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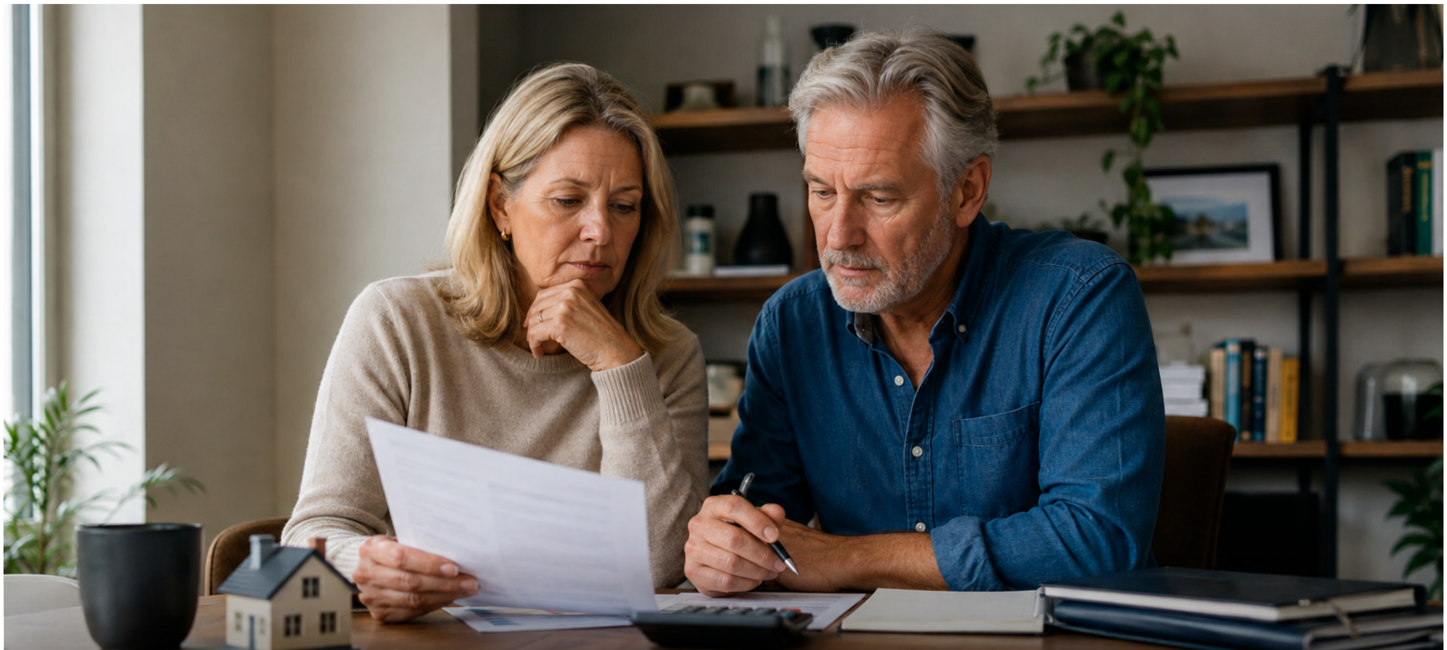

SUPERANNUATION AND RELATIONSHIP BREAKDOWN

INSIDE

BY WEALTH ADVISER

Superannuation is often the household's second-largest asset after the family home. It's also the asset most couples negotiate over in a separation with the least understanding of the rules. Property is tangible; bank accounts are visible; investments have market values that can be looked up on a phone. Super, by contrast, sits inside a regulated wrapper, is treated differently from other property under family law, and is governed by a body of law that most people don't encounter until they need it. The result is that couples separating in their 40s, their 60s, and everywhere in between often walk into the settlement conversation not knowing whether super is on the table, how it's valued, what a splitting order actually does, or how the outcome interacts with tax, contribution caps, and the Age Pension.

The rules themselves are the same at every life stage. The planning conversations look very different depending on where the couple is. A separating couple in their late 40s has time to rebuild and can treat super as one line item in a larger settlement; a couple in their late 60s, where one or both members are drawing an account-based pension, is dealing

BEFORE YOU GET STARTED

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with a set of consequences that begin the moment the split takes effect. The mechanics need to be understood first, though, and the rest of the article works from there.

The legal framework

Superannuation splitting on relationship breakdown is governed by Parts VIIIB and VIIIC of the Family Law Act 1975, together with the Family Law (Superannuation) Regulations 2025 (which replaced the 2001 regulations from 1 April 2025). Part VIIIB deals with married couples; Part VIIIC deals with de facto couples. Both parts now apply across all states and territories – de facto splitting became available in Western Australia from 28 September 2022, when Part VIIIC was extended to bring WA de facto couples into line with the rest of the country.

Three routes are available to effect a split. The first is a consent order made by the Federal Circuit and Family Court of Australia (or the Family Court of Western Australia) – an agreement between the parties, formalised as a court order. This is the most common route where the parties agree. The second is a court-imposed order made after contested proceedings, where the parties can't agree. The third is a superannuation agreement, which is a form of binding financial agreement dealing specifically with the super interest. Each party to a superannuation agreement must receive independent legal advice for it to be binding – a requirement that catches out couples who assume they can DIY the split with a signed piece of paper.

Interests below a small threshold cannot be split under the 2025 Regulations – interests of $10,000 or less currently fall outside the framework. Some interests can be flagged rather than split: a "flagging order" prevents the trustee paying benefits from the interest until the flag is lifted, particularly where a benefit is not yet payable or cannot readily be valued (for example, some defined-benefit interests before the member reaches condition of release).

