



Australian Government
Inspector-General of Taxation
Taxation Ombudsman

Your taxpayer right to object - the ATO's administration and management of objections

Interim Report
October 2022

About the IGT0

- The Inspector-General of Taxation and Taxation Ombudsman (IGTO) is an independent Commonwealth statutory agency with dual roles to improve the tax administration system

The Inspector-General of Taxation

- undertakes review investigations, which are informed by community consultations, of actions, systems and taxation administration laws to provide independent advice and recommendations to Government, the Australian Taxation Office (ATO) and the Tax Practitioners Board (TPB)

The Taxation Ombudsman

- provides independent assistance and assurance directly to taxpayers and tax professionals and investigates their disputes (or unresolved complaints) about tax administration actions and decisions of the ATO and TPB, as well as systems relating to tax administration
- investigates and reports on issues arising from taxpayer complaints and dispute investigations which are in the public interest

- The IGTO contributes to the overall integrity and transparency of the tax system

Why this Report

- An objection is an important taxpayer right to internal review
- It is also a 'gateway' step to dispute a tax decision through the courts and AAT
- Stakeholders have raised concerns with the IGTO about the independence, timeliness, resourcing and governance of the ATO's objection process

What we want to achieve in Phase 1

- This report is Phase 1 of the IGTO review investigation into the ATO's Administration and Management of Objections
- Importantly, it makes available and public, information and data about the ATO's management of objections that has not previously been released
- Stakeholders are invited to make further submissions to the IGTO review investigation after considering the information in the Interim Report

About the IGT0 Review investigation of your right to object

What we want to achieve in Phase 1

- This Interim Report is a first look and deep dive into ATO data that is otherwise not reported publicly
 - Who is objecting?
 - What taxes are they objecting about?
 - What outcomes are achieved through the objections process?
 - How much Tax is in dispute?
 - How long does an objection take to finalise?
- The Terms of reference were first announced on 9 December 2021

What we want to achieve in Phase 2

- Phase 2 will examine specific aspects of the objections process and make recommendations to improve taxation administration in this area

Caveats

- All charts, tables, extrapolations, analysis and ratios in this report were developed by the IGT0 from underlying ATO data and do not necessarily reflect reporting that the ATO develops for its own internal purposes
- The IGT0 has not investigated the ATO's data beyond analysing, tabulating, extrapolating and charting the data to report the information publicly

You have a right to object

What is an Objection?

- An objection is a statutory right for internal ATO review
 - Part IVC of the *Taxation Administration Act 1953*

This means you have a right to object

- If you are dissatisfied with an assessment, determination, notice or decision, or with a failure to make a private ruling...you can object
 - **That is, you can object against the outcome**

Note - The right to object is not automatic. It is dependent upon the relevant Act or legislative instrument providing such a right

What can you object about?

Subject to relevant time limits, most (but not all) decisions about the following areas are reviewable under the objections process:

- Income tax
- Australian Business Numbers
- Goods and services tax
- Superannuation
- Fringe Benefits Tax
- Resource rent taxes (petroleum and minerals)
- Single touch payroll
- Excise
- Cash Flow Boost
- JobKeeper Payment
- JobMaker hiring credit
- Superannuation – reviewable decisions
- Fuel schemes
- Luxury car tax
- Wine equalisation tax
- Fuel tax credits
- Penalties and interest

How you can object

Importantly, taxation objections must be made:

1. in the approved form,
2. within statutory time limits (between 60 days and 4 years depending upon the nature of the objection)
3. state fully and in detail, the grounds relied upon

It is important to get your objection right...because

On appeal to the Tribunal or the Federal Court you are limited to the grounds stated in the objection (unless the Tribunal or Court orders otherwise) and you bear the burden of proving:

- For taxation decisions concerning an assessment - that the assessment is excessive or otherwise incorrect;
- In any other case – that the taxation decision should not have been made or should have been made differently

Data discoveries explored in the Interim Report and following slides

- 27,780 objections were lodged in FY21
 - more than 50% of objections are allowed in full but this is not the full story
 - more than 50% of objections received by the ATO in FY19 – FY21 (excluding COVID-19 objections) are self-initiated
 - : That is, taxpayers objecting against their own self assessment
 - a significant number and proportion of objections are determined by the ATO to be invalid
 - a significant number and proportion of objections were withdrawn by taxpayers
 - a significant number and proportion of small business objections were disallowed in FY21 compared to the previous two years
- There is no deadline to finalise an objection
 - Most objections are finalised within six months but this can vary – especially objections against ATO compliance action (eg audit decisions)

Objection decisions issued FY19 – FY21

(see Table 2.1 in the Interim Report)

Decisions Issued	FY19	% of total decisions	FY20	% of total decisions	FY21	% of total decisions
Individuals	9,330	61.84%	8,972	58.75%	6,303	28.28%
Small Business	4,515	29.93%	4,615	30.22%	13,547	60.79%
Privately Owned and Wealthy Groups	989	6.55%	1,274	8.34%	1,827	8.19%
Public and Multinational Businesses	149	0.98%	225	1.4%	273	1.2%
Superfunds & NFPs	105	0.70%	183	1.19%	334	1.5%
Total Decisions Issued	15,088	100%	15,269	100%	22,284	100%

