



Australian Government
 Inspector-General of Taxation
 Taxation Ombudsman

**IGoT
 News**

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Welcome Back ... and Best wishes for a successful 2021

Welcome to our first newsletter for 2021. 2020 was a challenging and unprecedented year for all Australians and we hope that the Christmas and New Year holidays have been a chance to rest, recuperate and catch up with friends and family.

Our office has resumed its important work to assist Australians with their economic recovery through our complaints handling service and other investigation work. One of the key functions of the IGTO is to provide independent assurance to taxpayers, tax practitioners and advisers, the Minister, the Government, the Australian Parliament, the ATO and the TPB that Australian taxation administration laws, systems and outcomes are operating fairly, effectively, consistently and as the Government and Australian Parliament intended.

In December 2020, the IGTO released a public report on its taxation complaint investigations into eligibility to access JobKeeper and Boosting Cash Flow payments – especially for new small business. This is one example of how our investigation function provides improved transparency and community assurance about tax administration.

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Release of our JobKeeper and Boosting Cash Flow report

In December 2020, we released our report following extensive complaint investigations into [aspects of the Australian Taxation Office's administration of JobKeeper and Boosting Cash Flow payments for new businesses](#). The report, the first of its kind released by our office, examined the ATO's interpretation and application of 'taxable supply' in determining eligibility to access JobKeeper (JK) and Boosting Cash Flow (BCF) payments for new businesses, particularly those that had no reason to lodge an income tax return or a Business Activity Statement by 12 March 2020.

During the course of our complaint investigations, the ATO undertook to informally review and reconsider its earlier decisions which were the subject of taxation complaints raised with the IGTO. The ATO also advised the IGTO (in September 2020) that it would review and reconsider earlier decisions, that were the subject of dispute in objections and appeal cases, regarding JK and BCF eligibility, where a material factor in the ATO's decision was the lack of a sale or supply reported by the new business on or before 12 March 2020. However, the ATO confirmed that it did not intend to identify all potentially affected taxpayers as it considered such approach as infeasible and any broad communication would cause disproportionate confusion for other taxpayers.

The IGTO report encourages new small businesses that had been deemed ineligible by the ATO but can show that they were carrying on an enterprise that made taxable supplies (as modified) in a GST reporting period ending before 12 March 2020, to contact the ATO directly to confirm how they may obtain an ATO review of its earlier decision. Overall, the IGTO's complaint investigations achieved positive outcomes for some new businesses, most of which had already been unsuccessful in challenging the ATO's decisions. Without the IGTO's intervention, it is unlikely that these businesses would have received the government support measures that they were intended to receive.

The IGTO also made a number of observations on areas for potential follow up review investigation, based on these complaint investigations. These included:

- Initial ATO compliance activities on new tax laws should afford taxpayers procedural fairness before making adverse decisions, and create opportunities for the ATO to identify needed clarification of its precedential view.
- ATO advice and guidance should be easy to understand, but not risk oversimplification that leads taxpayers and ATO staff into error.
- ATO compliance decisions should help taxpayers understand their options for review.
- Options to expeditiously resolve disputes with the ATO's precedential view of the law should be explored.
- A separation between drafting and interpretation of laws is important to minimise the risk of taxpayer disputes with ATO precedential views.

JobMaker Hiring Credit

From 6 December 2020, eligible employers will be able to register for the JobMaker Hiring Credit (JHC) with the ATO and can claim payments in arrears from 1 February 2021. The ATO has published relevant information on the JHC on its [website](#).

Eligible employers who experience any issues registering for, or claiming the credit, are encouraged in the first instance to contact the [ATO’s Complaints Line](#) (1800 806 218). Small businesses may also seek advice from the [Australian Small Business and Family Enterprise Ombudsman](#) (ASBFEO).