The mechanics of the split

Valuation is the first step. For an accumulation account, the value is simply the account balance at a specified date, taken from the fund's records. For a defined-benefit interest, the valuation uses a formula prescribed in the 2025 Regulations, worked out actuarially – the resulting figure can be substantially higher than members expect, because the calculation reflects the guaranteed future income stream, not a notional current balance. This matters particularly for older members with long service in public sector schemes, defence super, or older corporate defined-benefit funds – the actuarial value can substantially exceed what the member has ever thought of the interest as being "worth", and can dominate the household's asset picture in ways neither party expected. The trustee provides valuation information through the family law information process, and both parties are entitled to information about each other's super interests through that process.

Once valued, the split can be expressed in one of two ways. A base amount split fixes a dollar figure – say, $200,000 – to be transferred from the member's interest to the non-member's. A percentage split fixes a proportion of the interest to be transferred. The choice matters because between the operative date of the split and the date of implementation, the underlying account earns (or loses) money – a base amount is adjusted for interest at a rate set by the Australian Government Actuary, while a percentage split moves with the actual account balance. For accumulation interests in most APRA-regulated funds, the difference is usually small; for defined-benefit interests and SMSFs, the distinction can matter more.

The proportioning rule applies to family law splits as it does to any other super payment. The tax-free and taxable components of the interest are transferred in the same proportion as they exist immediately before the split. Preserved, restricted non-preserved, and unrestricted non-preserved amounts are similarly transferred proportionally. The receiving spouse can't cherry-pick either the tax-free component or the unrestricted portion – they receive a proportional slice of what the member holds.

Once the split takes effect, the amount either stays in the same fund as a new interest in the non-member's name, or is rolled to another fund of the non-member's choosing. The receiving spouse doesn't get a cash payment; the money stays within the super system.

Tax and Centrelink implications

The single most important thing to understand about the tax treatment of a family law super split is that it isn't taxed. A transfer under Part VIIIB or VIIIC is a rollover between the parties' super interests, not a lump sum withdrawal followed by a contribution. The tax-free rollover treatment means the split itself doesn't trigger a tax event for either party.

Because the transfer is a rollover, it also doesn't count against the receiving spouse's non-concessional contribution cap. This matters – a $300,000 or $500,000 split, if it were treated as a contribution, would exhaust the receiving spouse's cap and possibly breach it. As a rollover, it doesn't. What it does do is increase the receiving spouse's total super balance, and that flows through to their future ability to make non-concessional contributions in later years. A receiving spouse whose TSB after the split sits between $1.84 million and $2.1 million faces limited future NCC capacity; above $2.1 million, no NCCs at all.

For SMSFs, an additional layer of CGT rollover relief is available where assets are transferred in specie between funds under s 126-140 of the Income Tax Assessment Act 1997. This allows the transferring fund to move a share portfolio, property, or other asset to the receiving spouse's new fund without triggering a CGT event — the receiving fund inherits the transferring fund's cost base. Without this relief, splits of SMSFs holding significant capital gains would carry a substantial tax cost inside the fund.

The Centrelink treatment is where the retirement-stage reader needs to pay particular attention. Once a couple separates, Centrelink generally assesses each former partner as single for Age Pension, Commonwealth Seniors Health Card, and other means-tested purposes from the date of separation once notified, not from the date the split is implemented or the divorce is finalised. This shifts both members from the couple thresholds to the single thresholds, and can produce back-payments (where a member was being paid at the couple rate but should have been paid single) or overpayments (in the reverse). The change is registered by notifying Centrelink of the separation — which the parties must do, and which requires a "separated under one roof" declaration if they continue to live in the same home during the transition.

The picture across life stages

For a couple separating in their 40s and 50s, super splitting is one element of a larger property settlement, and both members have working years ahead to rebuild balances. The splitting decision is usually driven by the overall asset division: if the family home is being retained by one member, super often ends up being divided so the other member takes a larger share to equalise, understanding that they have time to grow that base.

For a couple separating in their late 50s and 60s, the rebuild window is shorter and the interaction with retirement timing becomes central. A member expecting to retire at 65 who receives a substantially reduced super balance at 58 may have to work longer, save more, or accept a materially different retirement standard. Consider a household where the working member holds $1.4 million in super and the other member, who left work to raise children, holds $200,000. A settlement that splits the total pool 60/40 in favour of the non-working member — reflecting that they took the disproportionate hit to their earning capacity — would transfer around $760,000 from the working member's fund, leaving the working member with around $640,000 and the non-working member with around $960,000, reflecting the intended 60/40 division. Both members now enter retirement with less than they'd expected and less time to react. The pre-retirement stage is also where the TSB implications of receiving a split are most sharply felt — a receiving spouse whose TSB is pushed toward or past the general transfer balance cap loses access to non-concessional contributions during the years when they might most want to make them.

For a couple where one or both members are already drawing an account-based pension, the mechanics extend into the pension itself. The pension is commuted to accumulation for the purposes of the split (or the split applies to the pension interest directly under the regulations), the amount is transferred, and the receiving spouse may then commence their own pension from the transferred amount. Where retirement-phase pensions are involved, the split can also have transfer balance cap consequences for both parties, and these need to be considered as part of implementing the settlement. And the single-status transition for Centrelink means that both members' means-tested entitlements are reassessed on the single rate from the date of separation. For a couple who were receiving a part Age Pension at the couple rate, the reassessment can produce back-payments or debts depending on which side of the calculation was over- or under-recognised. This is the point where the retirement-stage reader needs to be particularly careful about timing the notification and understanding the interaction.

The SMSF complications

For couples running an SMSF together, separation triggers issues that don't arise in the same form in APRA-regulated funds.

