



Australian Government
Inspector-General of Taxation
Taxation Ombudsman

IGoT News

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An update from the IGTO



I hope you are safe and keeping well in your part of the world.

It has been an extremely busy but productive year for the office of the IGTO. We have continued to support the Australian community dealing with the ongoing impacts of the COVID-19 pandemic while also

ensuring that we supported the health and wellbeing of our team.

In this edition of IGoT News, we provide:

- a summary of the work that we have undertaken to improve the ease of access and user-friendliness of our website to ensure that everyone who needs assistance can access our services. In particular, we detail how we are able to assist taxpayers who may have received a letter from the Australian Taxation Office (**the ATO**) in relation to the disclosure of business tax debts;
- confirmation from the ATO that a practitioner’s lodgement program will not be adversely affected if they do not meet the 85% lodgement program performance benchmark and the details on options for tax practitioners who may need support from the ATO to meet lodgement obligations and the different channels through which the ATO may be contacted for this purpose;

- an update on two review investigation reports – one we recently published and one that is approaching finalisation;
- a progress report (as advised to us by the ATO) on its implementation of agreed recommendations from our Death and Taxes report published over a year ago;
- some complaint case studies to help the community understand how we can help;
- an update for you on our complaints investigation service; and
- some of the corporate compliance work we have undertaken, including publication of our Corporate Plan FY22 and our Quarterly Reporting Pack for Q4 FY21.

Our website refresh

In early August 2021, we launched our refreshed [website](#). The new website comprises Phase 1 of our redesign, which aims to ensure that our website is user friendly, easy to navigate and taxpayers are able to quickly identify our resources to help them deal with any tax administration concerns. The refresh includes:

- a banner on the front page to direct complainants who need to lodge an ATO credit reporting complaint with us;
- a specific page for lodging an ATO credit reporting complaint with us;
- a bright orange/yellow button to direct you to Make a Complaint;
- an overview of the ATO complaints process that should occur before you lodge an IGTO complaint; and
- some case studies featured to help illustrate what we did to help.

Importantly, our new website makes it easier for taxpayers and tax practitioners to navigate and lodge complaints with our office, where they have not been able to address their concerns with the ATO or the Tax Practitioners Board directly. This is especially relevant for complaints about the ATO's disclosure of business tax debts – see below.

The new website also consolidates all our publications – review investigation reports, submissions, annual reports, corporate plans and other compliance materials – in a single location, with improved search and filter functionality.

As we progress through the next phases of our website redesign, we welcome feedback on ways in which we could make the website better and more useful for all members of the community. You can provide your feedback and suggestions via email to enquiries@igt.gov.au.

Disclosure of Business Tax Debts

The ATO commenced its program of reporting business tax debts to Credit Reporting Bureaus in August 2021. The ATO can report tax debts if a business owes at least \$100,000 that has been overdue for more than 90 days. However, the ATO will not report tax debts if the business engages with the ATO including, for example, if the business agrees to a payment arrangement or formally disputes the debt.

Importantly, the ATO will also not report tax debts if the business has lodged a complaint with the IGTO and until the complaint investigation has concluded. If you or your client have received an orange letter from the ATO titled *“Act now or your tax debt will be reported to credit reporting bureaus”* and wish to lodge a complaint, you can find more information on our [website](#).

The quickest and best way to notify us that your matter is an ATO credit reporting complaint is in writing and through our online [complaints form](#). When lodging a complaint on this matter, we ask that you provide the following information to minimise any delays:

- a copy of the orange letter you received from the ATO titled, *“Act now or your tax debt will be reported to credit reporting bureaus”*;
- your Tax File Number (TFN) or Australian Business Number (ABN);
- your personal details (for example – your name and contact details);
- an explanation of the ATO actions that have caused you concern and how those actions have impacted you;
- the main facts, relevant dates and any other supporting documents;
- where you are at now – the result to date; and
- the outcome you want from your complaint.

