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Better Targeted Super Concessions (Div. 296 Tax) Update

14 October 2025

After sustained industry pushback, the Government has reshaped its Better Targeted Superannuation Concessions (BTSC) policy to remove the controversial tax on **unrealised** gains. From **1 July 2026**, BTSC will apply only to **realised earnings**, introduce a **two-tier** framework for very large balances, and **index** the $3m and $10m thresholds to CPI (aligned with Transfer Balance Cap movements). The ATO will continue to assess liabilities, while funds - including SMSFs - will need the capability to attribute realised earnings to in-scope members on a fair and reasonable basis.

One key concern with the original proposal of taxing unrealised gains was the **liquidity mismatch** - many SMSFs hold **illiquid assets** (e.g., direct property) that cannot be readily sold to fund a tax bill on paper profits. Another practical issue is **volatility and market impact**: a micro-cap that briefly spikes and then retraces would have created a tax liability without cash proceeds; trying to **force a sale** in a thinly traded name to fund that tax can **crash the price**, further penalising the member. The revised approach addresses these issues by **taxing realised**, cash-backed outcomes.

Area	Previously announced *(2023 design)*	New measure *(13 Oct. 2025 update)*	Areas of Advice Consideration for Clients
Earnings base	Notional formula based on change in TSB (captured unrealised gains), adjusted for contributions/withdrawals.	Realised earnings only, aligned to taxable income concepts; adjustments for contributions and pension-phase income.	Realisation timing now matters. Ensure persons or their SMSFs have ample liquidity to meet these liabilities.
Thresholds	Single $3m threshold; not indexed.	Two thresholds: $3m and $10m; both CPI-indexed (in $150k and $500k increments respectively) to align with TBC.	Fewer clients drift into scope over time; monitor CPI/TBC movements for clients near thresholds. Consider pre-emptive strategies to even out balances between spouses.
Rates (total concessional tax on in-scope earnings)	30% on proportion of earnings attributable to TSB > $3m (i.e., 15% fund rate + 15% BTSC).	30% on earnings portion between $3m–$10m (15%+15%); 40% on portion >$10m (15%+25%).	More progressive outcomes; model clients with >$10m balances separately.
Start date	1 July 2025 (assessments from 2026–27).	1 July 2026 (focus on TSB at 30 June 2027; assessments in 2027–28).	Extra lead time to update systems and client strategies before FY27 realisations.
Identification & reporting	ATO identifies TSB > $3m, then requests contribution/withdrawal data; ATO computes earnings via TSB change and issues assessment.	ATO identifies in-scope members; funds calculate and report realised earnings attributable to those members (using existing reporting/fair & reasonable basis); ATO issues assessment.	Funds/SMSFs need processes to attribute realised earnings reliably; expect ATO guidance—build workflows now.
Defined benefit & judicial exemptions	Commensurate treatment intended; details evolving.	Further consultation to maintain commensurate DB treatment and extend certain judicial exemptions consistently.	For DB clients, hold off structural changes until final rules; document advice assumptions.
Who is affected	Small minority of very high balances; no indexation increased drift over time.	<0.5% affected in 2026–27; <0.1% above $10m. Indexation reduces in-scope numbers over time.	Targeted client communications; maintain watchlists for those near thresholds. Consider pre-emptive strategies to even out balances between spouses.
Assessment & payment	ATO issues BTSC assessments; member may pay personally or request release from the fund.	Unchanged.	Prepare cash-flow options with clients ahead of assessments.

Tax Calculations

The precise method for calculating tax liability will be settled during consultation but it is anticipated that it will follow these five broad steps:

Step 1: ATO notifies the super fund that there is an in-scope member (i.e. a member with a total superannuation balance of $3 million or more)

Step 2: Fund calculates realised earnings attributable to that in-scope member and reports this to ATO
Note: the trustee of the super fund could attribute earnings to in-scope members using existing processes or on a fair and reasonable basis (as supported by ATO guidance).

Step 3: ATO calculates the proportion of the total super balance (TSB) exceeding the $3 million threshold

$$\text{Proportion of } TSB_1 = \frac{TSB_{\text{Current Financial Year}} - \$3 \text{ million}}{TSB_{\text{Current Financial Year}}}$$

Step 4: ATO calculates the proportion of the TSB exceeding the $10 million threshold (if applicable)

$$\text{Proportion of } TSB_2 = \frac{TSB_{\text{Current Financial Year}} - \$10 \text{ million}}{TSB_{\text{Current Financial Year}}}$$

Step 5: ATO calculates the total tax liability for all that member's interests Note: the tax liability formula below gives effect to the two-tiered approach, applying an additional 15% tax on the proportion of earnings corresponding to the TSB between $3 and $10 million, and an additional 25% tax on the proportion of earnings corresponding to the TSB above $10 million. These apply in addition to the fund's concessional tax rate of 15%.

Tax Liability = 15 per cent x Total Earnings x Proportion of TSB + 10 per cent x Total Earnings x Proportion of TSB

Worked Examples

Example 1 | Megan
Both APRA-regulated fund and SMSF interests

- Megan is 58 and she is both a member of an APRA-regulated fund and a member of an SMSF and has a total super balance of $4.5 million, of which $2.3 million is in an APRA fund and the remaining $2.2 million is in an SMSF.
- In the 2026-27 financial year, Megan had $100,000 in realised earnings from her APRA fund and $200,000 in realised earnings from her SMSF (a total of $300,000).
- The proportion of her $4.5 million balance above the $3 million threshold is 33.33%. The proportion above $10 million is nil.
- Megan's BTSC tax liability is therefore **$15,000** (0.15 x 0.3333 x $300,000).

Example 2 | Emma
SMSF member with over $10 million

- Emma is 55 and a member of an SMSF and has a total super balance of $12.9 million at the end of the 2026-27 income year. That year she was attributed $840,000 of the fund's realised earnings for the purposes of this tax.
- The proportion of her balance above the $3 million threshold is 76.74% and the proportion of her balance above the $10 million threshold is 22.48%.
- Emma's BTSC tax liability is therefore **$115,581** (0.15 x 0.7674 x $840,000 + 0.10 x 0.2248 x $840,000). Note the combined BTSC tax rate on earnings over $10 million is 25%.

Next steps

The Australian Government will introduce legislation to implement these changes as soon as possible in 2026. Further consultation will be undertaken with the superannuation industry and other relevant stakeholders to settle implementation.

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