FACT SHEET

FACT SHEET: DIVISION 293 TAX

UNDERSTANDING HOW YOUR SUPER IS TAXED FOR HIGH INCOME EARNERS

Here's an overview of how the Division 293 tax works. It doesn't provide a detailed explanation of all aspects of the tax and we recommend that you obtain advice tailored to your personal circumstances before making concessional contributions to your superannuation. A tax adviser can explain how the tax may apply to you.

OVERVIEW

Super contributions made before tax are taxed within your super fund at a concessional rate of 15% (up to the concessional contribution limit).

See table below.

From 1 July 2012, an additional 15% tax (known as Division 293 tax) was introduced. It reduces the tax concessions on superannuation contributions for individuals with income greater than $250,000[1] a year. The Division 293 tax is payable in addition to the standard 15% contributions tax. Concessional contributions in excess of the cap will be taxed at your marginal rate and Division 293 tax does not apply.

This means, if you're a high income earner with an income (see next section for definition) of more than $250,000 a year, the total tax on your before-tax contributions below the concessional contribution limit is 30%. The concessional contributions limit is $27,500 per annum from 1 July 2021, indexed to increases in Average Weekly Ordinary Time Earnings (AWOTE) in increments of $2,500.

If you have carry-forward concessional contributions and your total superannuation balance was less than $500,000 at the end of the previous year, then your concessional contributions limit is increased by the amount of these carry-forward contributions.

If your income is less than $250,000 a year, but by including your before tax contributions (that are below the concessional contribution limit) the total is more than $250,000, the 30% tax rate will apply to the part of your before-tax contributions that are over the $250,000 total (but below your concessional contribution limit). For example, if your income is $230,000 and your before-tax contributions are $25,000, you only pay the 30% tax rate on $5,000.

Financial year	Contribution limits	
2016-17	Individuals less than 49 years of age – cap of $30,000	Individuals 49 years or over on 30 June 2016 – cap of $35,000
2017-18 2018-19 2019-20	Cap of $25,000 a year for everyone	
2020-21 2021-22 2022-23 2023-24	Cap of $27,500 a year for everyone	

INCOME FOR SURCHARGE PURPOSES (ALSO KNOWN AS ADJUSTED TAXABLE INCOME)

The 'income' that is used to calculate the Division 293 tax is similar to the income used for determining whether you are liable to pay the Medicare levy surcharge. It excludes reportable superannuation contributions (that are instead included in the low tax contributions).

This income includes the following amounts, if applicable:

- taxable income (assessable income less deductions)
- reportable fringe benefits
- net financial investment loss
- net rental property loss
- the net amount on which family trust distribution tax has been paid.

It excludes:

- the taxed element of a superannuation lump sum benefit (other than a Death benefit) up to the low rate cap amount (relevant only to those aged between 55 and 59).

[1] From 1 July 2017, the Australian Government lowered the Division 293 income threshold from $300,000 to $250,000.

LOW TAX CONTRIBUTIONS

If you are an accumulation member, low tax contributions are generally the concessional contributions made in a financial year, excluding any excess concessional contributions.

For most individuals, this will be employer contributions, salary sacrifice contributions and any deductible personal contributions. However, it may include additional amounts, for example, if your employer pays superannuation insurance premiums or expenses on your behalf.

If you are a **defined benefit member**, your low tax contributions will be the total of any concessional contributions (by your employer or as salary sacrifice) to an accumulation account plus your defined benefit contributions, calculated in accordance with a formula specified by the government, less any excess concessional contributions. Your defined benefit contributions are your 'notional taxed contributions'. This is the same formula that is used to determine your concessional contributions for the purposes of the excess contributions tax.

For some defined benefit members 'notional taxed contributions' are capped at the concessional contribution limits shown in the table on page 1. Please contact your superannuation fund to determine if the cap applies to your 'notional taxed contributions'. Your defined benefit contributions for the purpose of calculating your low tax contributions are equal to your 'notional taxed contributions', but without any cap applying. For example, if your defined benefit notional taxed contributions calculated without the concessional contribution cap applying are $40,000, and your concessional contribution limit is $27,500 and a cap applies to you, then your defined benefit concessional contributions are $27,500 but your defined benefit low tax contributions are $40,000.

DOES DIVISION 293 TAX APPLY TO ME?

If the total of your income for surcharge purposes and low tax contributions is above $250,000, the Division 293 tax will apply to the lesser of the following two amounts:

(i) the amount by which your total income for surcharge purposes and low tax contributions exceeds $250,000; or

(ii) the total of your low tax contributions.

