



Australian Government

Inspector-General of Taxation

Taxation Ombudsman

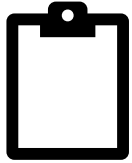
Taxpayer rights - An investigation into the effectiveness of the ATO's communication of taxpayers' rights to complain, review and appeal decisions or actions

Survey results – September 2021

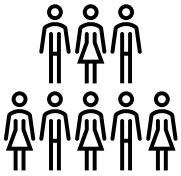
A message from the IGTO

- The IGTO invited taxpayers and tax professionals to participate in a voluntary and independent survey (conducted by Orima Research Pty Limited on behalf on the IGTO) as part of its investigation into effective communication of taxpayer rights – from mid August and up until 30 September 2020
- This slide deck sets out the results of that Survey
- This is an interim report – primarily for the benefit of Taxpayers and the Tax Profession who took part in the survey – but will form part of the final report
- **Thank you** - the IGTO wishes to thank everyone who took part in the Survey. Thank you for taking time to respond and share your experiences and observations on these important issues
- The purpose of the survey is to understand - What information should be provided and what information is currently provided (or not) to taxpayers and their representatives on their rights to review, complain and appeal decisions made
- The Survey assisted the IGTO to better direct the investigation into the relevant business lines and areas of communication within the ATO
- The final investigation report is due to be released in early October 2021. We are excited to share some thoughts and observations about this critically important topic.

Overview



Survey questions (7 questions on ATO communications)



Demographics of survey respondents (3 questions)



Survey results regarding ATO communications of taxpayer rights



Suggestions from Respondents for improvements



Survey questions

Survey questions

Questions 1 and 3 relate to the following taxpayers' rights:

- A. Taxpayer right to request an internal ATO review
- B. Taxpayer right to lodge a formal ATO complaint
- C. Taxpayer right to request an independent investigation by the Taxation Ombudsman
- D. Taxpayer rights under Part IVC of the *Taxation Administration Act 1953*
 - i. Right to lodge a taxation objection
 - ii. Right to request a review by the Administrative Appeals Tribunal (AAT)
 - iii. Right to appeal to the Federal Court of Australia
- E. Taxpayer rights to appeal to the AAT Small Business Taxation Division
- F. Taxpayer rights of judicial review under the *Administrative Decisions (Judicial Review) Act 1977*
- G. Other, please provide details

Survey questions

Question 1

In your experience, which of the following rights does the ATO regularly communicate in their written communications to taxpayers or their representatives when advising of an ATO decision, action or outcome? (Please select all that apply)

Question 3

For each of these rights, how would you rate the effectiveness (clear expression and complete information) of the ATO's written communication of the taxpayer rights?

1 = Not very effective

2 = Somewhat effective

3 = Neither – effective nor ineffective

4 = Effective

5 = Very effective

6 = Unable to answer

Survey questions

Question 2

Which types of ATO written communications have you considered in answering Question 1? (Please select all that apply)

- A. Decision in relation to a debt matter. For example, request for remission of interest charges, request for remission of penalties and application for a release of tax debt.
- B. Decision in relation to a primary tax matter. For example, audit and objection decision.
- C. Decision in relation to superannuation matter. For example, application for a release of superannuation on compassionate grounds.
- D. Other, please specify.

Survey questions

Question 4

In your opinion, how important is the effectiveness (clear expression and complete information) of the ATO written communications of these rights to taxpayers?

In answering this question, you may wish to consider whether the information is otherwise available and readily accessible to all taxpayers. However, we are particularly interested to understand the community's expectations in relation to information that is or should be provided in written communications about an ATO decision, action or outcome that affects an individual taxpayer.

1 = Not very important

2 = Somewhat important

3 = Neither –important nor unimportant

4 = Important

5 = Very important

6 = Unable to answer

Please provide your reasons in the space below

(Word limit of 100)

Survey questions

Question 5

Were you aware of or have you made use of the following services to resolve issues or disputes with the ATO:

[Options to respond to below are Y/N/NA]

- A. The ATO Complaints Unit as a channel for lodging formal complaints with the ATO;
- B. The Taxation Ombudsman as an independent and external tax complaints handling services;
- C. Any other dispute resolution mechanisms or processes that have been effective in resolving your issues or disputes with the ATO. Please list or describe these below.

Please provide any further comments

(Word limit of 100)

Question 6

In your experience, do ATO written communications also typically provide:

- A. The name of the ATO officer who made the decision? Y/N
- B. Their contact details for follow up? Y/N
- C. The information considered by the ATO in making the decision? Y/N
- D. The reasons for the decision? Y/N

Survey questions

Question 7

In your experience, how could the effectiveness (clear expression and complete information) of the ATO written communications of taxpayer rights be improved? For example does the ATO provide you with all the information you need to consider your options and exercise any rights to question, challenge or appeal the decision.

You may also include any examples of good practices that you have observed either in your dealings with the ATO or any other organisations.

(Word limit of 100)

Demographic survey questions

Question 8

What type of taxpayer or adviser best describes you? (Please select all that apply)

- Individual (non-business) Taxpayer
- Business Taxpayer (company, trust, partnership, etc)
- In-house tax adviser, accountant or legal practitioner (barrister or solicitor)
- A registered tax practitioner or BAS agents
- An accountant (not in-house)
- A legal practitioner (barrister or solicitor) (not in-house)
- A certified bookkeeper
- An academic
- Tax Official
- Other, please specify

Demographic survey questions

Question 9

What type of taxpayers do you typically represent?

- Individual taxpayers
- High net worth individuals
- Small to medium business taxpayers
- Self-managed superannuation funds
- Large private corporate taxpayers and trusts
- Large public trusts
- APRA – regulated superannuation funds
- Large public and international corporate taxpayers
- Other, please specify

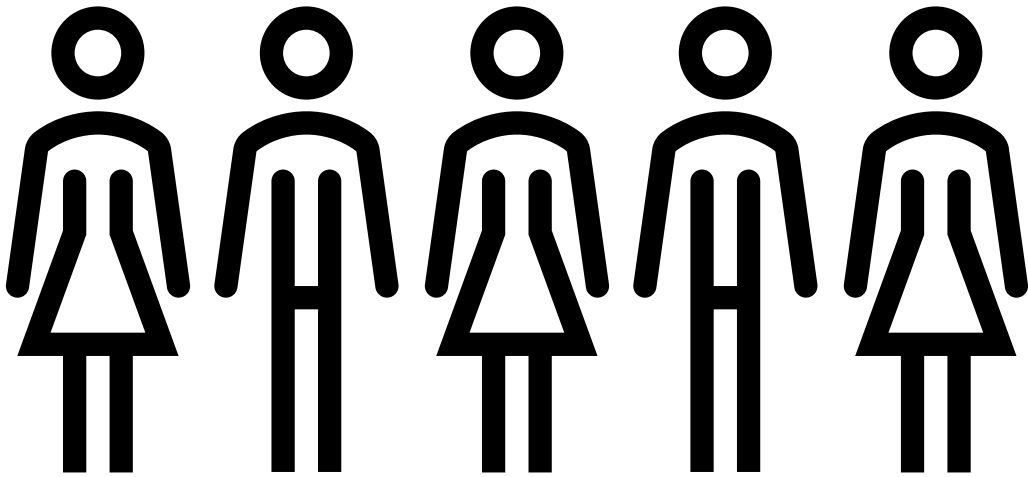
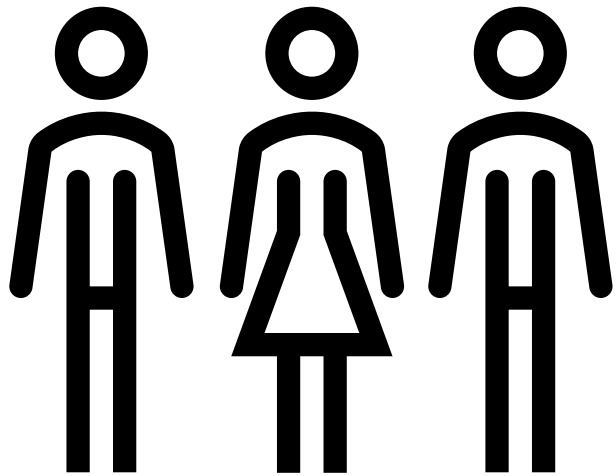
Question 10

In which State or Territory do you practice or carry on business (please select all that apply)?

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia

Preliminaries

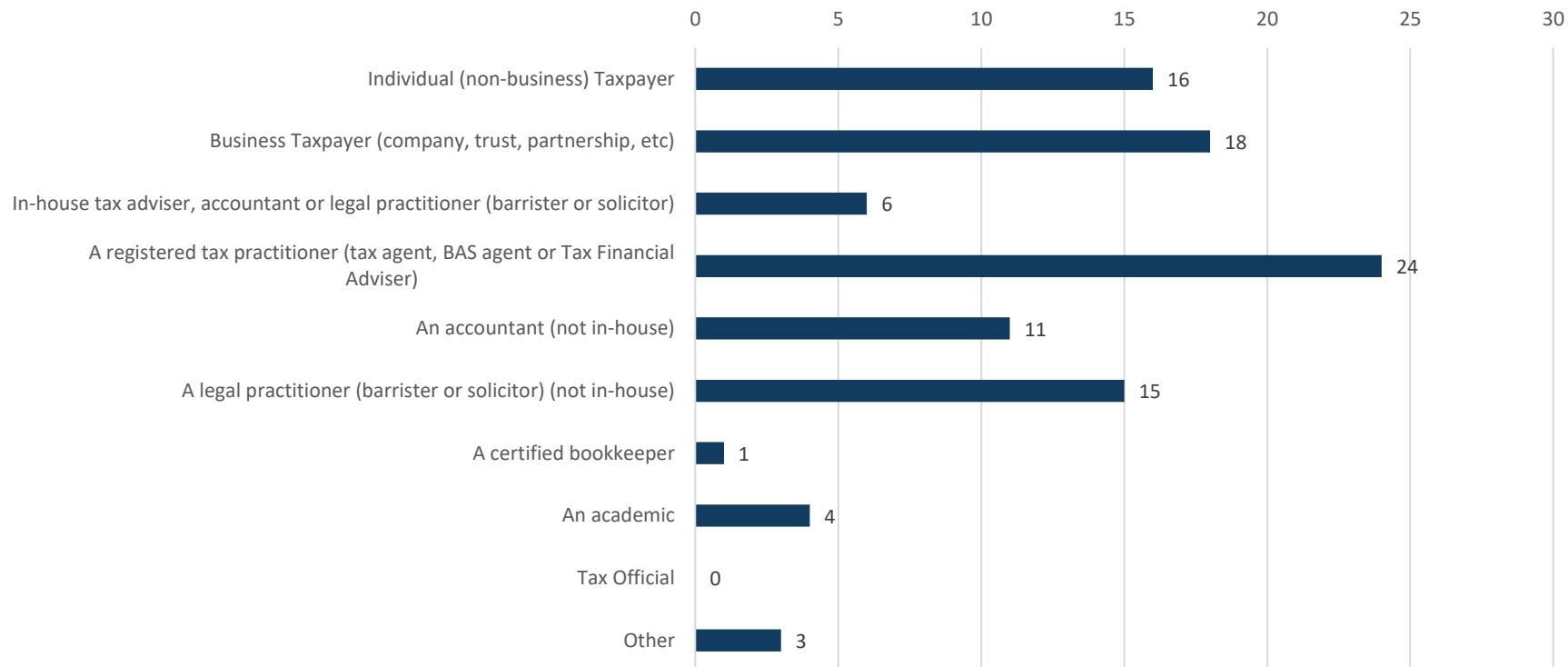
- 69 respondents answered at least one survey question
- Some respondents did not answer all survey questions
- In some survey questions, respondents may select more than one answer in their response.



Respondents' demographics

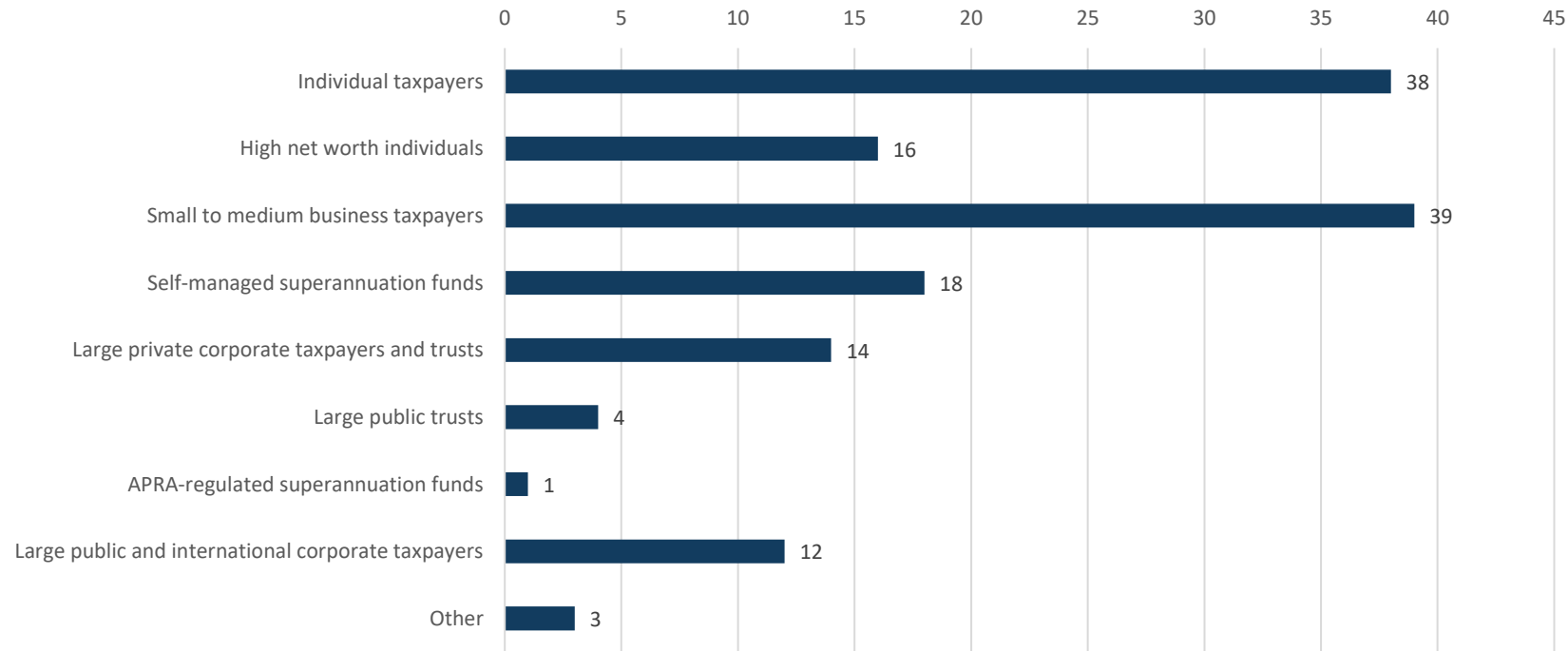
A majority of the respondents have experience with the taxation system in an advisory capacity

