



# Women's Economic Security Package

## Improving the visibility of superannuation assets in family law proceedings

November 2018

### What is the measure?

- The Australian Taxation Office (ATO) will be authorised to provide superannuation information directly to the courts to speed up the time it takes to resolve family law disputes.
- The Australian Government will provide \$3.3m to the ATO to develop the information-sharing system, which will start operating on 1 July 2020.
- The family law courts will be able to access superannuation information directly from the ATO, overcoming delays and ensuring that accurate information is available to the court.
- The courts will be able to use this process when a party has failed to disclose information (in contravention of the *Family Law Act 1975*'s financial disclosure provisions).
- This new process will make it harder for parties to hide or under-disclose their assets, and will result in more timely, just and equitable decisions about property splits following the breakdown of a relationship.

### Why is the Government funding this measure?

- Superannuation is often the most significant asset in the property pool of separated couples. However, the superannuation balances of women nearing retirement are 42% lower than those of men.
- Approximately 60% of women suffer some form of financial hardship within 12 months of separation. This hardship can also be perpetuated by a lack of financial disclosure by a former partner, which can result in women receiving a smaller share of property than they would be entitled to.
- Around 40% of people with superannuation have more than one account. Getting full visibility of superannuation assets in family law matters can be complex, time-consuming and costly, often requiring parties to go on 'fishing expeditions' using subpoenas and other formal court processes, with no guarantee of success.
- Non-disclosure in family law proceedings can delay cases as well. A study by the Women's Legal Service Victoria found that two-thirds of clients surveyed faced delays caused by a former partner failing to make the necessary financial disclosures.
- This measure responds directly to recommendations made by the House of Representatives' Standing Committee on Social Policy and Legal Affairs; Women's Legal Service of Victoria report; and proposals in the Australian Law Reform Commission (ALRC) Discussion Paper.

### What is the expected impact of the measure?

- The financial disclosure requirements under the Family Law Act will be strengthened, and it will be harder for people to hide their assets during court proceedings.
- Giving the courts access to ATO information, is expected to result in faster and fairer family law property settlements.

- It will help parties in family law proceedings, particularly women, avoid the cost and complexity involved in seeking superannuation information from multiple superannuation funds, or subpoenaing employment records.
- It will also provide the family law courts with a more accurate and reliable source of superannuation information to inform a property settlement, and result in more just and equitable outcomes.

## Case study

Mei-Lin and Michael have ended their 12 year marriage, and are seeking orders in the family law courts to divide their property. Mei-Lin spent most of the marriage out of the paid workforce caring for their three children, and has \$50,000 in superannuation. Michael worked full-time during the marriage, in four different jobs. Michael has disclosed the details of one superannuation account to Mei-Lin's lawyer, which has a balance of \$80,000, but Mei-Lin is certain he has other superannuation accounts. Despite repeated requests, Michael refuses to provide further information. Mei-Lin's lawyer advises the court of Michael's suspected non-disclosure. Instead of Mei-Lin having to go on an expensive and time consuming 'fishing expedition' for the details of Michael's other superannuation accounts—applying to various superannuation funds and subpoenaing Michael's employment records — the court is able to seek this information directly from the ATO through a new electronic information sharing system. The ATO provides the court with details about three other accounts held in Michael's name with a combined value of \$90,000, taking Michael's total superannuation balance up to \$170,000, which the court takes into account in making a property split. Mei-Lin now receives a just and equitable share of their property, which helps her to move on financially and care for their three children.