DIVISION 293 TAX

SUPER SA
contributing to your future

IN THIS FACT SHEET

The Australian Taxation Office (ATO) administers the Division 293 tax and is the main point of contact for enquiries about the tax. You can contact them on 1300 651 221 or visit **www.ato.gov.au**.

Individuals with income and low tax super contributions greater than $250,000 will be charged Division 293 tax of 15% on the low tax contributions above the $250,000 per year threshold.

Division 293 tax reduces the tax benefit on low tax contributions (also referred to as concessional contributions) of very high income earners. It was legislated in June 2013 and backdated to July 2012.

You will be liable to pay Division 293 tax if:

– you had concessional super contributions for an income year, and

– your income plus your concessional contributions exceeds $250,000

If your income excluding your concessional contributions is:

– less than the $250,000 threshold; but

– the inclusion of your concessional contributions pushes you over the threshold

then the Division 293 tax will only apply to the concessional contributions that are in excess of the threshold.

Concessional contributions include:

– employer contributed amounts to an accumulation fund

– Salary sacrifice contributions to super

– notional employer contributions, for a defined benefit fund.

Income includes:

– taxable income (assessable income less deductions)

– total reportable fringe benefits

– net financial investment loss

– net rental property loss

– amounts on which family trust distribution tax has been paid.

Income excludes taxed lump sum super benefits with a zero tax rate.

Table 1: Division 293 tax liability rules according to scheme and/or position held:

Group	Example	Division 293 tax liability
Accumulation interest (scheme)	– Triple S – Super SA Select – PSS3	Yes – required to pay the liability with 21 days of the ATO issuing the assessment notice. Members also have the ability to elect to release the amount from a super fund within 60 days.
Defined benefit interest (scheme)	– Lump Sum – Pension	Yes – payment deferred until an end benefit becomes payable upon cessation of service. Voluntary payments may be made.
Higher level office holders	– State Ministers – Members of Parliament – Ministerial staffers (see page 4 for full list)	Not required to pay Division 293 tax in respect of contributions to constitutionally protected schemes, unless the contributions are made as part of a salary package (ie salary sacrifice contributions).

DIVISION 293 TAX

SUPER SA
contributing to your future

IN THIS FACT SHEET

How the ATO calculates Division 293 tax

Step 1	Determine your income from your income tax return: – Income used includes taxable income (assessable income less deductions); total reportable fringe benefits; net financial investment loss; net rental property loss; amounts on which family tax/distribution tax has been paid; and – Income excludes: taxed lump sum super benefits with a zero tax rate.
Step 2	Determine your concessional contributions: – Employer contributed SG (Superannuation Guarantee) amounts to an accumulation fund; – Salary sacrifice contributions to super; and – Notional employer contributions for a defined benefit.
Step 3	Add together your income and your concessional contributions: – (Step 1 + Step 2)
Step 4	If the combined figure is greater than $250,000, you have Division 293 taxable contributions. These are the lesser of: – The concessional contributions; or – The amount of concessional contributions above $250,000
Step 5	Tax of 15% is applied to these taxable contributions.

These examples are based on membership of a Super SA administered scheme.

Example 1: Accumulation account

Anna has a taxable income of $241,000 and employer super contributions to an accumulation fund of $22,895.

Following the five steps above, here's how her Division 293 tax liability is calculated:

1	Income	$241,000
2	Employer contributions (ie SG amounts)	$22,895
3	Add together 1 & 2	$263,895
4	Lesser of **2** and **3** ie: – $22,895; or – $13,895 (concessional contributions above $250,000 threshold)	
	Taxable amount	$13,895
5	$13,895 x 15%	**$2,084**

Tax liability of $2,796 payable 21 days after the issue of the assessment by the ATO.

Example 2: Defined benefit

Tom has a taxable income of $305,000 and his notional employer contributions for a defined benefit fund are $45,000 for the 2017-18 year.

Here is how his Division 293 is calculated:

1	Income	$305,000
2	Notional employer contribution	$45,000
3	Add together 1 & 2	$350,000
4	Lesser of **2** and **3** ie: – $45,000; or – $100,000	
	Taxable amount	$45,000
5	$45,000 x 15%	**$6,750**

Tax liability of $6,750 deferred to a debt account maintained by the ATO.

DIVISION 293 TAX

SUPER SA
contributing to your future

IN THIS FACT SHEET

Accumulation and defined benefit scheme members

If you are required to pay Division 293 tax, the Australian Taxation Office (ATO) will issue you with an assessment after the end of the financial year.

The ATO will issue a Division 293 tax assessment that may be made up of:

- a due and payable amount attributable to an accumulation interest;
- a liability deferred to a debt account (ie a liability attributable to a defined benefit interest for which the debt account discharge liability has not arisen) maintained by the ATO;
- a debt account discharge liability (ie a liability attributable to a defined benefit interest for which a deferred debt account has been maintained by the ATO) and a benefit has become payable due to cessation of service.