The additional 15% tax is applied to the lesser of these two amounts.

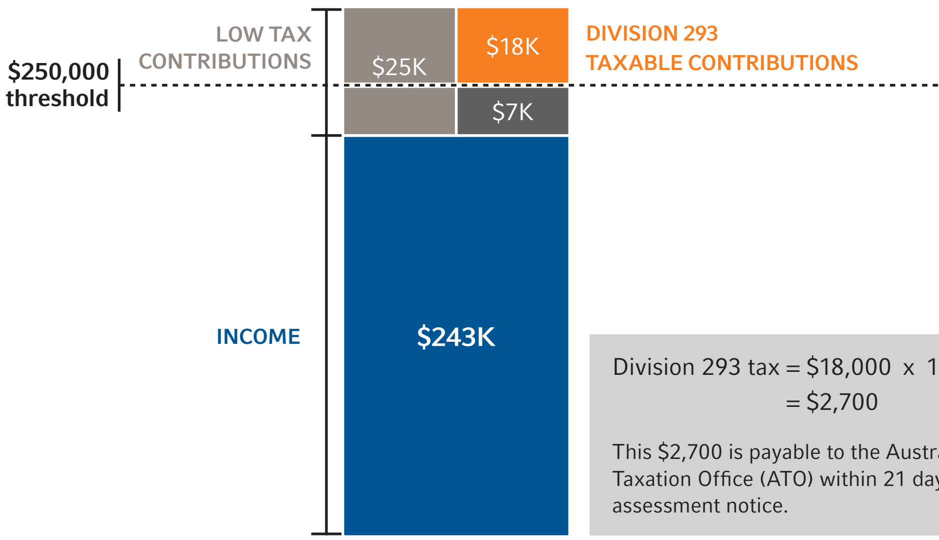
Here are a few examples of possible scenarios for accumulation and defined benefit members. Note, in these examples, the use of the word 'income' means total income for surcharge purposes. Examples 1, 2 and 3 relate to accumulation members. Examples 4 and 5 relate to defined benefit members.

Example 1 – Accumulation members

Tom has an income of $243,000 and low tax contributions of $25,000. The sum of these two amounts is $268,000.

He exceeded the $250,000 threshold by $18,000. This means the Division 293 tax will be applied to $18,000, as it is lower than his low tax contributions of $25,000.

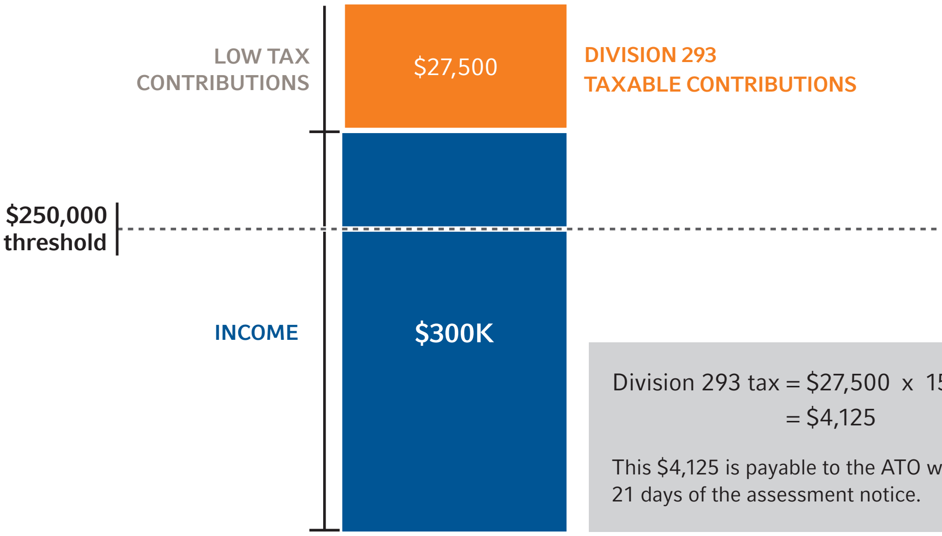
He will pay Division 293 tax of 15% x $18,000 = $2,700.



Division 293 tax = $18,000 x 15% tax
= $2,700

This $2,700 is payable to the Australian Taxation Office (ATO) within 21 days of the assessment notice.