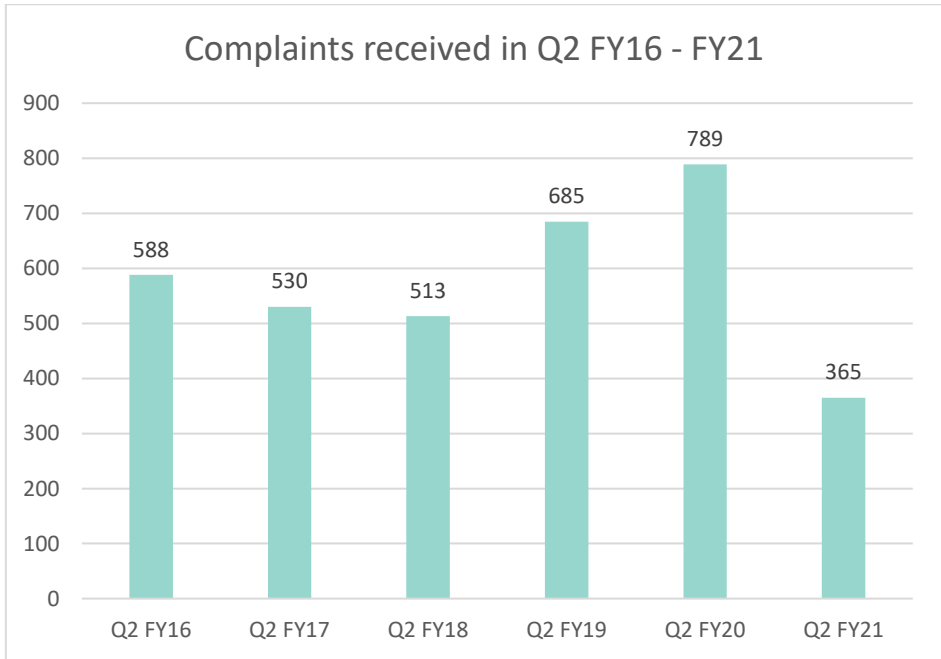
If you are unable to resolve your concerns with the ATO, the IGoT may be able to assist.

We are currently prioritising our complaints handling service to address complaints and concerns relating to COVID-19 impacts and other urgent or time-sensitive matters. If you would like to raise your concern with us, we encourage you to use our [dedicated online complaints form](#).

Complaints handling service update

Complaint receipts

In Q2 FY21, we received 365 complaints. This compares with Q2 in prior years as follows:

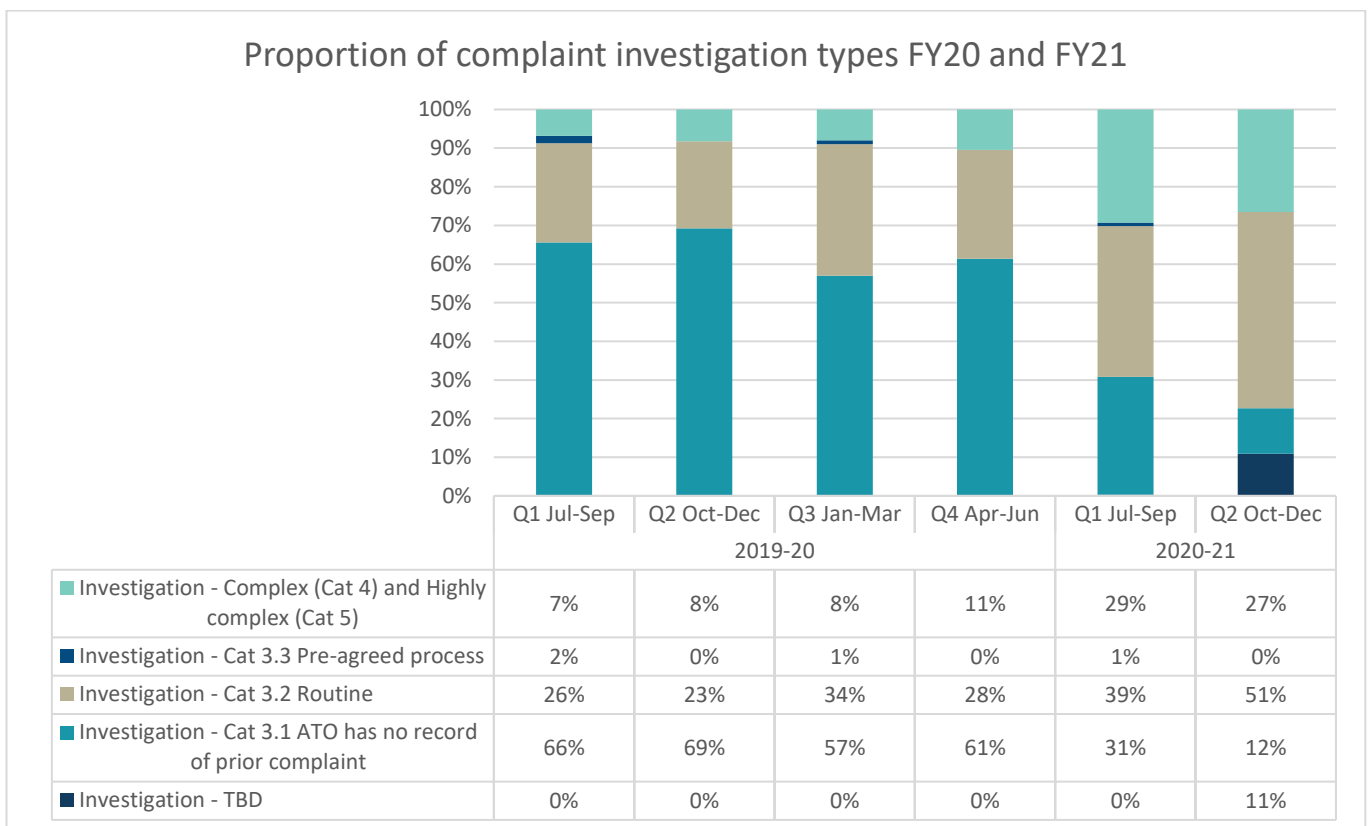


The reduction in complaint receipts during this period compared to prior years is not unexpected. It is a combination of a number of different factors including:

- The IGTO has been encouraging taxpayers to seek to resolve their taxation complaint directly with the ATO in the first instance – as the ATO should in the first instance attempt to resolve all taxation complaints; and
- The ATO had not resumed its debt collection activities, an area which previously accounted for approximately 25% to 30% of complaint receipts by the IGTO

The composition of the types of complaints that we receive has also changed, suggesting that our communication strategy to urge taxpayers to engage directly with the ATO and TPB in the first instance is yielding positive results. For example, we have seen a reduction in the proportion of Category 3.1 cases – i.e., where the ATO or TPB have no record of a prior complaint – being only 12% of complaint investigations (compared to 69% over the same period in FY20).

At the same time, we have also seen a marked increase in the number of complaints requiring active investigation (Category 3.2 cases, 51% compared to 23% in Q2 FY20) and complex complaints requiring active investigation (Categories 4 and 5 cases, 27% compared to 8% in Q2 FY20). We have introduced a triage service and overflow complaints pool to ensure that priority cases, such as those relating to COVID-19 pandemic support, are dealt with efficiently and effectively and our complaints officers’ health and well-being is also prioritised.



Taxpayer type and representation

Taxpayer type	Number	Percentage
Businesses (Individual and Entities)		
• Represented	32	9%
• Not represented	71	19%
Individuals (not in business)		
• Represented	30	8%
• Not represented	212	58%
Unknown or Anonymous	20	6%
TOTAL	365	100%

Most complainants who approach our office are unrepresented individuals and businesses (collectively, 77%), with the majority of representatives being an accountant or tax agent (59%). Family and friends (21%), legal practitioners (9%) and company representatives (5%) also assist complainants in raising concerns with our office. The remaining 6% were unknown or anonymous.

Top 5 issues

The top 5 issues which were recorded in cases (these total 281, noting that some cases may involve multiple issues) continue to show trends in concerns likely related to appropriate registration and receipt of payments under the COVID-19 economic response measures. The top 5 issues are set out in the table below.