IGTO observation – The Objections Process

- **Currently a manual process** - The process for lodging an objection is manual & paper based, which can affect the quality of data captured and available for tax administration governance purposes

See the Interim Report, paragraph 1.7 and 2.25 and Appendix B

- **Data is not captured** - The ATO does not systematically capture data on:
 - the quantum of tax in dispute through objections
 - the quantum of tax returned to taxpayers as part of the objection process

See the Interim Report, paragraph 2.19 - 2.25

IGTO Observations - the Objections Process

- **Unavailability of data** - Where reliable data is not available about the quantum of tax in dispute through objections, then it is unavailable
 - to measure the net revenue collected
 - to measure the effectiveness of the ATO's administration of the tax system
 - to assist in decisions about the allocation of internal resources
 - to inform risk governance including tax litigation, guidance development and other escalating disputes

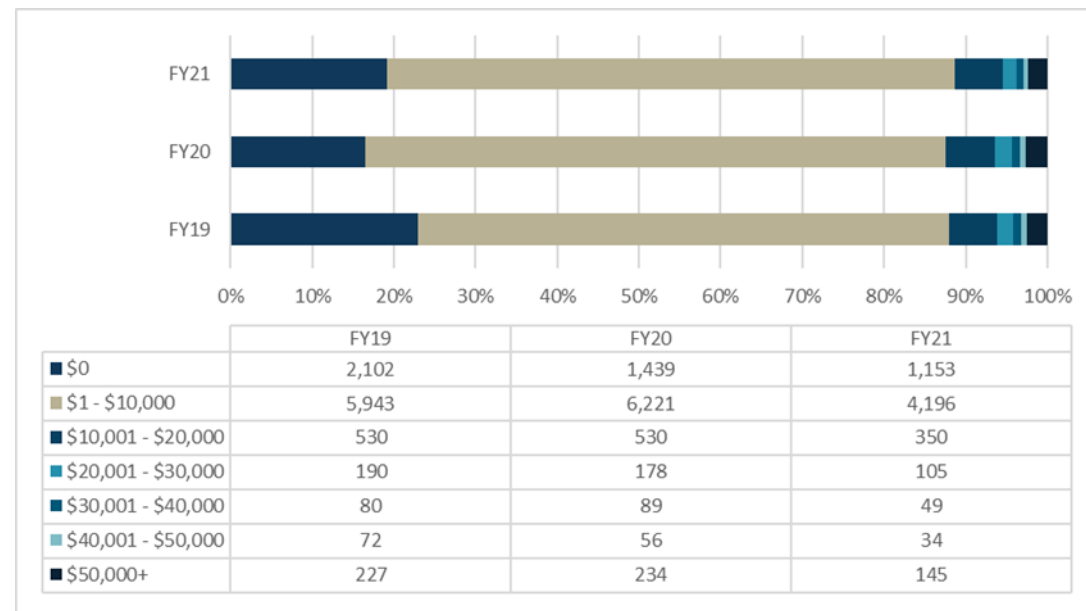
See the Interim Report, paragraph 2.20

IGTO Observations - Interim Report Data

Limitations in the ATO's current approach and Case Management Systems

- The ATO's enterprise case management system, Siebel, contains a template for officers to record outcomes of objections including fields for the original tax, interest and penalty that was assessed, the amounts in dispute and amounts allowed.
- Although a report can be extracted from these fields, the ATO has advised the IGTO that these fields are not used for reporting as they are manually entered by officers and the ATO has low confidence in the integrity of the data and its reliability.
- The ATO has provided a number of reasons for this – [see paragraph 2.25 of the Interim Report](#)
- Subject to these caveats - Figures 2.7 to 2.16 in the Interim Report analyses ATO objection decisions issued FY19 – FY21