The first is trustee governance. An SMSF has trustees (or a corporate trustee with directors), and separating members are almost always both. During the period between separation and the split being implemented, both parties still continue to owe their statutory duties as trustees under the SIS legislation. Trustees who let disputes about the marriage bleed into disputes about the fund can find themselves breaching super law on top of the separation. Getting SMSF specialist advice on the trustee-side obligations, in parallel with family law advice on the settlement, is often the difference between a clean split and a compliance mess.

The second — and the most likely to derail an otherwise straightforward settlement — is the illiquid-asset problem. Where the SMSF holds a residential or commercial property, or another asset that can't easily be divided, both parties want their share out and neither wants to sell. Three broad routes exist: sell the asset and distribute the proceeds (simplest but often unwanted); transfer the asset out to one party's new fund as part of their share, with the other party taking cash or other assets from the fund (workable if the balances line up); or split the property into tenants-in-common interests, with one interest held by the original fund and the other by the receiving spouse's new fund (available but administratively complex, and often not what the parties want long-term). None of these are simple, and settling on the wrong route without advice can lock in unintended tax and Centrelink consequences years down the track.

The third is the question of what happens to the fund itself. Where both members were relying on the SMSF as the vehicle for their retirement, the split forces a decision: whether to wind up the fund and roll both members' shares to APRA-regulated funds, whether to restructure the SMSF as a single-member fund with one departing party, or whether to establish a new SMSF for the departing party. Each has trustee, cost, and administrative implications that need to be worked through alongside the family law settlement, not after it.

The pattern to watch

The single most damaging pattern in super splitting on relationship breakdown is the one where the parties treat super as if it were an ordinary property line item – a number to be divided against another number, resolved by the lawyers, and then forgotten. Super sits inside a regulated wrapper that continues to exercise control over the money long after the ink dries on the settlement. The tax-free rollover, the TSB implications, the Centrelink single-status transition, the SMSF trustee obligations – none of them are visible at the negotiation stage, and all of them shape what the settlement is actually worth in the years that follow. The parties who fare best are usually the ones who bring both a family lawyer and a financial adviser to the conversation from the outset. The parties who fare worst are usually the ones who settle first and consult the adviser afterward.

Worth thinking about

Some prompts for your own reflection before your next review:

- If a separation were to happen in your own household or in the household of an adult child, do you understand which parts of the super system are in scope and which aren't?
- If you hold an SMSF with your spouse, has the trustee-governance question ever been considered – not because separation is on the horizon, but because it's the sort of issue that becomes urgent quickly if it ever does?
- If you're approaching or in retirement and have any doubt about the durability of your relationship, has the interaction between separation, the tax-free rollover, and the Centrelink single-status transition been raised with your adviser?
- If a member of your family is currently separating, have they sought both family law advice and financial planning advice? The two conversations answer different questions, and doing only one leaves gaps.

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The Commonwealth Seniors Health Card

The Concession Self-Funded Retirees Miss

BY WEALTH ADVISER

For most of the readership, the concession card system looks like something for other people. The Pensioner Concession Card belongs to Age Pensioners; the Health Care Card belongs to low-income earners. A self-funded retiree who has planned diligently, saved through super, and now draws an income from an account-based pension without needing government support has already accepted that they'll pay full price for everything.

That's usually wrong. The Commonwealth Seniors Health Card sits alongside the pensioner card in the concession system, and its central design feature is that it exists for people who don't get the Age Pension. It's income-tested, not assets-tested — which is the reverse of the situation most self-funded retirees expect — and the income thresholds have been indexed year on year, sitting well above what many self-funded households actually receive. A household drawing an account-based pension and holding little assessable income outside super can find themselves under the threshold without realising they were ever near it.

Under the current thresholds (20 September 2025 to 19 September 2026), the CSHC is available to a single person with adjusted taxable income under $101,105 and to a couple with combined adjusted taxable income under $161,768. There is no assets test at all — a household with several million dollars in super, an owner-occupied home worth more, and modest actual income can qualify. Yet a substantial share of eligible retirees never apply, either because they assume they've been ruled out somewhere else in the system, or because "concession card" doesn't sound like something aimed at them. The card is one of the more underused entitlements in Australian retirement.

The rest of this article covers the eligibility rules where they matter most — the income test, which is where most planning conversations turn — and closes on what the card is actually worth in a year, once you have it.

The basic eligibility

Three gates have to be passed. The first is age: the applicant must have reached Age Pension age, which is 67 for anyone born on or after 1 January 1957. The second is residency: the applicant must be an Australian citizen, permanent resident, or holder of a Special Category Visa, currently residing in Australia. The third is that the applicant must not be receiving the Age Pension or another qualifying payment from Services Australia or the Department of Veterans' Affairs — the CSHC is designed to fill the gap left by not receiving those.

The fourth gate — the one the article dwells on — is the income test.

The income test

The CSHC income test uses "adjusted taxable income" plus deemed income from account-based pensions. There is no assets test.

Adjusted taxable income is a construct that starts with taxable income (the figure on which you pay tax) and adds back a set of items that would otherwise reduce it: reportable fringe benefits, reportable employer superannuation contributions (which for retirees is largely a historical issue but can catch out people still working), total net investment losses (rental property or share portfolio negative gearing), certain tax-free pensions or benefits, and foreign income not otherwise included. The construct exists across the Centrelink system — the same definition applies to Family Tax Benefit and Carer Allowance — and its point is to prevent someone reducing their assessable income through structural arrangements while retaining substantial economic capacity.

