

Division 296 and the end of unconstrained super

Implications, Impacts and Strategic Responses
for High-Balance Clients

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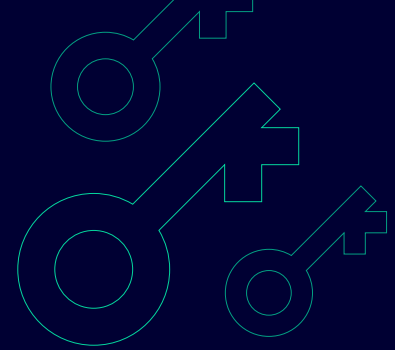


Division 296 and the End of Unconstrained Super
Implications, Impacts and Strategic Responses for High-Balance Clients

March 2026

This paper has been prepared for information purposes for financial advisers only. It does not constitute personal financial advice and does not take into account the objectives, financial situation or needs of any individual. Advisers should consider the appropriateness of strategies discussed in light of each client's circumstances and prevailing legislation.

Executive Summary



The Australian Government's Division 296 legislation represents the most significant structural change to the taxation of superannuation since the introduction of the transfer balance cap in 2017. Scheduled to commence from **1 July 2026**, the measure introduces a progressive tax overlay on superannuation earnings attributable to large balances, fundamentally altering the long-standing assumption that superannuation provides a uniformly concessional tax environment irrespective of balance size.

Under the legislation, individuals with a **Total Superannuation Balance (TSB) exceeding \$3 million** will be subject to an **additional 15 per cent tax** on earnings attributable to the portion of their balance above that threshold. For balances exceeding **\$10 million**, a further 10 per cent tax applies. When combined with existing superannuation taxes, this results in effective marginal tax rates of up to **30 per cent** and **40 per cent** respectively on affected earnings.

While the Government has refined the design of Division 296 in response to industry feedback - notably by moving to a realised earnings framework, the legislation nonetheless establishes a clear precedent: superannuation will no longer operate as a single-rate tax environment for very large balances.

At commencement, Division 296 is expected to affect a relatively small proportion of Australians. However, its longer-term implications are considerably broader. Asset price growth, compulsory superannuation contributions, increasing longevity, and substantial intergenerational wealth transfers mean that a growing cohort of clients will either exceed, or move materially closer to the \$3 million threshold over time. Importantly, the thresholds are indexed to inflation rather than asset price growth, increasing the likelihood of gradual "threshold creep" for long-term accumulators.

For financial advisers, Division 296 elevates the importance of **asset location decisions** alongside traditional asset allocation decisions, particularly for higher-balance clients.

This paper examines the legislative mechanics of Division 296, identifies the client cohorts most likely to be impacted and quantifies the potential magnitude of the tax over time. It then considers strategic responses available to advisers, with particular focus on the role of **tax-paid investment structures**, including investment bonds, as part of a diversified and resilient wealth framework. The analysis is framed to support advisers in meeting their best-interest obligations while navigating the increasing complexity of late-accumulation and post-retirement advice in a changing regulatory environment.

1. Policy Context and Legislative Overview

1.1 Origins of Division 296

Division 296 forms part of the Government's "Better Targeted Superannuation Concessions" initiative, aimed at reducing the fiscal cost of superannuation tax concessions for very large balances. Superannuation tax concessions have long been justified on the basis of encouraging retirement savings and reducing reliance on the Age Pension. However, balances significantly in excess of retirement income requirements have increasingly been viewed by policymakers as extending beyond this policy intent.

Earlier versions of the proposal attracted substantial industry criticism, particularly in relation to the taxation of unrealised capital gains. Concerns focused on valuation volatility, liquidity constraints (especially for SMSFs holding illiquid assets), and departures from established income tax principles. In response, the Government revised the design to focus on realised earnings, while retaining the core objective of applying higher effective tax rates to large superannuation balances.

The legislation reflects a compromise position. While it addresses some operational concerns, it nonetheless establishes a precedent for progressive taxation within superannuation and introduces additional complexity into the advice process.

1.2 Key Design Features of Division 296

Division 296 introduces an additional layer of individual-level taxation on superannuation earnings attributable to large balances. Key design elements include:

Commencement and assessment timing

- Commencement date, 1 July 2026
- Transitional year, for the 2026–27 financial year, only the member's Total Superannuation Balance (TSB) at 30 June 2027 will be tested
- From 2027–28 onwards, TSB will be assessed at both the start and end of the financial year, with the higher balance used to determine exposure

Thresholds and indexation

- \$3 million threshold, indexed to CPI in \$150,000 increments
- \$10 million threshold, indexed to CPI in \$500,000 increments
- Indexation is inflation-based, not asset-price-based, increasing the likelihood of threshold creep over time

Tax rates

- Additional 15% tax on earnings attributable to the proportion of TSB above \$3 million
- Additional 10% tax on earnings attributable to the proportion of TSB above \$10 million
- These taxes apply in addition to existing

superannuation taxes, producing effective marginal rates of up to 30% and 40% respectively

Taxpayer and payment

- The tax is imposed on the individual, not the superannuation fund
- However, the liability may be paid directly from the member's superannuation interest, subject to fund rules

Calculation methodology

Division 296 tax is calculated using the formula:

- Proportion of TSB above threshold × earnings × applicable tax rate

This approach is specifically designed to prevent avoidance through balance manipulation during the year.

