



Australian Government  
Inspector-General of Taxation  
Taxation Ombudsman

# Effective communication of Taxpayer Rights

An investigation into the ATO's communication of taxpayer rights to complain, review and appeal decisions or actions

October 2021

# A message from the IGTO

- Consistent with the principles of procedural fairness and the Taxpayers' Charter, it is fundamental that taxpayers are aware of their rights to object, appeal and/or raise a taxation complaint in respect of the legal correctness and/or fairness of ATO decisions and decision making processes (tax administration)
- This investigation seeks to identify opportunities to improve the information communicated to taxpayers (and their representatives)

The IGTO investigation commenced in June 2020 and included:

- a survey of Taxpayers and Tax Practitioners
- a review of ATO internal instructions and training modules for staff
- end-to-end process walkthroughs led by the ATO
- a review of 120+ ATO template correspondence and decisions made by the ATO in the 2019 and 2020 financial years

# A message from the IGT0

- The importance of communicating tax rights and reasons to taxpayers for decisions affecting them is well recognised both domestically and internationally, including:
  - Australia - *Taxpayer's Charter*
  - the OECD - *Principles of Good Tax Administration – Practice Note*
  - USA - *Taxpayer Bill of Rights*
  - UK – *HMRC Charter*
  - Europe - *Guidelines for a Model for a European Taxpayers' Code*



# Executive Summary

## What

The terms of reference can be found [here](#)

The purpose of the investigation is to confirm how effectively (clearly and completely) the ATO communicates appropriate information to taxpayers and their representatives on the taxpayer rights to review, complain and appeal ATO decisions and actions

## Why

### identify opportunities for improvement

1. **HELP** taxpayers in **UNDERSTANDING** outcomes and their rights – legal, administrative, consistent with expectations of fairness
2. **PROVIDE EDUCATION SUPPORT** – including by the ATO in educating stakeholders
3. **HELP MINIMISE AND RESOLVE DISPUTES** in the tax system
4. **HELP** taxpayers **IDENTIFY** the right channels to resolve disputes
5. **SUPPORTS VOLUNTARY COMPLIANCE**
6. **REDUCES RED TAPE** and compliance costs

# Executive Summary

## Results

- A separate slide deck of the survey results is available [here](#)
- A separate slide deck to explain taxpayer rights to reasons is available [here](#)
- Our report is available [here](#)
- The ATO's response is available [here](#)

## Recommendations

- The IGTO makes 6 recommendations (some in parts)
- The ATO has agreed in full or in principle with all 6 recommendations
- Recent polling of 500+ advisers showed resounding support (93%+) for an express obligation on the ATO to inform taxpayers of their rights
  - See our polling results [here](#)

# ATO Responses – Overview

- Acknowledged that effective communication of taxpayer rights is an extremely important aspect of their work
- Noted three main areas from the review investigation that the ATO will maintain their focus on to ensure the ATO is providing the right support to taxpayers at the right time:
  - ATO Officers understanding of the importance of communicating rights of review, complaint and appeal
  - Readily available public information about those taxpayer rights
  - Continued review of the Taxpayers' Charter to ensure it provides the appropriate protections.

# Introduction

## Is the Commissioner of Taxation required to give a taxpayer reasons for ATO decisions?

- **No** - There is no principle at common law establishing an obligation to provide reasons or a right to receive reasons for administrative decisions generally
- **There are Statutory rights** to receive reasons but, in many cases, they are
  - limited or
  - **not available unless and until a taxpayer commences litigation**
    - : **That is, a taxpayer is required to commence a dispute in the tribunal or the courts in order to obtain reasons**
- However ... **good tax administration creates an expectation** that taxpayers should receive reasons for decisions which affect them

# Introduction – Why are reasons important?

## For Taxpayers:



**ASSURANCE** – the taxpayer has been dealt with fairly and transparently



**UNDERSTANDING** – and highlighting any facts or issues in dispute, to understand the precise nature of the decision made or action taken and what review rights are available



**INFORMING** – critical to the taxpayer making an informed decision about whether to accept a decision or take action to dispute it

**RESULT = FAIRNESS** (procedural fairness) + **EFFICIENT HANDLING OF DISPUTES**



# Introduction – Why are reasons important?

## For the Commissioner:

Safeguards against decisions being made improperly or without due consideration:



**CORRECTNESS** – what relevant material facts have been considered



**COMPLIANCE** – with the relevant law



**CONSISTENCY** – ensure ATO guidance is followed to ensure consistency of outcomes

# Key Findings – Survey



**96%** of respondents considered the communication of taxpayer rights to be important or very important.  
(see Survey Results slide deck - slide 19)



The ATO may effectively communicate taxpayer rights to object and seek external review, **but** it does not effectively communicate less formal and alternate means of resolving disputes – including its own Complaints Unit and the Taxation Ombudsman.  
(see Survey Results slide deck - slide 23 (and following) and 33 (and following))



Across most client groups (Individuals, Small Businesses and High Wealth Individuals), consistent results were observed with:

- About **60%** being unaware of or having not used the ATO complaints function
- Approximately **45%** are not aware of or have not used the Tax Ombudsman complaints

(see Survey Results slide deck - slide 42)

# 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.”

“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.”