There are a number of important things to note in relation to the ATO’s disclosure of business tax debts and any complaint that you lodge with us about this issue:

- The IGTO does not play a role in selecting taxpayers for possible disclosure, nor does the IGTO independently review the ATO’s selection process;
- Any investigation by the IGTO of a taxpayer’s tax debt complaint will stay the disclosure of the taxpayer’s debts *but* only for the duration of the investigation;
- The IGTO, like all other Ombudsmen, cannot compel the ATO to take a particular course of action, although we may issue findings and recommendations following our investigation; and

- Ultimately, the decision of whether or not to disclose a taxpayer's debt to a credit reporting bureau will be made by the Commissioner of Taxation (or his authorised officers).

The best measure to prevent the ATO from disclosing a taxpayer's business tax debts is to continue to effectively engage with the ATO to address the outstanding debt. The IGTO is available to assist taxpayers where they are experiencing any difficulties engaging with the ATO for this purpose.

ATO support for tax practitioners

Tax practitioners play a critical role in assisting taxpayers (individuals and businesses) to comply with their taxation obligations. Like all Australians, tax practitioners have been adversely impacted by the COVID-19 pandemic, both personally and professionally.

The IGTO was recently made aware through an online article in *Accountants Daily*, about concerns some tax practitioners have raised in relation to their obligations to assist clients with lodgements throughout Tax Time FY22 and beyond. We followed this up with Tax and Super Australia – who shared with us the results of a survey it had conducted with its members in relation to the ATO's Lodgment Program. Essentially, there were suggestions that recent communications by the ATO raised the prospects of consequences for agents that failed to meet the 85% on-time lodgment benchmark for tax practitioners – which was concerning given the widespread support provided by practitioners in the context of accessing COVID-19 support measures.

The Tax and Super Australia survey

The Tax and Super Australia survey results showed that approximately:

- 47% considered the Lodgment Program to be working effectively, and 46% felt the Lodgment Program's 85% target was an effective way to ensure that the majority of tax returns are lodged on time;
- 67% of respondents indicated the Lodgment Program caused them either a great deal of stress or they found it somewhat stressful and only 12% indicated it did not cause them any stress;
- 77% of respondents considered the ATO did not understand the pressures faced by tax agents to meet Lodgment Program targets, and moreover 71% indicated that their ability to lodge on time relied upon their clients providing accurate information within sufficient timeframes; and
- 68% of respondents believed the IGTO should review the way the ATO administers the Lodgment Program.

IGTO followed this up with the ATO

In response to the concerns raised by Tax and Super Australia, IGTO reached out to the ATO to understand the range of support options available to tax practitioners who may require assistance and support to meet their lodgement obligations.

We understand the following options are available to practitioners:

- [Agent assessed deferrals](#) that provide you with an additional:
 - four weeks to lodge annual obligations
 - three weeks to lodge quarterly obligations
 - two weeks to lodge monthly obligations.

From September, the ATO has also provided a contact line (13 72 86, Fast Key Code 1 3 2) that can be used to request extra time to lodge for up to five clients.

- [ATO assessed deferrals](#) where the requested deferral is for a period potentially more than four weeks and where the agent assessed deferral option is no longer available;
- options to engage with the ATO where broader, whole-of-practice support is required can be accessed through the [Supported Lodgment Program](#).

Furthermore, the ATO has assured the IGTO and has stated on its [website](#) that **a practitioner's lodgment program will not be adversely affected if you do not meet the 85% lodgment program performance benchmark** in the 2020–21 lodgment program year. The ATO is removing the content on its website that says lodgment concessions could be withdrawn where the 85% benchmark is not met, as this is no longer the case.

The IGTO encourages tax practitioners to reach out to the ATO via the:

- [Supported lodgment program](#) – if you are experiencing longer-term difficulties meeting your lodgment program;
- [Complex issue resolution service](#) – only for issues you've been unable to resolve online or by phone. Where necessary, the IGTO is also available through our [tax complaint investigation service](#) to assist tax practitioners. It is important to note that during this period, we are prioritising time sensitive and COVID-19 related complaints to ensure that urgent assistance is provided where it is needed.