1.3 Structural Significance for Superannuation

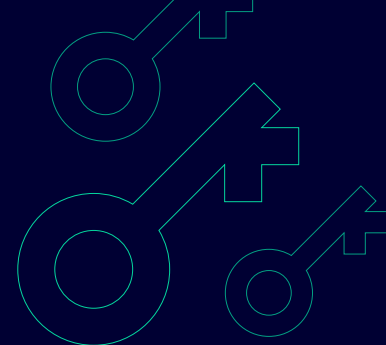
While previous reforms - such as contribution caps and the transfer balance cap - constrained the amount of capital that could enter or remain in tax-preferred phases, Division 296 directly alters the marginal taxation of earnings within superannuation itself. This distinction is critical.

The practical implication is that superannuation is no longer a "one-rate" environment at higher balances. Advisers must now consider not only how much is held in superannuation, but how future earnings on that capital will be taxed relative to alternative structures. This represents a shift from contribution-driven optimisation towards ongoing structural management.

1.4 Legislative Status and Adviser Planning Implications

With Division 296 now legislated, and its commencement from **1 July 2026**, the move from taxing unrealised gains to a realised earnings framework has materially reduced operational and political risk.

For advisers, this creates a clear distinction between **strategic planning** and **strategic execution**. They should be scenario testing, focusing on client education and structural planning in advance of commencement. Failure to do so risks leaving affected clients unprepared for the first assessment period, which will reference balances at **30 June 2027** under transitional rules.



1.5 Legislative Status and Adviser Planning Implications

A critical feature of Division 296 is its reliance on a **realised earnings framework**, broadly aligned with existing income tax concepts rather than changes in account balances.

For **SMSFs and small APRA funds**, earnings are calculated by adjusting taxable income to reflect:

- SMSF taxable income or loss
- **Less** assessable contributions
- **Add** net exempt current pension income (ECPI)
- **Add** non-arm's length income (NALI)
- **Less** ordinary taxable capital gains
- **Add** adjusted taxable capital gains
- **Add** pooled superannuation trust earnings (if applicable)

Division 296 earnings are then **allocated to in-scope members** (those with TSB above thresholds). Treasury has indicated that allocation will generally require an **actuarial certificate**, using proportionate or pooled methods similar to those already employed for ECPI calculations. In practice, this increases the importance of liquidity planning within SMSFs holding concentrated or illiquid assets.

This means that:

- Even members fully in pension phase may be subject to Division 296 tax
- Liquidity constraints may arise where earnings are realised but not distributed in cash
- SMSFs with illiquid assets may face increased complexity in funding tax liabilities

For **large APRA-regulated funds**, earnings attribution will follow fund-specific methodologies prescribed by regulation, reflecting the impracticality of asset-level tracking across pooled structures.

1.6 Transitional Capital Gains Relief

To ensure Division 296 applies only to earnings accrued **after commencement**, the legislation includes transitional capital gains relief mechanisms.

For **SMSFs and small APRA funds**, trustees may elect to:

- Reset the cost base of **all CGT assets held at 30 June 2026** to their market value on that date
- Exclude pre-commencement unrealised gains from future Division 296 earnings calculations

Key characteristics of this election:

- Must apply to **all CGT assets** held at 30 June 2026
- Must be lodged in approved form by the due date of the **2026–27 tax return**
- Is **irrevocable**
- Applies to all members, regardless of whether they exceed the \$3 million threshold at commencement

For **larger APRA-regulated funds**, transitional relief will apply via a prescribed **adjustment factor** for realised gains over the first four years (2026–27 to 2029–30), to be set through regulation.

Importantly, this relief affects only the **Division 296 calculation**. Capital gains tax within the fund continues to be calculated under normal superannuation tax rules when assets are sold.

2. Who Is Impacted - Directly and Indirectly

2.1 Clients Directly Affected at Commencement

Clients most immediately affected by Division 296 are those whose Total Superannuation Balance already exceeds, or is expected to exceed, \$3 million by 30 June 2027. This group includes:

- **SMSF members with large, concentrated asset holdings**, particularly property or private investments with significant realised income streams.
- **High-net-worth individuals** who have maximised concessional and non-concessional contributions over extended periods.
- **Members holding interests across multiple superannuation vehicles**, where aggregate balances push them above the threshold even if no single fund appears excessive in isolation.
- **Defined benefit members**, whose notional balances may exceed thresholds despite limited liquidity.

For these clients, Division 296 introduces an ongoing tax liability that must be funded either from superannuation cash flow or from external resources, potentially altering retirement income sustainability and investment strategy.

2.2 Clients Indirectly Affected Over Time

A broader and arguably more important cohort comprises clients who are not currently above \$3 million but are on a plausible trajectory to breach the threshold. This includes:

- Younger high-income professionals with long accumulation horizons.
- Business owners anticipating liquidity events.
- Individuals likely to receive substantial inheritances or reversionary pensions.
- Clients with strong growth-oriented investment strategies within superannuation.

For these clients, Division 296 is less an immediate tax issue and more a strategic planning constraint. Decisions made today regarding asset location, contribution strategy, and ownership structure may materially influence their exposure to the tax in later years.

2.3 The Limitations of the “Small Cohort” Narrative

Government commentary has frequently emphasised that Division 296 affects only a small percentage of Australians. While accurate in a static sense, this framing understates the dynamic nature of wealth accumulation. Superannuation balances tend to grow non-linearly, particularly in later accumulation phases, and CPI indexation of thresholds may lag asset price growth over extended periods. As a result, advisers should view Division 296 not as a niche issue, but as an emerging structural feature of the retirement system that will shape advice for affluent clients over coming decades.