Figure 2.8: Quantum of tax allowed – Individuals



Interim Report Data - Objection decisions issued

Figure 2.10: Quantum of tax allowed – Small Business

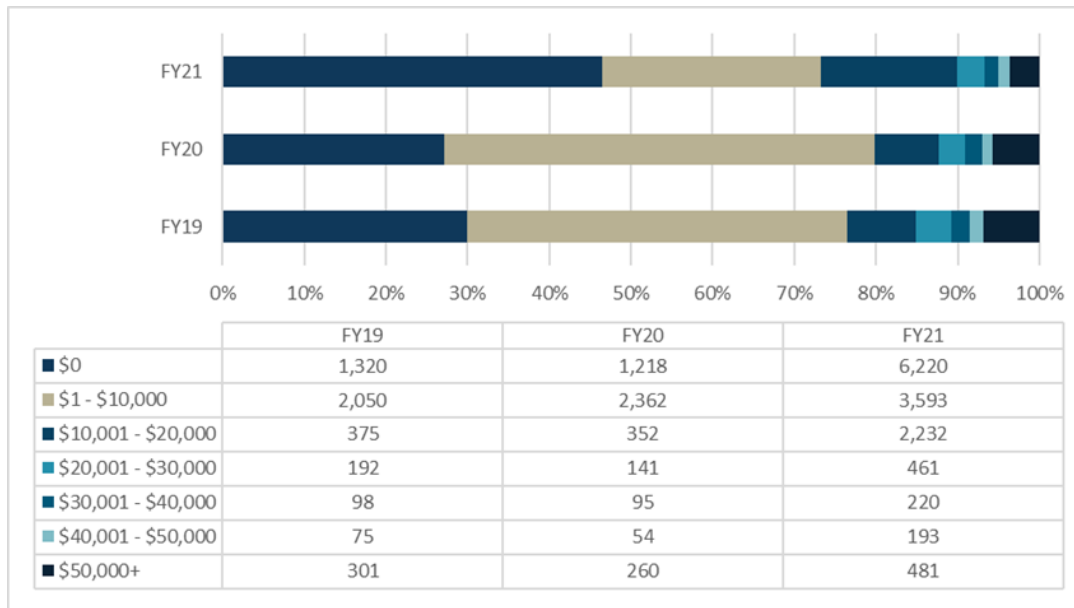
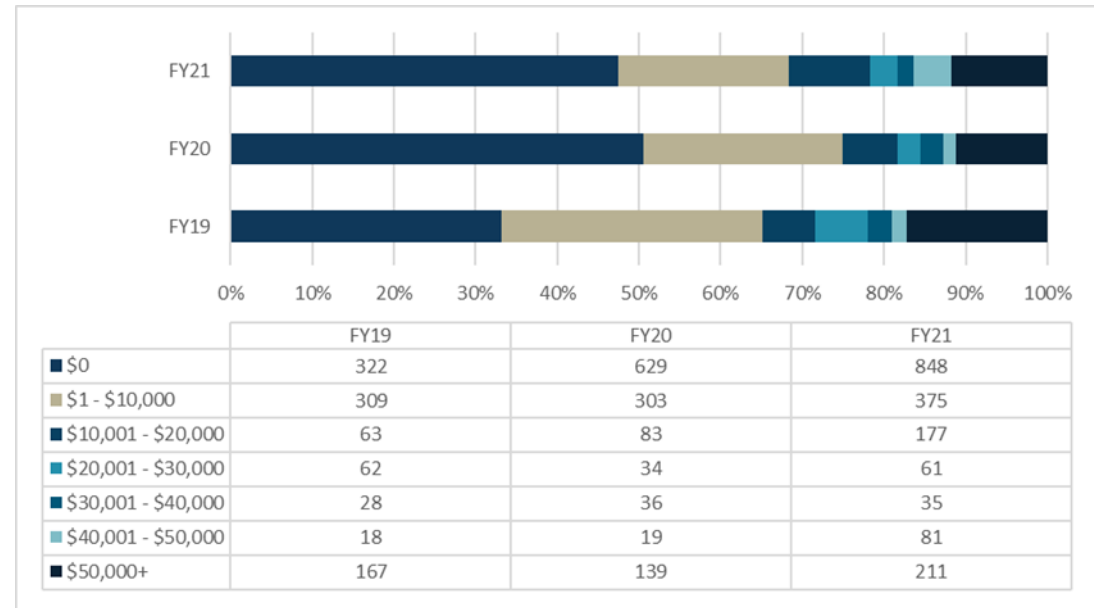


