SCG
ACCOUNTANTS & ADVISORS

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SCG JULY NEWSLETTER

INSIDE

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Div 296 super tax and practical things to consider

Division 296 super tax is a controversial Federal Government proposal to impose an extra 15% tax on some superannuation earnings for individuals if their total superannuation balance (TSB) is over $3 million as at 30 June of the relevant income year.

This measure is not yet law and must still pass both Houses of Parliament. At the time of publication, the start date had not been confirmed, although the Government was originally hoping that the measure would apply from 1 July 2025, with the first tax bills to be sent out sometime after 30 June 2026.

How does it work?

While we are waiting to see whether the measure will become law, let's assume for the moment that the Government passes legislation which is consistent with the Government's announcements to date. If so:

- If your TSB is over $3 million at 30 June, a portion of your annual superannuation earnings above that threshold will be taxed at an additional 15%.
- The tax is assessed to you personally and can be paid from your super or your own funds.

Continued over…

- Superannuation earnings for this purpose reflect the increase in your net super balance for the year, adjusted for certain contributions (eg, inheritance via death benefit pension) and withdrawals.
- Some exclusions apply: children on super pensions, structured settlements (personal injury), and the deceased.

It is important to remember that your TSB is the aggregate of all Australian superannuation interests (including balances with APRA funds, SMSFs and defined benefit schemes) held at the end of the income year.

If the start date is 1 July 2025, then the first test date will be 30 June 2026. An individual's TSB at this date, and each following 30 June, will determine whether they will have a Division 296 tax liability for that income year. Only where the individual has a TSB on 30 June in excess of $3 million will they have a Division 296 tax liability for that income year.

Examples

Sam's account

- 30 June super balance: $4 million.
- Annual growth: $120,000.
- Portion above $3m: ($4m–$3m)/$4m = 25%
- Taxable earnings: $120,000 x 25% = $30,000
- Extra tax: $30,000 c 15% = $4,500

Lisa's inheritance

- Lisa's balance rises from $2m to $4.5m after receiving a death benefit pension.
- Only new investment growth (not the transferred amount) is taxed as earnings, but a total balance over $3m means she may still have a liability.

What can you do?

- Review your super fund liquidity and cashflow planning for future tax payments
- Ensure your asset valuations are up to date
- Estimate your combined super balances and plan for any large transactions
- Document asset values, especially for SMSF members
- Seek tailored professional advice before making any changes

While we are waiting to see whether the legislation passes through Parliament and whether any significant amendments or adjustments are made to the proposed measures, if you have any questions or concerns around this in the meantime, reach out – we're here to help.

End.

Quote of the month

For a nation to try to tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle.

Winston Churchill

Important tax update: deductions for ATO interest charges scrapped

If you're carrying an Australian Taxation Office (ATO) debt there is a good chance that it will cost you even more from 1 July 2025 onwards. This is because from 1 July 2025 two types of interest charges imposed by the ATO are no longer deductible.

What are the interest charges?

There are two main types of interest that are charged by the ATO. These are:

- General Interest Charge (GIC): This applies when you pay your tax liability late. The ATO applies GIC to encourage tax liabilities to be paid on time and ensure taxpayers who pay late don't have an unfair advantage over taxpayers who pay on time. GIC is calculated on a daily compounding basis on the overdue amount. The GIC annual rate for the July – September 2025 quarter is 10.78%.
- Shortfall Interest Charge (SIC): This is applied when there is a shortfall in tax paid because of an amendment or correction to your tax assessment. SIC is also calculated on a daily compounding basis. The SIC annual rate for the July – September 2025 quarter is 6.78%. The ATO applies SIC to the tax shortfall amount for the period between when it would have been due and when the assessment is corrected.

What's changing?

Historically, both GIC and SIC amounts could be claimed as a deduction. This has meant that the net after-tax cost of the interest charges has been reduced for taxpayers who have a positive income tax liability for the relevant income year.

However, the Government has passed legislation to ensure that GIC and SIC amounts incurred on or after 1 July 2025 are no longer deductible, even if the interest relates to a tax debt that arose before this date.

As these interest charges are no longer deductible, this means that the after-tax impact of the charges is higher for many taxpayers. The impact becomes greater as your tax rate increases.

For example, let's take a look at two individuals who have the same level of tax debt owed to the ATO and the same level of tax debt owed to the ATO and the same GIC liability of $1,000 for a particular income year:

- Sally is a high income earner and subject to a 45% marginal tax rate (ignoring the Medicare levy). Under the old rules the net cost of the interest charge was only $550 because she could claim a deduction for the GIC amount and this reduced her income tax liability by $450. Under the new rules no deduction is available and the full cost to Sally will be $1,000.
- Adam is subject to a 30% marginal tax rate (again, ignoring the Medicare levy). Under the old rules the net cost of the interest charge was $700 because he could reduce his income tax liability by $300 by claiming a deduction for the GIC amount. As with Sally, under the new rules no deduction is available for the GIC and the full cost to Adam is $1,000.