2.4 Defined Benefit and Legacy Superannuation Interests

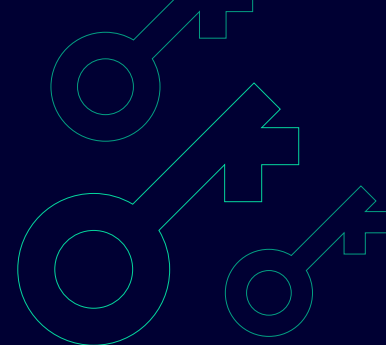
Division 296 will also apply to individuals with defined benefit interests whose notional balances exceed the relevant thresholds. While final valuation methodologies will be set by regulation, Treasury has indicated that prescribed valuation factors will be used to approximate TSB and earnings for defined benefit members.

This introduces additional considerations:

- Defined benefit members may face Division 296 liabilities **without corresponding liquidity**
- The ability to fund liabilities from the interest itself may be constrained
- Strategic options may be limited relative to accumulation-style superannuation

Advisers with defined benefit clients approaching thresholds should treat Division 296 as a **monitoring and communication issue**, ensuring clients understand potential liabilities even where limited mitigation options exist.

3. Measuring the Magnitude of Impact



Division 296 does not alter the concessional nature of superannuation uniformly. Instead, it introduces a marginal tax overlay that applies only to the portion of earnings attributable to balances above specified thresholds. As a result, the economic impact on an individual client depends on four primary variables: the size of their superannuation balance, the composition of their investments, the level and timing of realised earnings, and the duration over which the tax applies.

3.1 Effective Tax Rates Under Division 296

Prior to Division 296, the taxation of superannuation earnings was broadly characterised by flat rates: up to 15 per cent in accumulation and 0 per cent in retirement phase (subject to the transfer balance cap). Division 296 disrupts this simplicity by introducing progressive taxation above \$3 million.

For balances between \$3 million and \$10 million, earnings attributable to the excess are subject to an additional 15% tax. Combined with existing fund-level tax, this produces an effective marginal tax rate of up to 30% on that portion of earnings. For balances above \$10 million, a further 10% applies, increasing the combined marginal rate to up to 40%.

While these rates remain below top marginal personal tax rates, they materially reduce the tax differential that has historically favoured superannuation over alternative investment structures, particularly when the loss of timing flexibility and liquidity is considered.

3.2 Illustrative Scenarios

The following examples are simplified and assume stable balances and consistent annual returns. They are intended to illustrate directional impacts rather than precise outcomes.

Scenario A: \$5 million superannuation balance

- Assumed annual return: 7%
- Annual earnings: \$350,000
- Proportion above \$3 million: 40%

Under Division 296, 40% of earnings (\$140,000) would be subject to an additional 15% tax, resulting in an incremental tax liability of \$21,000 per annum. Over a 10-year period, assuming constant returns, this equates to over \$200,000 in additional tax, excluding compounding effects.

Scenario B: \$10 million superannuation balance

- Assumed annual return: 7%
- Annual earnings: \$700,000
- Proportion above \$3 million: 70%

In this case, a significant proportion of earnings attracts the higher marginal rate. The annual additional tax liability rises materially, reducing the after-tax return on the incremental capital above the threshold.

Scenario C: \$15 million superannuation balance

- Assumed annual return: 7%
- Annual earnings: \$1,050,000
- Proportion above \$3 million: 80 per cent

For balances exceeding \$10 million, part of the earnings is taxed at an effective rate of up to 40 per cent. At this level, the relative advantage of superannuation over tax-paid investment structures narrows further, particularly for clients who value flexibility and estate planning control.

These scenarios highlight that while Division 296 does not render superannuation unattractive, it does diminish its marginal efficiency at higher balances. The cumulative effect over long time horizons can be substantial.

3.3 Liquidity and Cash-Flow Considerations

A critical, and often underappreciated, aspect of Division 296 is the separation between tax liability and cash generation. The tax is assessed on realised earnings, which may not coincide with cash inflows, particularly in SMSFs holding property or other illiquid assets.

Where tax liabilities must be met from superannuation balances, advisers may face increased pressure to manage liquidity proactively. This may involve holding higher cash allocations, restructuring investment portfolios, or increasing pension withdrawals, each of which carries trade-offs in terms of long-term return and sustainability.

For clients who are not yet able to access their superannuation, funding Division 296 tax from external resources may also become necessary, introducing additional complexity into personal cash-flow management.

3.4 Long-Term Compounding Effects

Even modest increases in annual tax rates can have a disproportionate impact over extended periods due to compounding. A reduction of 1–2 percentage points in net annual returns on a portion of a portfolio can translate into materially lower terminal balances over 20 or 30 years.

From an adviser perspective, this reinforces the importance of assessing not just short-term tax outcomes, but the long-term structural efficiency of where assets are held. Division 296 effectively raises the hurdle rate that superannuation must clear to remain the dominant vehicle for incremental wealth at higher balances.

3.5 The Compounding Impact of Division 296 Over Time

Building on the conceptual impact outlined above, the following simplified modelling illustrates how this compounding effect may manifest over longer time horizons. While the annual tax impact of Division 296 may appear modest in isolation, its long-term effect can be significant due to compounding. Even a relatively small increase in marginal tax rates on a portion of a portfolio can materially reduce terminal wealth over extended periods.

To illustrate this effect, consider the following simplified modelling assumptions:

- Starting superannuation balance: **\$5 million**
- Annual investment return (pre-tax): **7%**
- Portfolio remains fully invested
- No additional contributions or withdrawals
- Balance above \$3 million subject to Division 296
- Returns assumed to be realised evenly over time

Under these assumptions, approximately **40% of the portfolio's earnings** are subject to the additional 15% Division 296 tax, reducing the net return on that portion from approximately 6.0% to 5.1%.