Figure 2.12: Quantum of tax allowed – Privately owned and wealthy groups



Interim Report Data - Objection decisions issued

Figure 2.14: Quantum of tax allowed – Public and Multinational Businesses

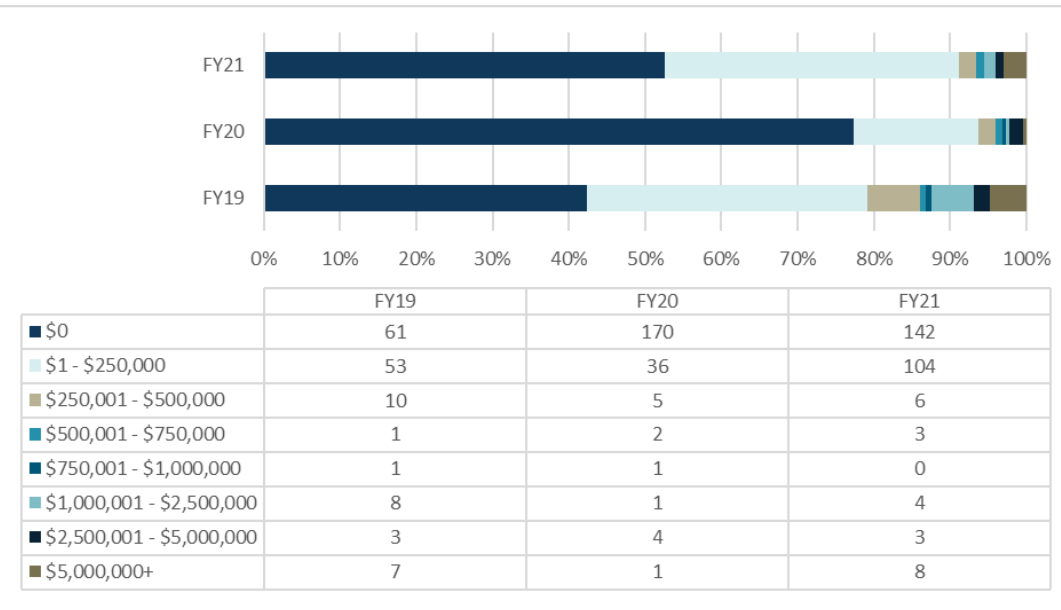
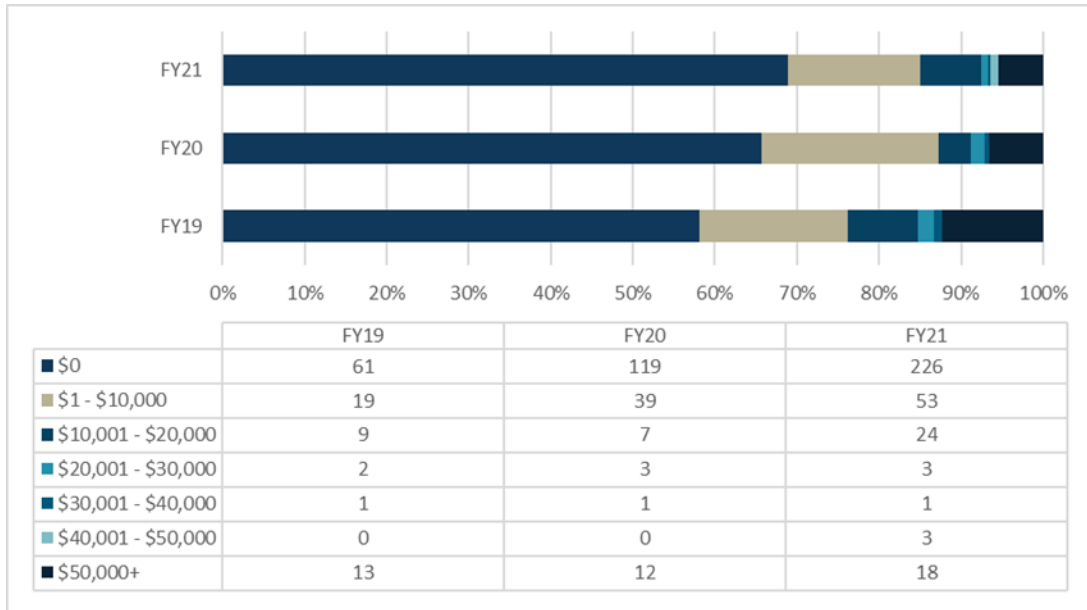


Figure 2.16: Quantum of tax allowed – Super Funds and NFPs



IGTO Discovery – new measures (like COVID Tax measures) may create increased costs for both the ATO and taxpayers

