



Australian Government  
 Inspector-General of Taxation  
 Taxation Ombudsman

**IGoT  
 News**

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## An update from the IGTO



The first quarter of FY23 has been very busy for my office with a number of corporate compliance requirements needing to be finalised and discharged alongside our core business activities.

So far in this financial year, we have:

- Published our Corporate Plan;
- Completed our FY22 financial statements and audit;
- Published our Annual Report;
- Completed our Protective Security Policy Framework assessment and reporting requirements;
- Published the Interim Report of our Investigation into the ATO’s Administration and Management of Objections;
- Attended the Annual General Meeting of members of the Asia-Pacific Ombudsman Region (a branch of the International Ombudsman Institute);
- Attended a celebration to mark the 60<sup>th</sup> Anniversary of the New Zealand Ombudsman; and
- Signed a Heads of Agreement and are currently negotiating a commercial lease for our new premises

In addition, my team continues to assist taxpayers who approach our office with their tax disputes – unresolved complaints. We continue to prioritise the investigation of urgent, time-sensitive matters while exploring opportunities to refer or assist taxpayers in all other cases through appropriate channels.

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## Interim Report on ATO Administration of Objections released

We have released the Interim Report of our *Investigation into the Australian Taxation Office's [ATO] Administration and Management of Objections*, which was announced in December 2021. The Interim Report is the culmination of Phase 1 of our investigation. It provides an in-depth, data rich examination of the ATO's objections work. The [full report and a summary slide deck](#) are available on our website. The IGTO has also participated in a [podcast with Accountants Daily](#) to discuss the Report and some of the key data and statistics.

Some key statistics of interest include:

- More than 50% of objections lodged are self-initiated (i.e., not in response to ATO compliance action).
- More than 50% of objections are allowed in full.
- In FY21, there was a large increase in objections driven largely by disputes relating to COVID-19 economic support measures (predominantly lodged by Small Business taxpayers).
- A large proportion of objections are either invalid or withdrawn.
- Across FY19 – FY21, most objections were finalised within six months, with Individuals and Small Business objections being finalised within an average of 77 and 86 days, respectively. Public and Multinational Business objections, on average, took 296 days to finalise.
- Objections that take over 6 months to finalise are, by majority, made up of disputes against ATO compliance action.

The IGTO welcomes any thoughts, feedback, and submissions from interested stakeholders to inform Phase 2 of the Investigation (which will consider concerns raised by stakeholders and identify opportunities to improve the ATO's management of objections). Please share your thoughts by email at [objections@igt.gov.au](mailto:objections@igt.gov.au).

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## Our Annual Report for FY22

Our [Annual Report for the financial year ended 30 June 2022](#) was tabled in Parliament on 27 October 2022. The Report details our activities and performance throughout FY22.

Some of the key highlights from the Report are:

- In FY22, we received 1,314 complaints and closed 90% (1,186) within the same period. Most complaints received (70%) were from self-represented individuals. The remaining came from self-represented businesses (16%), individuals represented by another party, for example a tax practitioner, lawyer, family member or friend (8%) and represented businesses (6%).
- The top 5 complaint issues in FY22 related to:
  - Payments to the taxpayer;
  - Lodgement and processing;
  - Debt collection;
  - Registration/taxpayer details; and
  - Communication issues.
- We received stakeholder feedback that the Case Study examples were very useful to illustrate the services we provide and how we can help. The Report includes eight (8) Case Studies (refer pages 45 to 51) as well as some feedback from complainants (refer pages 40 to 44).
- The feedback we received from our complaints survey demonstrates similar levels of satisfaction compared to our FY21 result. In FY22, 69% of survey respondents reported overall satisfaction with our Dispute Investigation Service, 51% reported overall satisfaction with the outcome of their dispute investigation and 86% reported satisfaction with the professionalism of our staff.
- The IGTO's Report into the Effectiveness of ATO Communications of Taxpayers' Rights to Complain, Review and Appeal made 6 recommendations comprising 11 parts to the ATO. The ATO agreed in full to 10 out of 11 parts and agreed in principle with the remaining part.

The FY22 Annual Report (and prior year annual reports) can be downloaded from our website:

<https://www.igt.gov.au/publications-archive/annual-reports/>

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## Our Corporate Plan 2023 – 2026

We have published our [Corporate Plan 2023 - 2026](#). It sets out our vision, purpose, key activities, and strategic priorities over the next four years.

Our key strategic priorities are to:

- 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; and
- 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.

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## Review Investigations – update

We continue to progress the three Review Investigations that were announced in December 2021. A brief status update for each Review Investigation is provided below.

### Administration and Management of Objections – Phase 2

Following the publication of our [Interim Report](#), we are starting work on Phase 2 of the Investigation. Phase 2 will consider the range of stakeholder concerns about the ATO's administration of objections and where there are opportunities for improvement, make recommendations to the ATO or to Government accordingly.