Over a **20-year period**, this tax drag results in a terminal balance that is materially lower than it would otherwise have been, even though the underlying investment performance is unchanged. While the precise outcome will vary by return profile and realisation timing, the directional impact is clear: **Division 296 meaningfully reduces the compounding efficiency of large superannuation balances over time.**

For balances exceeding \$10 million, where effective marginal tax rates approach 40%, the compounding impact is amplified further.

3.6 Marginal Tax Outcomes: Superannuation vs Alternative Structures

A critical insight arising from Division 296 is that superannuation no longer offers a consistently superior marginal tax outcome once balances exceed defined thresholds.

At a marginal level:

- **Superannuation (below \$3m):**
 - Up to 15% tax in accumulation
 - 0% tax in pension phase (up to the transfer balance cap)
- **Superannuation (\$3m-\$10m):**
 - Up to **30% effective tax** on earnings above \$3m

- **Superannuation (above \$10m):**
 - Up to **40% effective tax** on earnings above \$10m

- **Investment bond:**
 - **Maximum 30% tax**, paid internally
 - The Effective Tax Rates of the underlying funds is often lower due to franking credits, foreign income tax offsets, etc*
 - No personal tax reporting (unless withdrawn before 10 years)
 - No CGT on switching or rebalancing
 - Tax-free withdrawals after 10 years

*refer to explanation on Effective Tax Rate on page 18

- **Investment Company:**
 - **30% corporate tax rate** on earnings (non-base rate entity)
 - Dividends taxable to shareholders when distributed (with franking credits)
 - Retained earnings remain trapped within company structure unless distributed
 - Potential CGT on asset disposal within the company

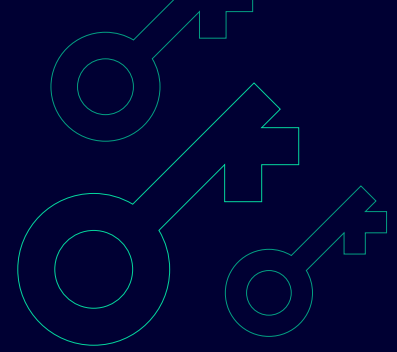
- **Discretionary (Family) Trust:**
 - Earnings distributed annually and **taxed at beneficiary marginal rates (up to 47%)**
 - Undistributed income taxed at top marginal rate
 - Capital gains may access 50% CGT discount at trust level
 - Administrative complexity and streaming considerations

- **Direct Personal Ownership (Top Marginal Rate Individual):**
 - **Up to 47% tax on income**
 - 50% CGT discount on eligible assets held >12 months
 - Full annual reporting obligations

This comparison highlights an important structural outcome:

Once a client's superannuation balance exceeds approximately **\$3 million**, all else being equal, the marginal tax rate on additional earnings within superannuation is equal to - and beyond \$10 million, higher than - the tax rate applying within an investment bond.

At that point, the decision to continue directing incremental capital into superannuation should be evaluated alongside alternative structures, particularly where flexibility, certainty and estate planning outcomes are also relevant.



3.7 When Superannuation Loses Marginal Superiority

Historically, advisers could rely on superannuation's tax settings to justify concentrating the majority of a client's long-term capital within the system. Division 296 alters this calculus.

From a marginal perspective:

- Below \$3 million, superannuation remains unequivocally tax-efficient
- Between \$3 million and \$10 million, superannuation and investment bonds are broadly **tax-neutral** (assuming the 30% tax rate is applied in the Investment Bond). Depending on the underlying investment option chosen, the Effective Tax Rate could be much lower making the Investment Bond outcome very tax-efficient*
- Above \$10 million, superannuation becomes **tax-inferior** at the margin relative to a tax-paid bond structure

This does not imply wholesale withdrawal from superannuation. Rather, it suggests a **layered strategy**, where superannuation remains the foundation, but incremental wealth is increasingly directed into complementary structures.

*refer to explanation on Effective Tax Rate on page 18

4. Strategic Implications for Financial Advisers

Division 296 materially increases the complexity of advice for affluent clients. While the core principles of diversification, risk management and suitability remain unchanged, the legislative overlay demands a more nuanced approach to structuring wealth.

4.1 Asset Location Becomes a Central Decision

Historically, advisers could focus primarily on asset allocation within superannuation, confident that the tax environment would remain broadly concessional. Division 296 shifts part of the optimisation problem outside the portfolio and into the choice of investment structure itself.

Advisers must now weigh:

- The marginal tax rate applying within superannuation above certain balance levels.
- The timing and certainty of taxation.
- The interaction with estate planning objectives and intergenerational transfer.

This does not imply a wholesale shift away from superannuation, but it does require more deliberate consideration of where incremental savings are directed once balances approach material thresholds.

4.2 Managing Client Behaviour and Expectations

Legislative changes of this nature often trigger reactive behaviour, including premature withdrawals or asset sales. Such responses may crystallise tax liabilities without materially reducing exposure to Division 296, particularly where balances remain above thresholds.

Advisers play a critical role in framing Division 296 as a structural planning issue rather than an immediate problem to be “fixed”. This includes setting realistic expectations about the role of superannuation going forward and the trade-offs inherent in alternative strategies.

4.3 Risk Management and Governance Considerations

From a compliance and governance perspective, Division 296 heightens the importance of a clearly documented rationale for any structural decisions. Advisers must be able to demonstrate that recommended changes are aligned with the client’s broader objectives, risk tolerance, liquidity needs and time horizon, rather than being driven solely by tax considerations.

