

ANSWERS TO QUESTIONS ON NOTICE

**Treasury Portfolio**

**Inquiry into the Treasury Laws Amendment (Better Targeted Superannuation Concessions and Other Measures) Bill 2023 (Provisions) and a related bill (Provisions)**

**Department:** Department of the Treasury  
**Topic:** Regulations for defined benefit scheme  
**Reference:** Written 18 April 2024  
**Senator:** Nick McKim

**Question:**

Please advise a demonstration of how the proposed regulations for defined benefit scheme would work. If a federal court judge is paid \$300,000 a year and the defined benefit is 60% of this amount (\$180,000), please state how much tax would be paid under the proposed bill and regulations (on top of regular income tax)

**Answer:**

Division 296 tax is calculated in the same way for all individuals: it is 15% of the proportion of their *superannuation earnings* that reflect the part of their *total superannuation balance* (TSB) that is over \$3 million.

*Superannuation earnings* are ascertained for the year by the following formula:

$$\text{TSB}_{(\text{end of financial year})} - \text{TSB}_{(\text{end of previous financial year})} + \text{withdrawals} - \text{contributions}$$

Under the draft Regulations for the measure, a retired Federal Court Judge receiving a pension from the Judges' Pension Scheme (JPS) will have their TSB valued using the relevant 'family law method'. For the JPS this method can be found in Part 6 of the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2003*.

If a retired Judge were receiving a pension of \$180,000 per annum, and did not have other superannuation elsewhere, the TSB value under this method would very likely fall underneath the \$3 million threshold.

A specific example of how much Division 296 tax a retired Judge will pay in a year cannot be provided, as the TSB value produced by the above method may vary significantly depending on their age, birthday and manner of retirement.