client alert | explanatory memorandum

August 2025

CURRENCY:

This issue of **Client Alert** takes into account developments up to and including 28 July 2025.

HECS/HELP debt reduction Bill introduced

On 23 July, the Labor government introduced legislation aimed at enacting its election promise to reduce student debt by 20%. The *Universities Accord (Cutting Student Debt by 20 Per Cent) Bill 2025* proposes to:

- provide a one-off 20% reduction to Higher Education Loan Program (HELP) debts in the *Higher Education Support Act 2003*, and other student loans provided under the Student Loans Acts that are incurred on or before 1 June 2025;
- increase the minimum repayment threshold from $54,435 in 2024–2025 to $67,000 in 2025–2026; and
- introduce a marginal repayment system where compulsory student loan repayments are calculated only on income above the new $67,000 threshold rather than having it based on a percentage of the repayment income.

This complements measures enacted in the last Parliament which cap the level of indexation of student loans to the lower amount of either the consumer price index (CPI) or the wage price index (WPI). This is designed to ensure that loans will never be indexed by more than wages growth. Accordingly, the new threshold of $67,000 will be indexed for 2026–2027 and following years, but will never be increased by a rate exceeding wages growth.

Background

A student who receives a HELP loan under any of the student loan schemes has an “accumulated HELP debt” with the ATO. The loan is subject to yearly indexation, but is otherwise interest-free.

Loans that are covered by the system include the following:

- HECS-HELP;
- FEE-HELP;
- OS-HELP;
- SA-HELP;
- Student Start-up Loan (SSL) Scheme;
- ABSTUDY Start-up Loan (ABSTUDY SSL) Scheme; and
- Australian apprenticeship support loan (AASL).

HELP, VSL, SSL and AASL debts are repaid through the tax system, although voluntary repayments can also be made at any time.

The amount to be repaid each year is a percentage of the taxpayer’s HELP repayment income (and is notified on the income tax assessment for the year). The percentage increases as the HELP repayment income increases. The “HELP repayment income” is effectively the sum of taxable income, reportable fringe benefits total, net exempt foreign employment income, reportable superannuation contributions and total net investment losses.

The *Universities Accord (Student Support and Other Measures) Act 2024* amended the Higher Education Support Act 2003 to change how a person’s indexation rate is calculated by:

- capping the HELP indexation rate to be the lower of either the CPI or the WPI; and
- providing an indexation credit to people’s HELP accounts to ensure the new HELP indexation cap has effect from 1 June 2023.

In other words, where the WPI is lower than the CPI, the WPI will be used to determine the indexation factor. The intention is to ensure that outstanding loans never grow faster than average wages.

Interestingly, the WPI has only been lower than the CPI on four occasions this century. Apart from 2022–2023, the other major occasion was when the GST was introduced in 2000, which caused an inflationary spike. The WPI is generally likely to be below the CPI early in an inflationary period, but later on during an inflationary period, compensating wage increases will generally see the WPI being greater than the CPI. So it is usually the case that the WPI is higher than the CPI. This is particularly so during periods of "skill shortages".

Source: www.education.gov.au/higher-education-loan-program/making-help-and-student-loan-repayments-fairer https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=BillId%3Ar7342%20Recstruct%3Abillhome

Small and medium businesses now have more time to get tax returns right

If you run a small or medium business, you know that financial accuracy's important but sometimes mistakes can happen or information can change. Starting this year, though, you have more time to amend your return and get things right.

Before this change, small and medium businesses generally had a two-year period from the date of their tax assessment to request an amendment. If you discovered an error or omission after this two-year window, correcting it could become a more complex process.

Now, for the 2024–2025 and later income years, small and medium businesses with an annual aggregated turnover of less than $50 million will have up to four years to request amendments to their income tax returns. This gives more time to review records, reconcile figures and address any oversights – but remember, it's not an excuse to rush your first lodgment.

