



Australian Government  
Inspector-General of Taxation  
Taxation Ombudsman

# IGoT News

**Edition 20 | July 2022**

## Inside this edition

An update from the IGTO.....	1
Tax Time 2022.....	2
Review Investigations update .....	2
Quarterly Reporting Pack Q3 FY22 .....	3
Tax complaint investigation service – update.....	3
Case Study – ATO – Excise.....	5
Case Study – ATO – Superannuation .....	6
Our upcoming activities .....	7

## An update from the IGTO



Happy New (Financial) Year! It is hard to believe that we have already started FY23, and another Tax Time is upon us.

The IGTO team has successfully transitioned back to the office and are continuing with our work to support taxpayers deal with

complaints about the administrative actions of the Australian Taxation Office (ATO) and Tax Practitioners Board (TPB). As we enter the new financial year, our team is focused on:

- assisting taxpayers through Tax Time 2022;
- progressing our three review investigations;
- preparing our Corporate Plan FY23 (to be published at the end of August) and our Annual Report FY22 (to be delivered to the Minister by early October); and
- progressing with our complaint investigations currently on foot and engaging with complainants who have raised matters for our consideration.

In this financial year, we hope to further re-establish our engagement with stakeholders through conferences, discussion groups and consultations.

## Tax Time 2022

The ATO has published a large amount of information on its website to assist taxpayers and tax professionals throughout Tax Time 2022. This information can be accessed on the ATO website:

- [For Individual Taxpayers](#)
- [For Tax Professionals](#)

Taxpayers can track the progress of their income tax returns through a number of different channels including:

- [Online using ATO online services](#)
- [Using the ATO app](#)
- [By phone](#)
- [With the taxpayer's registered tax agent](#)

Full details of the options to track the status of an income tax return are available on the ATO website: [Check the progress of your tax return | Australian Taxation Office \(ato.gov.au\)](#)

While the IGTO is available to assist taxpayers throughout Tax Time 2022, we are currently prioritising time-sensitive matters. Accordingly, we ask that all taxpayers first address their enquiry with the ATO in the first instance. Details on how to contact the ATO are available here: <https://www.ato.gov.au/About-ATO/Contact-us/>

---

## Review Investigations update

We are progressing the three review investigations that were announced in December 2021. We would like to thank everyone who has contributed views and comments through submissions. A brief update for each is provided below.

### Administration and Management of Objections

The IGTO is currently finalising our interim data report which will set out key statistics relating to the ATO's management of Objections. The purpose of the interim report is to understand what Objections arise in the system and share some statistics to demonstrate how they are administered. This can inform stakeholders, practitioners, and the community at large about the scope and breadth of Objections and assist to inform public debate, discussion, and the IGTO to focus on areas for further inquiry in relation to the [Terms of Reference](#).

We anticipate providing the ATO with a copy of the report for its formal comment before publication.

Once the interim report has been published, we will invite stakeholders and other interested parties to provide any further input or supplementary submissions.

## The Exercise of the General Powers of Administration (GPA)

The IGTO has drafted and provided the ATO with a chapter of the report setting out feedback from a range of stakeholders, as well as some case law and international research on the nature, purpose, and scope of the GPA. The purpose of the draft chapter is to establish a common understanding of what the ATO and IGTO understand to be the purpose of the GPA (which will inform the remainder of the investigation).

One of the key challenges arising in this review investigation has been the lack of clear definition (and understanding) of the GPA. While a number of Federal Court cases have considered the GPA, these cases have examined it through specific fact scenarios rather than examining the GPA holistically and in the context of good administration and decision making. The IGTO has managed a number of complaint cases which raise GPA considerations, and which will be considered further as part of this review. Once the ATO has considered the draft chapter, we will be engaging with the ATO's senior executives to discuss these matters before progressing with the investigation.

## The Exercise of the Commissioner's Remedial Power (CRP)

The IGTO is well-progressed with the investigation into the CRP. We are currently synthesising the information and data provided and will shortly be undertaking case sampling to provide assurance that these have adhered to the ATO's published processes for considering potential CRPs. We are progressing our draft of the report findings and potential recommendations and, once completed, we will provide the draft to the ATO for its comment and response, in accordance with statutory requirements.

We are aiming to finalise and publish this report by the end of the 2022 calendar year.

