



Calculating the asset pool for family law property matters

Author: [Jane Holford](#)

Email: jane@smithfamilylaw.com.au

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In [family law property matters](#), the process of determining the asset pool is an important first step in achieving a just and equitable division of property between the parties. The asset pool includes all the assets and liabilities owned by the parties, and it forms the basis for negotiations and settlements.

While parties do not always need to agree on all aspects of the asset pool to reach a resolution, understanding how to calculate the asset pool is essential for both parties as a starting point. At times, parties will disagree about what makes up the asset pool (or the value attributable to the property), but knowing what is included under family law can assist in saving the parties time and money in resolving these disagreements.

What makes up the asset pool?

The asset pool includes all:

- assets;
- liabilities;
- [superannuation](#); and
- financial resources of both parties.

Assets can range from real estate (real properties), vehicles, funds in any bank accounts, investments, business and personal belongings.

Liabilities are debts such as mortgages, credit card debts, tax debts, business debts and personal loans.

The superannuation entitlements of the parties are also usually included in the asset pool, although this will depend on the circumstances of each matter. Additionally, financial resources like inheritances or potential future income can be taken into account when determining the asset pool.

We recommend that you seek legal advice early on after a separation to ensure that you are aware of what goes into the asset pool and make sure you are taking steps to protect your interests. No one family law matter is the same, and so what makes up the asset pool will differ between each case.

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Steps to calculate the asset pool for property settlement

Gather and exchange information and relevant documents

Both parties have a [duty to provide full and frank disclosure](#) and provide, to each other, a complete overview of their financial circumstances. This includes details and supporting documents to verify all assets, liabilities, superannuation funds, and other financial resources.

There are occasions when a party may try to hide assets or won't be forthcoming with their disclosure, despite having a legal obligation to do so. If another party fails to disclose documents relevant to a property dispute, you may be able to take further steps to obtain that information through other means – such as through a Court Order or [subpoena](#). A Court Order may compel a third party, such as a bank or medical practitioner, to produce specific documents.

Disclosure of information is a legal requirement, and hiding assets can result in serious consequences. For example, agreements reached without full and frank disclosure run the risk of being re-opened at a later date, depending on the circumstances.

If you are not sure if something needs to be disclosed or your former partner is refusing to provide disclosure, we recommend you seek legal advice to see what your options are.

Obtain valuations of assets and liabilities

Parties can agree to an asset having whatever value they both think is appropriate. They can inform themselves however they like, such as researching the market value of the item or obtaining free online appraisals. However, if there is a disagreement as to the value of an asset, the parties will need to obtain an independent joint valuation to put the matter to rest.

Liabilities are usually able to be verified by obtaining a 'pay-out' quote from the organisation that the debt is owed to.

For smaller items, such as household items or jewellery, it may not be worthwhile including these assets in the asset pool if their value is disputed. This is because the cost of obtaining a joint valuation of chattels for the purposes of a family law matter can often outweigh its value. This will, of course, depend on what the asset in dispute is. It is also important to note that usually, the value of an asset is what its 're-sale' value is (not what it cost when purchased new).

If you are unsure of how to go about getting a value of an asset for family law purposes, we recommend you seek legal advice to see what options are available.

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Calculate the value of superannuation for each party

Under family law, the value of superannuation entitlements for family law purposes must be calculated in accordance with the relevant legislation. Most superannuation funds will provide this type of valuation for a small fee, however, depending on the type of superannuation interest in question, it may be necessary to obtain a specialised valuation.

For example, specialised valuations are often necessary for self-managed superfunds and superannuation funds with a defined benefit interest. It's important to have an accurate value for each party's superannuation fund, as it may affect how the remaining assets and liabilities are dealt with.

Consider what other financial resources need to be assessed

Financial resources are also taken into account in determining the asset pool.

For example, if a party is soon to [come into a significant inheritance](#) or is in the middle of a separate legal claim that is expected to have a payout, the amount they are due to receive needs to be considered.

Determining what is a financial resource of the parties can be complex, and there is no one-size-fits-all approach. We recommend you seek legal advice to ensure that your interests are protected.

Get help from a family lawyer

Calculating the asset pool for family law property matters in Australia is a complex but essential step in achieving a just and equitable resolution. The asset pool includes all current assets, liabilities, superannuation, and financial resources of both parties.

We recommend seeking legal advice in relation to what can make up the asset pool available for division, as circumstances will vary for each individual matter. Seeking advice early on can help to ensure that you know your entitlements and obligations in

relation to your family law property settlement and that you receive a fair and equitable share to help secure your financial future.

Contacting Smith Family Law

[03 8625 8957](tel:0386258957)

info@smithfamilylaw.com.au

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