4.4 Governance, Best-Interest Duty and Documentation

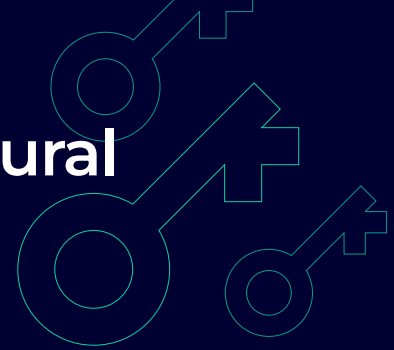
Structural decisions - particularly those involving redirection of capital outside superannuation - must be clearly linked to client objectives, risk tolerance, liquidity needs and estate planning outcomes.

Advisers should ensure that:

- Recommendations are framed as part of a **holistic strategy**, not a tax-driven response
- Alternative options (including maintaining funds within superannuation) are documented and considered
- Legislative uncertainty is acknowledged, with implementation timing clearly explained
- Advice records distinguish between **planning** and **execution**

This approach supports compliance with best-interest obligations while allowing advisers to prepare clients proactively for an expected regulatory change.

5. Mitigation Strategies - Structural Responses to Division 296



Division 296 does not lend itself to simple or short-term solutions. Because the tax is calculated by reference to total superannuation balances and realised earnings, many commonly suggested strategies provide limited benefit or introduce offsetting risks. Effective mitigation requires a structural, forward-looking approach that considers asset location, ownership, liquidity and estate outcomes in combination.

5.1 Strategies with Limited Effectiveness

5.1.1 Reducing Superannuation Balances via Withdrawals

A frequently suggested response is to withdraw funds from superannuation to reduce balances below the \$3 million threshold. In practice, this approach has several limitations:

- Withdrawals may not be available for clients who have not met a condition of release.
- Even where withdrawals are permitted, reducing balances sufficiently to fall below indexed thresholds may be impractical without materially altering retirement income sustainability.
- Withdrawn funds must be reinvested elsewhere, potentially at higher marginal tax rates and with less favourable estate outcomes.

Additionally, once balances materially exceed \$3 million, partial withdrawals often reduce the Division 296 liability only marginally, while permanently removing capital from the concessional superannuation environment.

5.1.2 Accelerated Asset Sales within Super

Selling assets to reduce realised earnings or rebalance portfolios is another commonly discussed approach. However, this can be counterproductive:

- Asset sales may crystallise capital gains that increase, rather than reduce, Division 296 earnings in the year of sale.
- Forced sales can disrupt long-term investment strategies and increase reinvestment risk.
- For SMSFs holding illiquid assets, sales may be operationally impractical or value destructive.

Importantly, Division 296 applies to realised earnings, not balance movements alone. Selling assets purely to reduce balances does not reliably mitigate the tax.

5.1.3 Holding Excess Cash to Fund Tax Liabilities

Maintaining elevated cash balances within superannuation to fund future tax liabilities may reduce liquidity risk, but at a cost:

- Lower expected returns reduce long-term outcomes.
- Cash holdings do not directly reduce exposure to Division 296.
- Over time, the opportunity cost of foregone growth may exceed the tax avoided.

This approach may be appropriate tactically, but it is not a structural solution.

5.2 Traditional Non-Super Structures: Benefits and Constraints

As advisers consider alternatives to superannuation for incremental wealth, traditional structures such as discretionary trusts, companies and individually held portfolios are often evaluated.

5.2.1 Discretionary Trusts

Trusts offer flexibility in income distribution and estate planning. However:

- Undistributed income is taxed at the top marginal rate.
- Capital gains ultimately flow to beneficiaries and may be taxed at personal marginal rates.
- Ongoing administration and compliance costs are material.
- Trust structures may complicate intergenerational transfers and family law outcomes.

Trusts can be effective in specific circumstances, but they do not provide tax certainty comparable to tax-paid vehicles.

5.2.2 Company Structures

Companies offer a flat corporate tax rate, which may appear attractive relative to post-Division 296 superannuation. However:

- Tax is deferred, not eliminated; distributions to individuals may trigger additional tax.
- Capital gains do not benefit from the CGT discount.
- Estate planning outcomes are more complex and less flexible.

Companies are generally better suited to active business operations than long-term passive investment accumulation.

5.2.3 Individually Held Investments

Direct personal investment offers simplicity and liquidity, but exposes clients to:

- Marginal tax rates on income.
- Capital gains tax on disposal.
- Annual reporting and cash-flow volatility.

For high-income clients, the effective tax burden can exceed that applying within superannuation even after Division 296.

5.3 Case Study 1: Retired SMSF Member with Moderate Excess Balance

Client profile

- Age: 67
- SMSF balance: \$3.6 million
- Fully retired, pension phase
- Beneficiaries: two adult children
- Investment mix: Australian equities and direct property

Issue

Approximately \$600,000 of the client's balance exceeds the \$3 million threshold, exposing a portion of earnings to Division 296 despite the fund being in pension phase.

Adviser response

Rather than withdrawing capital from superannuation, which would permanently remove assets from the concessional environment, the adviser recommends:

- Maintaining the existing superannuation balance
- Redirecting surplus proceeds from a property sale into an investment bond
- Using the bond to fund future family assistance and estate objectives

Outcome

- Superannuation remains the core retirement income vehicle
- Future super balance growth is moderated
- Estate planning outcomes improve, with tax-free, contest-resistant beneficiary payments
- Division 296 exposure is contained over time

5.4 Case Study 2: High-Income Professional Approaching Threshold

Client profile

- Age: 44
- Superannuation balance: \$2.4 million
- Annual income: \$550,000
- Maximal concessional contributions
- Long accumulation horizon

Issue

Projected to exceed \$3 million within 4–6 years through market returns alone.