For earlier income years, the two-year amendment period still applies.

Your review period starts the day after the ATO issues your notice of assessment for the relevant income year. If no notice is issued, it starts from the date you lodged your return.

Why would I need to amend my business's return?

Here are some common scenarios where you might need to request an amendment:

- you made a simple error when entering figures;
- you forgot to report some income or capital gains, or claim legitimate deductions;
- you incorrectly claimed deductions or credits, or failed to claim ones you were entitled to; or
- circumstances changed after lodging and affected something you'd already reported, like a revised invoice or a business event you hadn't factored in.

Whatever the reason, it's important to correct any errors as soon as you identify them. For example, if an amendment leads to an increased tax liability, time-based interest and penalties might apply, so prompt action's still beneficial.

What's next?

If you discover an error or omission in a lodged tax return:

- *Consult your registered tax practitioner:* Navigating tax law can be complex, but they can provide tailored advice and ensure your amendment's correctly lodged, help you understand the implications of amendment and ensure you meet all ATO requirements. Many businesses have their tax agent handle amendments directly.
- *Act promptly:* Even for returns with the new four-year window, don't delay. Lodge your amendment request as soon as you discover the need, so there's plenty of processing time. You can submit multiple requests within the period if needed.
- *Maintain meticulous records:* Keep all your invoices, receipts, bank statements and other financial documents well organised. If you don't have adequate records, your amendment request may not be successful.

- *Understand lodgment methods:* Amendments can be requested online via ATO online services for business, or through your registered tax agent using SBR-enabled software. A paper request by letter may be an option, but online methods are generally quicker.

Important reminders

There are no ATO fees for amendment requests, but processing can take a substantial amount of time.

If you discover an error that increases the tax you owe, you may face interest charges and penalties. However, voluntary disclosure of mistakes is generally viewed more favourably than errors discovered during an audit.

If the ATO's already notified you of an audit or review, you must tell the assigned tax officer about any errors rather than lodging an amendment request.

Once the four-year period for amendment expires, the ATO generally can't make changes to your assessment (except in cases of fraud or evasion).

And, remember: the extended amendment period offers greater peace of mind, but good record-keeping and a proactive approach remain your best tools for managing your tax affairs effectively.

Source: www.ato.gov.au/businesses-and-organisations/preparing-lodging-and-paying/fix-a-mistake-or-amend-your-tax-return/request-an-amendment-to-a-business-or-super-tax-return

ATO interest charges no longer tax-deductible for businesses

Effective 1 July 2025, businesses can no longer claim income tax deductions for interest charges imposed by the ATO on unpaid or underpaid tax liabilities. This change, enacted under the *Treasury Laws Amendment (Tax Incentives and Integrity) Act 2025*, applies to general interest charge (GIC) and shortfall interest charge (SIC) amounts incurred in income years starting on or after 1 July 2025.

Previously, businesses could deduct ATO-imposed interest charges on overdue tax debts, reducing the net cost of these charges. From 1 July 2025, this deduction is no longer available, meaning any GIC or SIC incurred from this date cannot be claimed as a tax deduction, regardless of when the underlying tax debt arose.

For example, if a business incurs GIC on an unpaid income tax liability after 1 July 2025, this interest expense is not deductible in its tax return for the 2025–2026 income year or subsequent years.

Why this matters

This legislative change is significant for businesses that manage cash flow by deferring tax payments, as the cost of carrying tax debt will effectively increase. Without the tax deduction, the real cost of ATO interest charges rises, making it more expensive to delay tax payments.

The ATO applies GIC on unpaid tax liabilities at a rate that is reviewed quarterly and compounds daily. As of the latest update, the GIC rate is 11.17%. With the loss of deductibility, the after-tax cost of this interest becomes more burdensome for businesses.