What can I do to minimise the impact of this change?

The simple answer is to pay down ATO debt as quickly as possible. As you can see, the GIC rate is relatively high and continues to accrue on a daily basis until the debt is paid off.

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The faster you can pay off that debt, the lower the interest charges that will accrue.

If you can't afford to pay off your ATO debt in the short term then you might want to explore other options, including whether you would be better off borrowing money from another source at a lower interest rate to pay off the ATO debt. In some cases it is possible to claim a deduction for interest accruing on a loan that is used to pay tax debts, although this is normally only possible if the debt arose from business activities. It isn't normally possible to claim a deduction for interest accruing on a loan that is used to pay a tax debt that arose from investment or employment activities.

While the ATO will sometimes allow taxpayers to enter into a payment plan so that tax debts can be paid through instalments, tax debts that are subject to a payment plan still accrue GIC.

On a more proactive basis, a better option is to plan ahead to ensure that upcoming tax payments can be made on time. This will sometimes mean setting aside funds regularly for tax instalments, GST, PAYG withholding and other amounts that need to be paid to the ATO. Keeping these amounts separate will help to ensure you're ready when the ATO bill arrives.

If you're currently carrying tax debt or need help staying ahead of your obligations, we're here to help. Let's work together on a strategy that keeps you compliant and protects your bottom line.

End.

Finfluencers: bad tax advice could cost you

They're advising from your insta and TikTok feeds, they've got huge followings, they speak with conviction - financial influencers or 'finfluencers'. Please heed our caution, taking advice from unqualified sources can have serious consequences. We're seeing examples of misleading claims, exaggerated deductions and outright misinformation. Relying on this advice could not only leave you out of pocket but also expose you to ATO penalties, fines or in the worst case scenario - prosecution.

What's the problem?

Many finfluencers make money by promoting financial products on behalf of companies, which means that they don't necessarily have your best interests in mind when sharing information or insights. Finfluencers aren't always qualified to provide advice on tax or financial products. You just can't expect to receive solid, reliable or tailored guidance. Unfortunately, we're seeing some influences share tax hacks that are either completely false or apply only in extremely limited situations.

The ATO and some of the accounting professional bodies have sounded the alarm on some recent false claims, including:

- Claiming your pet as a work related guard dog
- Writing off luxury handbags as laptop bags
- Deducting fuel costs without any documentation
- Trying to claim swimwear as a work uniform

These kinds of suggestions might sound plausible but following them could get you into serious trouble. The ATO uses sophisticated data matching tools to detect suspicious or inflated claims. If your deductions don't meet the legal criteria, this could trigger an audit and if mistakes are found, the consequences can include:

- An increased tax liability
- Interest charges
- Fines
- A criminal record and in the most serious cases, imprisonment

Here's how to stay safe and tax smart:

- If it sounds too good to be true, it probably is. Dodgy deduction tips on social media are best ignored, at least until they can be verified.
- Stick to trusted sources. For official tax guidance, visit ato.gov.au.
- Don't risk your business or personal reputation for a quick deduction.

If you aren't sure, please reach out to us and we can help you stay compliant, no filters or hashtags!

End.

Trust funds: are they still worth the effort?

For decades, trust structures have been a cornerstone of the Australian tax and financial system, prized for their asset protection and flexibility when it comes to income distributions. However, with regulatory changes and mounting administrative complexity the shine has been wearing off lately, prompting some businesses and investors to rethink their use.

Is there a shift away from trusts?

In recent years, we have noticed a slight trend of businesses transitioning from trust structures to corporate entities. This shift is largely due to increasing scrutiny on how trusts are used and the growing complexities involved in managing trusts, particularly when it comes to documentation and compliance requirements. Trustees and directors of trustee companies are realising that they need to devote more time and resources to ensure compliance with evolving and complex regulations.

One of the primary challenges in utilising trusts for business purposes is the need for timely and accurate decision making. Trustees are normally required to make decisions about distributions by the end of the financial year to prevent the profits of the trust from being taxed at penalty rates. This timing can be problematic as it might not align with the availability of complete financial information, especially for businesses that are actively trading. This can lead to difficulties in making informed decisions regarding the distribution of trust income and to achieve optimal tax outcomes.

The ATO has also intensified its focus on trust arrangements, especially when it comes to the use of integrity rules which have formed part of the tax system for many years, but haven't tended to be applied all that often. The risk of making mistakes and being detected is probably higher than ever before.

All's not lost (we're here to help)

While the landscape around trusts is evolving and the scrutiny is high, this doesn't mean that trust structures don't still have their place. With the right support (support that we can provide in conjunction with other experts) trusts can still offer advantages that other structures can't. They can still be a useful platform for passive investment activities, estate planning and as part of a business structure.