Layered on top of adjusted taxable income is the deemed income from account-based pensions, and this is where the test starts to bite for retirees. To ensure broadly comparable treatment between different retirement income structures, Services Australia applies deeming: the balance of the account-based pension is assumed to earn income at the deeming rates, and that deemed income is added to adjusted taxable income for CSHC purposes. From 20 March 2026, the deeming rates are 1.25 per cent on the first $64,200 of financial assets for a single (or $106,200 combined for a couple), and 3.25 per cent above those thresholds.

The practical effect: a single retiree with $1 million in an account-based pension and no other income has around $31,200 in assessable income for the CSHC test ($64,200 × 1.25% + $935,800 × 3.25%). A couple with $2 million combined in account-based pensions has around $62,900. Both are comfortably under the relevant thresholds. It takes a substantial account-based pension balance plus other income to push most self-funded households over.

Three features of the test deserve closer attention.

Grandfathering of pre-2015 account-based pensions. The deeming rule for CSHC purposes applies to account-based pensions purchased or changed on or after 1 January 2015, and to any account-based pension held by a CSHC granted after 31 December 2014. Pensions that predate both dates — held by long-standing CSHC holders — are grandfathered, meaning that deeming doesn't apply. For those pensions, only the actual drawings (which are tax-free for over-60s and don't appear in adjusted taxable income) count for the CSHC test. Which means, for grandfathered pensions, the account-based pension effectively drops out of the income test altogether.

Consider two retirees drawing from otherwise identical accounts. Barbara commenced her account-based pension in December 2014 and has held a CSHC continuously since November 2014. Her account has a balance of $900,000 and she draws the minimum. For CSHC purposes, her ABP income is not deemed — the pre-2015 pension and pre-2015 CSHC combination grandfathers her. Her deemed income from the ABP is effectively zero, and only her other assessable income (say, $8,000 in dividends outside super) is tested against the threshold. She's well clear.

Colin commenced his account-based pension in February 2015. Same balance, same drawings, same age. For CSHC purposes, his ABP is deemed. Roughly $27,900 of deemed income sits on top of his $8,000 dividends, for adjusted taxable income of $35,900. He's still well under the single threshold, but the outcome contains an extra $27,900 that Barbara's doesn't. In more finely-balanced situations, the two-month gap in start date decides eligibility.

The grandfathering is fragile. Most restructures that involve commuting and recommencing the pension, or replacing it with a new account-based pension, permanently lose the grandfathering. Anyone holding a grandfathered pension should obtain advice before making structural changes. Which is why the standing planning question for holders of grandfathered pensions is whether the CSHC-side value of the grandfathering exceeds whatever benefit would come from restructuring. In many cases it does; sometimes it doesn't.

Reportable super contributions and investment losses. Adjusted taxable income adds back reportable employer super contributions (salary sacrifice, primarily) and total net investment losses. For a retiree, the salary sacrifice add-back is usually zero. But a retiree who runs a rental property with negative geared cash flow, or who has a leveraged share portfolio, may find their tax-return-level income much lower than their adjusted taxable income. Consider a retired couple with $30,000 in dividend income and a negatively geared rental property showing a $25,000 tax loss. Their taxable income is $5,000. Their adjusted taxable income for CSHC purposes is $30,000 — the rental loss is added back. That's still well under the couple threshold, but the household with a larger portfolio and larger losses can find the add-back tipping them over. This is deliberate: the ATI construct is designed to prevent a retiree with substantial economic activity from qualifying simply by claiming losses.

Spousal aggregation. For couples, the income test applies to combined income against the couple threshold, not to each partner separately against a single threshold. Where one spouse is still working and earning meaningfully while the other has retired, the combined income can exceed the couple threshold even where the retired spouse's own income is modest. The card can still be held by only one member of the couple in that situation – as long as they've met the age and residency gates individually – but eligibility turns on the combined income.

Couples and the card

The card is issued per person, not per couple. Where both members of a couple have reached Age Pension age, both can hold their own card, each subject to the couple income threshold. Where only one has reached age, only that one can hold a card, but the couple threshold still applies.

Consider a common variation: a household where one spouse retired at 67 and the other, five years younger, is still working part-time and earning around $70,000 a year. The retired spouse draws from an account-based pension. The working spouse hasn't yet reached Age Pension age and so can't hold a card in their own right, but their income counts in the couple test. If the working spouse's income plus the retired spouse's deemed ABP income keeps the combined figure under $161,768, the retired spouse can hold the card in their own name – because only they have reached Age Pension age, although the couple income threshold still applies. If the combined figure exceeds it, neither can – even though the retired spouse's own income sits well below the single threshold. Households in this configuration sometimes lose eligibility on a technicality of working-spouse income they haven't thought to check against the CSHC test.

The moment that catches surviving spouses out is the transition from couple to single following a partner's death. The threshold shifts from the couple rate ($161,768 combined) to the single rate ($101,105). Where the deceased partner's income was modest and the survivor's income sits between $101,105 and the previous couple threshold, the survivor loses the card despite their own ongoing income remaining unchanged. The broader planning question for surviving spouses was covered in Issue 135; the CSHC-specific transition is worth flagging in that conversation because it doesn't announce itself.

What the card is actually worth

The federal benefits are the same anywhere in the country. The state and territory concessions vary – and for many CSHC holders, the state-based benefits are worth more than the federal ones. Which state you live in matters more than most retirees realise before they check.

Federally, the two anchors are the PBS concessional co-payment and the PBS Safety Net.