Q8: Type of taxpayer or adviser (n=52)



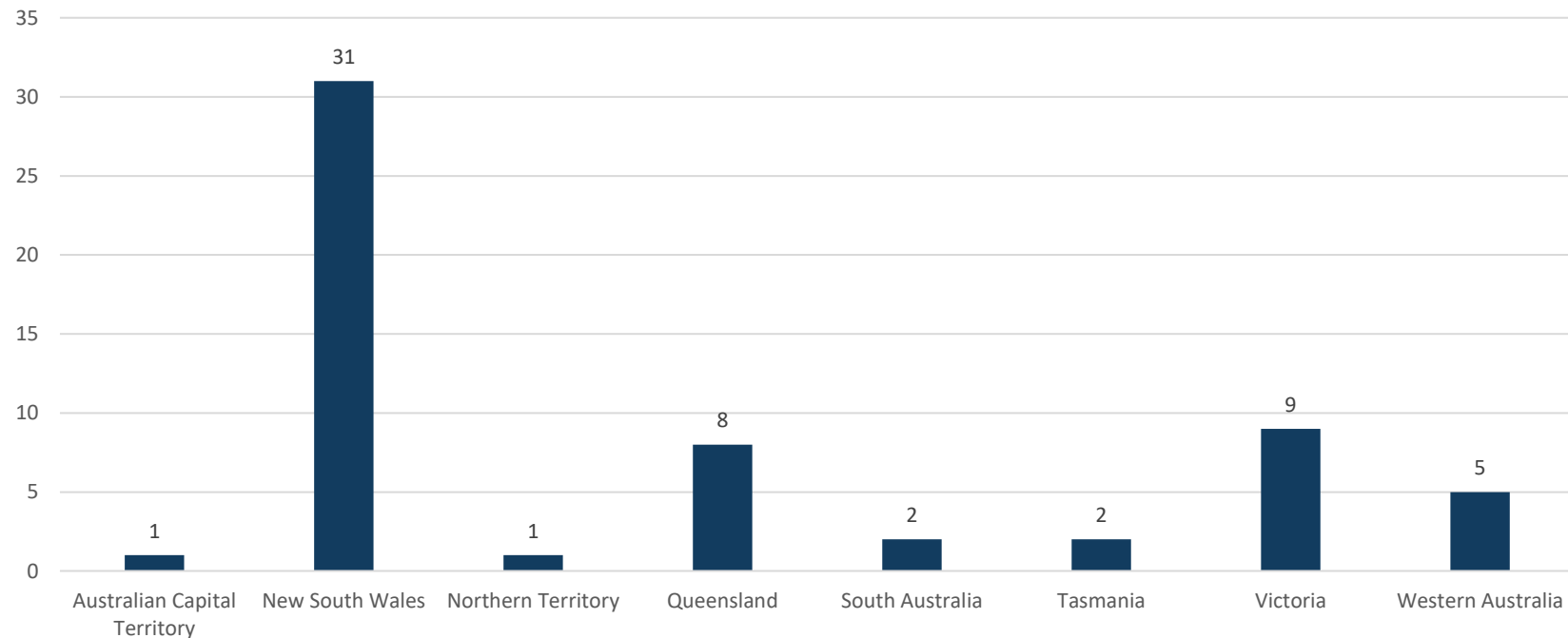
Individual taxpayers and/or small to medium business (SMEs) taxpayers were well represented in the survey responses

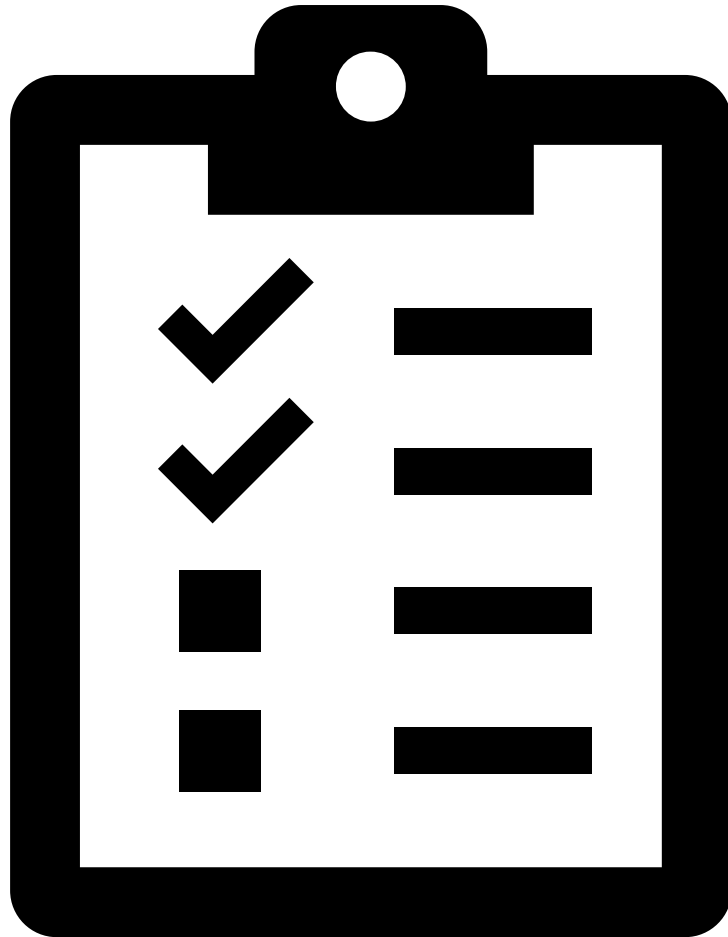
Type of taxpayer(s) respondents typically represent (n=51)



Every state and territory is represented but mostly from NSW

States and territories where respondents practice or carry on a business (n=51)





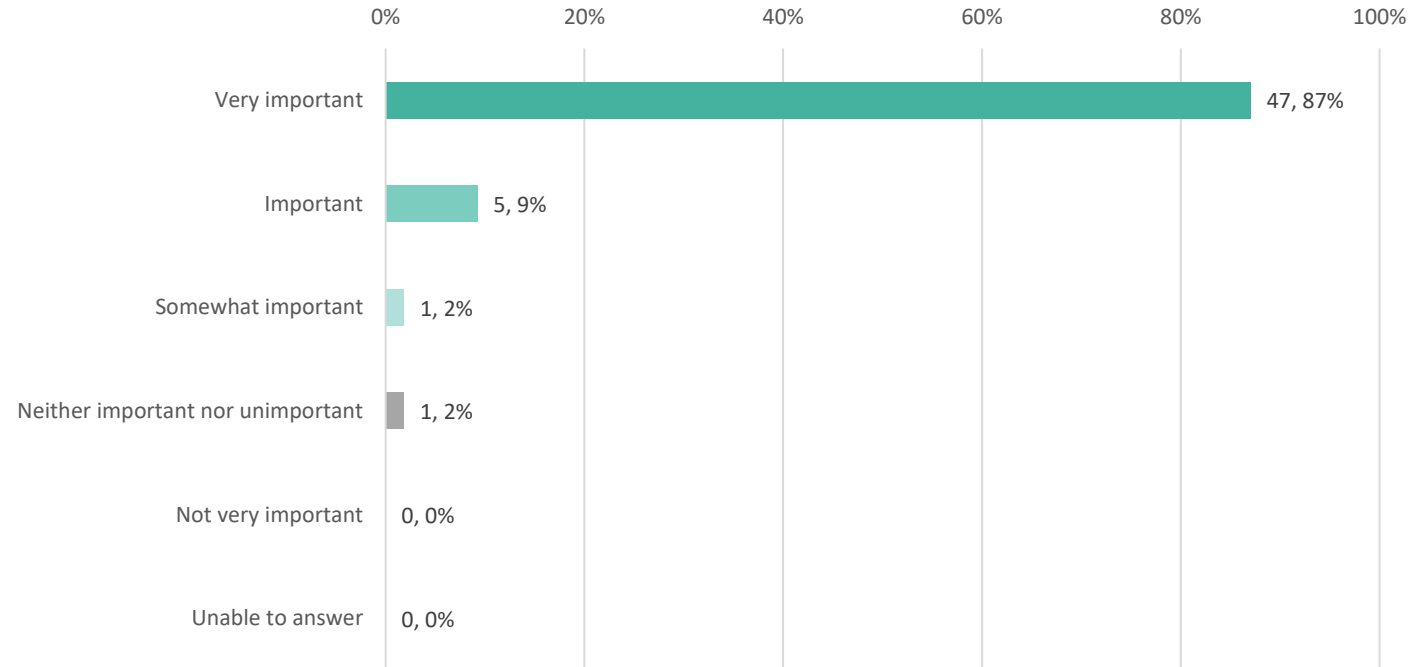
Survey results on the ATO's communication of taxpayers' rights



How important is the effectiveness of the ATO's communication of taxpayers' rights?

96% of respondents said effective communication of taxpayers' rights is important or very important

How important is the effectiveness of the ATO communication of taxpayers' rights?
(n=54)





What taxpayers' rights are regularly communicated by the ATO?

Legend for the slides on what taxpayers' rights are regularly communicated by the ATO

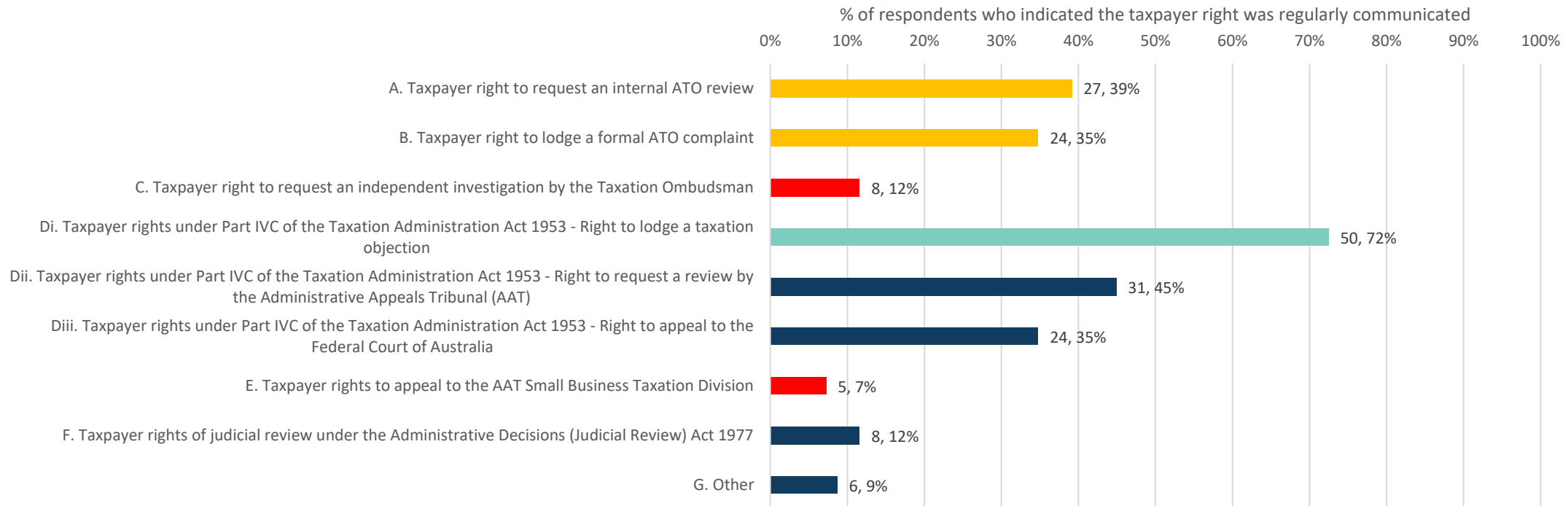
- **Green** – the survey results do not require further IGTO investigation for this client group
- **Blue** – regardless of the survey results, the IGTO does not consider this communication is material or significant for this client group and no further investigation is proposed
- **Amber** – the survey results require further analysis and discussion with the ATO before there is further IGTO investigation for this client group
- **Red** – the survey results require further IGTO investigation for this client group

Key points

- Overall, and for each client group, the majority of respondents were consistent in saying that the ATO regularly communicates Part IVC objection rights.
- Across all client groups, a smaller proportion of respondents said the ATO regularly communicates taxpayers' right to an internal review, ATO complaints and appeal to the AAT under Part IVC.
- Across all client groups, an even smaller proportion of respondents said the ATO regularly communicates taxpayers' right to lodge a complaint with the IGTO.