Adviser response

The adviser implements a forward-looking structural strategy:

- Continue maximising concessional super contributions
- Direct all additional savings into an investment bond
- Align the bond's investment strategy with the client's long-term growth objectives

Outcome

- Superannuation retains its role as the primary retirement structure
- Incremental capital grows in a tax-paid environment
- Exposure to Division 296 is materially reduced over the long term
- The client gains flexibility to fund education or lifestyle needs pre-retirement

5.4 Case Study 2: High-Income Professional Approaching Threshold

Client profile

- Age: 72
- Total superannuation balance: \$11.8 million
- Mix of SMSF and APRA fund interests
- No tax dependants
- Estate complexity due to blended family

Issue

Significant exposure to Division 296 at both the 30% and 40% marginal rates, combined with potential tax on superannuation death benefits.

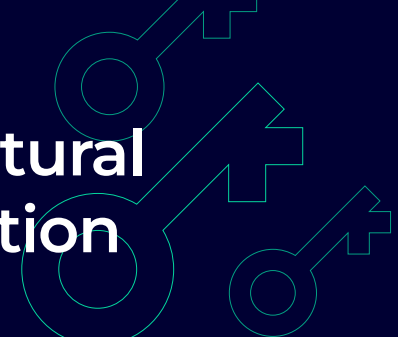
Adviser response

- Gradual redirection of new capital flows outside superannuation
- Use of investment bonds to hold growth assets intended for beneficiaries
- Retention of superannuation for income security and liquidity

Outcome

- Reduced long-term Division 296 tax drag
- Improved estate certainty and tax efficiency
- Diversification of legislative and structural risk

6. Investment Bonds as a Structural Complement to Superannuation



Division 296 does not necessitate a wholesale re-assessment of superannuation's role in wealth accumulation. Rather, it highlights the limitations of a single-structure approach for clients with substantial and growing balances.

In this context, investment bonds warrant consideration as a **complementary structure** for incremental capital once the marginal efficiency of superannuation begins to decline. Their relevance lies in their ability to deliver **tax certainty, structural flexibility and estate planning control** without undermining the foundational benefits of superannuation.

6.1 Structural Characteristics Relevant to Division 296

From a structural perspective, investment bonds exhibit several characteristics that are particularly relevant in a post-Division 296 environment:

- **Tax certainty:** Earnings are taxed internally at a maximum rate of 30 per cent (and likelihood of an even lower Effective Tax Rate*), with no additional personal tax reporting obligations

*refer to explanation on Effective Tax Rate on page 18

- **Long-term tax finality:** After a 10-year holding period, withdrawals are tax-free in the hands of the investor, regardless of marginal tax rate at the time of withdrawal.
- **Contribution flexibility:** No cap on initial contributions, with the ability to increase contributions annually by up to 125 per cent without resetting the tax period.
- **Liquidity:** No preservation rules or access restrictions, providing flexibility unavailable within superannuation.
- **Investment flexibility:** Portfolio rebalancing and switching can occur without triggering capital gains tax.
- **Estate planning advantages:** Proceeds can be directed tax-free to nominated beneficiaries, often bypassing the estate and reducing exposure to contestation.

These features position investment bonds between superannuation and traditional non-super structures, offering a balanced combination of tax efficiency and control.

While earnings within an investment bond are taxed annually at the fund level, this tax-paid structure removes the need for personal tax reporting and avoids the risk of future changes to personal marginal tax rates affecting accumulated earnings.

6.2 Appropriate Use Cases for Advisers

Investment bonds are not universally appropriate. Their effectiveness depends on client-specific circumstances and objectives. However, in the context of Division 296, common adviser use cases include:

- Clients who have **maximised superannuation contributions** but continue to generate surplus savings
- Clients **approaching or exceeding \$3 million** in superannuation with long investment horizons
- High-balance clients seeking to **contain future Division 296 exposure** without withdrawing existing superannuation assets
- Clients with **estate planning complexity**, particularly where beneficiaries are not tax dependants
- Pre-retirees and retirees seeking **liquidity and flexibility** outside the superannuation system

In each case, the investment bond should be considered as part of a broader asset-location strategy rather than as a standalone solution.

6.3 Adviser Sequencing Logic: When to Use Which Structure

A disciplined sequencing approach assists advisers in meeting best-interest obligations while navigating Division 296:

- **Below \$3 million TSB**
 - Superannuation remains the dominant structure
 - Focus on contribution optimisation and asset allocation
- **Approaching \$3 million TSB**
 - Introduce asset-location analysis
 - Model long-term outcomes with and without Division 296
 - Begin client education on alternative structures
- **Above \$3 million TSB**
 - Maintain superannuation as the core retirement structure
 - Redirect incremental capital into complementary structures
 - Prioritise certainty, flexibility and estate outcomes
- **Above \$10 million TSB**
 - Treat superannuation primarily as an income and liquidity vehicle
 - Allocate growth-oriented incremental capital outside superannuation
 - Actively manage legislative and estate risk

This framework reinforces that **superannuation remains central**, while recognising that its marginal role evolves as balances increase.

6.4 Institutional Positioning of KeyInvest

Within this framework, KeyInvest provides advisers with access to **APRA-regulated, tax-paid investment bond structures** that can be integrated alongside



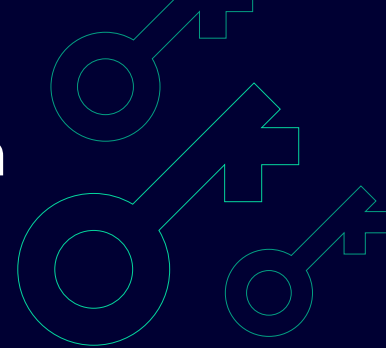
superannuation, trusts and other vehicles.