The IGTO has previously received a number of submissions from stakeholders in early 2022 and is currently inviting stakeholders to lodge additional or supplementary submissions to inform Phase 2 of the Investigation – with the benefit of the Phase 1 Interim Report.

Although the closing date for further submissions is **4 November 2022**, any stakeholders needing additional time can contact the IGTO for an extension. Further details on how to lodge a submission are available on our [website](#).

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

We have had initial discussions with the ATO on the Chapter which outlines the potential scope of the Commissioner's GPA. We are currently conducting further research to complete this outline and considering the most appropriate structure for the Report to usefully inform readers about the scope and impact of the GPA. Drawing on complaints and dispute case studies, we will present a series of examples that illustrate how GPA decisions affecting a broad class of taxpayers are identified, considered, and determined and whether these are appropriate, and in accordance with ATO policies and procedures.

The subject-matter of the Investigation is conceptually challenging, but very important and fundamental to fairness in the system. We are exploring ways to best explain the issues raised as well as potential opportunities for improvement.

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

The IGTO team has completed our case sampling to assure conformance with the ATO's process pathway and we continue to progress a draft of our Report. The IGTO will provide the initial draft to the ATO for its comment on any expressed or implied criticisms, in accordance with statutory requirements, before finalising the report for publication. We will aim to finalise and publish the report in early 2023.

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## Tax Disputes – update

As at the end of Q1 FY23, we have received 493 (within jurisdiction) complaints which represents an increase of 44% (343) compared to Quarter 1 FY22.

The increase in demand for our services is consistent with the ATO returning to pre-COVID activities, including debt collection.

We continue 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.

We are also taking steps to focus our limited resources on core work, that is, investigating unresolved complaints (or disputes) given our role as an external dispute resolution agency. These steps include messaging about our Dispute Investigation Service, as well as reviewing our processes and case management systems to support our investigation service.

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## Quarterly Reporting Pack Q4 FY22

The IGTO's [Quarterly Reporting Pack \(QRP\) for Q4 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 are reported in our [FY22 Annual Report](#).

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## IGTO presentation at the Tax Summit 2022

On 20 October 2022, the IGTO delivered a presentation as part of The Tax Institute's Tax Summit 2022. The IGTO provided an update on the work of the IGTO Agency to assist taxpayers and tax practitioners, as well as the three Review Investigations currently under way.

As part of her presentation, the IGTO posed two polling questions to the audience about the work of the office. The polling questions and responses are set out below.

**Question 1: Is independent assurance and investigation of taxation complaints and disputes important to uphold the integrity of the tax system?**

Answer	#	%
Yes	106	93%
No	5	4%
Don't Know	3	3%
<b>Total</b>	<b>114</b>	<b>100%</b>

**Question 2: Are you aware of or have you used the services of the Taxation Ombudsman?**

Answer	#	%
Yes	61	48%
Yes – I'm aware but I'm not sure what they do	49	38%
No – I didn't know Australia had a Taxation Ombudsman	18	14%
<b>Total</b>	<b>128</b>	<b>100%</b>

The overwhelming 'yes' response to Question 1 is very encouraging for our team and our office, and reaffirms the important role that independent, investigative functions play to improve the integrity of the tax system.

We recognise that we have some more work to do in raising community awareness – not only to raise awareness of the existence of our office, but also to highlight what our team can do to assist taxpayers or tax practitioners who approach us. This is evident from the responses in Question 2.

Opportunities to address stakeholders through conferences, discussion groups and meetings are always welcome. We will be exploring options to better communicate our functions, activities, and results to the tax professional and broader taxpayer community. We would certainly welcome insights and suggestions from any interested members on how this may best be achieved.

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## Case Study – ATO – Superannuation

The complainant was a director of a charity that had been wound up due to the actions of a former employee who had defrauded the charity. The fraud was identified, and the employee arrested and convicted. The employee had also been responsible for managing the charity's payroll and superannuation obligations and failed to discharge those obligations.

The complainant approached the IGTO for assistance in engaging with the ATO in relation to notices he had received concerning the charity's outstanding superannuation guarantee (SG) obligations. The complainant raised concerns that the ATO was not returning his calls or responding to his queries about the notices.

In addition to commencing an investigation into the matter, the IGTO also considered the complainant's case and determined that, in view of the fraud that had been perpetrated, there may be sufficient grounds for a waiver of debt application to the Department of Finance. The IGTO provided information and guidance to the complainant in relation to lodging the waiver application.

The waiver application was subsequently approved, which reduced the charity's SG debts to nil.

The IGTO does not have any insight in relation to other criminal or civil actions that may have been undertaken to seek compensation or reparations for losses suffered by the charity and its employees as a result of the fraud.

These matters fall outside of the IGTO's jurisdiction.

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## Case Study – ATO – Director Penalty Notice

A complainant approached the IGTO to raise concern that the ATO was pursuing him for an amount of taxation debt through a Director Penalty Notice (DPN) that was excessive. Directors are personally liable for some undischarged company debts, including superannuation guarantee charge (SGC). DPNs are used to recover the tax debts incurred by a company from its directors personally.