Figure 3.3: Minimum and Maximum ATO FTE levels, FY17 to FY21

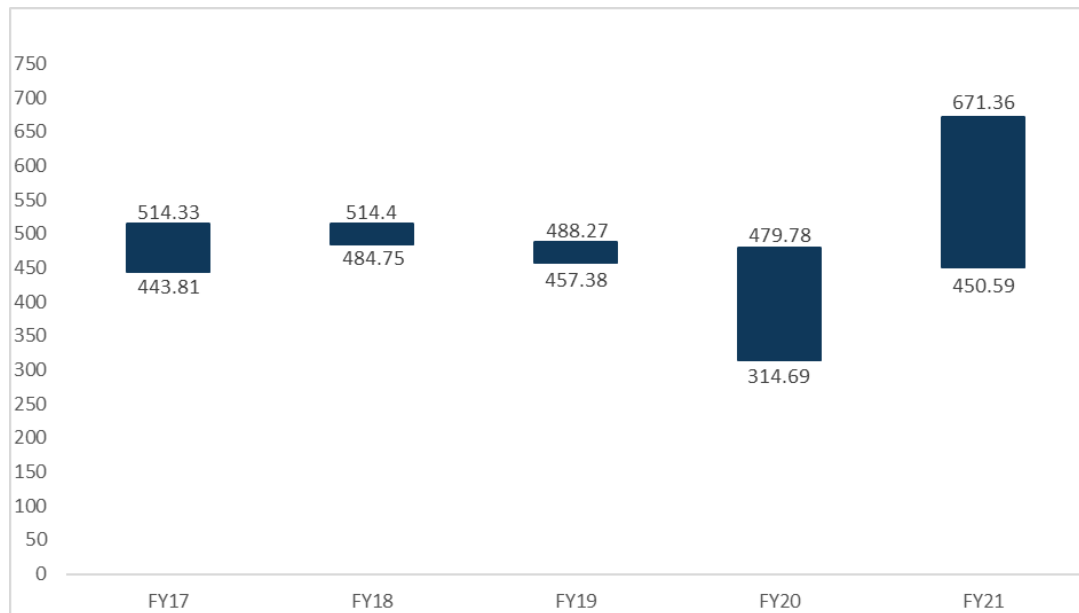
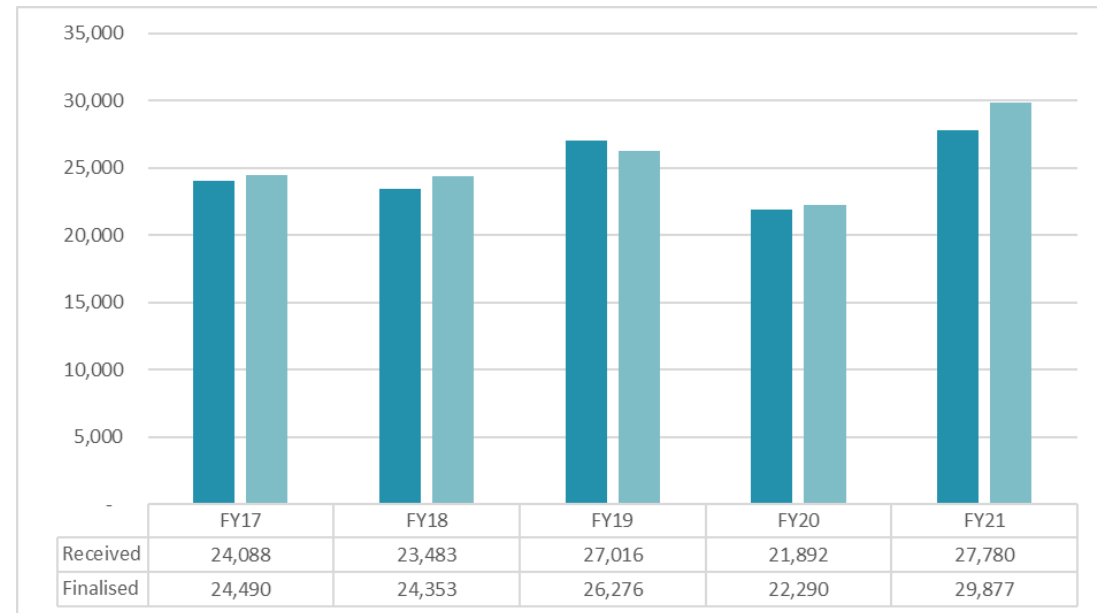


Figure 4.1: Objections Received and Finalised - FY17 to FY21



Understanding Objection Outcomes



IGTO Discovery – more than 50% of objections are allowed in full but this is not the full story

(see also Figures 2.25 – 2.35 of the Interim Report)