Example 2 – Accumulation members



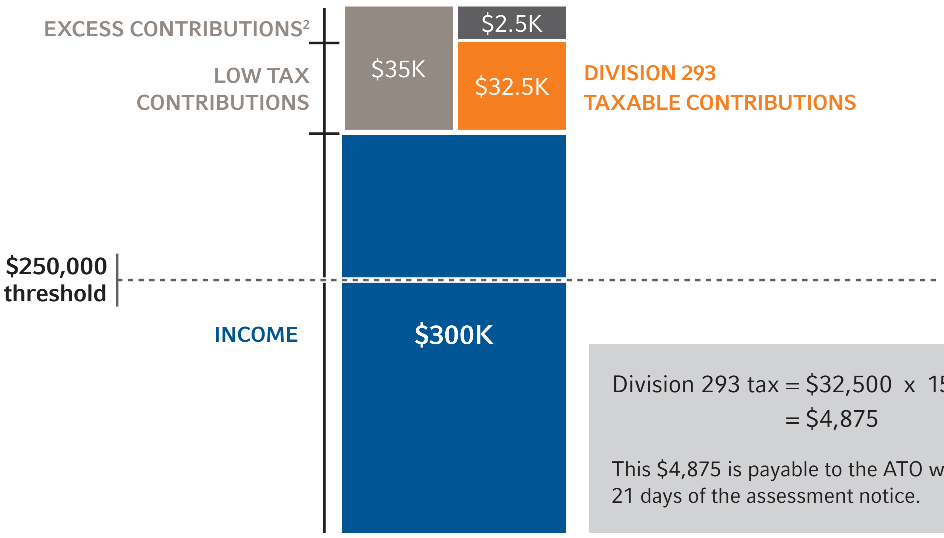
Division 293 tax = $27,500 x 15% tax
= $4,125

This $4,125 is payable to the ATO within 21 days of the assessment notice.

Jane has an income of $300,000 and has low tax contributions of $27,500. She is above the $250,000 threshold.

This means Division 293 tax will be applied to all her low tax contributions i.e. 15% x $27,500 = $4,125.

Example 3 – Accumulation members



Division 293 tax = $32,500 x 15% tax
= $4,875

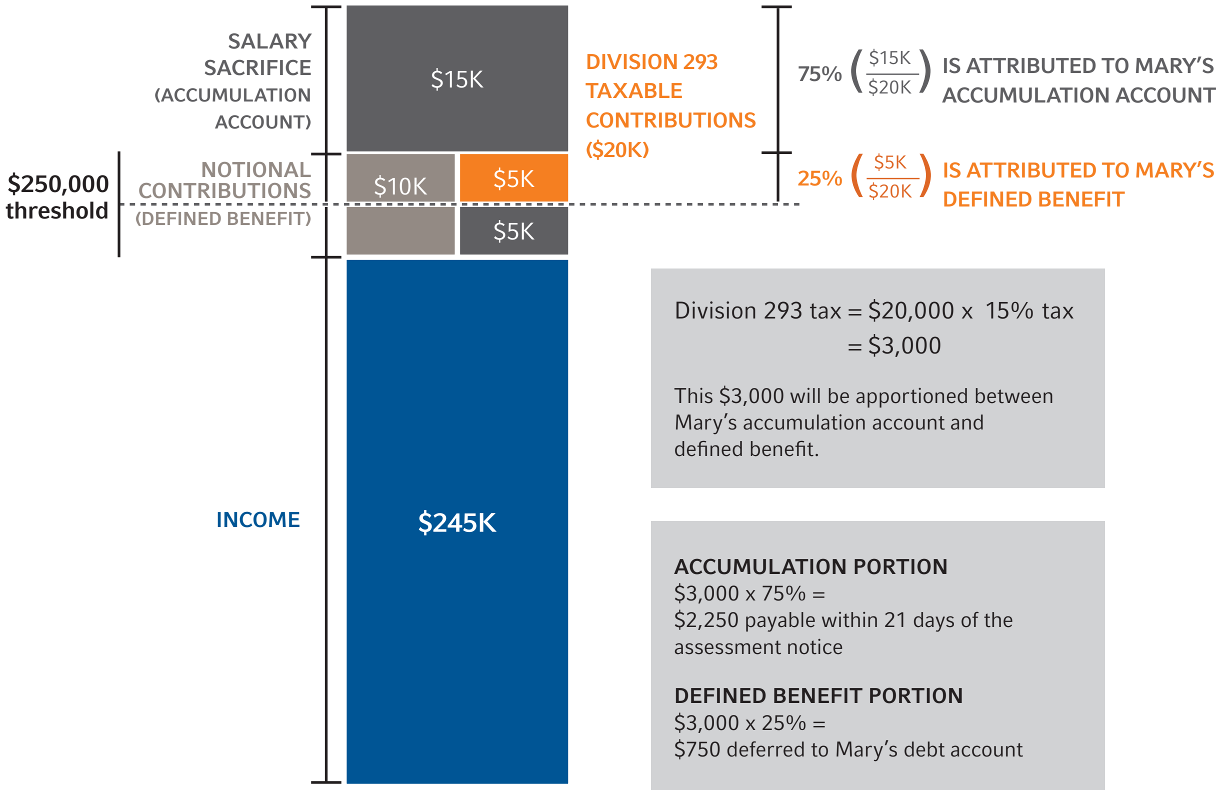
This $4,875 is payable to the ATO within 21 days of the assessment notice.