The PBS concessional co-payment sits at $7.70 per script. The general co-payment (for non-cardholders) dropped to $25.00 from 1 January 2026 under the Cheaper Medicines Act 2025. The difference – $17.30 per script – is the direct saving on each PBS medicine the cardholder fills. For a retiree filling a modest three or four scripts a month for common ongoing conditions, this comes to a few hundred dollars a year of straight prescription savings. For a retiree managing multiple chronic conditions with regular medications, the saving is materially larger. The PBS Safety Net threshold also drops for cardholders – the concessional threshold is $277.20 per calendar year, compared with $1,748.20 for general patients – so the point at which further prescriptions become free arrives much sooner.

The Energy Supplement is worth naming and setting aside. It's a fortnightly payment – currently around $14.10 per fortnight for singles and $10.60 per fortnight for each member of a couple – but it's grandfathered. Only CSHC holders who held the card continuously since 19 September 2016 receive it. Anyone granted a CSHC after that date generally cannot newly qualify, unless they came from an income support payment within 42 days of losing it. For most new applicants, the Energy Supplement is not part of the value proposition.

The state and territory concessions are where the total value tips higher, and where it varies most.

Consider two retired couples on identical incomes, both holding a CSHC. The first lives in New South Wales. Their CSHC entitles them to ambulance concessions, an annual energy rebate, concessions on car registration and vehicle transfer fees, and reduced fares on public transport under the Gold Opal system. The second lives in Queensland. Their CSHC entitles them to an annual electricity rebate, water and sewerage rebates in some areas, and a range of local government rate concessions. Both are meaningful; both look quite different when totalled. A rough estimate – and it is only rough – for a NSW couple actively using their entitlements might sit at $800-$1,500 in state-based value a year on top of the federal PBS savings; the corresponding Queensland figure is similar but composed differently. State concessions change regularly and should always be confirmed with the relevant state authority. The point isn't the specific figure – it's that a CSHC holder in Sydney, Melbourne, Brisbane, or Adelaide is holding a somewhat different card in practical terms, even though the physical card is the same.

That combined value – PBS savings, Safety Net threshold, plus the state layer – is worth checking against the trouble of applying, which is modest. The application runs through myGov and generally relies on recent tax information together with any additional information Services Australia requests. Services Australia reassesses eligibility annually.

Worth checking

The CSHC isn't an entitlement that changes anyone's retirement plan. For a household that qualifies, it removes some cost from ongoing spending; for a household that doesn't, it stays on the shelf until income drops enough to reach across the threshold. What makes it worth an adviser conversation isn't complexity — it's that the threshold has drifted higher over the past several years while the perception of who's eligible hasn't caught up, and that the deeming and grandfathering rules affect the outcome in ways the reader can't be expected to know until someone points them out.

Worth thinking about

Some prompts for your own reflection before your next review:

- Have you actually checked your adjusted taxable income against the current thresholds — including the deemed income from any account-based pension? Assuming ineligibility is not the same as being ineligible.
- If you commenced an account-based pension before 1 January 2015 and have held a CSHC continuously, do you know whether your grandfathered status is intact? Any structural change breaks it.
- If your household has one member still working while the other is retired, has the couple threshold been checked recently against combined income?
- If you are approaching a stage where a partner's death would shift you from the couple threshold to the single threshold, is that transition part of your planning?
- Do you know what your state or territory actually offers CSHC holders? The value varies more than most people expect.

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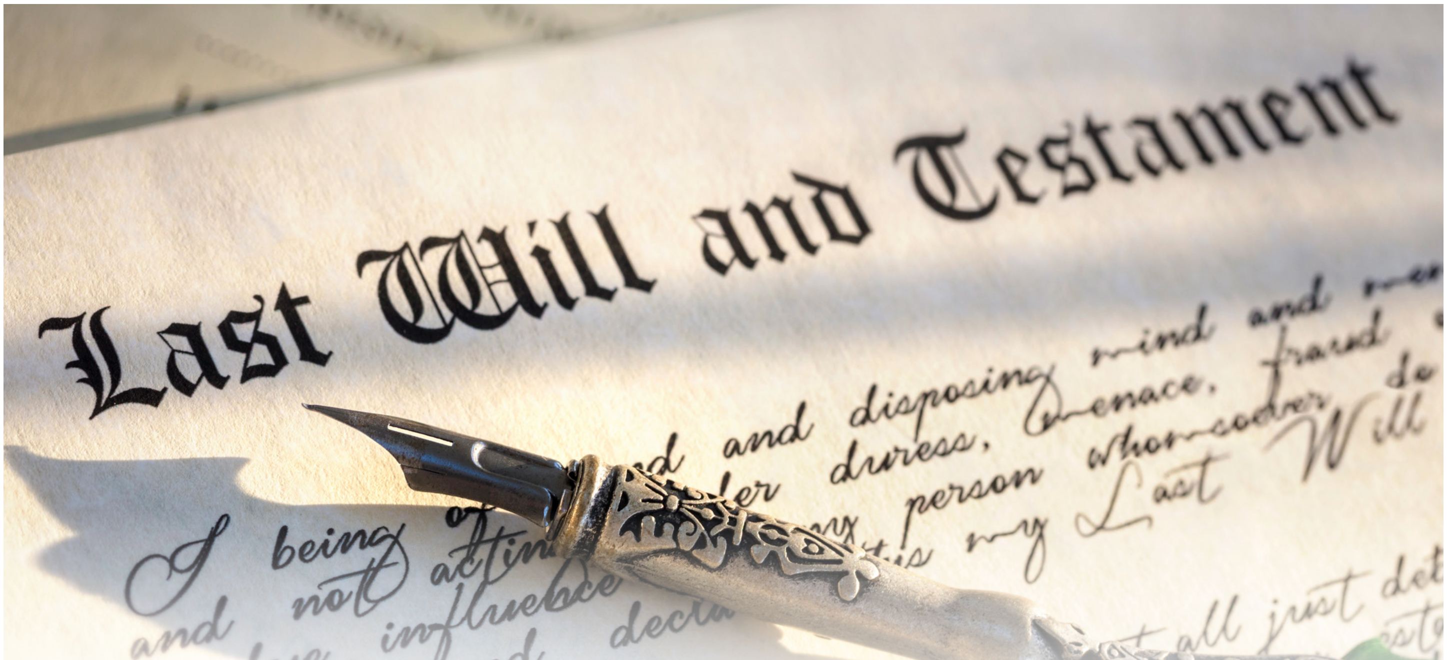