Due to the complex technical nature of the matter, the complainant had sought to engage with the ATO over a lengthy period via multiple channels, including lodging an objection, appealing the matter to the Administrative Appeals Tribunal (AAT) and lodging a formal complaint with the ATO complaints team. However, throughout these processes, the ATO did not sufficiently address the complainant's tax issue.

The complainant had a large amount of information which he believed showed that the amounts sought to be recovered through the DPN was incorrect. However, as the company had been de-registered for a period of time, the complainant did not have authority to discuss or seek details about the company's debts, including with the ATO. The IGTO commenced an investigation to ensure that the ATO had considered the information in the taxpayer's possession and to confirm the amounts in the DPN were correct.

As a result of the IGTO investigation, the ATO agreed to review the information in the complainant's possession in the interests of fairness and transparency. Furthermore, through the course of the investigation, the ATO acknowledged that there were keying and other administrative errors in calculating the debts that were the subject of the DPN. Any changes to the underlying debts of the company would also correspondingly result in a reduction of the DPN debt. However, as the company had been de-registered, it was not possible to amend its accounts to reflect the reduced debt amounts in ATO systems.

To remediate the situation, the ATO determined that it would be appropriate to support an application by the complainant to the Department of Finance for a waiver of debt.

## 2022 APOR Conference and 34th Members' Meeting



On 13 and 14 October 2022, the IGTO attended the Conference and 34th Members' Meeting of the Australasian and Pacific Ombudsman Region (APOR). The APOR is a branch of the International Ombudsman Institute, and its members include Ombudsmen throughout Australia, New Zealand and the Asia-Pacific region.

At the Members' Meeting, the APOR members voted to:

1. Reaffirm the Principles on the Protection and Promotion of the Ombudsman Institution ([the Venice Principles](#)) adopted by the Venice Commission on 15 March 2019, which set out the international standards for the Ombudsman institution, including:
  - a. a mandate based on firm legal foundations at the constitutional and statutory level (Article 2);
  - b. the election of Ombudsmen according to procedures strengthening to the highest possible extent the authority, impartiality, independence and legitimacy of the institution (Article 6);
  - c. the freedom of the Ombudsman from following any instruction from any authority (Article 14); and
  - d. the need for sufficient and independent budgetary resources (Article 21).
2. Reaffirm the Resolution adopted by the United Nations General Assembly on 16 December 2020, The role of the Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law (A/RES/75/186), that:
  - a. acknowledged the Venice Principles;
  - b. upheld the importance of the Ombudsman role; and
  - c. encouraged all United Nations member states to consider creating and strengthening independent and autonomous Ombudsman institutions (Article 2).
3. Reiterate the importance of the role of the Ombudsman for the promotion of good public administration, protection of citizens' rights and wellbeing, respect for human rights and fundamental freedoms, and strengthening of public services through the rule of law, transparency, accountability and fairness.
4. Recognise the particular needs and pressures on our Pacific Ombudsmen, not least the challenges the Pacific region faces at the frontline of climate change. As a region, we stand together in solidarity to provide ongoing support.



5. Emphasise the right of the Ombudsman institution to operate independently, without interference or external pressure or influence.
6. Commit to ongoing cooperation and sharing of best practices with Members and the wider Ombudsman fraternity.

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## 60th Anniversary of the New Zealand Ombudsman



The IGTO, Ms Karen Payne, was invited to attend an event at the New Zealand Parliament on 12 October 2022, to mark the 60<sup>th</sup> Anniversary of the New Zealand Ombudsman.

A video to mark the occasion was produced and can be found [here](#).

At the APOR conference, Ms Payne presented Chief Ombudsman of New Zealand, Mr Peter Boshier, with a small token to congratulate him and his team on this significant milestone in their office's history.

The IGTO extends our warm congratulations and well wishes for the future to the Ombudsman and his officers throughout New Zealand.

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## Looking forward to 2023

As we approach the end of the 2022 calendar year, we will be working to wrap up a number of open and active disputes that are currently under investigation and clearing as much of the backlog as possible before we break for the holidays. Our annual Christmas/New Year shut down runs from close of business on 23 December 2022 until 2 January 2023 (inclusive).

As we look towards 2023, we will progress and finalise the three Review Investigations currently on foot. The 2023 calendar year is also a significant milestone for the IGTO office, marking the 20<sup>th</sup> Anniversary of the office's creation and the appointment of the inaugural IGT, Mr David Vos AM. We hope to mark the occasion in some small ways and we look forward to communicating these early in the new year.

We are also moving in 2023! As our current lease comes to an end, our office will be relocating premises. Although this is a significant task for a micro-agency, we will work to ensure that our dispute investigation service is not unduly disrupted. We look forward to welcoming stakeholders to our new premises in 2023.

**Karen Payne**

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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.*