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



“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.”

# Key findings - Investigations

- ATO Executive guidance instructs Officers to explain to taxpayers the decision made and inform them of their relevant rights of review
- The ATO internal instructions do not always include guidance to Officers on communicating taxpayers' rights under the *Taxpayers' Charter*. Therefore, it implicitly relies upon taxpayers knowing the existence of their rights under the *Taxpayers' Charter* (to complain, review and appeal) and how to assert these rights
  - A requirement in the Taxpayers' Charter and ATO internal instructions to inform taxpayers of their rights would improve tax administration and assist in minimising and resolving disputes (less formally)
- The practical implementation of the ATO Executive instructions and the governance of these arrangements could be improved

# Key Findings – Investigation (continued)

- Although the ATO may communicate formal taxpayer review rights, it does not effectively communicate less formal and alternate means of resolving disputes – including the ATO's Complaints Unit and the Taxation Ombudsman complaints service
- The IGTO recommendations are aimed at improving practical implementation and governance of the ATO Executive instructions

# Evidence to support these findings



A sample of business area procedures shows that not all refer to the CEIs



Internal guidance implicitly relies upon taxpayers knowing they can assert their rights



The ATO does not capture data on its performance against the Taxpayers' Charter in all complaints and does not report on its performance. This makes it difficult for senior ATO management and the community to assess ATO performance and have assurance.



Internal ATO training courses designed to assist Tax Officers in understanding taxpayer rights are not mandatory and reveal poor attendance rates (less than 1% of Tax Officers)



ATO written templates do not contain complete information on taxpayer rights to review and complain, contact details of the ATO's decision-maker. The ATO does not always communicate its decisions in writing



Although ATO advice can often be given verbally, there is no mention in the supporting guidance or procedures for Tax Officers in advising taxpayers of their rights

# IGTO recommendations

- 6 recommendations aimed at improving practical implementation and governance of the ATO Executive instructions



# Recommendation 1

The IGTO recommends that the ATO plays a pro-active role in informing taxpayers of their rights to review, complain and appeal decisions and develop strategies to discharge this role, including by:

- a. updating the Taxpayers' Charter to include an express right to be informed of taxpayer rights to review, complain and appeal decisions and all relevant channels to do so; and
- b. requiring (encourages or instructs) its Officers to communicate clearly and completely (i.e. comprehensively) information to taxpayers of their rights to review, complain and appeal the relevant administrative decisions.



# ATO Response to Recommendation 1

## **Recommendation 1a – Agree**

The ATO is currently undertaking a review of the Taxpayers Charter. As part of this review process, the ATO will take into account the IGTO's recommendation in relation to inclusion of further detail around the communication of taxpayer rights.

## **Recommendation 1b - Agree**

ATO officers that make decisions affecting taxpayers undertake a range of training and review processes that incorporate the importance of providing relevant information on review, complaint and appeal rights. The ATO will continue to review these processes.

# Recommendation 2

Consistent with Recommendation 1 and the premise or principle that the ATO will proactively inform taxpayers of their rights to question and challenge the ATO's actions and decisions, the IGTO recommends that the ATO:

- a. ensure all ATO Officers whose responsibilities include making decisions about taxpayers' tax affairs are aware of their obligations in this respect when engaging with taxpayers and tax practitioners; and
- b. support its Officers to understand the range of available channels to question or challenge ATO decisions and actions, including by requiring all ATO Officers to undertake relevant training courses on these matters that are refreshed on a regular basis.

# For Example ...

The ATO could include the following information in all procedures relating to making a decision about taxpayers' tax affairs:

- a. A reference to the *Respecting Clients Rights of Review CEI* and *Managing Complaints, Compliments, Feedback and Suggestions CEI* (discussed further below);
- b. A statement that all ATO Officers must follow the CEIs, which also explains the potential consequences for not following the CEIs; and
- c. Guidance on advising taxpayers of their rights to review, complain and appeal ATO decisions and actions as part of the task of communicating the ATO's decision.

# ATO Response to Recommendation 2

## **Recommendation 2a – Agree**

ATO officers that undertake decision making affecting taxpayers already undertake a range of training that incorporate the importance of providing relevant information on review, complaint, and appeal rights. The ATO will continue to support staff in understanding their responsibilities in this regard. ATO Staff currently receive training in CEI's and these instructions will continue to be included in training modules.