THE SUPER DEATH BENEFITS TAX
WHAT YOUR ADULT CHILDREN ACTUALLY INHERIT

BY WEALTH ADVISER

Take a couple in their late sixties with $800,000 in combined superannuation. Most of that balance — say four-fifths — is what the tax system calls the “taxable component”: employer contributions, salary sacrifice, and the earnings on both accumulated over a working life. The remaining fifth is the “tax-free component”, built from after-tax contributions and a few other narrow sources. In their own hands, in retirement, the distinction is invisible. Withdrawals after 60 are tax-free either way. The mix on their member statement matters to almost nobody.

Now shift the frame. Both parents have died. The remaining balance passes to their adult son. He is not a dependant for tax purposes, and so the taxable component doesn’t inherit the retirement-phase tax exemption. On a $640,000 taxable-taxed component paid directly to him from the fund, the withheld tax is around 17 per cent — roughly $109,000. Routed through the estate instead, the figure drops to around 15 per cent, or $96,000. Either way, tens of thousands of dollars the parents assumed were being passed on aren’t.

That gap is what this article is about. Not the mechanics of a tax bill after the fact, but the decisions available now that shift what actually flows through. Those decisions organise themselves around three levers — who receives the money, what the money is made of, and where the money sits at death. Every strategy an adviser will mention in this space is a version of pulling on one of those three. Before any of them are useful, though, the underlying rule needs to be understood, because a large share of the households reading this piece will discover the rule doesn’t really apply to their situation at all.

What the tax actually is

Superannuation death benefits are taxed by reference to two things: the components inside the deceased’s account, and the status of the person receiving them.

Every super account has a tax-free component (built from after-tax contributions and a few other narrow sources) and a taxable component (employer contributions, salary sacrifice, personal deductible contributions, and the earnings on all of them). Within the taxable component, there’s a further split between a “taxed element” — what most Australians hold, taxed inside the fund at contribution and earnings stage — and an “untaxed element”, typically found in some public sector funds and occasionally arising from insurance proceeds paid into a death benefit.

The tax-free component passes to any beneficiary tax-free. That much is universal. Where the recipient is a “death benefits dependant” — a defined term the next section covers — the whole payment is tax-free regardless of components. Where the recipient isn't a dependant, the taxable-taxed element is subject to tax at a maximum of 15 per cent (plus the 2 per cent Medicare levy where applicable), and the taxable-untaxed element at a maximum of 30 per cent (plus Medicare levy where applicable).

The Medicare levy turns on the payment route. When the fund pays a lump sum directly to a non-dependant beneficiary, the levy applies — so the effective rate on the taxable-taxed component currently sits at 17 per cent. When the fund pays the same amount to the deceased's legal personal representative for distribution through the estate, no Medicare levy is deducted, and the rate is currently 15 per cent. The 2 per cent difference is real money on a substantial balance, and it's one of the reasons directing super to the estate appears so often in planning conversations. A secondary reason is that the tax is dealt with by the legal personal representative before distribution, so the beneficiary generally doesn't declare the amount in their own tax return — which avoids side-effects on family payments, private health insurance thresholds, and other income-tested measures.

The dependant definition

The single most consequential term in this whole discussion is "death benefits dependant". Under section 302-195 of the Income Tax Assessment Act 1997, that includes only four categories: the deceased's spouse (or former spouse, including de facto in both cases), a child of the deceased aged under 18, any person in an interdependency relationship with the deceased at the time of death, and any person who was financially dependent on the deceased at the time of death.

The most common assumption to get wrong is that beneficiaries under a will inherit as tax dependants. They don't. Being named in a will has no bearing on the tax classification. Being a "dependant" in the ordinary sense — a person who relied on the deceased emotionally, or benefited from occasional financial help — also has no bearing. The category is narrow, and adult children are almost always outside it.

The two categories that do sometimes rescue an adult child are interdependency and financial dependency, and both deserve a closer look.

An interdependency relationship, defined in section 302-200, requires four elements at the time of death: a close personal relationship, the two people living together, one or each providing the other with financial support, and one or each providing the other with domestic support and personal care. All four must be present. The category is not designed for parents and adult children — the ATO has said repeatedly that a close personal relationship as required here would not normally exist between a parent and an adult child because there wouldn't be a mutual commitment to a shared life. The category exists for de facto couples in circumstances that don't fit the spouse definition, and for other households organised around genuine mutual commitment. It sometimes reaches adult children in unusual and exceptional circumstances — but not routinely.

Consider what genuinely qualifies. An adult daughter moves back to the family home in her late fifties, joining her widowed mother in a shared household. They pool finances into a single account for household expenses; the daughter contributes her salary, the mother her pension. The daughter cooks, drives her mother to appointments, and provides care as her mother's health declines over several years. They share the home as a genuine household — not as a carer and patient in separate lives. When the mother dies, the interdependency test is arguable. Even here, the ATO's private rulings suggest the case has to be made carefully: the difference between "adult child who cared for a parent" (usually not enough) and "two people who built a shared life together" (sometimes enough) turns on documentation of the four elements at the time of death, not on the emotional reality afterwards. Whether the test is satisfied is ultimately determined on the particular facts.