In 2015, we published a report of our investigation into the [ATO's services and support for tax practitioners](#) and it continues to be an area that we are monitoring – both through our complaints handling service and through our review investigation function. We welcome views from tax practitioners and professional bodies on any areas of concern arising in this space. Stakeholders who wish to gain greater insight on the concerns raised by Tax and Super Australia can contact them via email at info@taxandsuperaustralia.com.au.

Our Corporate Plan FY22

We have published our [Corporate Plan 2022-25](#). It sets out our vision, purpose, key activities and strategic priorities over the next four years.

Our key strategic priorities are:

- Communicate clearly, effectively, independently and with integrity
- Ensure that our tax complaint investigation service is approachable, contactable and responsive to the changing needs of the community
- Improve the skills, expertise and resilience of our people and organisation
- Provide independent thought leadership and expertise
- Engage with stakeholders in the tax administration system

Our Corporate Plan also highlights the key internal and external factors that contribute to us achieving our vision and purpose. It also highlights the breadth of the tax and superannuation systems in Australia and the key stakeholders with whom we interact.

Quarterly Reporting Pack Q4 FY21

The IGTO's [Q4 FY21 Quarterly Reporting Pack \(QRP\)](#) has now been published. The QRP presents a range of data and information against certain Key Performance Indicators in our Corporate Plan for FY21. QRPs for prior periods are available on our [website](#).

The Q4 FY21 Reporting Pack includes some high level data in relation to our tax complaints investigation service. An overview to the Q4 complaint receipts is set out later in this newsletter and full year results will be included in the FY21 Annual Report, once published.

Report published: Investigation and Exploration of Undisputed Tax Debts in Australia

Our report, [An Investigation and Exploration of Undisputed Tax Debts in Australia](#) was released on 30 June 2021. The report presents a summary and analysis of a large amount of data as supplied by the ATO. A slide deck to summarise the key messages was also released and can be found [here](#). The data relates to levels of undisputed tax

debts (and changes in these debts) over the past several years, commencing in FY16 and ending in FY20 – reported as at 30 June in each financial year. The report delivers a number of key related insights and makes five recommendations for consideration by the ATO as outputs from the investigation.

The report is a key piece of research intended to provide Australian taxpayers, tax practitioners, Government and businesses with a detailed understanding of where tax debts are accruing in the tax system and occurring in the economy.

The IGTO made five recommendations – as set out below. The ATO agreed with a majority of these.

The [full report](#), an accompanying [slide deck](#) and other related materials are available on our [website](#).

The recommendations are:

RECOMMENDATION 1

The IGTO recommends that the ATO consult with key stakeholders and relevant participants in the tax system to co-design enhanced reporting in relation to its debt book and debt recovery activities throughout the year. This enhanced reporting may be shared publicly or with discrete stakeholders, as appropriate.

[The full text of the recommendation is on pages 37 – 38 of the report]

RECOMMENDATION 2

The IGTO recommends that the ATO develops metrics to measure its debt collection performance, including a return on investment against its efforts to collect debts in relation to different client experience groups or industry groups. For example, the cost of the ATO's debt collection activities as a percentage of the total tax debts collected.

These metrics could be reported alongside matters identified in Recommendation 1.

RECOMMENDATION 3

The IGTO recommends that the ATO:

1. report (in aggregate) to the Australian Parliament all taxpayer debts which exceed a benchmark dollar value and have been outstanding for more than (say) 100 days, by client experience and industry groups, and additionally, report information in relation to those debtors that have not engaged with the ATO about the outstanding debt (e.g., entered discussions to set up a payment arrangement); and
2. remind taxpayers and their advisers in writing once the taxpayer's outstanding tax debt exceeds a benchmark dollar value and has been outstanding for more than (say) 100 days and advise that their data will be reported (as aggregated information) to the Australian Parliament unless they have entered an agreed ATO payment arrangement or other debt management arrangement on or before a prescribed date.