What businesses should do

To mitigate the impact of this change, businesses should consider the following actions:

- *Review and settle outstanding tax debts:* Assess any existing tax liabilities and aim to pay them as soon as possible.
- *Implement strong cash flow management:* Ensure that funds are allocated to meet tax obligations on time, reducing the likelihood of incurring non-deductible interest charges.
- *Consider alternative financing options:* If immediate payment of tax debts is challenging, explore financing through third-party lenders. Interest on such loans may still be deductible, potentially offering a more tax-effective solution.
- *Engage with tax professionals:* Consult with your tax adviser to develop strategies tailored to your business's financial situation, ensuring compliance and optimal tax outcomes.
- *Communicate with the ATO:* If you're facing difficulties in meeting your business's tax obligations, consider proactively contacting the ATO to discuss payment plans or potential remission of interest charges.

The removal of tax deductibility for ATO interest charges underscores the importance of timely tax compliance. Businesses should act promptly to adjust their financial strategies, ensuring that they are not adversely affected by increased costs associated with overdue tax payments.

Source: www.ato.gov.au/media-centre/ato-reminder-on-interest-deductibility-changes-from-1-july
www.ato.gov.au/businesses-and-organisations/business-bulletins-newsroom/take-control-before-interest-on-ato-debt-costs-you-more

Protect your super from pushy sales tactics: consider the risks and don’t rush to switch

Each new financial year, many of us take a closer look at our super funds’ performance, and you’re more likely to be targeted by salespeople, cold callers or social media ads offering “free super health checks” or to “find your lost super”. These offers can be the start of a high-pressure campaign to get you to switch super funds or make investments that may be unsuitable for you.

These calls and ads don’t always look like typical scams. Callers may sound genuine, claiming they want to help you find a better deal or locate lost super for free. Sometimes they’ll even refer you to a financial adviser to make the pitch sound more legitimate. But behind the scenes, there may be commission arrangements or other incentives that put their interests ahead of yours.

Recognise the red flags

Here are some warning signs that a caller or an advertiser might not have your best interests at heart:

- *Cold calls and unsolicited contact:* If someone you don't know contacts you about your super, they may have bought your contact information or obtained it by more questionable means.
- *Pressure to act quickly:* Remember super decisions are significant and should never be rushed.
- *“Free” super health checks or lost super services:* These offers are often a hook to draw you in. You can find your own lost super for free directly through the ATO.
- *Promises of high or unrealistic returns:* If an offer sounds too good to be true, it almost always is.
- *Claims your fund is underperforming:* Sales agents may exaggerate issues with your current fund to make you want to switch. Always verify negative claims directly with your super fund if you have concerns.
- *Limited direct contact with a financial adviser:* The caller might act as an intermediary, transferring you to an adviser only briefly. If you’re not having direct, in-depth conversations, they may not be acting in your best interests.
- *Involvement of unlicensed people:* Ensure anyone discussing your super is properly licensed and qualified to provide advice.

Why you should be cautious

Switching to a new fund or investment on the basis of a sales call could mean:

- higher fees or hidden charges that eat into your balance;
- increased investment risk, especially if you’re moved into complex products you don’t fully understand;
- loss of valuable insurance attached to your current super; and
- decisions made without a full understanding of your needs and goals.

Remember, if a deal sounds too good to be true, it probably is. Promoters often play on your fears, hopes and your politeness to rush you into a decision.

How to protect yourself

- If someone you don’t know contacts you about your super, just hang up – don’t feel guilty or pressured to engage or explain.
- Don’t share personal or financial information with callers or on online forms unless you initiated the contact and are sure who you’re dealing with.
- Report suspicious calls to your super fund and ASIC. If you think your information has been compromised, let your current super fund know so they can help protect your account.

- Contact your super fund directly or seek guidance from a licensed, independent financial adviser before making any changes.
- You can always find lost super for free through the ATO; there's no need to pay anyone to do it for you.

Your super is too important to risk. Take your time, ask questions and don't rush into any decisions.