Financial dependency is addressed by case law rather than a statutory definition. The test is whether the person relied on the deceased for necessary financial support, judged by what would happen to their standard of living without it. An adult child who received occasional gifts, or help with a house deposit, is not financially dependent. An adult child whose living costs were being met by the parent — perhaps because of disability, unemployment, or full-time study — may be. The support has to be relied upon, not merely received.

In most families, adult children will be non-dependants for tax purposes, and the tax rule described earlier will apply to whatever taxable component reaches them.

The three levers

Every strategy that changes the outcome pulls on one of three things: the beneficiary's status, the taxable component of the super interest, or what actually remains inside super at the time of death. Grouping them this way is more useful than the standard menu-of-strategies presentation because it clarifies why some approaches compound and others substitute for each other.

Changing the beneficiary's status. The clearest example is ensuring the surviving spouse takes the benefit first. When one member of a couple dies and their super passes to their spouse, the payment is tax-free regardless of components — but the balance then sits in the spouse's own super, growing or being drawn down until they die, at which point the same question repeats with any remaining balance now flowing to adult children. The more interesting planning conversation is often not about the first death but the second, and couples with substantial super and adult-child beneficiaries think about the strategy over both members' lifetimes rather than one.

Where a genuine interdependency case exists, the planning work is documentary: keeping records of shared expenses, shared accounts, shared address, and the actual care being provided, so that if a claim on interdependency status is ever tested, the evidence exists. This isn't a strategy of manufacturing a category that doesn't apply; it's a strategy of ensuring that where it genuinely applies, it isn't lost through poor records.

Directing the benefit through the legal personal representative is technically about payment route, but it lives here because it's the same category of decision. The trade-off is that money passing through the estate is exposed to creditors and family provision claims, which money paid directly to a binding-nominated beneficiary is not. The tax saving is worth having, but not at the cost of a valid claim by a disappointed beneficiary succeeding against an estate that would otherwise have been protected.

Changing the taxable component. This is where recontribution strategies sit. The mechanics: withdraw a lump sum from super (all withdrawals include tax-free and taxable components in the same proportion as the account holds at the time of payment – the proportioning rule in section 307-125), then re-contribute the amount back into super as a non-concessional contribution, which becomes tax-free component. The net effect is that the mix inside the account has shifted – the taxable component is now a smaller share of the total.

Recontribution has real eligibility gates. The withdrawal generally requires the member to have met a condition of release with unrestricted access – for most retirees, being 60 and retired or having reached 65. The recontribution has to fit within the non-concessional contribution cap ($130,000 in 2026-27, or up to $390,000 under the bring-forward rules for those under 75 with a total super balance below the relevant threshold) and requires the member's total super balance at the prior 30 June to sit below the general transfer balance cap of $2.1 million. For couples, the withdrawal can sometimes be recontributed to the lower-balance spouse's account, serving both a tax-mix and a balance-equalisation objective.

Where the recontribution is significant, the tax-free money is often kept in a separate super interest so it can be preserved for the eventual beneficiaries. The mechanism matters: the recontribution has to be made into a separate accumulation account before a pension is commenced from it, so that the new pension crystallises at 100 per cent tax-free component. Blending the recontribution into an existing accumulation balance that already holds taxable component defeats the exercise. Once the two pensions are running – one made up of the original taxable-heavy interest, the other of the pure tax-free interest – income needs can be drawn from the taxable-heavy pension, leaving the tax-free pension to accumulate.

The related strategy is drawing down over the course of retirement rather than accumulating. Recontribution changes what the balance is made of; drawing down changes how much balance there is at all. Both reduce the taxable component exposed to death benefits taxation.

Changing what sits in super. The clearest case is drawing down before death after a terminal medical diagnosis. Where two registered medical practitioners certify that the member is likely to die within 24 months, and one is a specialist in the relevant field, the member's benefits become unrestricted non-preserved and can be withdrawn tax-free within the certification period. Money withdrawn this way sits outside super at the time of death, passes through the estate as ordinary assets, and isn't subject to the death benefits tax on the taxable component at all. The trade-off is that money outside super is exposed to CGT and income tax going forward – but for a member with a short remaining life expectancy, the death benefits tax saving usually dominates.

Life insurance held outside super can serve a related function – creating a tax-free lump sum for an adult child who would otherwise have inherited a heavily-taxed super balance. This is most useful where the household wants to equalise between a dependant beneficiary (a surviving spouse) and a non-dependant beneficiary (adult children from a previous relationship), with the insurance funding the top-up so both end up with comparable after-tax outcomes. Trauma and life cover held outside super was covered in Issue 140.

Asset location – deciding which assets sit inside super and which outside – is the last version of this lever. Assets held outside super generally receive a market-value cost base reset at death under Division 128, so the beneficiary inherits at market value without the deceased's accumulated capital gain being taxed. The same asset inside super doesn't get that treatment. The death benefits tax consequences are one input into that decision – not decisive on their own, but not zero.

When it doesn't apply

For a substantial share of the readership, this article describes a problem they don't have.

The surviving spouse route defers the tax on the first death, and where the spouse is expected to draw the balance down through their own retirement – spending it, meeting care costs, funding a move into residential care – there may be very little super left when the second death occurs. Households with modest balances relative to their spending are the clearest case. A couple with $400,000 in combined super, an Age Pension supplementing their income, and 25 years of retirement ahead may leave behind next to nothing in super. The tax rate on nothing is nothing.