Figure 2.24: Total outcomes for all valid Objections

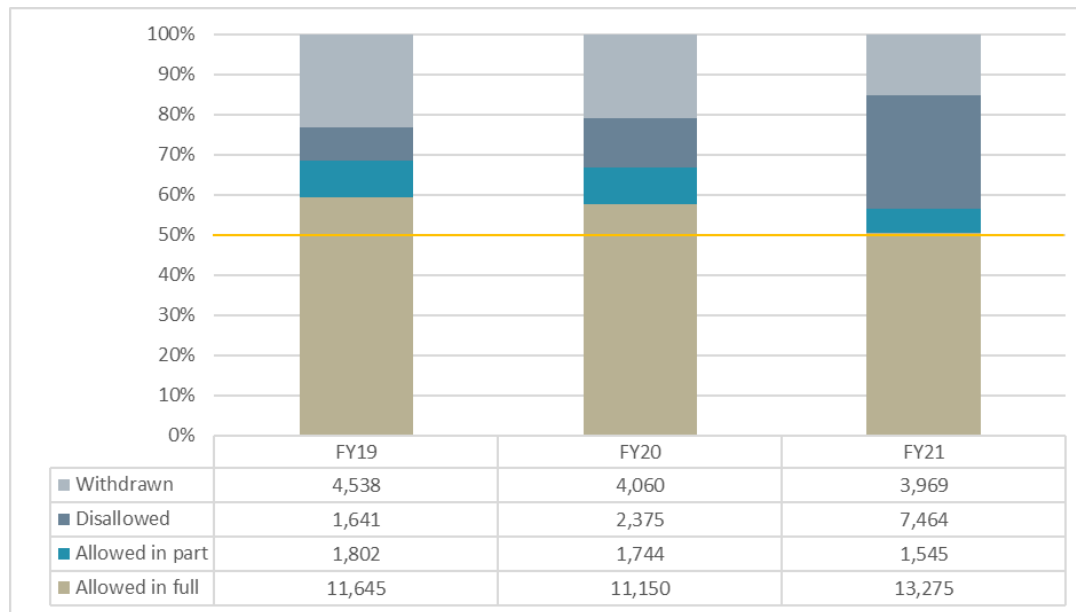
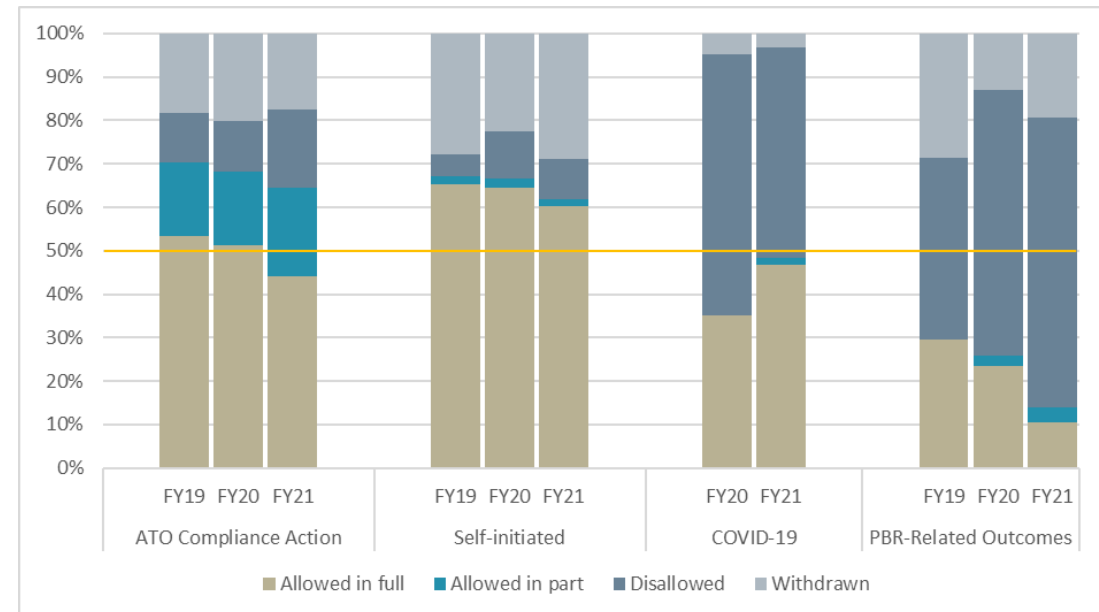
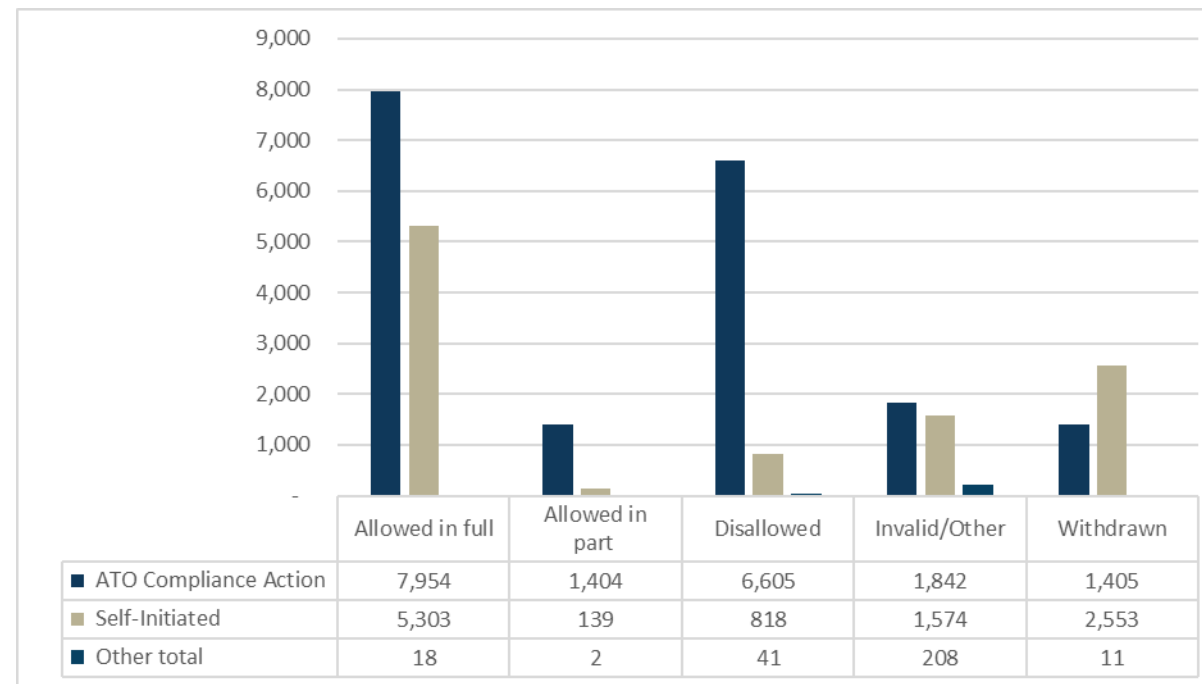


Figure 2.30: Breakdown of outcomes for valid Objections (Overall)