State Higher Level Office Holders

State higher level office holders will generally not be liable for Division 293 tax in respect of the concessional contributions paid into a constitutionally protected scheme, unless the contributions are made as part of a salary package arrangement (ie salary sacrifice contributions).

All concessional contributions (other than salary sacrificed contributions) of a state higher level office holder made to a constitutionally protected scheme are included when determining whether the $250,000 threshold has been exceeded, but excluded when determining the taxable contributions.

Therefore a Division 293 tax liability in respect of a state higher level officer holder's interest in a constitutionally protected scheme should only be in relation to amounts salary sacrificed to super.

State higher level office Holders include:

- State Ministers (or members of staff)
- the Governor, (or members of staff)
- MPs
- Head of a Government Department or a statutory office holder of equivalent seniority (eg Police Commissioner, etc)
- A judge, justice or magistrate.

Payments

If you are required to pay Division 293 tax, the ATO will provide you with an assessment after the end of the financial year.

Payment timeframes:

Accumulation scheme (such as Triple S, Super SA Select or PSS 3):

A Division 293 tax assessment attributable to accumulation interests is required to be paid by the due date. This will usually be within 21 days after the ATO issues a Notice of Assessment. Sixty days for release from Super.

Defined benefit scheme (such as Lump Sum Scheme and Pension Scheme):

- Division 293 tax assessment attributable to a defined benefit interest for which a deferred debt account has been created: You do not need to pay at this stage as the liability has been deferred until a benefit becomes payable upon cessation of service. You may, however, choose to make a voluntary payment to the ATO in respect of this debt. The deferred debt account held by the ATO will attract end-of-year interest at the long-term bond rate.
- Division 293 tax assessment attributable to a "debt account discharge liability" (ie a liability in respect of a defined benefit interest for which a debt account has been maintained by the ATO and the end payment has become payable due to cessation of employment): Super SA must notify the ATO within 14 days of you requesting

DIVISION 293 TAX

SUPER SA
contributing to your future

your super benefit or your super benefit becoming payable, whichever happens first.

The ATO will then calculate your debt account discharge liability. This will be the lesser of the:

– balance of your debt account; or
– end benefit cap amount.

The due date for the payment of the debt account discharge liability is 21 days from the date the notice is issued to you by the ATO. Sixty days for the release of super.

Payment option for the Lump Sum Scheme

When you cease membership of the Lump Sum Scheme, on application, Super SA is able to retain an amount equivalent to your Division 293 debt in the Lump Sum Scheme, subject to investment market fluctuations to meet your Division 293 liability, payable to the ATO.

Please note, Super SA must forward Division 293 debt payments directly to the ATO. You are able to pay this debt directly from your own funds but you will not be able to be reimbursed from your Lump Sum account by providing Super SA with a Division 293 release authority.

Payment using a Release Authority – assessment attributable to an accumulation interest

You can elect to have your Division 293 tax liability paid from any of your accumulation schemes (such as Triple S).

You have 60 days from the date of the Notice of Assessment to provide the ATO with an election form to advise which of your accumuation funds you want the Division 293 tax payment released from. The ATO will then issue a Release Authority to Super SA.

The amount will be paid by Super SA direct to the Commissioner of Taxation.

You can also make payments from an accumulation interest to fund your Division 293 deferred debt account attributable to a defined benefit interest. You may wish to voluntarily pay prior to the debt account discharge liability becoming payable. This amount must be paid by Super SA direct to the Commissioner of Taxation.

You do not have to use a Release Authority, rather you can also choose to pay out of non-super monies and do not have to use super to pay.

Frequently asked questions

What is a Release Authority?

The ATO will send you a Release Authority in conjunction with any Division 293 tax amendment they give. It authorises the trustee of a superannuation fund to release superannuation to pay for a Division 293 tax debt subject to Commonwealth requirements.

Who can receive my Division 293 payment?

On the production of a valid Release Authority, funds to pay Division 293 tax liabilities attributable to accumulation interests must be released to the ATO. Super SA cannot pay the funds released to a member, even if the member paid their liability from non-super money.

What if I disagree with my assessment?

If you disagree with your assessment, you can lodge a formal objection with the ATO. Please refer to the ATO website for further information.

What happens if I preserve my defined benefit?

Any deferred Division 293 tax debt remaining at 30 June each year will be charged interest at the 10-year Treasury bond rate.

What happens if I die?

Where a member dies before they receive their benefit, any Division 293 tax debt is recovered from their estate.

DIVISION 293 TAX

SUPER SA
contributing to your future

IN THIS FACT SHEET

Who do I contact if I require further information about Divison 293 tax?

The ATO administers the Division 293 tax and is the main point of contact for enquiries about the tax. You can contact them on 13 10 20 or visit **www.ato.gov.au.**

You could also contact your financial adviser or accountant.

Contact us

Address
Ground floor, 151 Pirie Street
Adelaide SA 5000
(Enter from Pulteney Street)

Postal
GPO Box 48, Adelaide, SA 5001

Call
(08) 8207 2094 or 1300 369 315

Email
supersa@sa.gov.au

Website
www.supersa.sa.gov.au