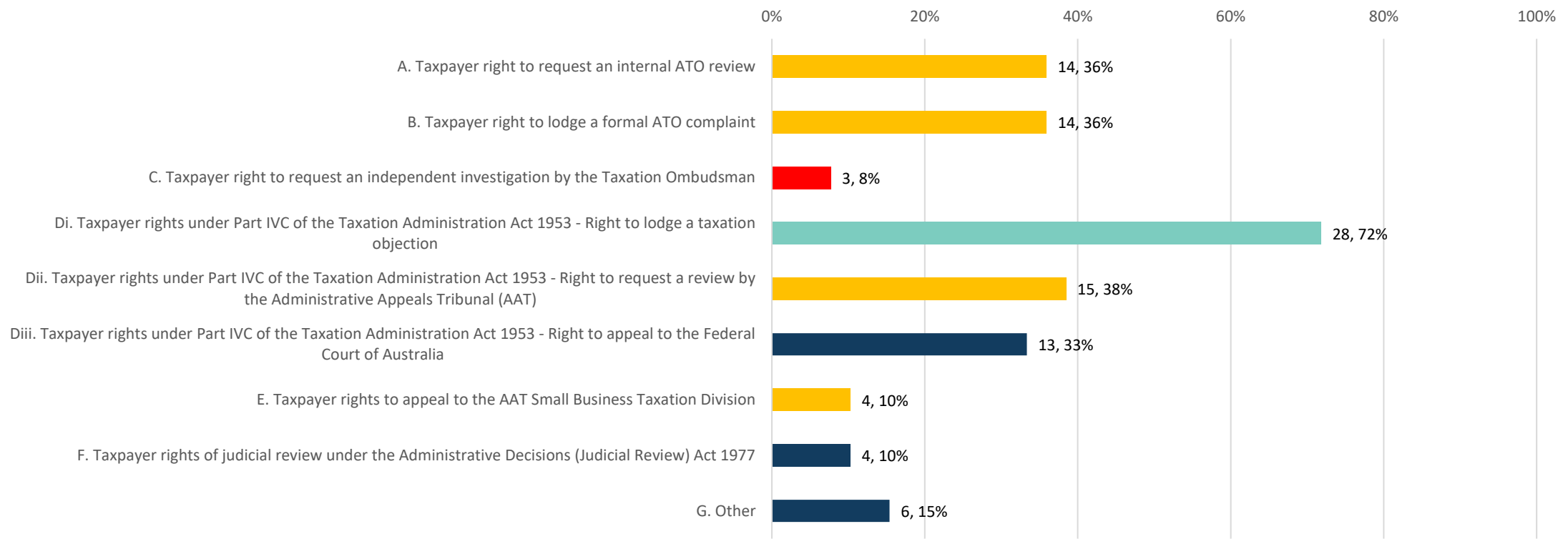
Overall results - the taxpayer's right to object is well communicated by the ATO and there are mixed results for the other rights which requires further analysis

Taxpayers' rights regularly communicated by the ATO (n=69)



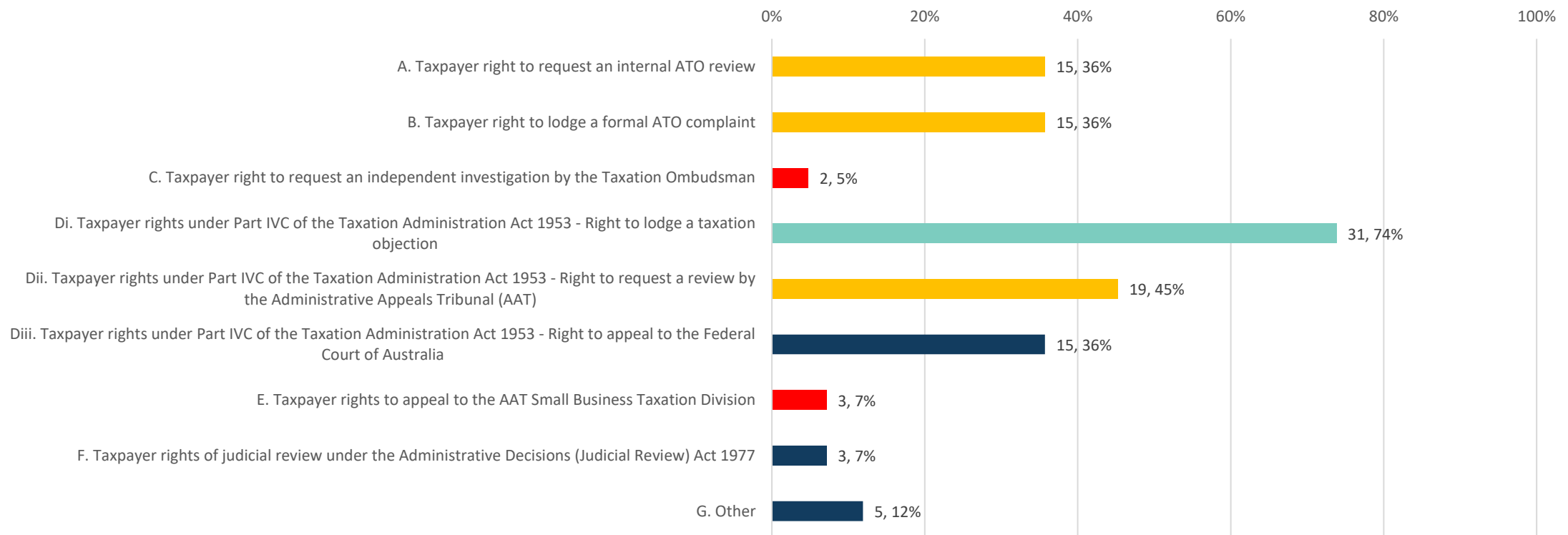
Results for individual taxpayers

Individual taxpayers and advisers representing individual taxpayers experience with the taxpayers' rights that are regularly communicated by the ATO (n=39)



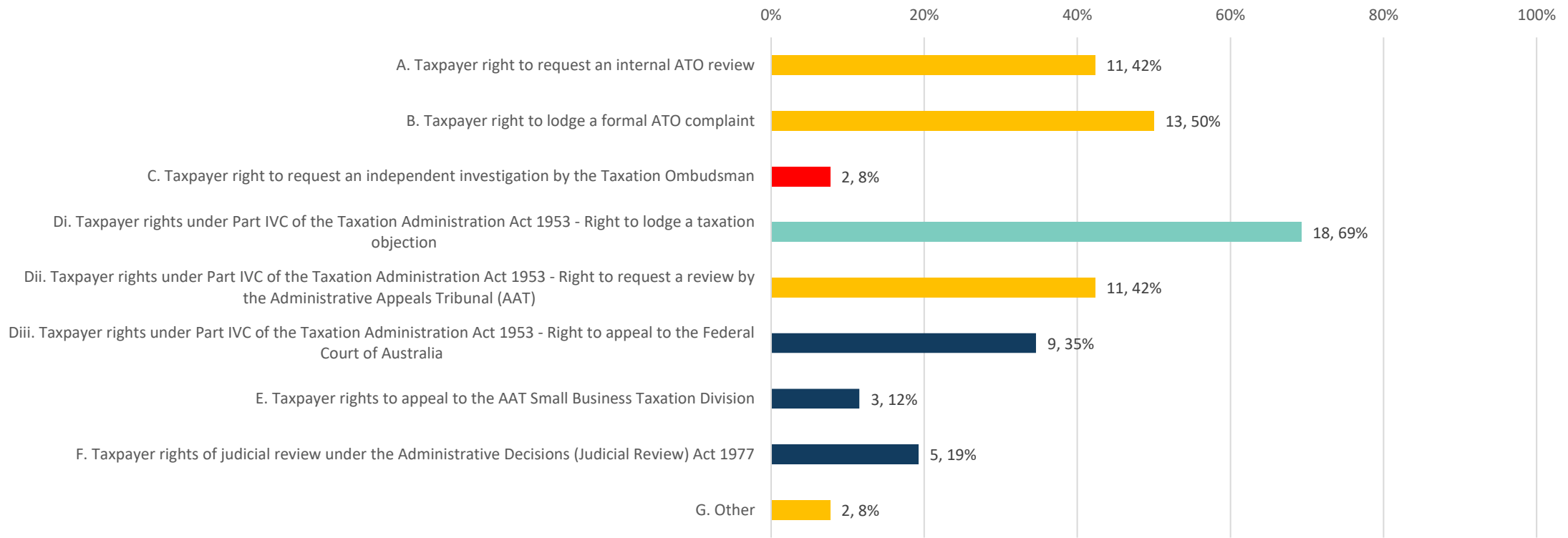
Results for business taxpayers and SMEs

Business taxpayers and advisers representing SMEs' experience with the taxpayers' rights that are regularly communicated by the ATO (n=42)



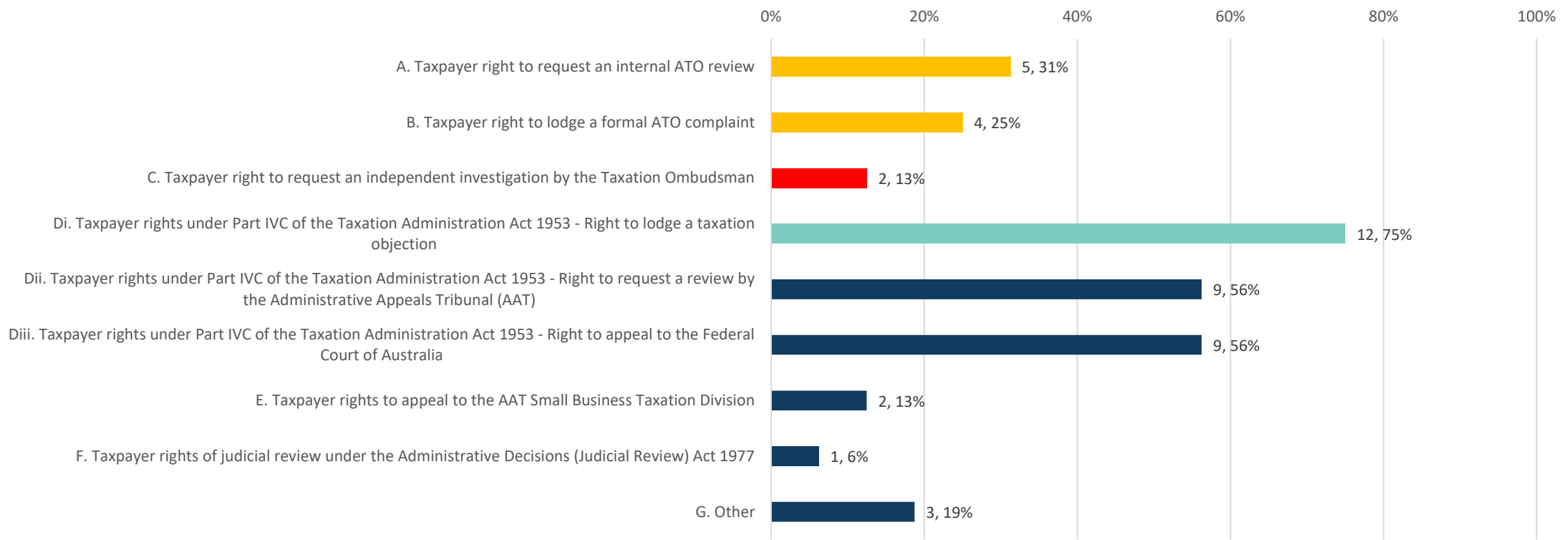
Results for SMSFs and superannuation matters

Advisers representing SMSFs and respondents who considered decision in relation to a superannuation matter - experience with the taxpayers' rights that are regularly communicated by the ATO (n=26)



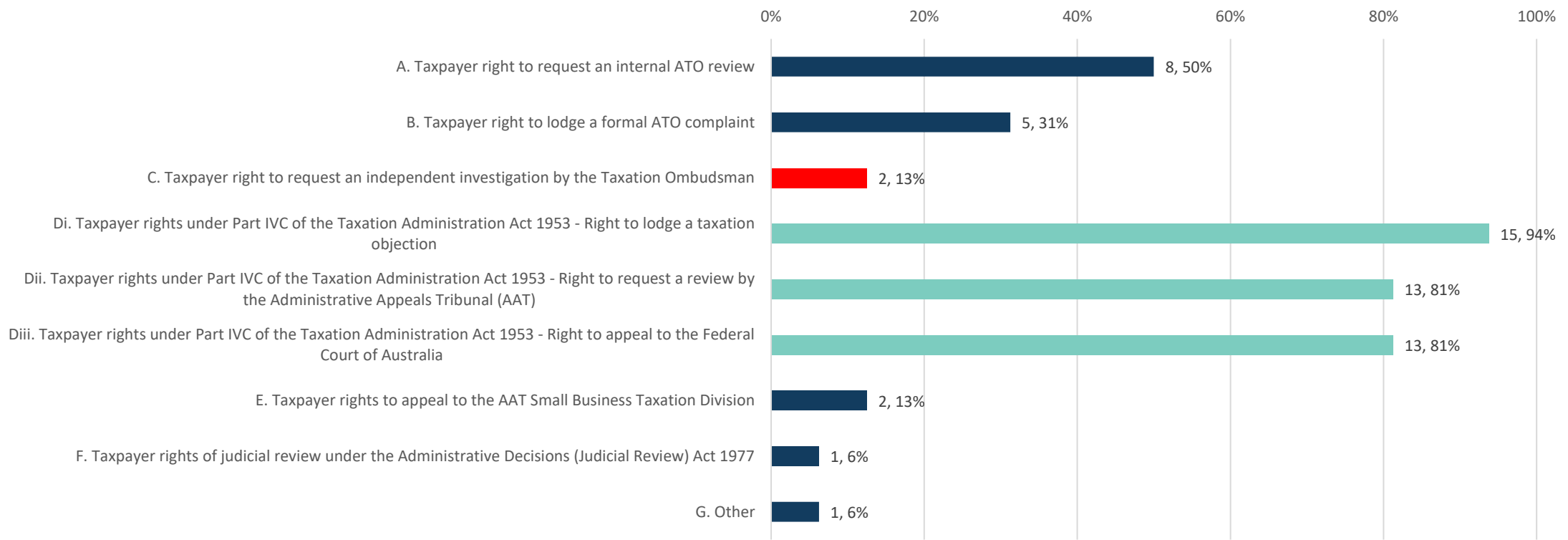
Results for high net worth individuals

Advisers representing high net worth individual taxpayers experience with the taxpayers' rights that are regularly communicated by the ATO (n=16)