This isn't the time to give up on trusts. But it is important to seek advice before setting up a trust to make sure it is the most appropriate option and to fully understand the advantages, disadvantages and practical issues that will need to be managed when using a trust structure.

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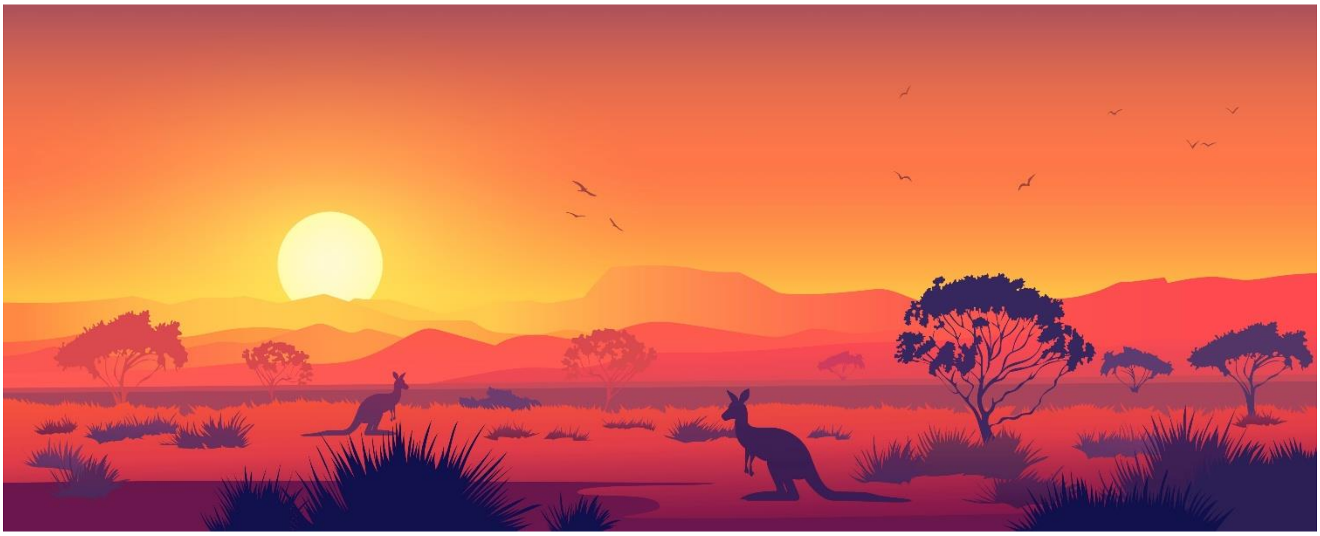

The one big, beautiful bill that may not be so beautiful for Aussies

You may have seen the viral headline about a new U.S. tax bill called the One Big Beautiful Bill, but what does it mean for Australian investors, especially super funds and small businesses with US exposure? Turns out, it could mean a hit to investment returns.

Where are things at?

Australian superannuation funds currently have about $400 billion invested in the US and tax concessions are currently available under existing tax treaties. This could change.

A new bill, backed by the Trump administration and recently passed through the House of Representatives proposes higher taxes on countries seen to be discriminating against US businesses, including Australia.

If the bill becomes law, Australian super funds could face higher taxes on US investments, directly affecting the long-term returns of super funds.

The implications

Even if you don't have direct investments in the US, this matters. If your business is tied to superannuation funds or if you rely on consistent super returns for your retirement planning, changes like these can add pressure. It also adds a layer of uncertainty for Aussie businesses operating globally. As trade tensions rise and tax rules shift, doing business internationally becomes more complex and potentially more costly. Tax experts say these changes could override existing treaties between the US and Australia. And they're not just aimed at big corporates, any individual or entity with US exposure could potentially be affected in some way.

What's being done?

Industry groups including the Financial Services Council are calling on the Australian Government to step in and protect Australian investors through diplomatic and trade channels. Major super funds have already met with US lawmakers, reminding them that Australia is a significant source of capital for US markets and that strong partnerships go both ways.

That said, this legislation is still working its way through Congress and faces pushback even from some Republicans. But as one US political expert said, 'Bills that looked doomed have passed before.' We live in hope but it's not over yet.

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What can you do?

Using John Howard's barometer, for now we're at the be alert but not alarmed stage. If you're managing a business, planning your retirement, or investing overseas, this is a reminder of how global politics can impact your bottom line.

Here's what we recommend:

- Stay informed. Tax rules can change quickly
- Ensure your retirement planning is flexible enough to adjust if needed or talk to us to help you
- Talk to us if you've got exposure to US investments, but you might need some input from a US tax specialist.

There's undoubtedly a bit to consider in the world of tax / finance at the moment, the environment's changing at pace. You're not alone in this though, as always please reach out if you have any questions and concerns. We're here to help.

Until next month, all the best.