RECOMMENDATION 4

The IGTO recommends that the ATO actively promote the benefits of new businesses voluntarily entering the PAYGI system and ensuring that the channels to enter, exit and vary instalments are readily accessible for both taxpayers and tax practitioners.

RECOMMENDATION 5

The IGTO recommends that the ATO:

1. provide greater insight into the ATO Special Division in its reporting through segmentation based on occupation (ANZSCO) codes; and
2. engage with the Australian Bureau of Statistics (ABS) to identify opportunities to improve segmentation and reporting of collectable debt by industry divisions and occupation codes to enable enhanced comparative analysis.

Death and Taxes – a year on from our report

In July 2020, we released our report *Death and Taxes: An Investigation into ATO Systems and Processes for dealing with Deceased Estates*. We made 10 recommendations, comprising 23 parts, for tax system improvement. The ATO agreed in full, in part or in principle with 22 out of the 23 parts. We have reached out to the ATO for an update on the progress of implementing some of those recommendations. The ATO has provided the following summary of the status of its implementation [in blue]:

The ATO has been working toward implementing their 10 recommendations with 2 recommendations, comprising of 5 parts being finalised.

Recommendation 4 – Promote and explore opportunities to enhance the digital Trust TFN application process.

Recommendation 4 resulted in content redesign across identified ATO webpages and the Australian Business Register (ABR) relating to:

- *the Trust TFN registration process;*
- *where to apply for a Trust TFN digitally; and*
- *an improved path between guidance material and registration information.*

The ATO will continue to look for opportunities to enhance the digital Trust TFN process.

Recommendation 9 – Understand the types of deceased issues requiring escalation, identify improvements to the process and deliver empathy training to staff.

Recommendation 9 saw the ATO consult with industry experts from the tax and legal profession and members of the Individuals Stewardship Group, to understand key deceased estates related enquiries that require escalation. A review of the complex enquiry workflows was completed, identifying improvements to be delivered with business partners as a part of the program of work. The ATO delivered empathy training to client facing staff who manage deceased related enquiries.

Other Recommendations

The other 8 recommendations remain on track and Recommendation 1a is next for implementation. This recommendation focuses on providing clear guidance material to deceased estates representatives, particularly in no-probate cases.

*Another important change in progress relates to the Commissioner's remedial power legislative instrument that came into effect on the 15 May 2020. This instrument enables registered tax agents, registered BAS agents and legal practitioners appointed by a Legal Personal Representative with a grant of probate or letters of administration to engage directly with the ATO on behalf of a deceased taxpayer. **Treasury Laws Amendment (2021 Measures No. 5) Bill 2021** is seeking to bring the legislative instrument into law.*

Stakeholders who wish to engage with the ATO to provide insights and feedback can contact the ATO via IndividualsClientExperience@ato.gov.au. Stakeholders who wish to raise concerns about the administration of deceased estates or provide insights can also contact the IGTO via enquiries@igt.gov.au.

Complaints Investigation Case Study – First Home Super Saver Scheme (prior to legislative changes)

A complainant raised concerns that the ATO had unreasonably withheld amounts released by her superannuation fund under the First Home Super Saver scheme (FHSS scheme). These amounts were to be used in buying her first home. The ATO instead decided to return the released monies to her superannuation fund as it decided that she had made errors on her application form that invalidated her claim and that the law prevented her from correcting that error or applying again under the FHSS scheme. She had raised her complaint with the ATO and explained that the errors were a genuine misunderstanding. The ATO did not change its decision following an internal review.

The IGTO commenced an investigation. The IGTO reviewed the ATO case notes and ATO call centre recordings and found that the errors were due to the complainant's genuine (but erroneous) belief which was not dispelled during her calls to the ATO when she was seeking ATO assistance to complete her application (before and whilst

completing her application) and that the ATO had failed to consider this relevant evidence. The IGTO found that the ATO had cancelled the FHSS Determination without lawful authority, which was likely due to a genuine (but erroneous) ATO belief that the errors had invalidated the Determination. Views on particular tax administration laws which impacted on this case were also communicated.