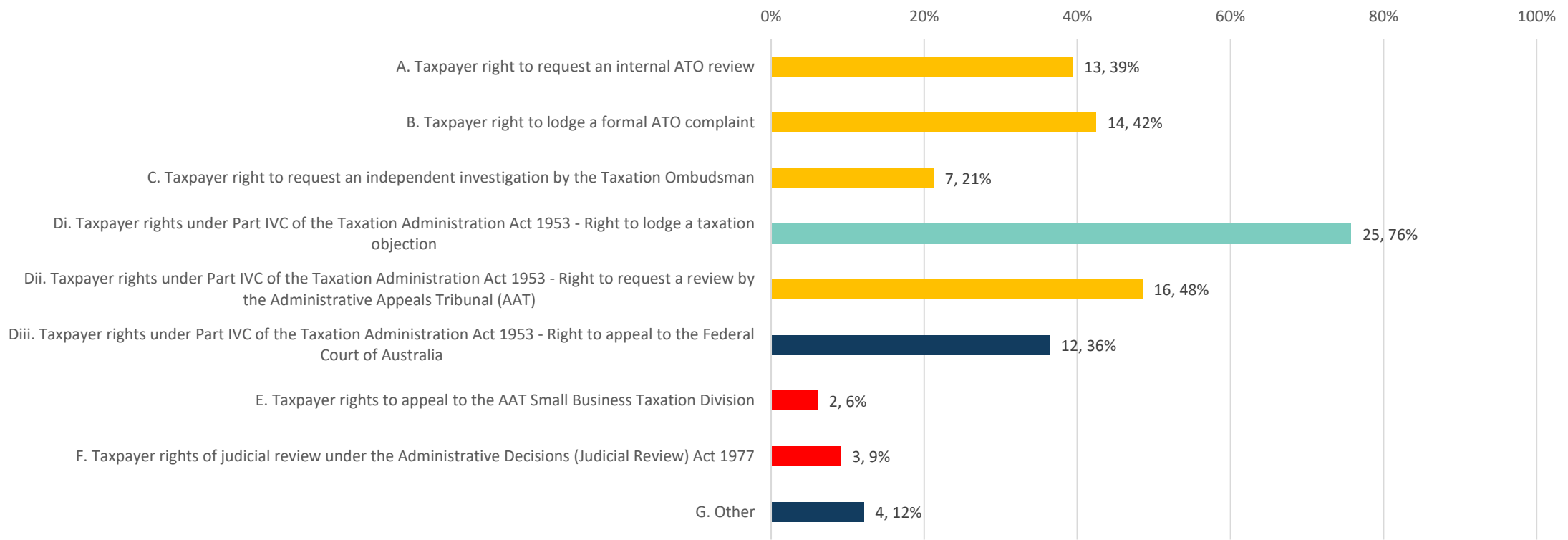
Results for large private and public taxpayers

Advisers representing large private and public taxpayers experience with the taxpayers' rights that are regularly communicated by the ATO (n=16)



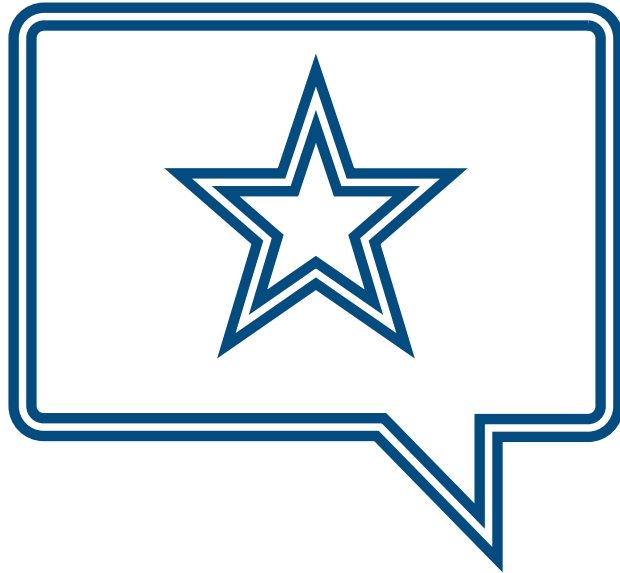
Results for debt matters

Respondents' experience with the taxpayers' rights that are regularly communicated by the ATO in the debt area (n=33)



ATO decisions or communications considered by respondents

- The respondents considered the following ATO decisions when they answered what taxpayer rights are regularly communicated by the ATO:
 - Debt decisions (including release of tax debt application)
 - Super decisions
 - Primary tax decisions
 - Payment arrangement decisions
 - Complaint decisions
 - JobKeeper eligibility decisions



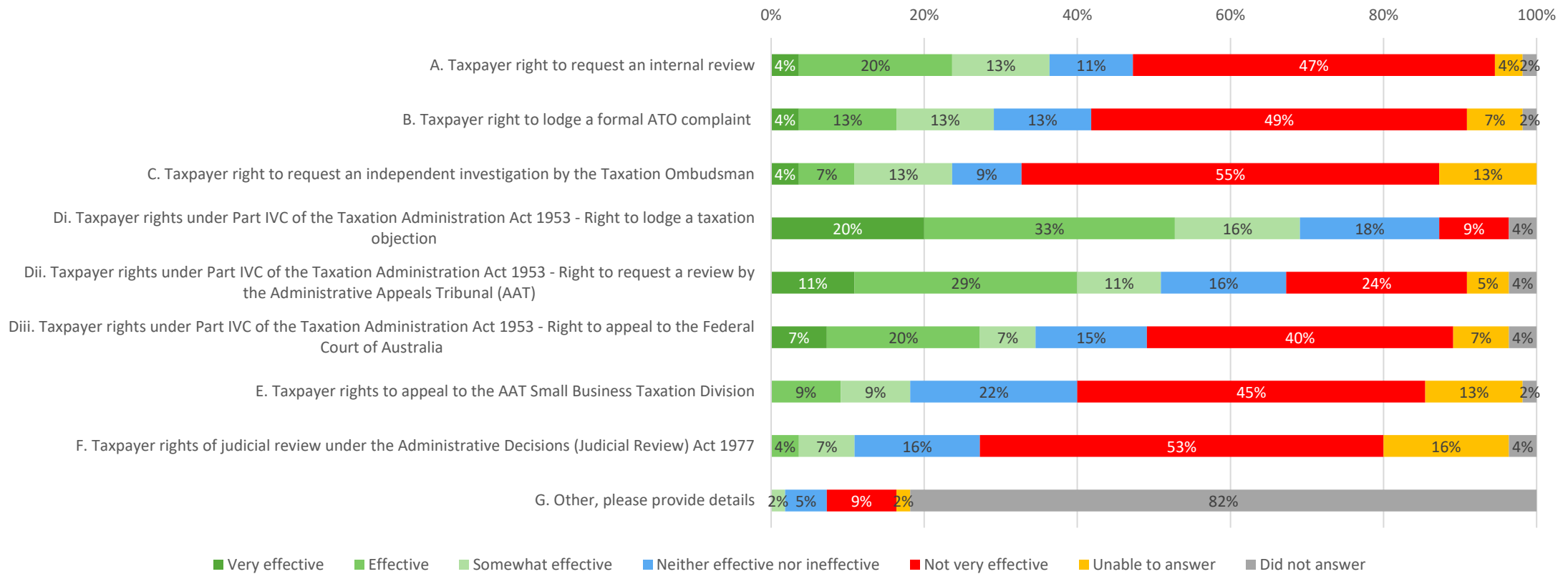
How effective is
the ATO's
communication of
taxpayers' rights?

Key points

- Overall, and for each client group, the majority of respondents were consistent in saying that the communication of Part IVC objection rights was effective.
- However, across all client groups, a smaller proportion of respondents rated communication of internal review, ATO complaints and IGTO complaints options as being effective – noting different levels of access to ATO personnel for High Wealth Individuals and Large Businesses, this may explain the results in those client groups.
- Other rights (AAT, FCA, SBTD, ADJR, Other) also had smaller proportions of respondents' rating as being effective – however, this may be due to the context-specific nature of those rights – e.g., only certain decisions can be subject to ADJR...etc.

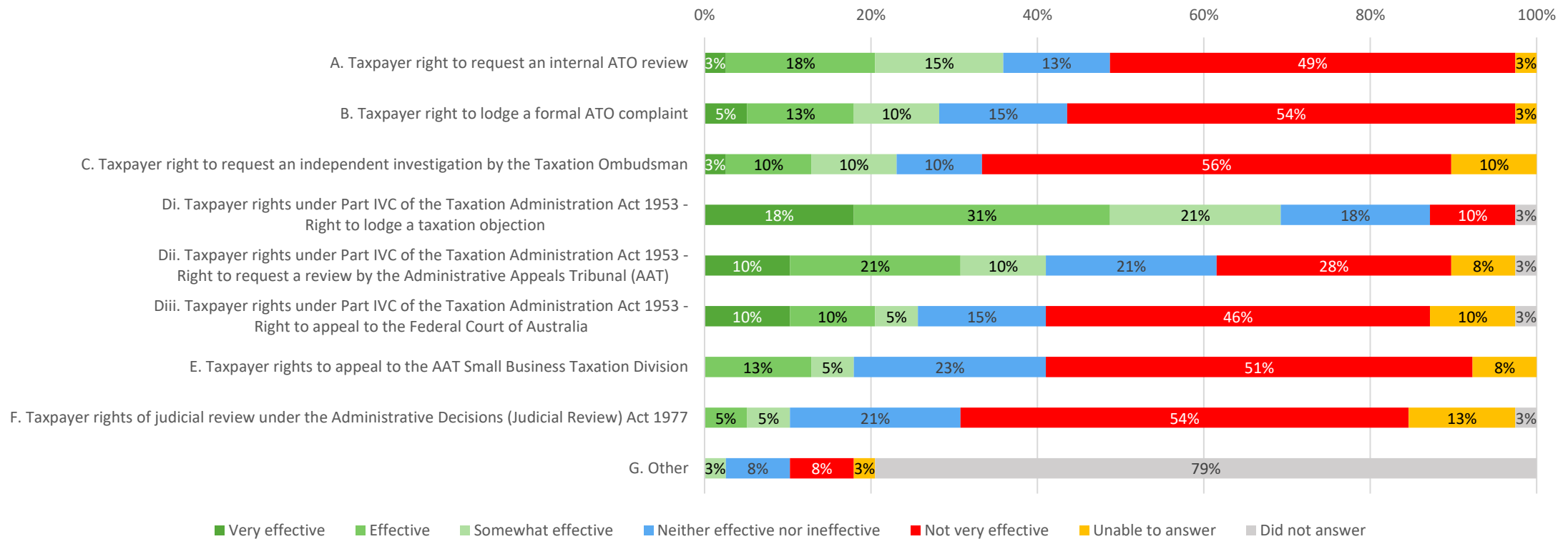
Overall results

Effectiveness of ATO communication of taxpayer rights (n=55)



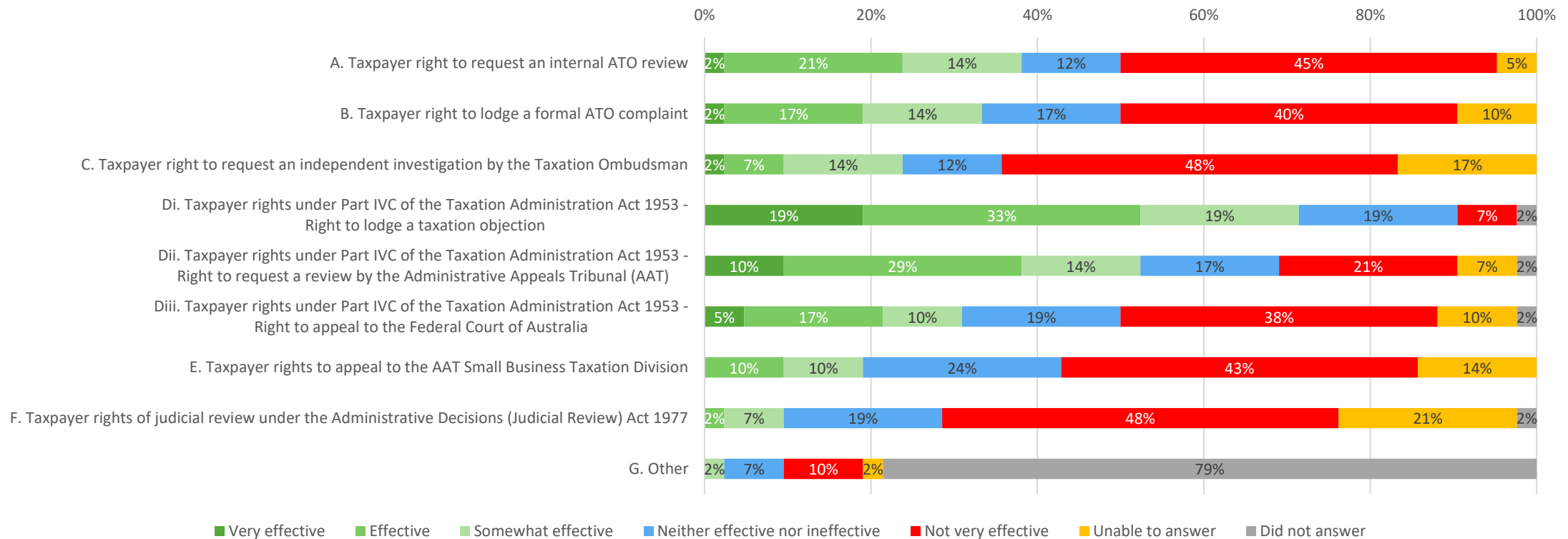
Results for individual taxpayers

Individual taxpayers and advisers representing individual taxpayers' ratings for the effectiveness of ATO communication of taxpayers' rights (n=39)