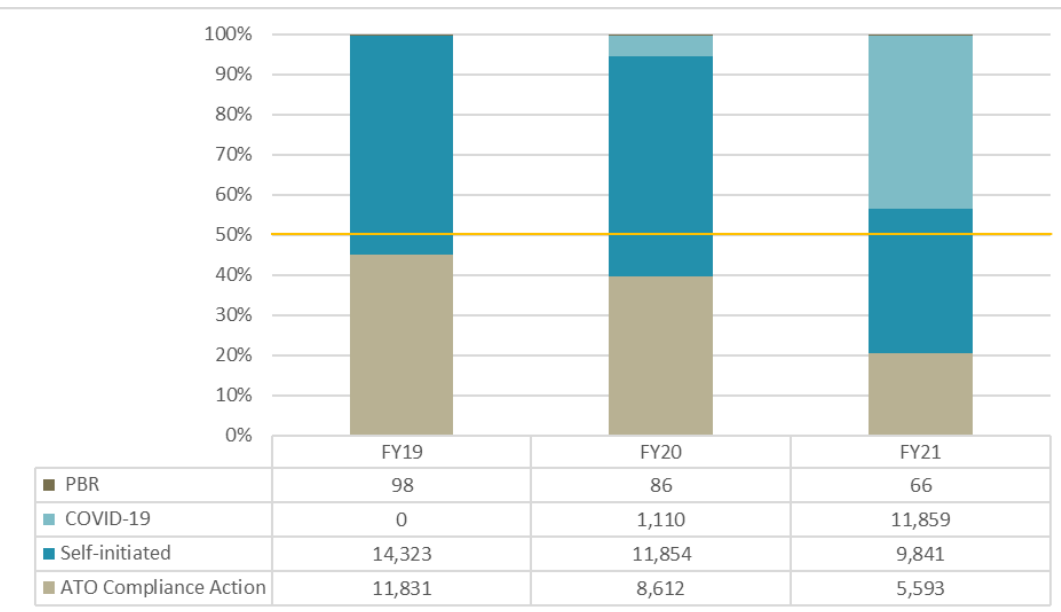
A significant number and proportion of objections received by the ATO are self-initiated

Figure 6.27: Total breakdown (ATO compliance vs self-initiated) for FY21



IGTO Discovery - Self-initiated objections represented more than half the objections received by the ATO in FY19 – FY21 (excl COVID-19 objections) (See Figure 2.1 of the Interim Report)

Breakdown of total objections received FY19 – FY21



Why

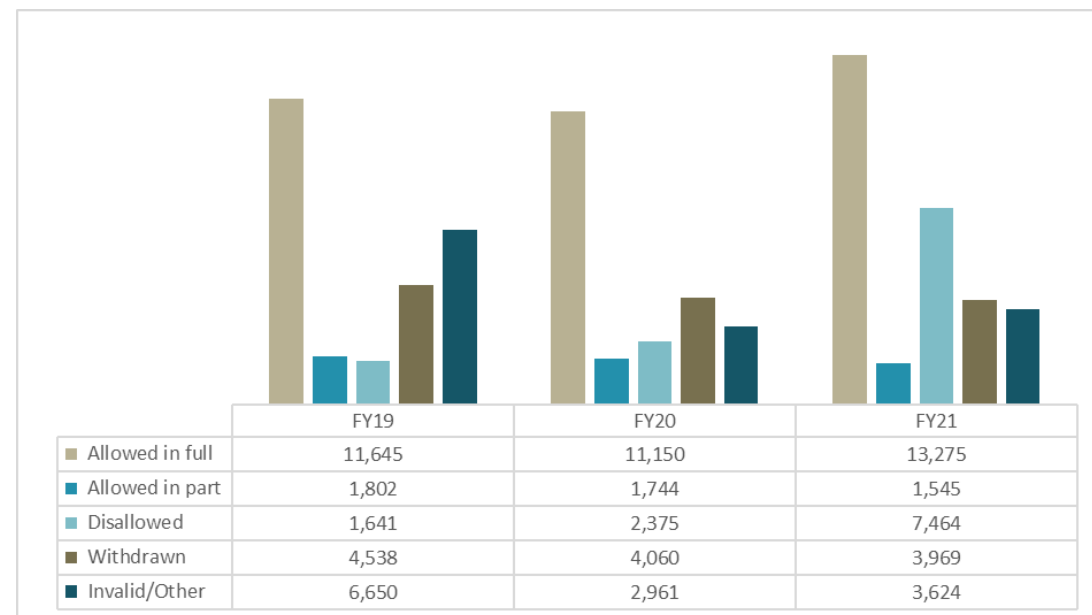
- For example - Taxpayers objecting against their own self-assessed tax
- Is this simply taxpayers requesting an amendment to their prior year returns because an objection is the only way to amend (when they are out of time) or is something else going on?