Eric has an income of $300,000 and concessional contributions of $35,000. His total superannuation balance at the end of the previous year was less than $500,000 and he has carry-forward concessional contributions of $5,000. He has exceeded the concessional contribution limit by $2,500. This means that his low tax contributions are $32,500 (i.e. the excess contributions are excluded). He will pay Division 293 tax on the $32,500 i.e. 15% x $32,500 = $4,875.

The $2,500 excess contributions will be included in his assessable income and taxed at his marginal tax rate less the 15% offset applied by the ATO (refer to the Concessional Contributions Fact Sheet on the website for more information).

[2] The contribution limit is $27,500 plus he has $5,000 of carry-forward concessional contributions, so he has $2,500 excess contributions, which will be taxed at his marginal rate and not included in his Division 293 taxable contributions.

Example 4 – Defined benefit members



Division 293 tax = $20,000 x 15% tax
= $3,000

This $3,000 will be apportioned between Mary's accumulation account and defined benefit.

ACCUMULATION PORTION
$3,000 x 75% =
$2,250 payable within 21 days of the assessment notice

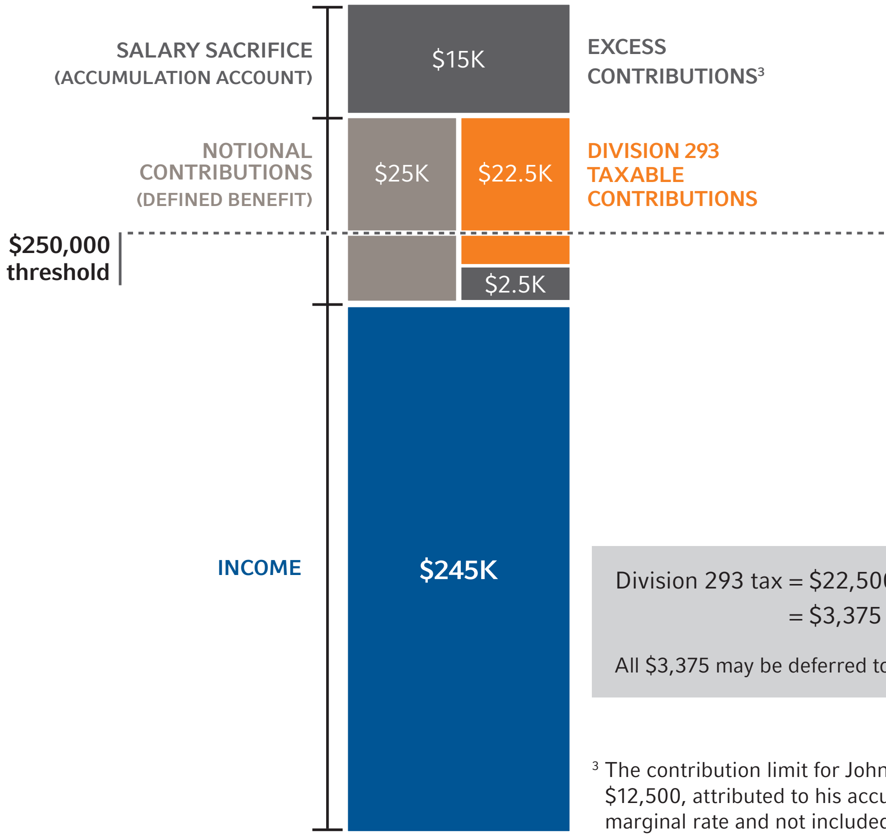
DEFINED BENEFIT PORTION
$3,000 x 25% =
$750 deferred to Mary's debt account

Mary is a defined benefit member. Her income is $245,000. She makes voluntary salary sacrifice contributions of $15,000 to an accumulation account. Mary's notional taxed contributions for her defined benefit are $10,000. Mary's low tax contributions are $25,000 ($10,000 + $15,000).