Households where the intended beneficiary genuinely is a tax dependant are also outside the frame. A member with a spouse and no other beneficiaries doesn't need to think about non-dependant tax at all – the entire benefit passes tax-free. A member supporting a financially dependent adult child on a permanent basis has a similar outcome available for that child.

And there are households where the numbers, while non-trivial, sit low enough in the priority list that the planning cost outweighs the tax saved. Recontribution strategies aren't free – they take up non-concessional cap capacity that might have other uses, they interact with total super balance limits, and they carry advice and administration costs. A household with $200,000 of taxable component ultimately flowing to an adult child faces a tax cost of $30,000-$34,000. Reducing that to zero is worth doing where the recontribution capacity is available anyway; setting up an entire multi-year strategy to save it is a different question, and one where the adviser's judgment on priorities matters.

The trade-offs that make this hard

The super death benefits tax hasn't become a large planning topic because it's technically complex – the rule itself is simple enough. It's that the strategies that address it work best when set up years before they're needed, at a stage when the household doesn't yet know how much of the super will actually reach the next generation. Someone who recontributes aggressively at 65 and then needs the full balance for their own care at 85 has forgone nothing, because they'll draw it themselves. Someone who ignores the rule at 65 and dies at 85 with most of the balance intact leaves an avoidable tax bill behind. The decision has to be made without knowing which situation applies, and the value of getting it right sits in a future that isn't yet visible.

That's the conversation to have with an adviser – not the rule, but the balance of probabilities and the timing of the levers relative to the household's own likely path through retirement.

Worth thinking about

Some prompts for your own reflection before your next review:

- Have you looked recently at the tax-free and taxable component split of your super? Most member statements report it – and if not, your fund can provide it on request.
- If you have adult children as your intended beneficiaries, and your super would still hold a substantial balance at death, has the recontribution question been considered on its own merits (not just as part of a broader review)?
- If you have both a surviving spouse and adult children as beneficiaries – including from previous relationships – does your current binding nomination reflect the split you intend after tax, or the split before tax?
- Where a benefit would flow through your estate, are you comfortable with the trade-off between the Medicare levy saving and the exposure to estate claims?

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Q&A: Ask a Question

Question 1:

I've named my adult children as beneficiaries of my super. Will they receive it tax-free the way I would in retirement?

Not necessarily. Superannuation isn't automatically part of your estate, and how it's taxed on your death depends on what the super is made up of and who receives it.

Every super account holds a tax-free component (from after-tax contributions) and a taxable component (from employer contributions, salary sacrifice, personal deductible contributions, and their earnings). While you're alive and over 60, both are tax-free to you – but the distinction re-emerges at death.

The tax-free component always passes tax-free. The taxable component is only tax-free where the recipient is a "death benefits dependant" – a narrowly defined term covering your spouse, a child under 18, someone in an interdependency relationship with you, or someone financially dependent on you at the time of death. Adult children who are financially independent almost always fall outside this definition, regardless of what your will says.

Where an adult child receives the taxable component directly from the fund, tax is generally withheld at 15% plus the Medicare levy. Directing the payment through your estate avoids the levy but exposes the money to any claims against the estate. Because the amounts involved can be significant, it's worth speaking with your adviser about how your nomination and the make-up of your super interact – often well before it becomes relevant.

Question 2:

I'm a self-funded retiree and don't receive the Age Pension. Could I still qualify for a concession card?

Yes, you may. The Commonwealth Seniors Health Card (CSHC) exists specifically for retirees who don't receive the Age Pension.

To qualify, you generally need to have reached Age Pension age (67 for anyone born on or after 1 January 1957), be an Australian resident, and pass an income test. There is no assets test at all, which is the reverse of what many self-funded retirees expect. A household with substantial super, an owner-occupied home, and modest actual income can still qualify.

The income test combines adjusted taxable income with deemed income from account-based pensions. Deeming applies a set rate to the account balance rather than measuring what you actually draw. For couples, combined income is assessed against the couple threshold, so a working spouse's earnings can affect eligibility even when only one member has reached Age Pension age.

The benefits include cheaper PBS medicines, a lower PBS Safety Net threshold, and a range of state and territory concessions on things like electricity, car registration, and public transport. The state-based layer often exceeds the federal savings and varies considerably between jurisdictions. Because thresholds are indexed and eligibility is reassessed annually, it's worth asking your adviser to check your position – assuming ineligibility is not the same as being ineligible.

Question 3:

I've heard that super can be split when a couple separates. How does that actually work?

Superannuation can be split as part of a property settlement, and the rules now apply consistently to married and de facto couples across Australia. There are three main routes: a consent order (where both parties agree and the court formalises it), a court-imposed order after contested proceedings, or a superannuation agreement, which requires each party to obtain independent legal advice.

Valuation is the first step. For an accumulation account, this is simply the account balance at a specified date. For a defined-benefit interest, the value is worked out actuarially and can be substantially higher than the member expects, because it reflects the guaranteed future income stream.

Once valued, the split can be expressed as a base amount (a fixed dollar figure) or as a percentage of the interest. The tax-free and taxable components transfer proportionally, and the money stays inside the super system – the receiving spouse cannot take it as cash.

A family law split is treated as a rollover rather than a contribution, so it isn't taxed and doesn't count against the receiving spouse's contribution cap. It does, however, increase their total super balance, which can affect their future ability to make non-concessional contributions. Centrelink also treats each former partner as single from the date of separation once notified. Working with a financial adviser alongside your family lawyer helps ensure these downstream effects are managed rather than discovered afterwards.

With all these topics, there is no single "right" choice. Your personal situation matters, and you should seek advice from a licensed financial adviser to understand what is most appropriate for you.

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