---

## Quarterly Reporting Pack Q3 FY22

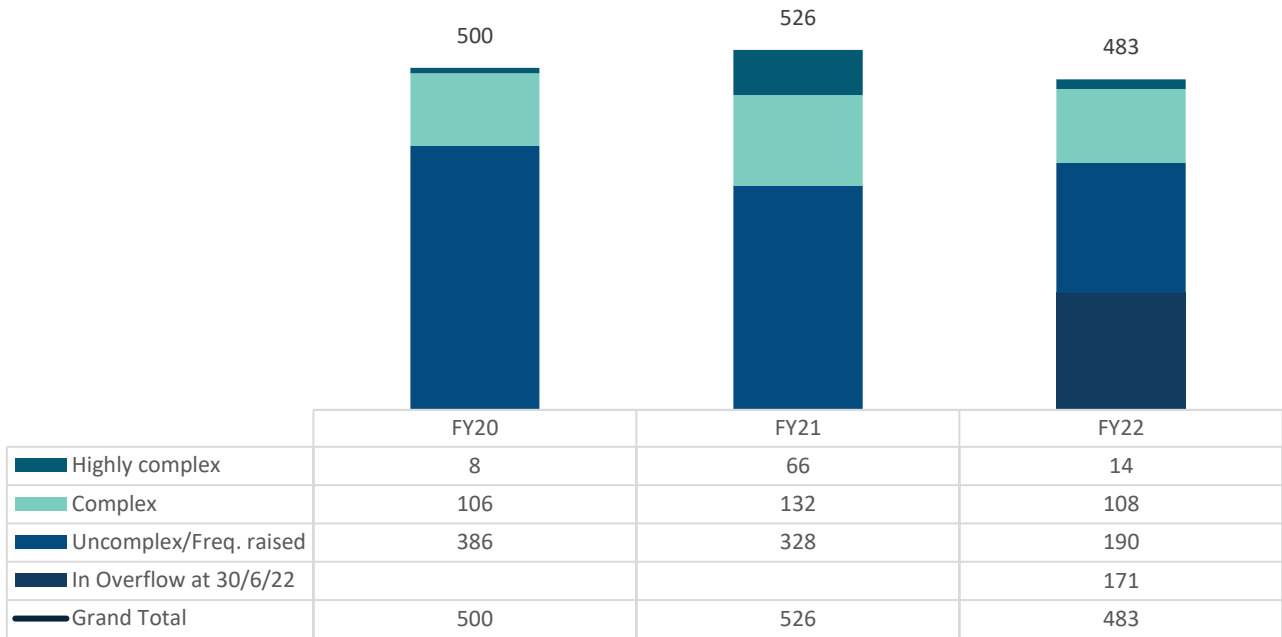
The IGTO's [Quarterly Reporting Pack \(QRP\) for Q3 FY22](#) has now been published. The QRP presents a range of data and information against certain Key Performance Indicators in our Corporate Plan for FY22. QRPs for prior periods are also available on our [website](#). The full year performance results will be reported in our FY22 Annual Report.

---

## Tax complaint investigation service – update

As at the end of FY22, we have received 1,222 (within jurisdiction) complaints and commenced 312 dispute investigations.

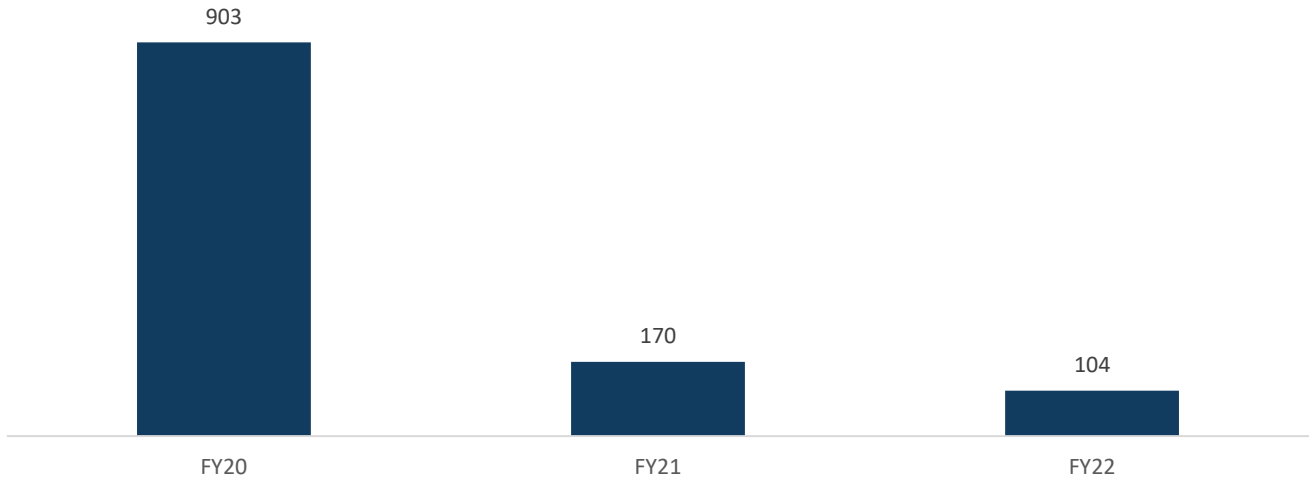
### Dispute investigations commenced



Whilst there has been a significant reduction in total complaints compared to prior years, the complaint mix has increased in complexity. Complex dispute investigations have reduced by approximately 3 – 8% on prior years, but noting the final categorisation is only determined upon closing. As at 30 June 2022, 171 complaints were yet to be commenced or categorised. The COVID-19 pandemic continues to impact complaints for a number of reasons, including:

- The ATO eased debt recovery actions 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 continuing to actively encourage complainants to resolve their taxation complaints directly with the ATO in the first instance by lodging a formal complaint with ATO Complaints. This has significantly reduced the number of complaint investigations we commence where the ATO responds that it has no record of a previous complaint.

### Complaint investigations received where ATO has no record of a previous complaint



The IGTO continues to triage and prioritise cases demonstrating exceptional circumstances. All other 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 several months.

## Case Study – ATO – Excise

A business sought to acquire excise-paid spirit in containers of more than 2 litres (i.e. bulk containers) to repackage them into smaller containers for retail sale. The ATO advised the business that they could only acquire excise-paid spirit in containers of 2 litres or less for repackaging. Alternatively, the business may acquire excise-unpaid (‘underbond’) spirit in bulk containers for repackaging if they had an excise storage licence. The ATO officer suggested, however, that the licence would unlikely be granted as it would cause an unnecessary delay to the payment of excise.

The business sought assistance from the IGTO as they were concerned that the ATO’s advice to them was incorrect. If the ATO’s advice was correct, the business was concerned that similar businesses only had two options:

1. acquire excise-paid spirit in many small containers of 2 litres or less – this would create inefficiencies and produce large and unnecessary amounts of waste; or
2. acquire spirit underbond, provided that an excise storage licence is granted by the ATO – this would impose disproportionate regulatory burden on small businesses.

As a result of the IGTO’s investigation:

- the IGTO provided independent assurance to the business that the ATO’s advice (other than the granting of storage licence) was in line with section 58 of the *Excise Act 1901*;

- the ATO issued a written apology to the business because the previous ATO advice about not granting a storage licence to the business was not appropriate and did not consider the business's operations; and
  - the ATO made available an officer from the ATO Excise Centre to assist the business with applying for a storage licence.
- 

## Case Study – ATO – Superannuation

In the Federal Budget (11 May 2021), the Government announced that it would reduce the eligibility age (from 65 to 60 on 1 July 2022) for downsizer contributions (a one off, post-tax contribution for each member of a couple following the sale of their main residence that at least one of them has owned for more than 10 years) into superannuation. As downsizer contributions are required to be made within 90 days of receiving the proceeds of sale, the complainant contacted the ATO to discuss whether she would be able to obtain an extension of 35 days following the 90 day period of receiving the proceeds of sale of her property as her settlement date was more than 90 days before 1 July 2022.

The complainant explained that she had initially contacted the ATO and was advised that she would not have any difficulties obtaining an extension. The complainant proceeded to sell her property and contacted the ATO to request the necessary extension. However, the ATO advised her that she was not eligible for an extension. The complainant explained that she is financially disadvantaged as a result of acting on incorrect information she had received from the ATO.

The ATO initially advised that it was not able to locate the telephone recording where the initial advice had been given. Following the IGTO's investigation, a copy of the telephone call recording was located and the ATO acknowledged that it had provided incorrect advice to the complainant.

The complainant subsequently advised that she was able to defer settlement of her property so that she would be able to make a downsizer contribution in the first week of 1 July 2022 (i.e., within 90 days of settlement).

The IGTO advised the ATO of the new settlement date and requested the ATO confirm whether the complainant would be eligible to make a downsizer contribution. The ATO advised that the settlement date of the sale of the property is required to be on or after 1 July 2022. In the complainant's circumstances, she would not be eligible to make a downsizer contribution as her settlement date is prior to 1 July 2022.

As part of our investigation, the IGTO drew the ATO's attention to information on its website which does not include any requirement that the settlement date be on or after 1 July 2022. The ATO reconsidered its position and subsequently confirmed that the complainant would be eligible to make a downsizer contribution.

---

## Our upcoming activities

In addition to continuing to deliver our taxation complaint investigation service, over the next few months we will be:

- Prioritising assistance for taxpayers throughout Tax Time 2022;
- Progressing our three review investigations;
- Developing and publishing our Corporate Plan FY23; and
- Developing and delivering our Annual Report FY22 to the Minister.

**Karen Payne**

Inspector-General of Taxation | Taxation Ombudsman

phone: +61 2 8239 2111

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

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



*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.*