Her combined income and low tax contributions is $270,000 ($245,000 +$25,000). She has exceeded the $250,000 threshold by $20,000. This means she will pay Division 293 tax of $20,000 x 15% = $3,000.

In this example, the tax is apportioned between her accumulation account and defined benefit; meaning she will need to pay $2,250 attributed to her accumulation account within 21 days of the notice of assessment from the ATO and the remaining $750 may be deferred to a debt account.

Example 5 – Defined benefit members



Division 293 tax = $22,500 (of notional contributions only) x 15% tax
= $3,375

All $3,375 may be deferred to John’s debt account.

[3] The contribution limit for John is $27,500 so he has excess contributions of $12,500, attributed to his accumulation account, which will be taxed at his marginal rate and not included in his Division 293 taxable contributions.

John is a defined benefit member. His income is $245,000. He makes voluntary salary sacrifice contributions of $15,000 to an accumulation account. John’s notional taxed contributions for his defined benefit are $25,000. His total concessional contributions are $40,000 ($15,000 + $25,000). He has exceeded his concessional contribution limit by $12,500.

His low tax contributions are $27,500 ($40,000 – $12,500 excess contributions). His combined income and low tax contributions are $272,500. He exceeded the $250,000 threshold by $22,500. This means he will pay Division 293 tax of $22,500 x 15% = $3,375.

In this instance[4], the $3,375 may be deferred to a debt account. Unlike Mary, John won’t have to pay any of this amount within 21 days, as the ATO effectively offsets the $12,500 excess contributions against the salary sacrifice contributions to his accumulation account. The $3,375 is then attributed to his defined benefit and therefore may be deferred.

[4] Under s291-15 of the Income Tax Assessment Act 1997, an amount equal to your excess concessional contributions is included in your assessable income.

WHEN YOU NEED TO PAY THE TAX

For accumulation members

If you are in an accumulation fund, the ATO will issue a notice of assessment to you. They will also provide a release authority that enables you to have an amount released from your super account[5] to pay all or some of the tax liability. To pay the tax from your super account, you will need to provide the release authority to your super fund within 120 days, otherwise your super fund will not be obliged to make the payment. Alternatively, you can pay the tax from your own non super money.

If you provide the release authority to your super fund, it has 30 days to pay the tax, either to you or to the ATO (as nominated by you). However, the tax is actually due within 21 days after issue of the notice of assessment (and not the date of receipt by you). An amount unpaid after that period is subject to the general interest charge.

This means you may want to consider paying the tax from your non super money and then provide the release authority to your fund and request that the money is paid to you, by way of reimbursement.

For defined benefit members

If you are in a defined benefit fund, the tax payment is generally deferred and included in a debt account maintained by the ATO. Interest will be added to this account balance annually, at the long-term bond rate. However, if the outstanding balance on your debt account is paid before the end of a financial year, no interest applies to that financial year.

The tax will be payable only when a benefit is paid in relation to your defined benefit membership. However, you can elect to pay the amount at any time, from your non super money or from any accumulation accounts you have in your super fund.

When a benefit is paid in relation to your defined benefit membership, both you and the super fund will be required to notify the ATO. The ATO will then issue a notice of the amount owing and this is payable within 21 days of payment of the benefit. If you want your fund to pay the tax to the ATO on your behalf, you need to notify the ATO as soon as possible, so that it can issue the notice before the fund pays the benefit.

Please note, if you have an accumulation account, any tax apportioned to this account is payable within 21 days after issue of the notice of assessment.

Temporary residents

If you are a temporary resident in Australia, you are entitled to a refund of any Division 293 tax paid if you receive a Departing Australia Super Payment to which withholding tax applies.

The amount of the refund will be the sum of all payments made towards any Division 293 tax assessments you made while a temporary resident in Australia.

You will need to apply to the ATO using the approved form for a refund. Please visit ato.gov.au to download the appropriate form.

[5] If you have an account in two or more super funds, you can choose which fund you want to pay the tax from, or if you wish, you can pay it from more than one fund.

Advice that's right for you

Good financial advice is about making the most of what you have to help achieve your goals. That's what we offer—general information, personal advice over the phone, Retire Ready meetings (often at no cost) or comprehensive personal advice (complimentary first meeting).

Find out more at
russellinvestments.com.au/advice

We're here to help

If you have any questions, please contact us:

- call 1800 555 667 (Monday to Friday 8.30am to 5.30pm AEST)
- email iq@russellinvestments.com.au
- visit russellinvestments.com.au/super