

How the 2026 Federal Budget affects family law settlements

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The 2026 Federal Budget introduces major tax, housing and social policy reforms that directly affect family law outcomes for separating couples in Australia. Changes to capital gains tax, negative gearing, discretionary trusts, income tax and the NDIS can all influence how parenting arrangements, property settlement, child support and spousal maintenance are approached. This article explains what changed and what to consider before you negotiate.

How do the 2026 capital gains tax changes affect property settlements?

From 1 July 2027, the current 50% capital gains tax discount for individuals, trusts and partnerships will be replaced with cost base indexation and a 30% minimum tax rate on capital gains. Transitional rules keep existing investments under current settings for accrued gains, and some new home buyers will be able to choose between the old and new rules on sale.

For the family law context, property pools that include rental properties, share portfolios or business interests now need valuation and strategy that reflect the new tax timing. Settlement dates and postsettlement sale plans matter more, especially where one party keeps investment assets that carry future tax exposure. You can read more about how courts assess property settlements in our earlier blog, “Property Settlements, What Does the Court Consider?".

How do the 2026 capital gains tax changes affect property settlements?

From 1 July 2027, negative gearing for residential property will be limited to new builds that add to housing supply or support government housing programs. Properties held at 7:30pm AEST on 12 May 2026 keep full access to existing negative gearing rules.

For separated couples, this change alters the post tax cash flow from investment properties purchased after that date, which affects how you weigh keeping or selling a property in settlement negotiations.

The way you structure your settlement, either as a global division of all assets or an assetbyasset approach, becomes more strategic when future tax and cash flow differ between properties.

What does the discretionary trust minimum tax mean for a property settlement?

From 1 July 2028, discretionary trusts will face a 30% minimum tax paid by the trustee, with beneficiaries receiving non-refundable credits. Fixed trusts, complying superannuation funds, special disability trusts and deceased estates fall outside this new minimum tax.

Many family-owned or closely held businesses in property pools use discretionary trust structures, so this reform changes aftertax distributions and business valuations. Rollover relief will be available for three years from 1 July 2027 for restructures out of discretionary trusts into other entity types, which you need to consider alongside family law rollover relief that applies when transfers follow court orders or agreements.

When your settlement involves a business or investment run through a trust, you need advice that joins family law and tax, so values and future earnings reflect these Budget changes.

How do the 2026 income tax cuts affect child support and spousal maintenance?

From 1 July 2026, the tax rate on income between $18,201 and $45,000 drops from 16% to 15%, then to 14% from 1 July 2027. From the 2027-2028 income year, the new Working Australians Tax Offset will provide up to $250 per year for income earned from work. Workers will be able to claim up to $1,000 in work related expenses without receipts from 2026-2027.

There will also be an increase of 2.9% in the Medicare levy low-income thresholds from the 2025-2026 income year. Treasury estimates show an average worker on $81,245 will receive a tax cut of $1,978 in 2026-2027 and $2,496 per year from 2027-2028 compared to 2023-2024 settings.

In a property settlement, higher net income influences how the Court assesses each party's financial resources and future needs, which in turn affects the percentage division of the asset pool. For a primary income earner, lower tax and higher disposable income support stronger child support or spousal maintenance proposals. While for a primary carer, increased income reduces pressure to rely on a larger share of the asset pool to meet ongoing living costs. When you negotiate, you need up to date income figures that reflect the new tax scales so any agreement on property, maintenance and child support stay realistic and sustainable over time. Any agreement reached, resulting in a consent orders or a binding agreement, should reflect updated income figures, not older estimates.

How could NDIS changes affect parenting arrangements?

The 2026 Budget introduces reforms to the National Disability Insurance Scheme (NDIS). Changes include tighter eligibility based on functional capacity, stricter plan reviews and broader mandatory provider registration. The changes will result in many children moving to state-based support systems. This may increase pressure on parents who care for neurodiverse children or children with disabilities.

For parenting matters, support reductions or changes in service type influence how you structure care arrangements, travel, supervision and each parent's ability to work. This links to the principle of best interests of the child.

What do the Budget housing measures mean for the family home after separation?

Another focus of the 2026 Budget is housing affordability. This, alongside housing availability, sit at the centre of many family law matters where children need stable accommodation. You may want to consider all of your options when it comes to selling or retaining the former family home, downsizing or entering shared-equity programs link directly to settlement strategy.

Does the 2026 Budget change how super is treated in family law?

The 2026 Budget does not overhaul the family law treatment of superannuation, and existing transparency measures continue. Courts and parties still treat super as property, and super splitting remains a key tool for achieving fair settlements, especially after long relationships with unequal paid work patterns.

Recent reforms that allow courts to request super information from the Australian Taxation Office strengthen efforts against hidden super and support more accurate asset pools. In the current Budget context, super remains part of your broader financial strategy around housing, tax and retirement. You can read more about superannuation and family law in our earlier blog, "Family Law and Superannuation Splitting".

Time limits, partial property settlements and next steps

Budget changes do not alter strict time limits for property settlement and spousal maintenance applications after divorce or separation. You need to keep those deadlines in mind while you respond to Budget reforms that start in 2026, 2027 and 2028.

In some cases, you might need a partial property settlement that releases funds early while one or both of the parties seek updated valuations, trust restructures or tax advice.

How to prepare for the 2026 Budget changes if you are separating

The 2026 Federal Budget adds urgency and complexity to family law planning for many Australians. Practical steps for you include:

Review your current and expected income under the new tax scales before you agree on child support or maintenance amounts, and seek updated advice where numbers shift.

List your full asset pool, including trusts, investment properties and super, and test different settlement options that account for future CGT, negative gearing limits and trust tax rules.

If your children receive NDIS or related supports, gather evidence about current and expected services, then factor those changes into parenting proposals and future needs arguments.

Stay within family law time limits, and use consent orders or other binding documents to formalise any agreement so Budget changes do not undermine your rights later.

At Meillon & Bright, we are family law specialists, and we encourage our clients to seek tax advice from a qualified tax professional. The combination of family law and tax advice will hopefully give you the greatest chance of reaching a fair and just outcome in the family law matter. Call us today.

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