

Legislative Update

Quick Guide to the proposed \$3 million 'Super Tax'



Can't be bothered reading the 16-page consultation paper on the proposed \$3 million super tax? Let our quick guide catch you up to speed on everything you need to know.

What is the \$3 million super tax?

The Government are calling it 'Better targeted superannuation tax concession' but the industry has labelled it the 'Super Tax'. In layman's terms, it is a proposed new tax for Australians with a Total Super Balance (TSB) above \$3 million. The key things to note in relation to the proposed legislation:

- Earnings above an individual's TSB of \$3 million will be taxed at 30% rather than 15%.

- The Super Tax will apply to all ages regardless of whether the individual is accessing their superannuation benefits or not.
- The \$3 million dollar threshold applies at the individual level, not at the Fund level
- The earnings will be calculated using a formula by the ATO. If negative earnings are calculated, then this can be carried forward and used to offset future earnings.
- The \$3 million dollar threshold will not be indexed.
- The Government haven't determined how this tax will apply to individuals with Defined Benefit Income Streams.

When will it start?

If legislated, the proposed policy will commence on 1 July 2025 and apply from 2025-26 financial year onwards. Individuals with a TSB over \$3 million on 30 June 2026 will be affected by the new tax.

How will the 'Super Tax' be calculated?

The ATO will calculate the tax liability and issue a notice of assessment to the individual. The individual can then decide whether to use their personal funds or release money from their superannuation to pay the outstanding amount. The key thing to note is that the ATO are not calculating a tax liability from realised gains; they are calculating the increase in an individual's TSB above \$3 million whether they are realised gains or not. If you are interested in knowing how the ATO will calculate the tax liability then check out page 7 of the consultation page by clicking [here](#).

How will the \$3 million Super Tax affect Exempt Current Pension Income?

Short answer: it won't. The Super Tax will apply directly to the individual and the calculation of Exempt Current Pension Income (ECPI) will remain the same. For example, a two member SMSF where one member has a TSB above \$3 million will not affect the calculation of the Fund's ECPI or the other member's personal tax payable.

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Are there any issues with the proposed Super Tax?

The industry has raised many concerns in relation to this proposed new tax however the main issue that stands out is the taxing of unrealised net capital gains. This measure also makes no mention of the capital gains discount or the possibility that capital gains will be taxed twice – once on the annual movement in asset values (i.e. the Super Tax) and then again when the asset is disposed.

What's next?

The consultation process has closed and at this stage it is a game of wait and see.



Reference

Australia Government – The Treasury, Better targeted superannuation concessions, last updated 31 March 2023
<https://treasury.gov.au/sites/default/files/2023-03/c2023-373973-cp.pdf>

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