## **Recommendation 2b - Agree**

The ATO will continue to support staff in understanding their responsibilities and will review current mandatory training content relating to taxpayer rights to review, complain and appeal. The ATO will explore further targeted options for staff that are involved in client engagement roles.

# Recommendation 3

The IGTO recommends that the ATO improve its data capture and reporting to measure its performance against the rights that taxpayers have under the Taxpayers' Charter. This should include:

- a. complete data in relation to compliance with the Taxpayers' Charter in respect of all complaints;
- b. whether the ATO advised the taxpayer of their right to question and right to complain; and
- c. developing public reporting on this data to assure itself and the community how it is honouring the Taxpayers' Charter.

# ATO Response to Recommendation 3

## **Recommendation 3a - Agree**

The ATO complaints issue template captures data on which Charter Right is relevant to each complaint issue. The ATO is undertaking a complaints template review between October 2021 and March 2022 and will consider the feasibility of capturing this information for complaints resolved at first contact.

## **Recommendation 3b – Agree**

The ATO will consider adding a question to relevant client surveys to determine whether taxpayers who have had a recent interaction with the ATO had been advised of their right to question and right to complain.

## **Recommendation 3c - Agree**

The ATO will add further reporting on performance against the Taxpayer Charter to the annual report from 2021-22.

# Recommendation 4

Consistent with Recommendation 1, where the ATO does not propose to issue written correspondence to taxpayers in relation to its actions or decisions, ATO Officers should:

- a. Ensure that taxpayers are verbally informed of their rights to challenge or question the ATO's decisions; and
- b. Inform taxpayers that they can request the decision also be communicated in writing.

# ATO Response to Recommendation 4

## **Recommendation 4 - Agree**

The ATO will review processes within business lines to ensure officers are aware of the importance of communicating review rights and the option of a decision in writing in the limited cases where this is not provided as part of standard process.



# Recommendation 5

The IGTO recommends that the ATO ensure information relating to taxpayer rights to complain, review and appeal can be easily located on the ATO's website.

# For Example...

This may be facilitated through:

- a. An interactive navigation tool on the ATO's website to communicate relevant information about the ATO's formal and informal review and complaint rights available to taxpayers;
- b. Fact sheets or other documentation to communicate similar information about the available review and complaint options to those taxpayers who may not be able to access the ATO's website;
- c. Greater use of smart search terms in the ATO's communications such as a Quick Code (QC) or NAT number (which can be made available for publications); and
- d. Additional information regarding complaint and review rights applicable to the taxpayer's circumstances in the main body of the ATO's written correspondence.

# ATO Response to Recommendation 5

## **Recommendation 5 – Agree**

The ATO will explore ways to continue to make it easier to locate information relating to taxpayer rights to complain, review and appeal on the ATO's website.

The ATO is currently working towards procuring and building a new digital experience platform to enable us to deliver a website that is easier to navigate and find relevant information. In the meantime, the ATO will investigate opportunities to apply improvements to the current site to bring value to our website users sooner. This includes work to improve our search functions to optimize users' interactions with the website.

# Recommendation 6

The IGTO recommends that, as part of its communication to taxpayers, the ATO should ensure that taxpayers are informed about:

- a. their right to lodge a complaint with the ATO (including a formal complaint with the ATO's Complaints Unit), and encourage taxpayers to do so should they have any concerns or are dissatisfied with the ATO's actions or decisions; and
- b. the availability of the IGTO's services and how to engage with the IGTO where they have been unable to address their concerns through a complaint with the ATO.

# ATO Response to Recommendation 6

## **Recommendation 6a – Agree in principle**

Taxpayers will continue to be informed at a relevant point in their interactions of their right to lodge a complaint with the ATO and the availability of the IGTO's services. In addition to our correspondence and website, the ATO will consider adding messaging to our inbound call lines.

However, it is essential that through encouraging complaints, the ATO does not even implicitly direct taxpayers away from exercising appropriate statutory review rights. To do so would disadvantage taxpayers given time frames which govern such rights. Whether a complaint is the most effective or efficient mechanism to resolve a taxpayer's issue depends on the issue.

## **Recommendation 6b – Agree**

The ATO will review procedures around complaints where the client may be unsatisfied with the outcome to ensure that clients are made aware of the IGTO's services at the appropriate time, along with other relevant review, complaint and appeal channels.

# Thank you

- The IGTO would like to thank the members of the tax profession and wider taxpayer community who participated in the survey at the start of this investigation.
- The IGTO would also like to thank the Barristers, Solicitors, Accountants and other tax professionals that assisted us to prepare materials in this important investigation.

[www.igt.gov.au](http://www.igt.gov.au)

[enquiries@igt.gov.au](mailto:enquiries@igt.gov.au)

(02) 8239 2100

 Facebook  LinkedIn  Twitter