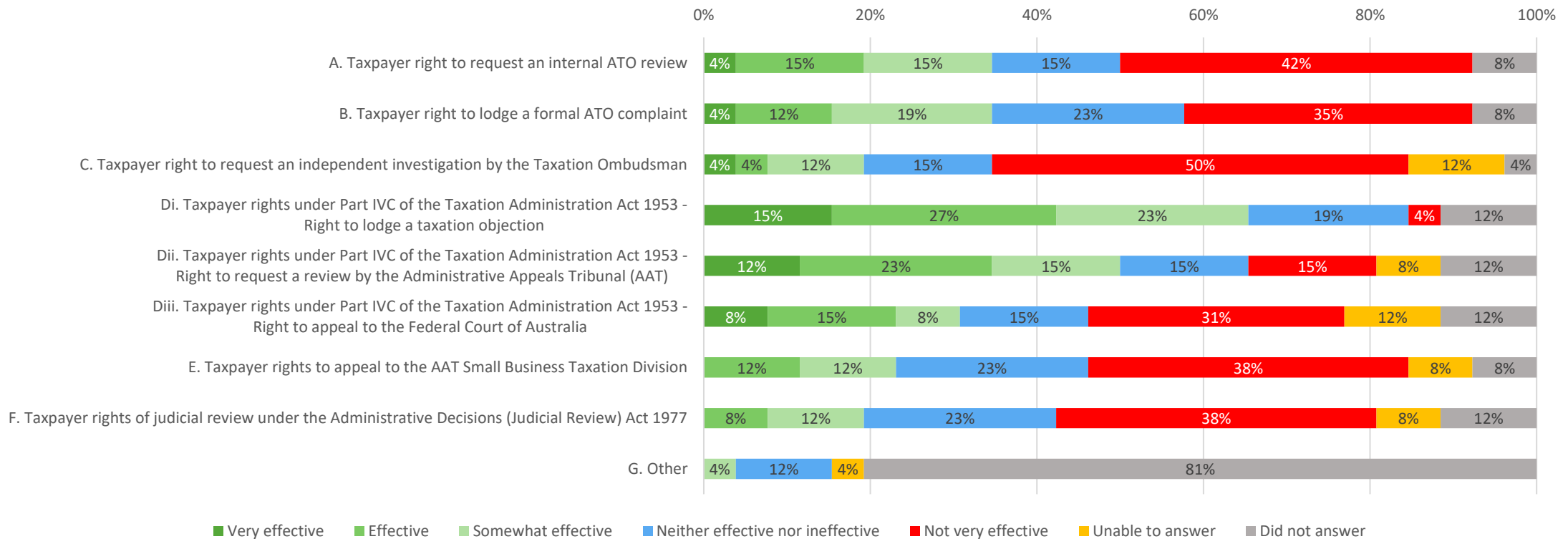
Results for business taxpayers and SMEs

Business taxpayers and advisers representing small to medium business taxpayers ratings for the effectiveness of ATO communication of taxpayers' rights (n=42)



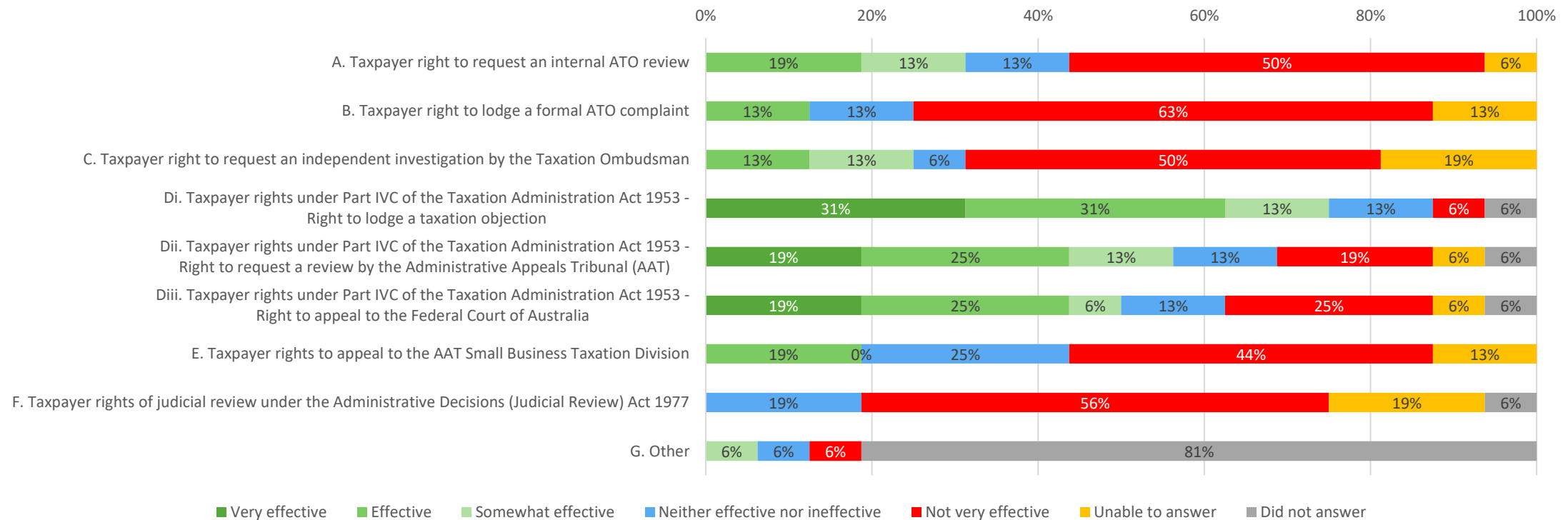
Results for SMSFs and superannuation matters

Advisers representing SMSF and respondents who considered decision in relation to superannuation matter - ratings for the effectiveness of ATO communication of taxpayers' rights (n=26)



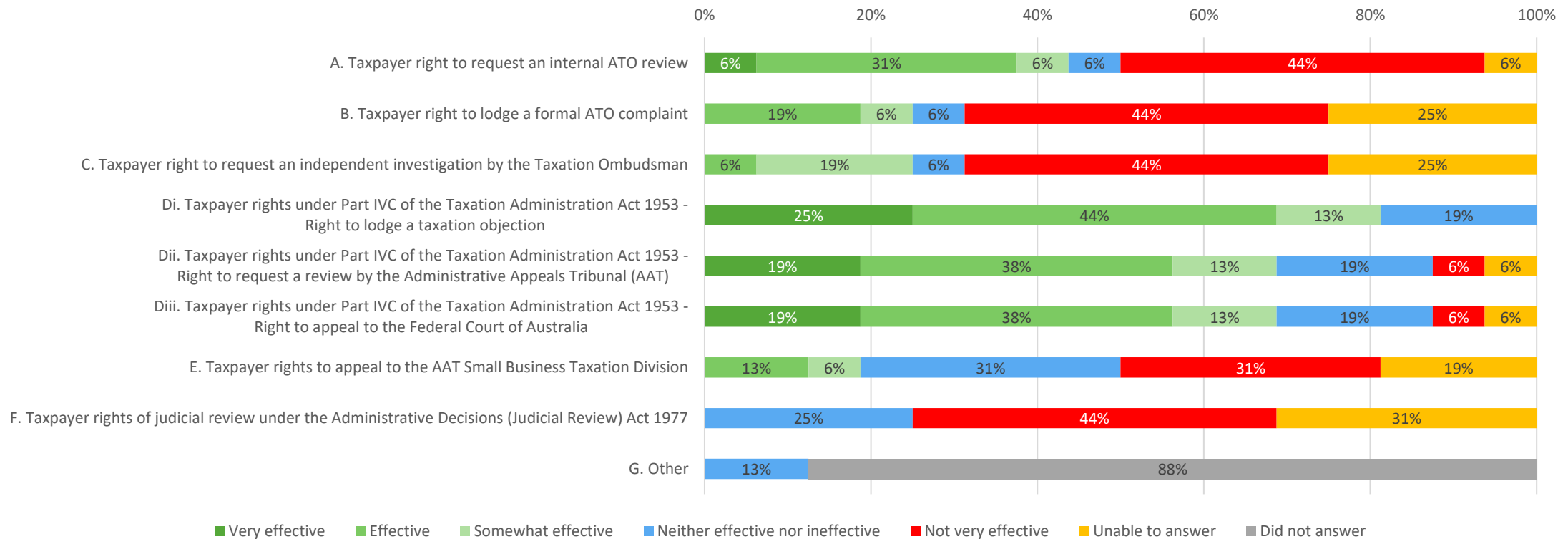
Results for high net worth individuals

Advisers representing high net worth individuals ratings for the effectiveness of ATO communication of taxpayers' rights (n=16)



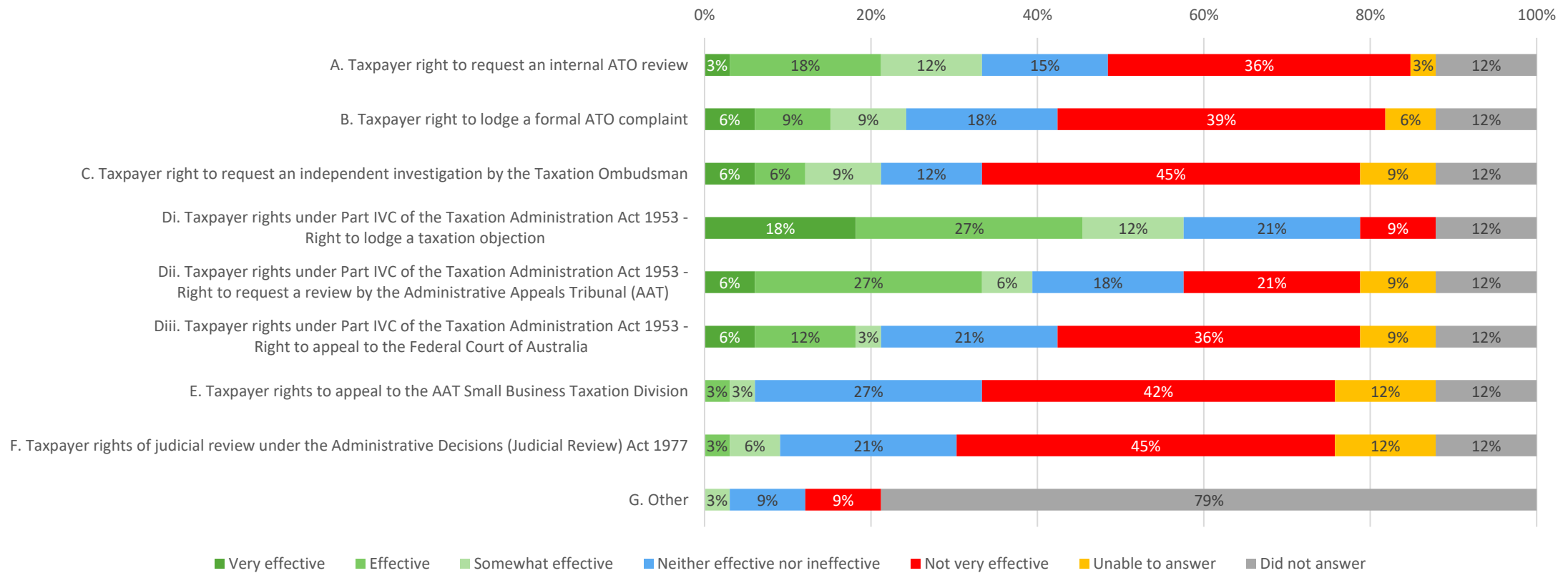
Results for large private and public taxpayers

Advisers representing large private and public taxpayers ratings for the effectiveness of ATO communication of taxpayers' rights (n=16)



Results for debt matters

Respondents' ratings for the effectiveness of ATO communication of taxpayers' rights in the debt area (n=33)



Quotes from respondents about the importance of the ATO's communication of taxpayers' rights



“Taxpayers should be made aware of their rights if they disagree with a decision made by the ATO and should feel confident that there is information available to support them to have a decision made by the ATO reviewed.”

“Taxpayers have a right to be fully informed about all review/appeal options.”

“All taxpayers should be made aware that they have rights to take a decision further.”

“If you are unaware of the processes you cannot act.”

“It should be something that the ATO represents to taxpayer not that taxpayers need to research or find out.”

“The ATO needs to be consistent with how they communicate outcomes. Consistency of communication and treatment of taxpayers is a key part of taxation administration and integrity in the tax system. By not clearly and consistently explaining when and how a taxpayer might for example seek an independent review or make a complaint, taxpayers are experiencing different outcomes in their interaction with the ATO and the tax system.”



Awareness or use of
complaint channels
and other dispute
resolution
mechanism

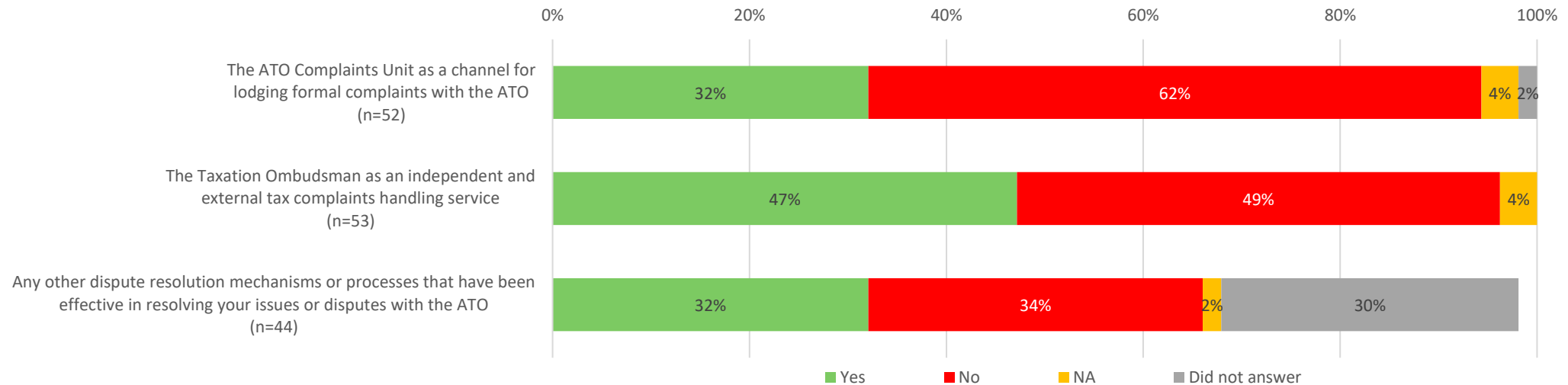
Key points

- Across most client groups (Individuals, Small Businesses and High Wealth Individuals), consistent results were observed with about 60% being unaware of or have not used the ATO complaints function – approximately 45% are not aware of or have not used the Tax Ombudsman complaints.
- Large Businesses showed a higher proportion of unawareness or use of ATO complaints (75%), and lower proportion in relation to Tax Ombudsman complaints (31%). Possible reasons are that direct, allocated or superior access to ATO personnel reduces the need to lodge an ATO complaint, and more sophisticated advisers being aware of Tax Ombudsman.
- In relation to superannuation and debt matters, there appeared to be greater awareness of both complaints options. This may be due to general awareness within superannuation industry due to existence of AFCA, and similarly within debt – complaints have historically been high within both ATO and Tax Ombudsman.