KeyInvest's knowledge and experience lies not in offering an alternative to superannuation, but in enabling advisers to implement **diversified, resilient wealth structures** consistent with client objectives and regulatory expectations. Its long operating history, mutual structure and focus on tax-effective investing align well with the long-term planning horizons of clients affected by Division 296.

Division 296 does not eliminate the attractiveness of superannuation, but it materially alters the marginal economics of holding very large balances within the system. For advisers, the challenge is not to abandon superannuation, but to integrate additional structures that preserve tax efficiency, flexibility and control over time.

Investment bonds, when used judiciously, offer a structurally coherent response to the limitations introduced by Division 296. **Their role is most effective when embedded within a broader advice framework that prioritises long-term outcomes, legislative resilience and client-specific objectives.**

7. Conclusion - Superannuation After Division 296



Division 296 marks a structural inflection point in Australia's superannuation system. While the measure has been refined from earlier proposals and now aligns more closely with established income tax principles, it nonetheless introduces a progressive tax regime within superannuation that did not previously exist. For advisers and high-balance clients, **this represents a material change in both the economics and the certainty of long-term retirement planning.**

Superannuation remains a highly effective vehicle for retirement savings, even under the revised framework. The concessional taxation of contributions, the availability of tax-free pension income up to the transfer balance cap, and the continued compounding advantages of the system mean that superannuation will continue to play a central role in wealth accumulation and retirement funding. Division 296 does not undermine these foundations.

However, the legislation does alter the marginal efficiency of superannuation at higher balances. Once total superannuation balances exceed \$3 million - and increasingly so above \$10 million - the tax advantage of retaining additional capital within superannuation narrows. Over long time horizons, the compounding effect of higher marginal tax rates on earnings can materially reduce after-tax outcomes, particularly where balances continue to grow through market returns rather than new contributions.

For financial advisers, the key implication is that **asset location decisions now warrant the same level of rigour historically applied to asset allocation decisions.** The question is no longer simply how assets should be invested, but **where they should be held to achieve optimal after-tax, after-risk outcomes over time.**

In this context, diversification across investment structures becomes an increasingly important risk management tool. Legislative risk, liquidity risk, estate complexity and intergenerational transfer considerations all argue against a single-structure approach for affluent clients. Division 296 reinforces the value of incorporating tax-paid and flexible investment vehicles alongside superannuation as part of a resilient wealth framework.

Investment bonds, including those offered by KeyInvest, represent one such structure. **Their relevance lies not in supplanting superannuation, but in complementing it - particularly for incremental savings once superannuation efficiency begins to diminish.** Used judiciously, they can assist advisers in managing long-term tax exposure, providing funding flexibility, and supporting estate planning objectives in an increasingly complex regulatory environment.

Ultimately, Division 296 rewards proactive, strategic advice. Advisers who **engage early, model outcomes rigorously, and position clients across a diversified set of structures will be better placed to navigate both the immediate impacts** of the legislation and the broader evolution of the retirement system in the decades ahead.

8. Appendices

Appendix A - Adviser Decision Framework (Post-Division 296)

Key questions for advisers to consider:

1. What is the client's current and projected Total Superannuation Balance over 5, 10 and 20 years?
2. How sensitive are projected outcomes to modest changes in marginal tax rates on earnings?
3. What proportion of future savings is discretionary versus required for retirement adequacy?
4. How important are liquidity, access and estate planning flexibility to the client?
5. Would directing incremental capital outside superannuation improve long-term after-tax outcomes?

This framework supports advice that is strategic rather than reactive.

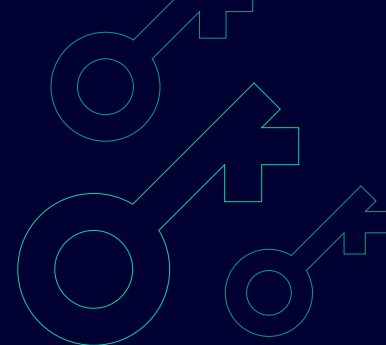
Appendix B - Structural Comparison Summary

Feature	Superannuation (Post Div 296)	Investment Bond	Trust / Company
Maximum tax on earnings	Up to 40% (above \$10m)	30% maximum* (internal)	Up to top marginal
Tax certainty	Subject to future change	High after 10 years	Moderate
Liquidity	Restricted	Unrestricted	Unrestricted
Contribution limits	Yes	No cap in first year; 125% rule thereafter	No
CGT events	On asset sale	None internally	On sale
Estate planning	Restricted	Highly flexible	Complex
ATO reporting during accumulation	Yes	No	Yes
Legislative risk exposure	High	Low	Moderate

*Historically the average Effective Tax Rate for many of the underlying funds on the KeyInvest Investment Bond menu has been lower than the maximum 30% tax rate based on analysis of the realised tax impact experienced within each underlying investment option over the across four recent financial years. In practice, the Effective Tax Rate can be materially lower than 30% (and in some cases close to 0%) depending on the mix of income types and offsets (for example, franking credits, foreign tax offsets, and the character of returns such as capital gains versus income) of each underlying investment option. This is why comparing the investment bond's maximum internal tax rate (30%) to the underlying fund's realised Effective Tax

Rate is important: where the underlying Effective Tax Rate is meaningfully below 30%. These benefits flow directly back to investors in the Investment Bond.

Past performance is not a reliable indicator of future performance. Any historical returns or performance comparisons shown are illustrative only and are based on assumptions, market conditions, and investment management decisions that may not apply in the future. Actual outcomes may differ materially. Investment returns can be volatile and may be negative in some periods. This information does not take into account the objectives, financial situation, or needs of any particular investor and should not be relied upon as personal advice.