As a result, the IGTO recommended the ATO to provide an equitable remedy to the complainant, provide an appropriate apology and consider compensation for the loss caused. The IGTO also made recommendation for broader improvements, including improvements to the ATO's administration of the FHSS scheme and its governance of ATO adherence to the Taxpayers' Charter. As the Government had also announced potential amendments that would assist complainants to rectify errors made on their FHSS applications, the IGTO also recommended the ATO to take steps to address the risk of individuals suffering adverse consequences due to making errors on applications prior to the enactment of the legislation.

Following consideration of a lengthy IGTO report which detailed the evidence, the ATO ultimately agreed to release the FHSS amounts to the complainant with an apology and advised that it had made improvements to its administration of the FHSS scheme. The ATO also agreed to contact individuals who had previously been denied access to release of FHSS amounts due to errors on their application (after the proposed amendments to the FHSS legislation have been enacted) and offer to remediate their case.

Tax complaint investigation service – update

We received a total of 1,630 complaints as at the end of Q4 FY21. As was the case in previous quarters (Q2 and Q3 FY21), this quarter has also seen a reduction in complaint receipts compared to prior years. The reduction in taxation complaints in FY21 could be due to a number of factors, including:

- The ATO debt recovery actions eased during the COVID-19 pandemic;
- The IGTO's call centre is currently operating as a call-back centre due to the need for IGTO staff to work from home. This means that members of the public may only leave a voicemail message to request a call back. The IGTO acknowledges that this may also be contributing to the lower number of complaints received;
- IGTO website communications have been updated to clearly explain the process to lodge a formal complaint with the ATO; and
- The IGTO is actively encouraging complainants to resolve their taxation complaints directly with the ATO in the first instance by lodging a formal complaint with the ATO Complaints Unit.

Although there has been a significant reduction in simple complaints – especially category 3.1 – there has been a corresponding increase in the complexity of complaints – which are more time intensive to investigate.

The IGTO has introduced a triage system to improve our efficiency and prioritise urgent assistance cases - given the demand for our services. Accordingly, the IGTO is reviewing and prioritising taxation complaints which demonstrate exceptional circumstances. All other taxation complaints are placed in a queue to be allocated on a 'first in, first out' basis. Taxpayers are advised that the current wait time is approximately 6 to 8 weeks.

Further details about our tax complaint investigation service including complaint investigations closed, top 5 issues and agreed business improvements are set out in our [Quarterly Reporting Pack](#).

Review investigations update

On 3 August 2021, we provided the ATO with a preliminary draft report of our *Investigation into the effectiveness of ATO communications of taxpayers' rights to complain, review and appeal*. The draft is provided to the ATO in accordance with a statutory requirement to provide the ATO with sufficient opportunity to comment on any implied or expressed criticisms. It sets out our preliminary findings and observations and potential recommendations.

We will consider any comments provided by the ATO before finalising the report and publishing it together with the formal ATO response to our recommendations. We expect to publish the final report before the end of October 2021.

In the meantime, you may recall that as part of our review investigation, we conducted a survey of taxpayers and tax practitioners to gauge their views on the effectiveness of the ATO's communications on their rights and channels to review, appeal and complain. A slide deck setting out the results of that survey is now available on our [website](#).

Our activities in Q1 FY22


In Q1 FY22, the majority of our resources are devoted to assisting taxpayers and tax practitioners throughout Tax Time FY22. In addition, we have or will be:

- Launching our refreshed website;
- Publishing our Corporate Plan FY22;
- Progressing our *Investigation into the Effectiveness of ATO Communications of Taxpayers' Rights to Complain, Review and Appeal*; and
- Progressing development of our Annual Report 2020-21 for publication by the end of October 2021.

Please stay safe and remember to stay in touch. We value your feedback and we are here to serve the community.

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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.