Overall results

Were you aware of or have you made use of

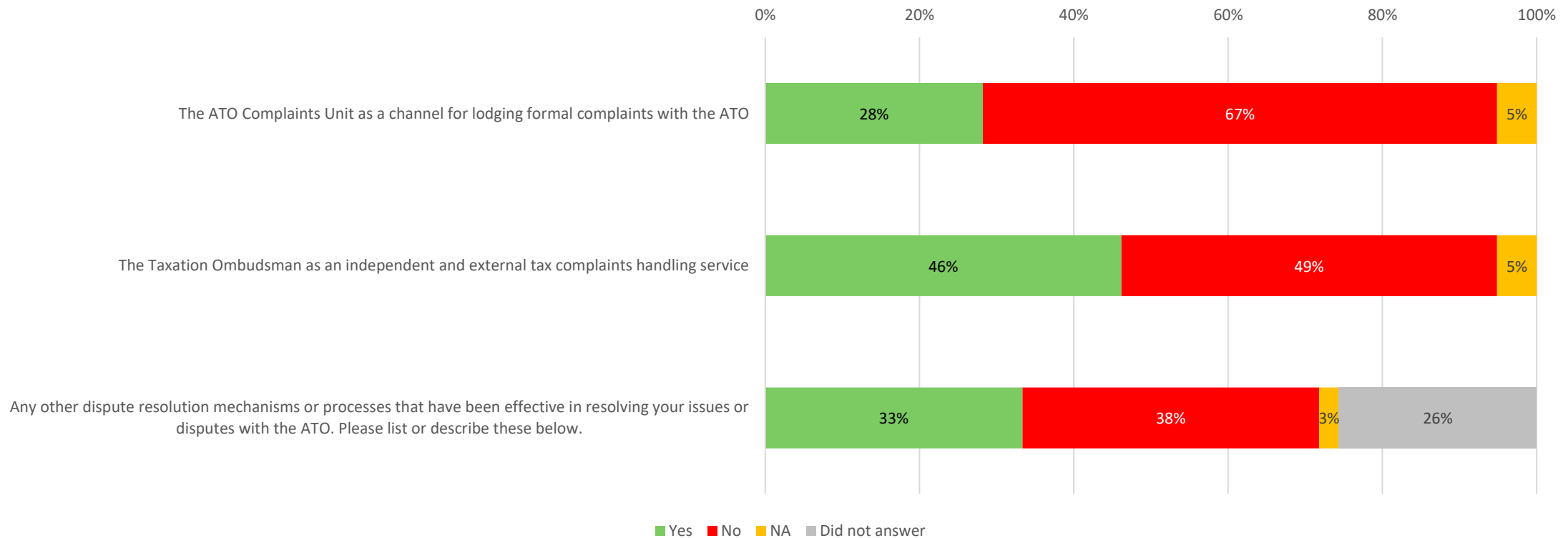
- ATO Complaints channel?
- the Taxation Ombudsman Complaints channel?
- other dispute resolution mechanisms? (n=53)



Other dispute resolution mechanisms used by respondents include: escalation to or direct contact with senior ATO officers, mediation, internal facilitation, ADJR and ASBFEO concierge service.

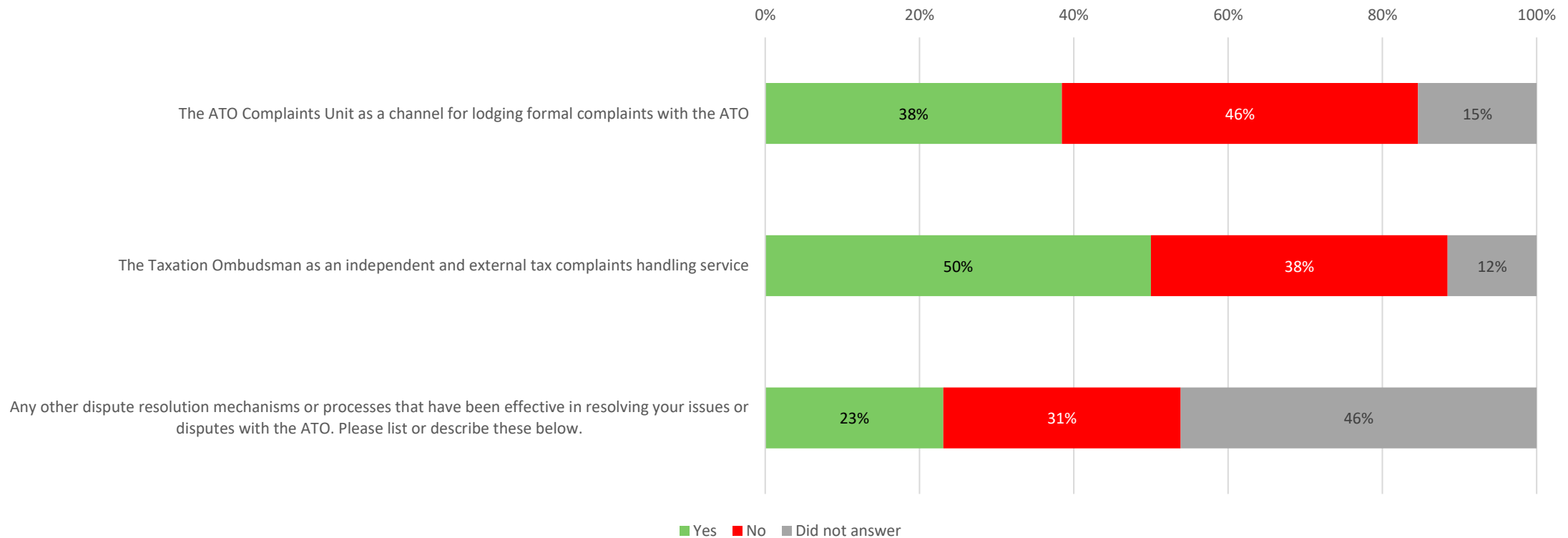
Results for individual taxpayers

Individual taxpayer market's awareness or use of complaint channels and other dispute resolution mechanism (n=39)



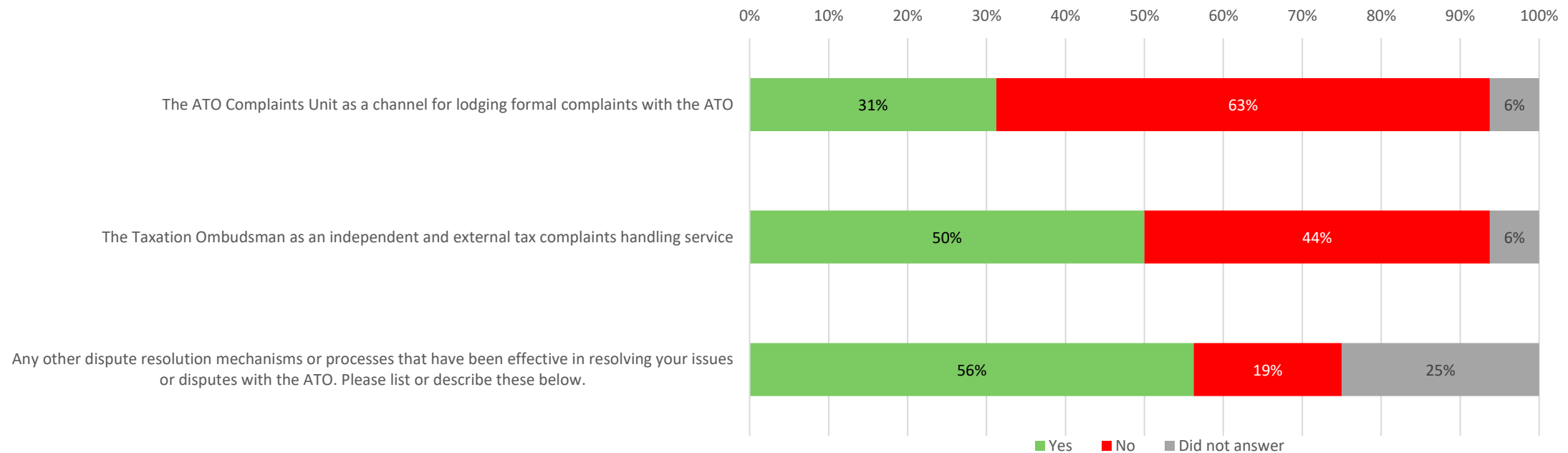
Results for SMSFs and superannuation matters

Superannuation market's awareness or use of complaint channels and other dispute resolution mechanism (n=26)



Results for high net worth individuals

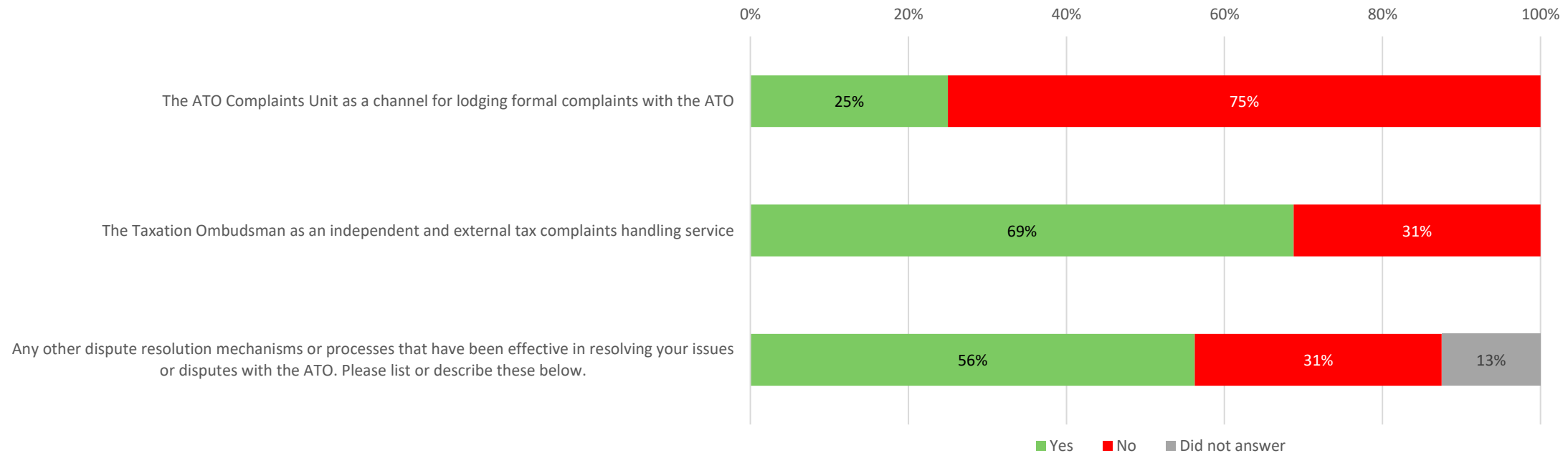
High net worth individual market's awareness or use of complaint channels and other dispute resolution mechanism (n=16)



Other dispute resolution mechanisms include contacting ATO Assistant/ Deputy Commissioners, other ATO officers' contacts the respondents have, internal facilitation and

Results for large private and public taxpayers

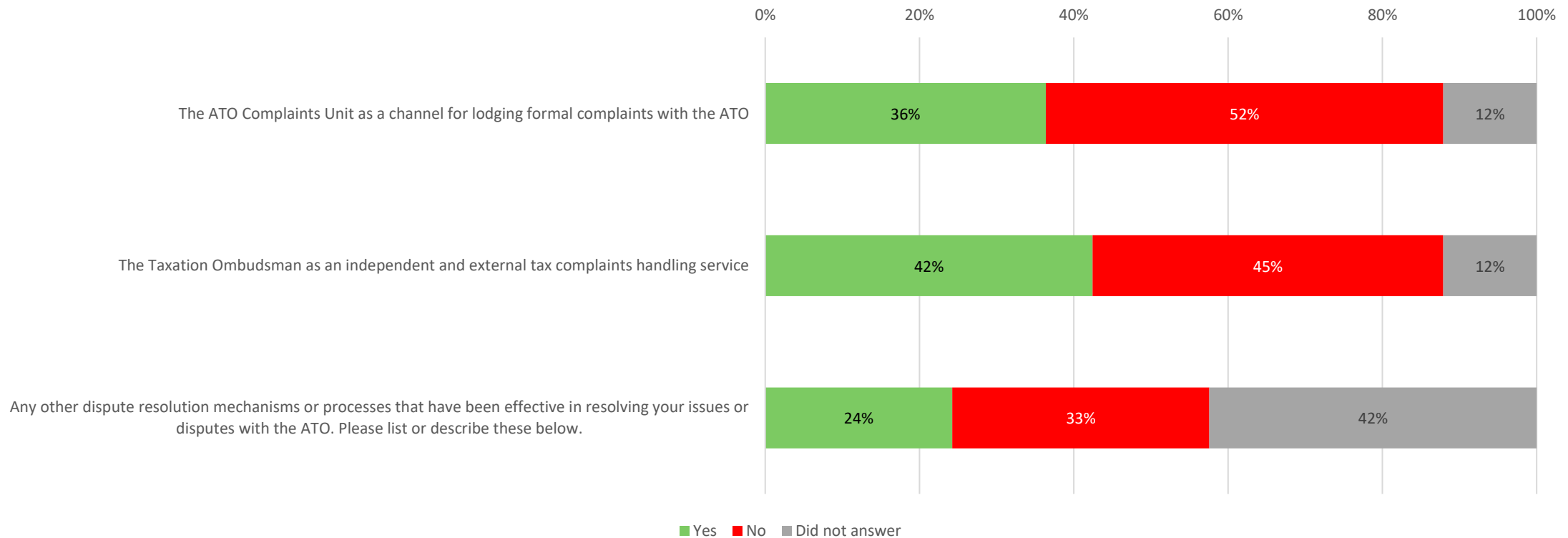
Large private and public taxpayer market's awareness or use of complaint channels and other dispute resolution mechanism (n=16)



Other dispute resolution mechanisms include contacting ATO Assistant/ Deputy Commissioners, other ATO officers' contacts the respondents have, internal facilitation, mediation and settlement negotiation.

