



Visibility of superannuation assets in family law property settlement

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Superannuation may be the most significant financial asset for parties to a family law property settlement. Much like a house, car or other financial investments, our family courts favourably recognise that superannuation earned during a relationship is accumulated because of contributions, both financial and non-financial, of both parties. It is not uncommon for parties to hide or under-disclose their superannuation assets. Laws introduced in April 2022 have significantly improved the requirement for visibility of superannuation assets in family law matters.

Visibility of superannuation laws introduced

From 1 April 2022, visibility of superannuation legislation was introduced. The law permits the Australian Taxation Office ('ATO') to disclose the super information about a current or former spouse/de facto to the courts. This information can then be provided to all parties. This measure was introduced in the May 2021 federal budget and is now binding law, enabling the secure electronic information sharing between the [Family Law Courts](#) and the ATO.

What information is provided under the visibility of superannuation laws?

The ATO may provide the following super information of an APRA fund, SMSF and/or ATO-held monies:

Super fund name;

Super fund ABN;

Super fund USI (if applicable);

Last reported balance;

Date of last reported balance; and

Account phase.

What is the process for accessing superannuation assets from the ATO?

Family law proceedings must be before the Court before either party can request superannuation information of their current or former spouse/de facto partner from the ATO.

Requests for superannuation can be sought through the Federal Circuit and Family Court of Australia or the Family Court of Western Australia. Parties, or their legal representation, can apply via the respective online Court portals to access superannuation information.

The process is completed electronically and, at a minimum must include the following:

Full name (including former names);

Any known address;

Full date of birth; and

Mobile phone number and/or email, if known.

The court will need to verify there are proceedings on foot prior to the request being processed and submitted to the ATO.

What benefit are the superannuation visibility laws to my property settlement?

Parties to family law proceedings have an obligation to [full and frank disclosure](#), which includes disclosing details of their current superannuation details and balance.

While it is improper to do so, a party may not reveal the full picture of their superannuation interest, and this may have a significantly negative impact on a favourable outcome for the other party.

This visibility of superannuation laws allow parties in family law proceedings to have a better and more comprehensive understanding and knowledge of assets held in superannuation at the end of a relationship. These laws will potentially avoid the complexity and additional cost involved in seeking superannuation information. By providing courts with superannuation information held by the ATO, there is a greater possibility for more efficient, [just and equitable family law property settlement](#).

Get help from a family lawyer

Different superannuation funds have different rules and regulations about whether superannuation interests can be split. You can learn more about this in our earlier blog, ["Family law and superannuation splitting"](#). The visibility of superannuation laws provide greater transparency for property settlement matters before the family courts.

If you are separating from your partner and have concerns in relation to how a superannuation split may impact your property settlement or that your former partner is not adhering to full and frank disclosure, you should seek advice from a lawyer experienced in family law.

The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.