Appendix C - Sequencing Strategies Before and After 1 July 2026

Before commencement:

- Review projected balances relative to indexed thresholds.
- Ensure accurate asset valuations and cost-base records, particularly for SMSFs.
- Avoid premature or irreversible actions pending final legislation.

After commencement:

- Monitor balance growth relative to thresholds annually.
- Review funding sources for Division 296 tax liabilities.
- Consider directing surplus capital into complementary structures where appropriate.

Appendix D - Common Adviser Pitfalls to Avoid

- Treating Division 296 as a short-term tax problem rather than a long-term structural issue.
- Implementing irreversible strategies before final legislation and regulations are settled.
- Over-emphasising tax outcomes at the expense of liquidity, risk and estate objectives.
- Assuming that superannuation is either “broken” or “unchanged” - both views are inaccurate.

Appendix E - Role of Investment Bonds in Adviser-Led Advice

Investment bonds are most effective when:

- Used for incremental savings beyond superannuation thresholds.
- Integrated into a documented long-term strategy.
- Positioned as a diversification tool rather than a tax arbitrage mechanism.
- Aligned with broader objectives, including estate planning and intergenerational wealth transfer.

Appendix F - Division 296 Adviser Decision Framework

Step 1: Identify exposure

Current TSB
Projected TSB over 5, 10 and 20 years
Asset composition and realisation profile

Step 2: Assess marginal efficiency

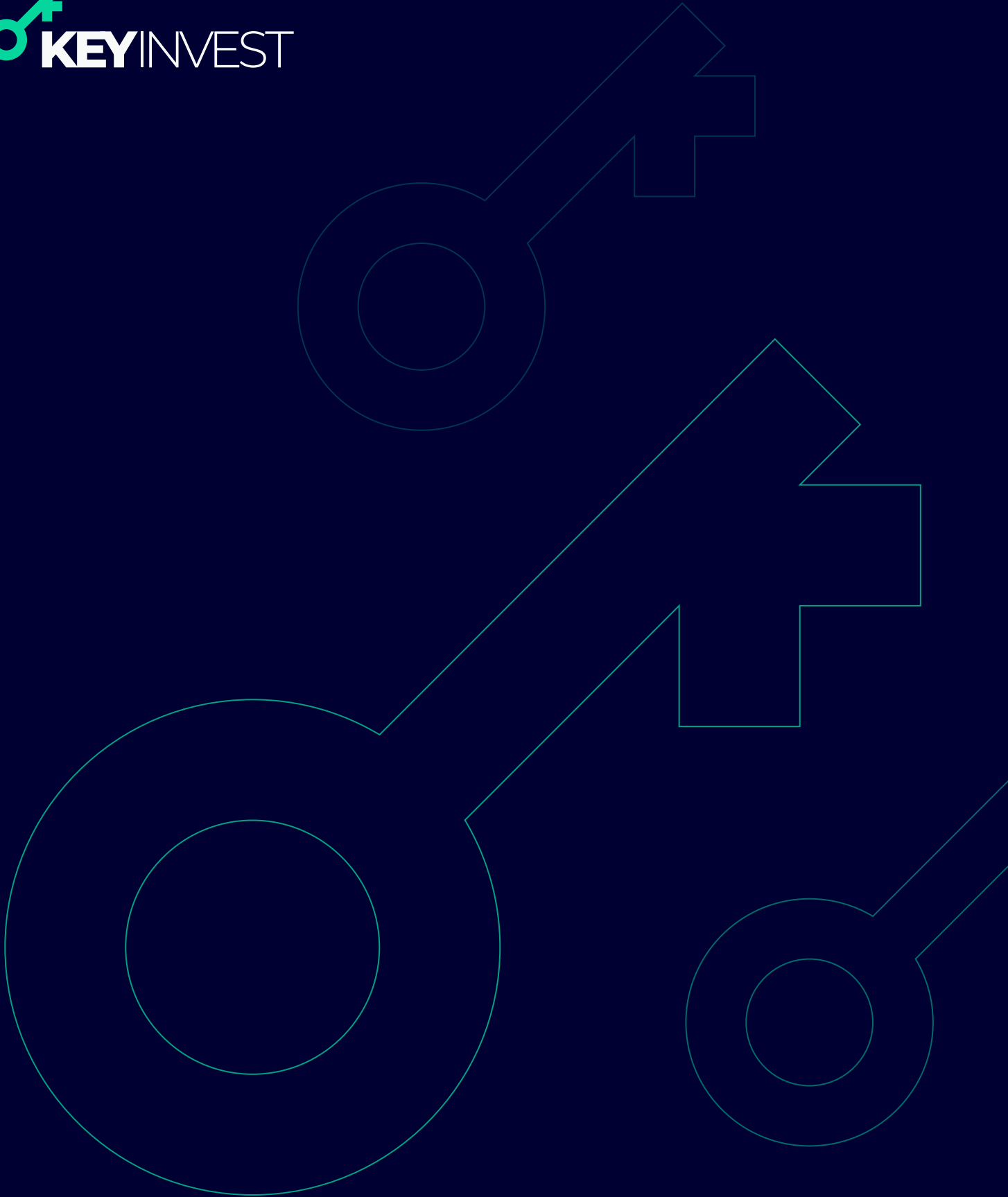
Effective tax rate on incremental earnings within super
Liquidity requirements to fund Division 296 liabilities
Estate and beneficiary tax considerations

Step 3: Evaluate structural alternatives

Superannuation (retain core balance)
Investment bonds (incremental capital)
Trusts / companies (specific objectives)

Step 4: Sequence implementation

Planning now
Execution once legislation is finalised
Review annually against thresholds and objectives



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