Results for debt matters

Awareness or use of complaint channels and other dispute resolution mechanisms in decisions relating to a debt matter (n=33)





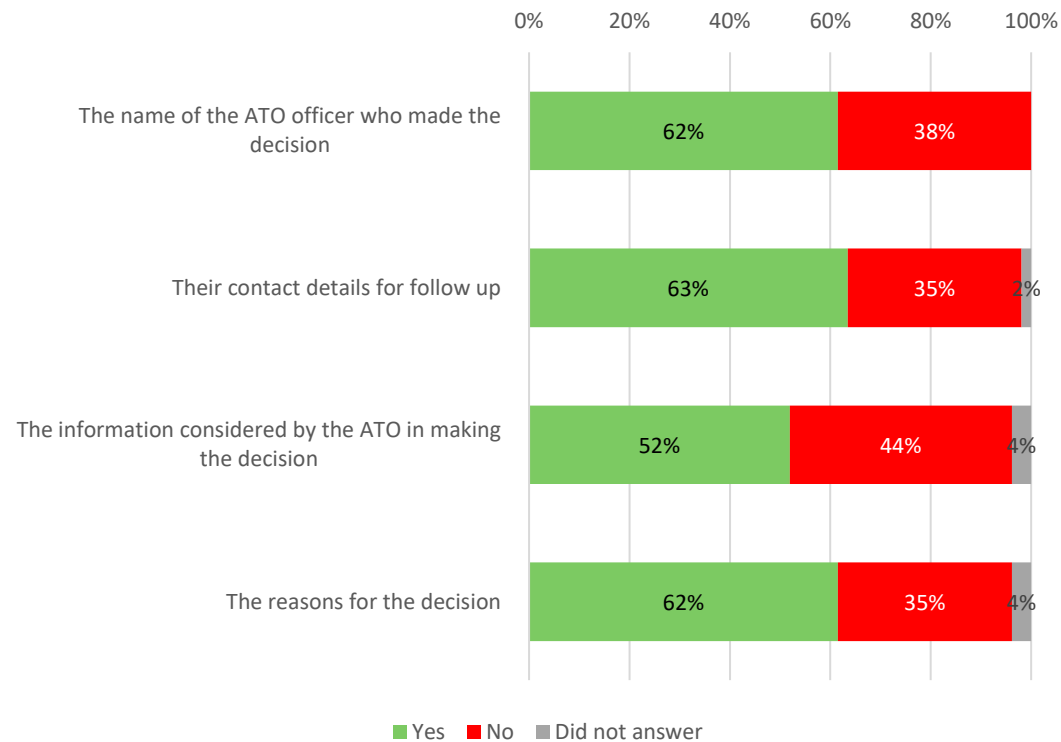
What information does the ATO typically provide in their communications of a decision made?

Key points

- Across most client groups (Individuals, small businesses, debt, superannuation) there appeared to be generally consistent responses. Approximately 36% indicated they do not get details of the decision maker, contact details, what information was considered and reasons for decision.
- In relation to high wealth individuals, only approximately 20% indicated they did not get the above information.
- Large business indicated in 38% of responses they did not have the name of the decision maker – this may be due to them having a contact officer but being unaware of the senior decision maker to whom matters might have been escalated.

Overall results

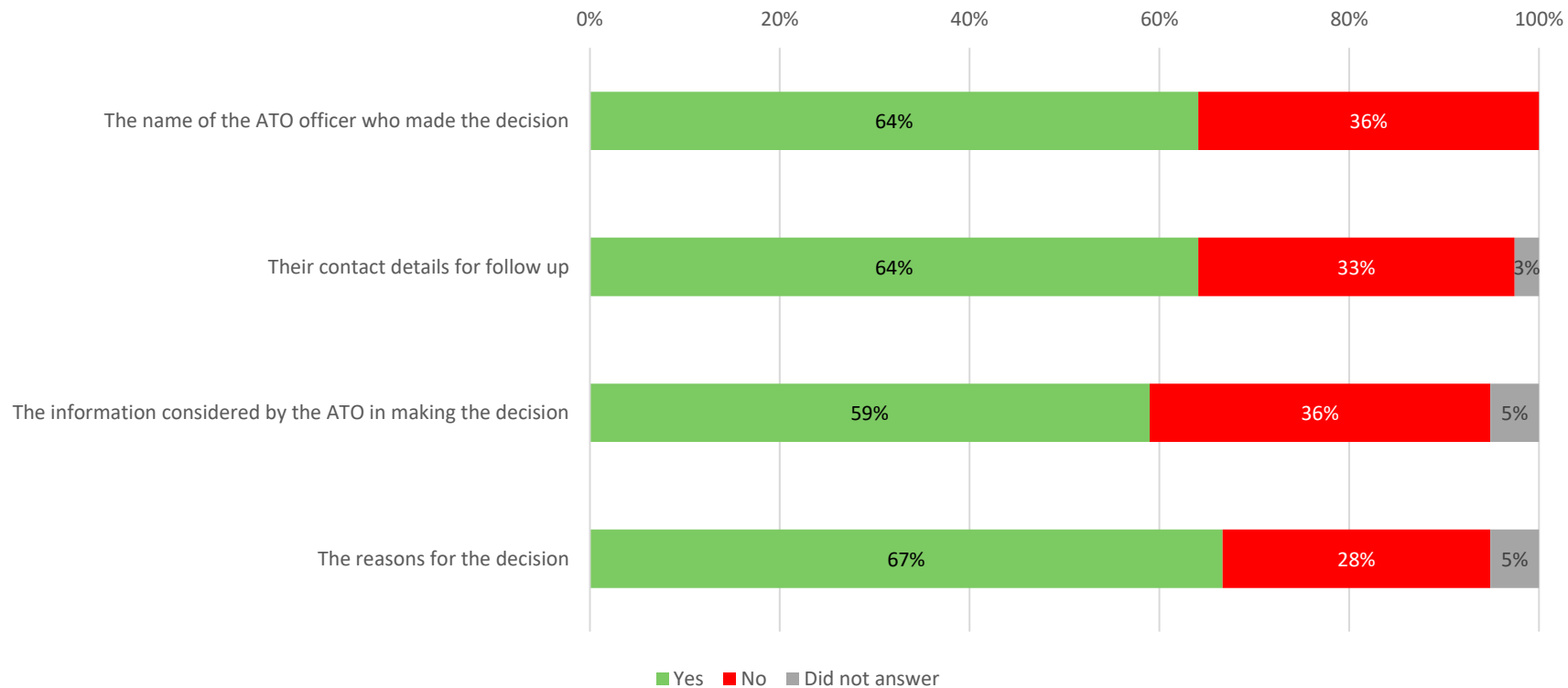
Information typically provided by in the ATO communications of a decision made (n=52)



- Only 33% of respondents selected yes for ALL four questions
- 10% of respondents selected yes for one question only
- 9% of respondents did not select **any** of the answers

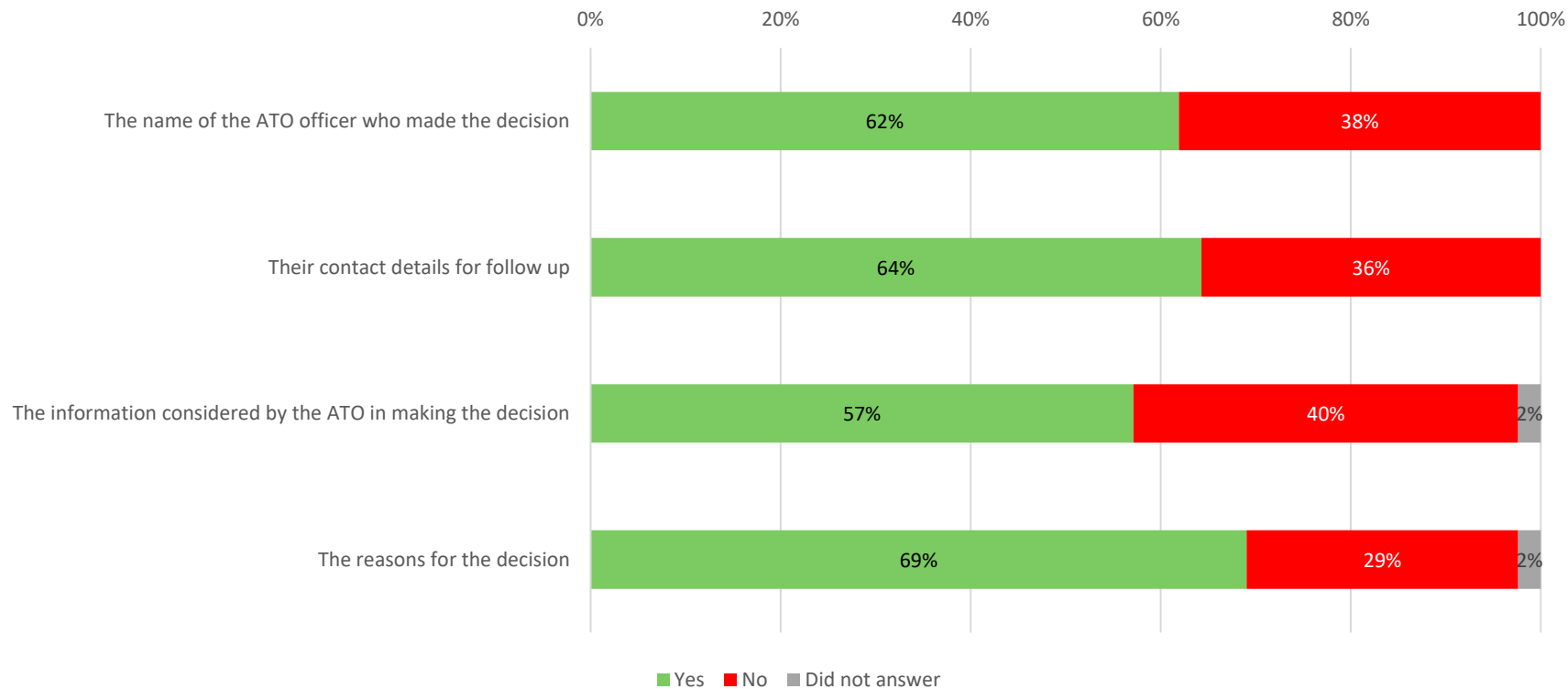
Results for individual taxpayers

Individual taxpayers' experience with information that is typically provided in the ATO communications of a decision made (n=39)



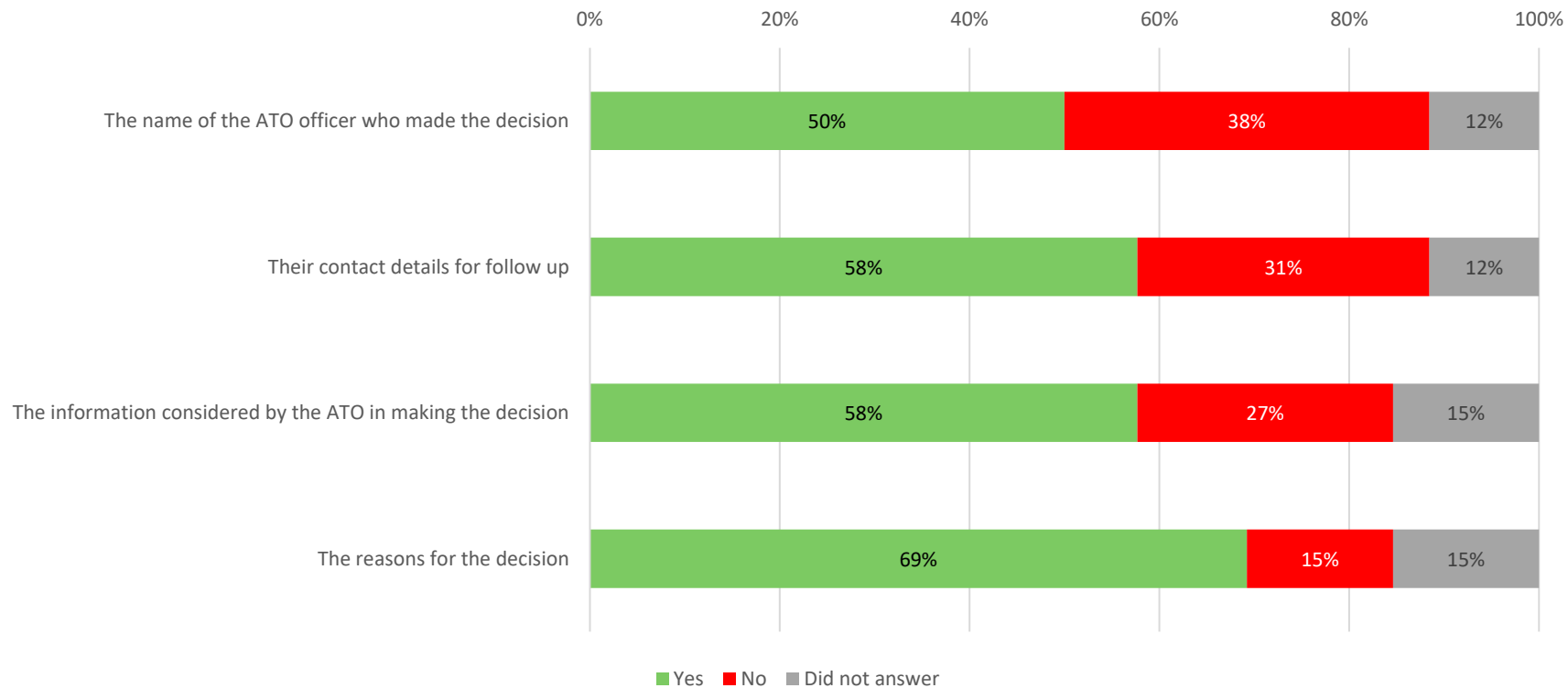
Results for business taxpayers and SMEs

SMEs' experience with information that is typically provided in the ATO communications of a decision made (n=42)