Issue	Number of times recorded
Payments to the taxpayer	150
Debt collection	40
Lodgement and processing	40
Communications	31
Registration/Taxpayer details	20

Payments to the taxpayer was the issue of greatest concern, accounting for 53% of the top 5 issues. This was a theme we saw for much of 2020 as well, reflecting the concerns of taxpayers needing access to COVID-19 economic

response measures. Other issues likely to be associated with the COVID-19 economic response measures include lodgement and processing, and registration of taxpayer details.

Review investigations update

We have two review investigations underway.

Our [investigation into the effectiveness of ATO communications of taxpayers' rights to complain, review and appeal](#) is progressing well following a series of meetings with ATO officers across a number of different business lines to understand the context and processes around development of written ATO correspondence. We have received a significant amount of information, including details to enable us to undertake random case sampling to examine the nature and detail of information provided to taxpayers and tax practitioners at various interaction points with the ATO. We will be holding further discussions with ATO personnel on key areas and potential improvement opportunities over the coming weeks.

We have also recently recommenced work on our [Investigation and Exploration of Undisputed Tax Debts in Australia](#). That investigation, which commenced in October 2019, was deferred in April 2020 to, amongst other things, enable the ATO to devote its resources to implement the government's COVID-19 economic response measures. It also allowed the IGTO an opportunity to consider information on the debt impacts of the bushfires and COVID-19 pandemic. The ATO has since provided updated information and we are in the process of reviewing and consolidating that information to progress our review investigation and provide further insights.

Refresh of our Register of Potential Review Investigation topics

In November 2020, we undertook consultation to refresh our Register of Potential Review Investigation Topics. In all, nine new potential topics were identified, including:

- Communication on non-pursuit of tax debts in bankruptcy
- Administration of unclaimed superannuation money
- Administration of COVID-19 Economic Responses Measures
- Maintaining the integrity of registered tax practitioner client lists
- ATO policies and procedures for dealing with taxpayers with disabilities
- ATO debt recovery actions for unpaid superannuation
- The role and function of the ATO's Tax Counsel Network

- Administration of the General Anti-Avoidance Rules
- The ATO's use of fraud and evasion opinions

Further details on each of the topics identified are available on our [website](#). We would welcome any feedback on the listed topics above, including any in particular that should be given priority for commencement.

Submissions lodged

We continue to support Parliamentary committees in their inquiries work through our research and submissions. In Q2 FY21, we lodged two submissions with the Senate Economics Legislation Committee:

- [Inquiry into the Treasury Laws Amendment \(2020 Measures No 4\) Bill 2020](#); and
- [Inquiry into the Foreign Investment Reform \(Protecting Australia's National Security\) Bill 2020 and Foreign Acquisitions and Takeovers Fees Imposition Amendment Bill 2020 \[Provisions\]](#)

On 6 November 2020, we attended a public hearing on the Standing Committee on Tax and Revenue's Inquiry into the [Development of an Australian Corporate Bond Market](#) and provided a [supplementary submission in response to Questions on Notice](#) at that hearing.

In December 2020, we also engaged with the Attorney-General's Department on its consultation in relation to the [Commonwealth Integrity Commission draft legislation](#). The IGTO is one of a number of Commonwealth integrity agencies named in the draft legislation and our submission seeks to assist the Department by identifying and discussing key areas where practical implementation may prove challenging. Our submission will be finalised and lodged in Q3 FY21.

Our activities in Q3 FY21

In Q3 FY21, we will:

- continue to deliver our complaints handling service, with particular focus on prioritising issues relating to the COVID-19 economic response measures;
- consult with and engage with stakeholders – especially tax practitioners and representative bodies;
- engage with and continue to receive briefings from the ATO on the implementation of new measures, such as the JobMaker Hiring Credit;
- progress our two current review investigations;

- release our [quarterly reporting pack for Q2 FY21](#);
- Lodge a submission to the Senate Economics Legislation Committee on its Inquiry into the [National Consumer Credit Protection Amendment \(Supporting Economic Recovery\) Bill 2020](#); and
- Lodge our submission to the Attorney-General's Department's consultation on the Commonwealth Integrity Commission draft legislation.

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The Inspector-General of Taxation and Taxation Ombudsman acknowledges the traditional owners and their ongoing cultural connection to Country, throughout Australia. We pay our respects to their Elders past, present and future.