

### 10 **134-120 Meaning of *Division 296 debt account discharge liability***

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

### 16 **134-125 Notice of Division 296 debt account discharge liability**

- 17 (1) The Commissioner must give you a notice under this section if the  
18 \*Division 296 end benefit becomes payable from a \*superannuation  
19 interest for which the Commissioner keeps a \*Division 296 debt  
20 account.
- 21 (2) The notice must state that you are liable to pay your \*Division 296  
22 debt account discharge liability for the \*superannuation interest and  
23 specify:  
24 (a) the amount of that debt; and  
25 (b) the day on which that debt is due and payable.
- 26 (3) If you are dissatisfied with a notice given under this section in  
27 relation to you, you may object against it in the manner set out in  
28 Part IVC of this Act.
- 29 (4) However, you cannot object against a notice stating that the  
30 amount you are liable to pay is the amount by which the  
31 \*Division 296 debt account is in debit.



# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1 **Division 296 end benefit**

2 **134-130 Meaning of *Division 296 end benefit***

- 3 (1) A \*superannuation benefit is the ***Division 296 end benefit*** for a  
4 \*superannuation interest if it is the first superannuation benefit to  
5 become payable from the interest, disregarding a benefit that is any  
6 of the following:
- 7 (a) a \*roll-over superannuation benefit paid to a \*complying  
8 superannuation plan that is a \*successor fund;
  - 9 (b) a benefit that becomes payable under the condition of release  
10 specified in item 105 of the table in Schedule 1 to the  
11 *Superannuation Industry (Supervision) Regulations 1994*  
12 (about severe financial hardship);
  - 13 (c) a benefit that becomes payable under the condition of release  
14 specified in item 107 of that table (about compassionate  
15 ground);
  - 16 (d) a benefit specified in an instrument under subsection (2).
- 17 (2) The Minister may, by legislative instrument, specify a  
18 \*superannuation benefit for the purposes of paragraph (1)(d).

19 **134-135 Superannuation provider may request Division 296 debt**  
20 **account status**

- 21 (1) If:
- 22 (a) a \*superannuation provider has been given a notice under  
23 section 134-75 saying that the Commissioner has started to  
24 keep a \*Division 296 debt account for a \*superannuation  
25 interest; and
  - 26 (b) the superannuation provider receives a request to pay the  
27 \*Division 296 end benefit from the superannuation interest or  
28 the Division 296 end benefit becomes payable from the  
29 superannuation interest;
- 30 the superannuation provider may, in the \*approved form, request  
31 the Commissioner to advise as to the status of the Division 296  
32 debt account.

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

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

### 4 **134-140 Division 296 end benefit notice—superannuation provider**

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

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

- 13 (2) The notice must be given within 14 days after the earlier of:  
14 (a) the \*superannuation provider receiving a request (if any) to  
15 pay the \*superannuation benefit; and  
16 (b) the superannuation benefit becoming payable.
- 17 (3) However, this section does not apply if the \*superannuation  
18 provider has not been given a notice under section 134-75 saying  
19 that the Commissioner has started to keep a \*Division 296 debt  
20 account for the \*superannuation interest.
- 21 (4) A notice under this section must be given in the \*approved form.

### 22 **134-145 Division 296 end benefit notice—material changes or** 23 **omissions**

- 24 (1) If an entity that gives the Commissioner a notice under  
25 section 134-140 becomes aware of a material change or material  
26 omission in any information given to the Commissioner in the  
27 notice, the entity must:  
28 (a) tell the Commissioner of the change in the \*approved form;  
29 or  
30 (b) give the omitted information to the Commissioner in the  
31 approved form.

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

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

3 **59 Subsection 135-10(1) in Schedule 1 (at the end of the**  
4 **table)**

5 Add:

6

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
---	---	--	---

7 **60 At the end of section 135-40 in Schedule 1**

8 Add:

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

14 **61 After section 135-95 in Schedule 1**

15 Insert:

16 **135-97 Defined benefit interests—releasing amounts to pay**  
17 **Division 296 debt account discharge liability**

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

23 **62 After paragraph 155-5(2)(f) in Schedule 1**

24 Insert:

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

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

### 63 Subsection 155-15(1) in Schedule 1 (note)

5 After "Division 293 tax," insert "Division 296 tax,".

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

7 Insert:

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

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

12 Insert:

13

37AD	shortfall interest charge on Division 296 tax	5-10	<i>Income Tax Assessment Act 1997</i>
------	---	------	---------------------------------------

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

15 Insert:

16

38BBA	Division 296 tax	296-205 and 296-210	<i>Income Tax Assessment Act 1997</i>
-------	------------------	------------------------	---------------------------------------

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

18 Insert:

19

136B	Division 296 debt account discharge liability	134-105 in Schedule 1	<i>Taxation Administration Act 1953</i>
------	---	--------------------------	---