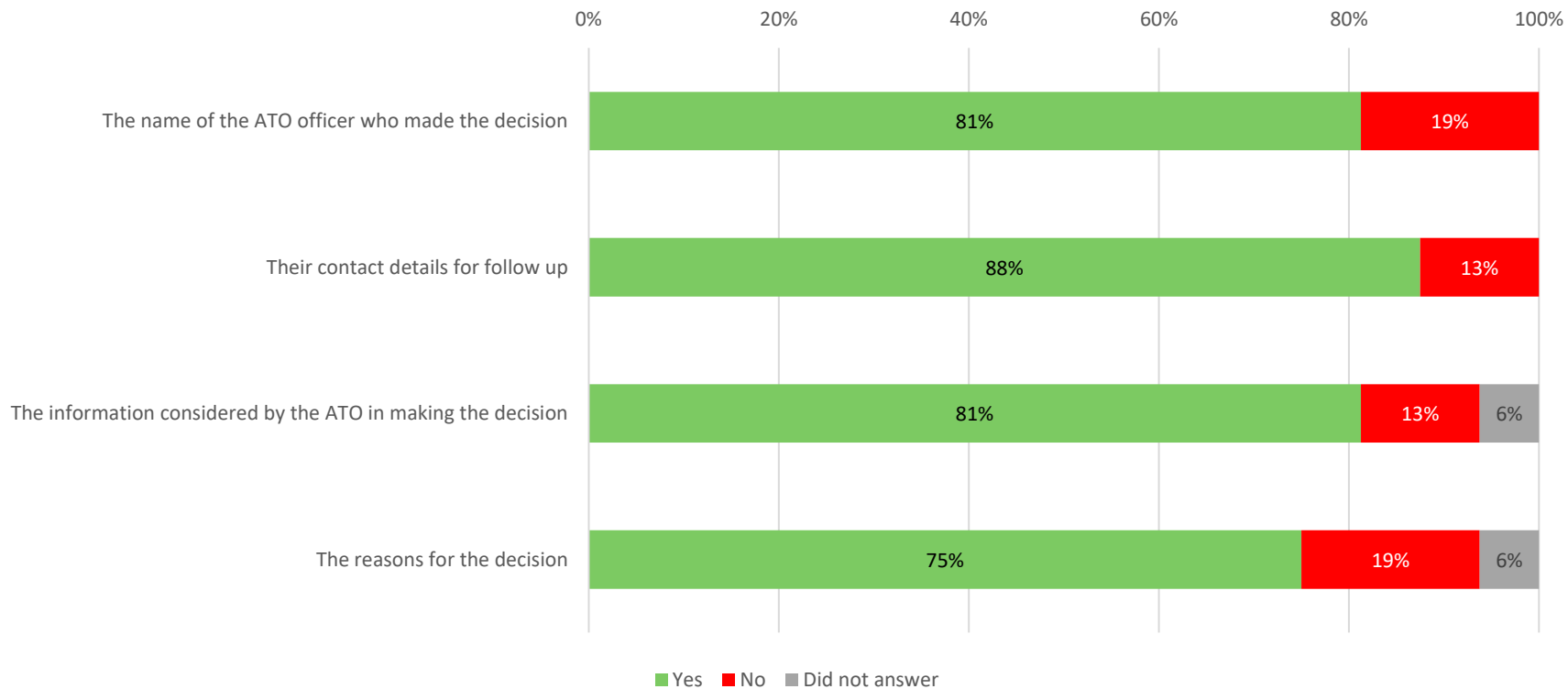
Results for SMSFs and superannuation matters

Superannuation's experience with information that is typically provided in the ATO communications of a decision made (n=26)



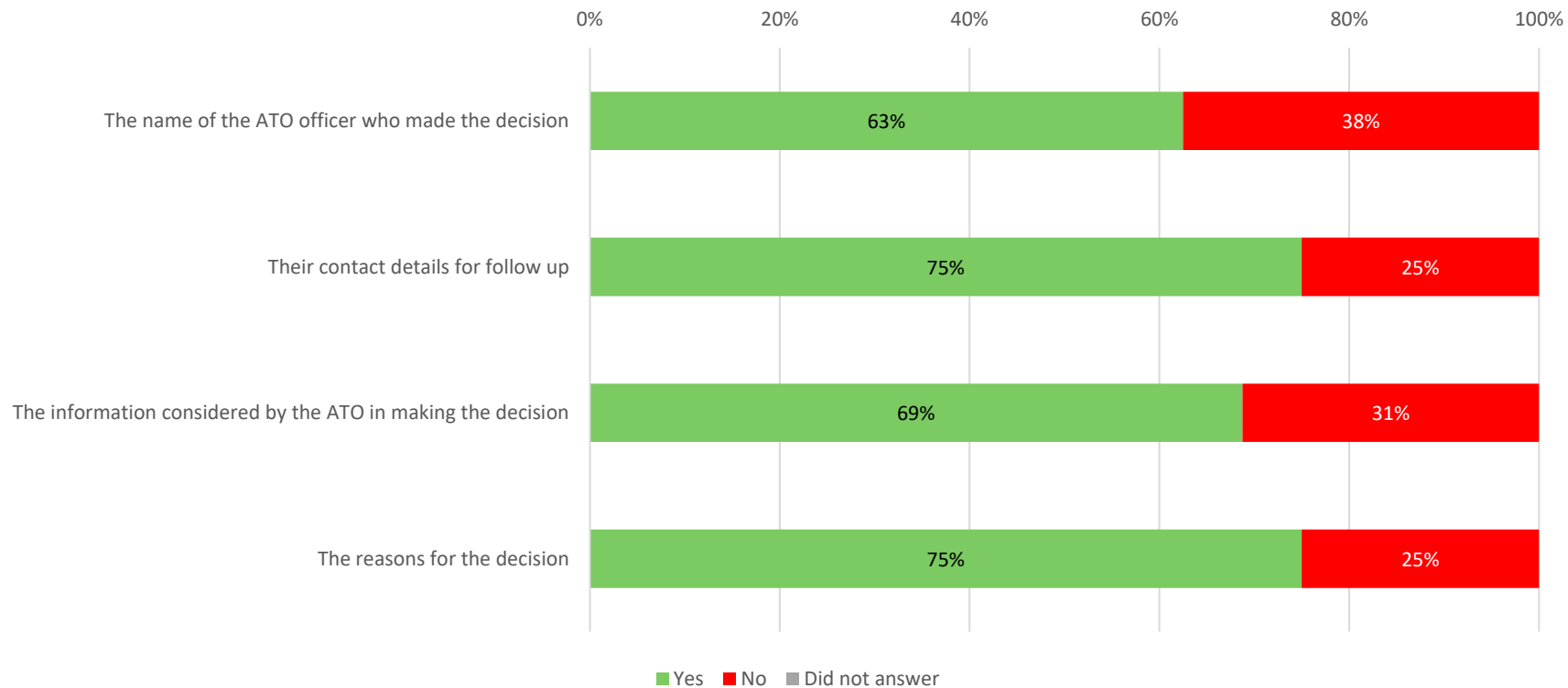
Results for high net worth individuals

High net worth individual taxpayers' experience with information that is typically provided in the ATO communications of a decision made (n=16)



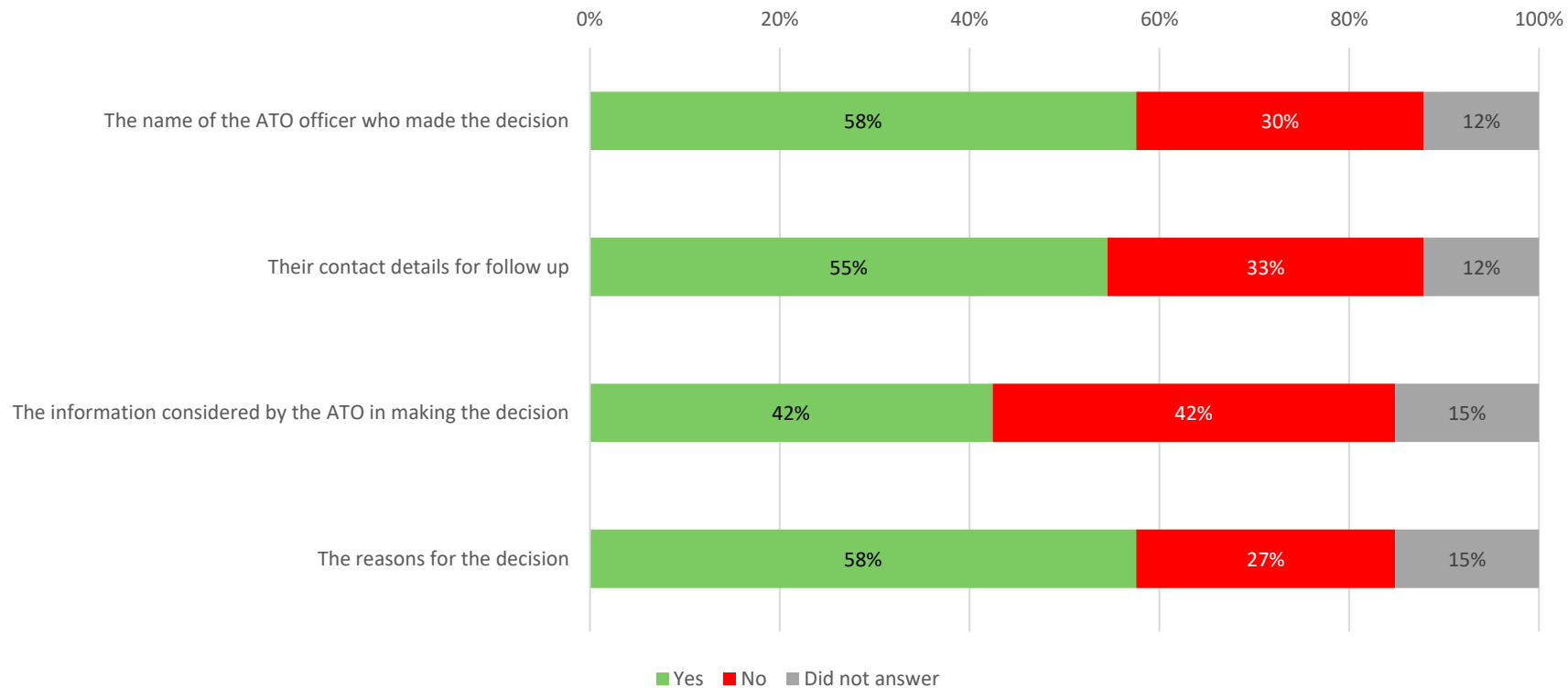
Results for large private and public taxpayers

Large private and public taxpayers' experience with information that is typically provided in the ATO communications of a decision made (n=16)



Results for debt matters

Information typically provided in the ATO communications of a decision made in relation to a debt matter (n=33)



Summary of other issues raised by respondents

- Communications do not include the name of officers to whom the matter was escalated to e.g. TCN or the ultimate decision maker
 - Not been able to speak with the ultimate decision maker or TCN
- ATO's response does not answer the question raised
- Standards varied between ATO communications – better in PGH compared to Debt/Hardship
- Letters are not customised
- Generic reasons that are not specific to the taxpayer's circumstances
- No reasons provided or insufficient reasons for decision in private rulings
- Refusal to give reasons where ADJR review applies



Respondents' suggestions for improvements

Respondents' suggestions for improvement

The IGTO observed the following themes from the free text fields in the survey:

- Plain English/ Easily understood language
 - “Learn to communicate in easily understood language ”
- Clearer communication, clearer communication on timeframes for appeals and reviews
 - “ATO should clearly state the basis for a particular decision, the options available to the taxpayer, the information which must be supplied to the ATO for each of the options and the contact details at the ATO for each option.”
 - “The ATO also needs to make the timelines for appeals / reviews clearer. This could be made clearer by including the particular due date by which an appeal needs to be lodged in relation to the decision (rather than just generic wording around timeframes).”
- Complete and written information on review rights
 - “The ATO should provide the taxpayer with all the information the taxpayer needs to consider the taxpayer's options and exercise any rights to question, challenge or appeal the decision.”
 - “Every avenue available to taxpayer for any decision should be conveyed in written form thus allowing taxpayer to avail themselves of the most suited and appropriate remedy ”

Respondents' suggestions for improvements (cont)

The IGTO observed the following themes from the free text fields in the survey:

- **Style and presentation – use of bolded font, different colour font to emphasise key actions**
 - “Stylistic and syntactical choices could be improved to improve efficiencies. I.e. Bolding of key dates, emphasising key factors in the decision, communication of key actions items through differently coloured text.”
- **Separate factsheet detailing all review (formal/informal) options**
 - “All Outbound letters should include a separate factsheet that detail all appeal options. There could be separate factsheets for tax, super, debt and different products within each subtype. People may utilise these options if the information is readily available”
- **Mediation and phone calls before decision is made**
 - “There needs to be a mediation & consultation before ANY decision is undertaken”
- **More complete reasons for decisions**
 - “Sometimes information considered and reasons are provided. However, rarely complete. Supports the outcome rather than the process. ”

Respondents' positive feedback about ATO communications of taxpayer rights from free text fields

“I actually think they do a reasonable job.”

“I have had no unpleasant experiences or unresolved issues in dealing with the ATO.”

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