

Latest update on Division 296 tax as we begin 2026

Treasury has released the most recent rework of the proposed Division 296 tax. Although it has provided some much-needed relief from the original draft, the rework now includes additional hurdles requiring careful planning and consideration.



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A worked example for Bob and Jane

Take Bob and Jane who have an SMSF worth \$15m at 1 July. Bob has \$11m and Jane has \$4m. The fund has managed investments, listed securities and cash. There has been no realised capital gains tax events during the year. Their member balances consist of both pension and accumulation accounts, and they have both taken \$150,000 each in pensions for the year. Their closing balances at 30 June are \$11.8m and \$4.2m. The fund's Division 296 earnings for the year is \$900,000. They have no other superannuation accounts.

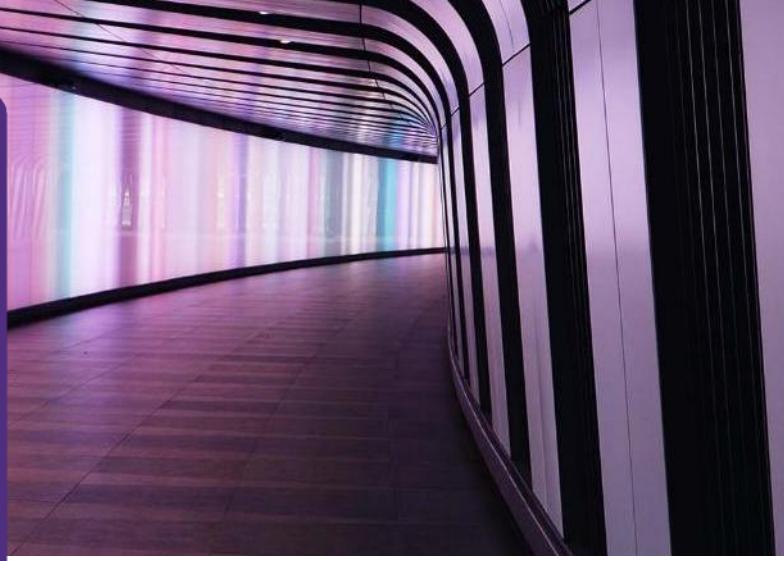
Step 1 | Calculate the Division 296 earnings

As stated, the Division 296 Earnings is \$900,000

Step 2 | Allocate the \$900,000 Division 296 earnings between Bob and Jane

Assuming the allocation is based on average balances:

- Bob's share will be \$660,000 (73%)
- Jane's share will be \$240,000 (27%)



Step 3 | Determine the TSB percentage above the thresholds

The new version takes the higher member balance at the start and end of year:

- Bob's TSB is \$11.8m
- Jane's TSB is \$4.2m

Component 1: earnings related to balance above \$3m

- Calculate the % of their balance above \$3m
- Apply this % to their allocated Div 296 earnings

Component 2: earnings related to balance above \$10m

- Only applies if the TSB exceeds \$10m
- Same process applies
 - determine the % above \$10m
 - apply to earnings

Step 4 | Tax the earnings

Component 1: 15% on earnings related to balance above \$3m

- Tax that amount at 15%

Component 2: 10% on earnings related to balance above \$10m

- Tax that amount at 10%

	Bob	Jane
Div 296 earnings	\$660,000	\$240,000
First component 15%		
% of balance above \$3m	75%	28%
Earnings applicable for Div 296	\$495,000	\$67,200
Tax at 15% - A	\$74,250	\$10,080
Second component 10%		
% of balance above \$10m	15%	\$-
Earnings applicable for Div 296	\$99,000	\$-
Tax at 10% - B	\$9,900	\$-
Total Div 296 Tax (A + B)	\$84,150	\$10,080

If the fund realises capital gains during the year, this is included in the Division 296 earnings.

Using the above example, let's assume that Bob and Jane sell various managed funds during the year for \$10m in total. The fund also has \$1m in carry forward losses. The managed funds were all purchased back in 2018 for \$6m, resulting in a gross gain for Division 296 earnings purposes of \$4m and a net gain of \$2m after losses and 1/3 discount. Adding this net gain to the fund Division 296 earnings of \$900,000, the adjusted Division 296 earnings has increased to \$2.9m. In the same year, Bob and Jane withdraw \$9m and \$1.5m from the fund from the sale proceeds to bring them both just under \$3m. Under the previous release, if the TSB is under \$3m on 30 June, Div 296 will not apply.

As mentioned above, the TSB applied is the higher of the member balance at the start and end of the financial year. In this scenario, Bob's TSB applied will be his opening 1 July balance of \$11,000,000 and Jane's \$4,000,000.

	Bob	Jane
Super fund Div 296 earnings	\$2,117,000	\$783,000
First component 15%		
% of balance above \$3m	73%	25%
Earnings applicable for Div 296	\$1,545,410	\$195,750
Tax at 15% - A	\$231,812	\$29,361
Second component 10%		
% of balance above \$10m	9%	\$ -
Earnings applicable for Div296	\$190,530	\$ -
Tax at 10% - B	\$19,053	\$ -
Total Div 296 Tax (A + B)	\$250,865	\$29,363

If Bob and Jane make these withdrawals prior to 30 June 2027, the closing 30 June balance can apply as a once only under the special transition rule, excluding them from Div 296 for FY27.



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