Source: www.asic.gov.au/about-asic/news-centre/find-a-media-release/2025-releases/25-120mr-consumer-alert-asic-warns-about-pushy-sales-tactics-urging-people-to-make-quick-superannuation-switches/

Will your super be affected when the $3 million balance tax hits?

Since February 2023, the Australian government has been planning to introduce a new tax of 15% on a portion of "earnings" relating to total superannuation balances over $3 million. The idea was to inject some equity in a system with generous tax concessions weighted in favour of the wealthy. The tax change was proposed to kick in on 1 July 2025.

Debate over issues concerning the non-indexed $3 million threshold and the taxation of unrealised capital gains then put the proposal on ice. The Bill containing the change is expected to be reintroduced now that Parliament has resumed (from 22 July 2025). The Bill as it was previously presented proposed to insert a new Division 296 into the Income Tax Assessment Act 1997, which is why you might hear the change called the "Division 296 tax".

What will apply and when?

Currently, your entire super balance earnings in accumulation are taxed at 15%.

If your "total superannuation balance" (TSB – meaning all of your super, in all accounts, in accumulation and in pension phase) is under $3 million, the new additional tax would not apply.

The Division 296 measure would apply another 15% tax on a portion of estimated "earnings" relating to your TSB that's over $3 million. This tax would be charged to you personally, rather than to the super fund. The "earnings" calculation is quite complicated, and doesn't reflect the actual earnings in your fund (which is why we're using quotation marks for "earnings").

For example, if you start the year with a $3 million property in your super fund, and it's worth $3.5 million by the end of the year, a portion of the $500,000 unrealised capital gain would be taxed to you personally. If this was the only asset in all of your super, and you made no contributions or withdrawals during the year, and received no actual investment earnings, the Division 296 tax calculation could look something like this:

TSB minus $3 million threshold: $3,500,000 – $3,000,000 = $500,000

Percentage of TSB that the excess represents: $500,000 / $3,500,000 = 14.29%

Proportional calculation to get Division 296 taxable earnings: $500,000 × 14.29% = $71,450

Division 296 tax payable: $71,450 × 15% = $10,717.50

So, $71,450 in earnings would be taxed at the additional 15%, for an additional tax liability of $10,717.50.

Furthermore, if your property didn't earn any real income in your fund, then you'd need to be able to fund the tax payment from an alternative source if you didn't want to sell the property. The calculation of "earnings" is complex and adds back any withdrawals and subtracts any contributions, to ensure people don't make last-minute withdrawals specifically to reduce their "earnings".

This is a very simplified example – transactions like receiving insurance payouts, withdrawing amounts under the First Home Super Saver Scheme and other factors could affect your "earnings" and therefore the calculated tax amount.

As already mentioned, the additional tax isn't law yet. Once the change is passed by Parliament, the tax would apply at the end of this current financial year (2025–2026) and be assessed based on your TSB as at 30 June 2026. It will be possible to carry forward losses incurred in financial years thereafter to reduce later liability.

Can you withdraw super to avoid the tax?

If you're under preservation age you generally can't withdraw your super. Over 65, or over 60 and retired? You can of course withdraw as and when you choose. You just need to be aware of the impact of any withdrawals on the "earnings" calculation. However, the good news is that although withdrawals will be added back to earnings, you won't be subject to the Division 296 tax if your TSB (again, all your super accounts, whether in pension or accumulation phase) is less than $3 million at the end of the year. So there's still time to consider strategies to move amounts out of super, if that will benefit your overall situation.

How do you pay?

The ATO will advise about your liability for 2025–2026 year during the following year. You'll be able to pay out of pocket or directly from your super fund. If you have more than one fund, you can nominate from which fund you'd prefer to pay.

Before the new policy's set in stone, if you think you may be affected it would be wise to seek advice before making any hasty decisions.

Source: https://treasury.gov.au/consultation/c2023-373973
https://treasury.gov.au/consultation/c2023-443986

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