### 68 Section 280-1 in Schedule 1

21 After "Division 293 tax," insert "Division 296 tax,".

# EXPOSURE DRAFT

Better targeted superannuation concessions **Schedule 1**

---

1 **69 Section 280-50 in Schedule 1**

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

3 **70 After section 280-102B in Schedule 1**

4 Insert:

5 **280-102BA Liability to shortfall interest charge—Division 296 tax**

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

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

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

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

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

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

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

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

# EXPOSURE DRAFT

## Schedule 1 Better targeted superannuation concessions

---

1 **71 Paragraph 280-105(1)(a) in Schedule 1**

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

4 **72 Subsection 280-110(1) in Schedule 1**

5 After “280-102B”, insert “, 280-102BA”.

6 **73 Section 280-170 in Schedule 1**

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

# EXPOSURE DRAFT

Definition of total superannuation balance **Schedule 2**

---

1 **Schedule 2—Definition of total**  
2 **superannuation balance**  
3

4 *Income Tax Assessment Act 1997*

5 **1 Subsection 307-205(1)**

6 Omit “(1)”.

7 **2 Subsection 307-205(2)**

8 Repeal the subsection.

9 **3 Paragraphs 307-230(1)(a) and (b)**

10 Repeal the paragraphs, substitute:

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

15 (i) a superannuation interest of yours;

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

20 **4 Subparagraph 307-230(1)(c)(iii)**

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

22 **5 Subsections 307-230(2) to (4)**

23 Repeal the subsections, substitute:

24 *Modification for structured settlement contributions*

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

# EXPOSURE DRAFT

## Schedule 2 Definition of total superannuation balance

---

1 **6 After section 307-230**

2 Insert:

3 **307-230A Total superannuation balance value**

- 4 (1) The *total superannuation balance value*, at a particular time, of a  
5 \*superannuation interest is:
- 6 (a) if the regulations specify a value, or a method for  
7 determining a value, for the purposes of this paragraph—the  
8 specified value, or the value determined in accordance with  
9 the specified method; or
- 10 (b) otherwise—the total amount of the \*superannuation benefits  
11 that would become payable if:
- 12 (i) the individual to whom the superannuation interest  
13 relates had the right to cause the superannuation interest  
14 to cease at that time; and
- 15 (ii) the individual voluntarily caused the superannuation  
16 interest to cease at that time.
- 17 (2) Regulations made for the purposes of paragraph (1)(a) may specify  
18 a value or method in different ways depending on any of the  
19 following matters:
- 20 (a) the individual to whom the \*superannuation interest relates;
- 21 (b) whether the superannuation interest is in the \*retirement  
22 phase;
- 23 (c) whether the superannuation interest is a \*defined benefit  
24 interest;
- 25 (d) the \*superannuation income stream (if any) supported by the  
26 superannuation interest;
- 27 (e) the \*superannuation plan in which the superannuation interest  
28 exists;
- 29 (f) the \*superannuation provider in relation to the  
30 superannuation plan;
- 31 (g) any other matter.
- 32 (3) Regulations made for the purposes of paragraph (1)(a) may provide  
33 for a value to be determined wholly or partly by reference to



# EXPOSURE DRAFT

Definition of total superannuation balance **Schedule 2**

---

1 methods or factors that are approved by legislative instrument by  
2 the Minister for the purposes of the regulations.

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

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

## 7 **7 Subsection 995-1(1) (definition of *accumulation phase*** 8 ***value*)**

9 Repeal the definition.

## 10 **8 Subsection 995-1(1)**

11 Insert:

12 *total superannuation balance value* has the meaning given by  
13 section 307-230A.

## 14 **9 Subsection 995-1(1) (paragraph (d) of the definition of** 15 ***value*)**

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

## 17 **10 Application of amendments**

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

- 22 (a) just before 1 July 2025; or  
23 (b) on or after 1 July 2025.

# EXPOSURE DRAFT

## Schedule 3 Other amendments

---

1 **Schedule 3—Other amendments**  
2

3 *Income Tax Assessment Act 1997*

4 **1 Subsection 293-65(2) (note 3)**

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

6 **2 At the end of Division 293**

7 Add:

8 **Subdivision 293-H—Other provisions**

9 **Guide to Subdivision 293-H**

10 **293-245 What this Subdivision is about**

11 

This Division has effect despite subsection 73(3A) of the 12 <i>Australian Capital Territory (Self-Government) Act 1988.</i>
---

13 **Table of sections**

14 **Operative provisions**

15 293-250 Interaction with the *Australian Capital Territory (Self-Government) Act*  
16 *1988*

17 **Operative provisions**

18 **293-250 Interaction with the *Australian Capital Territory***  
19 ***(Self-Government) Act 1988***

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

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

# EXPOSURE DRAFT

Other amendments **Schedule 3**

---

1 **3 Subsection 294-80(1) (table item 4)**

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

3

**EXPOSURE DRAFT**