Invalid objections are significant – in number and proportion

Why invalid objections

- An objection is a statutory right for internal review but not all ATO decisions have review rights
- Phase 2 will consider why and what the ATO does to assist taxpayers in circumstances where their objection is determined invalid
 - For example - are there other administrative or 'complaint' solutions identified
 - See also Figures 6.2 – 6.24 of the Interim Report

Figure 6.1: Total number of outcomes of finalised objections for FY19 to FY21

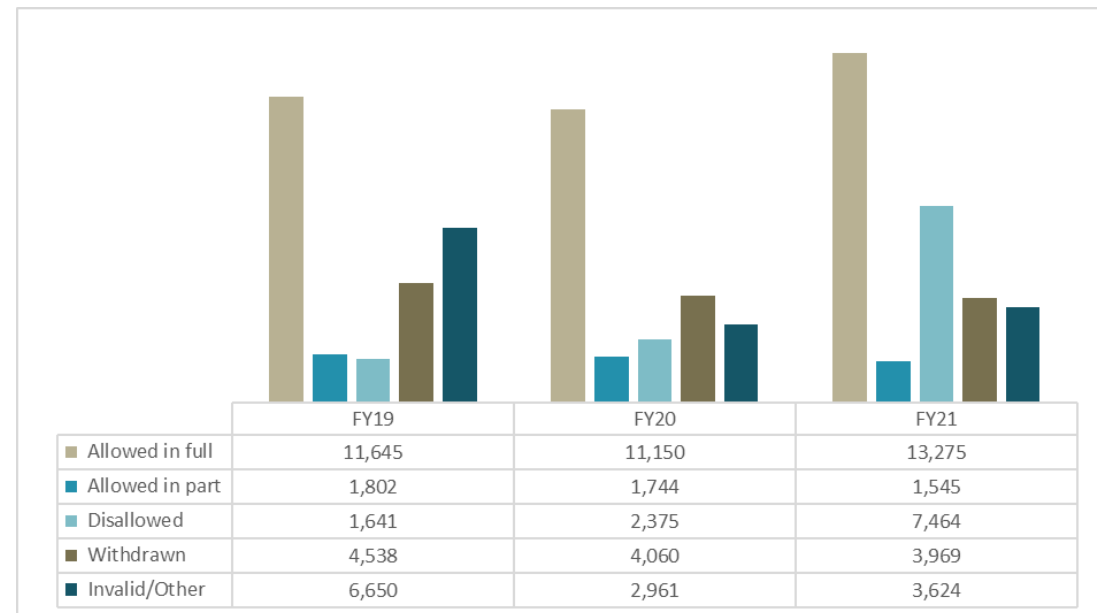


Withdrawn objections are significant – in number and proportion

Why - understanding compliance and administration impact

- Withdrawn objections nonetheless require Taxpayer, Tax Agent and ATO resources
- Phase 2 will consider what factors contribute to the need to withdraw an objection

Figure 6.1: Total number of outcomes of finalised objections for FY19 to FY21



A significant increase in the number of disallowed objections against ATO compliance action in FY21

Noting ATO compliance action includes COVID-19 related decisions

Figure 6.25: Total breakdown (ATO compliance vs self-initiated) for FY19

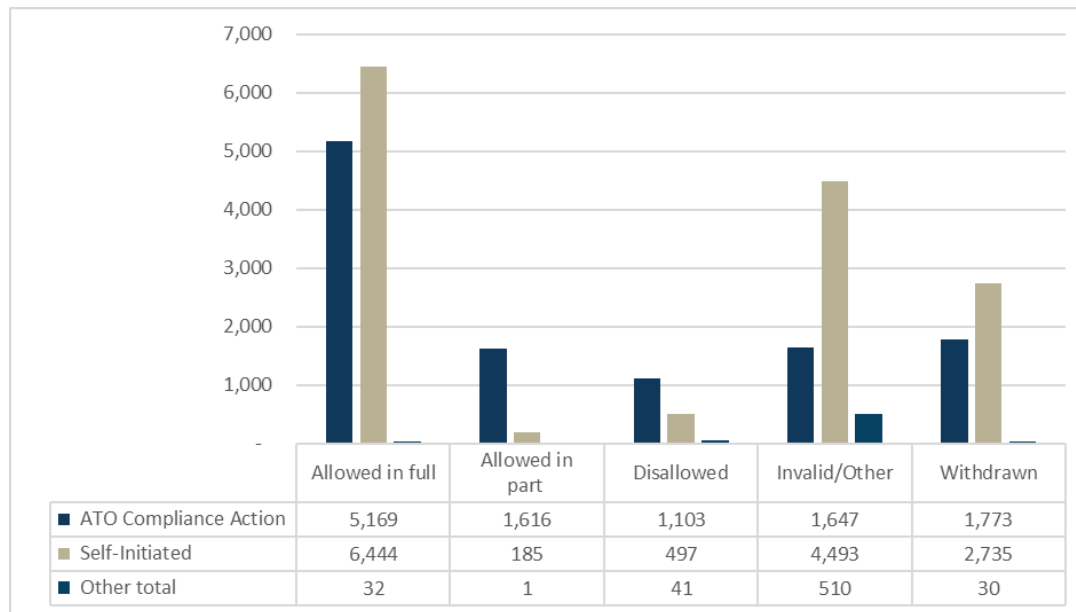
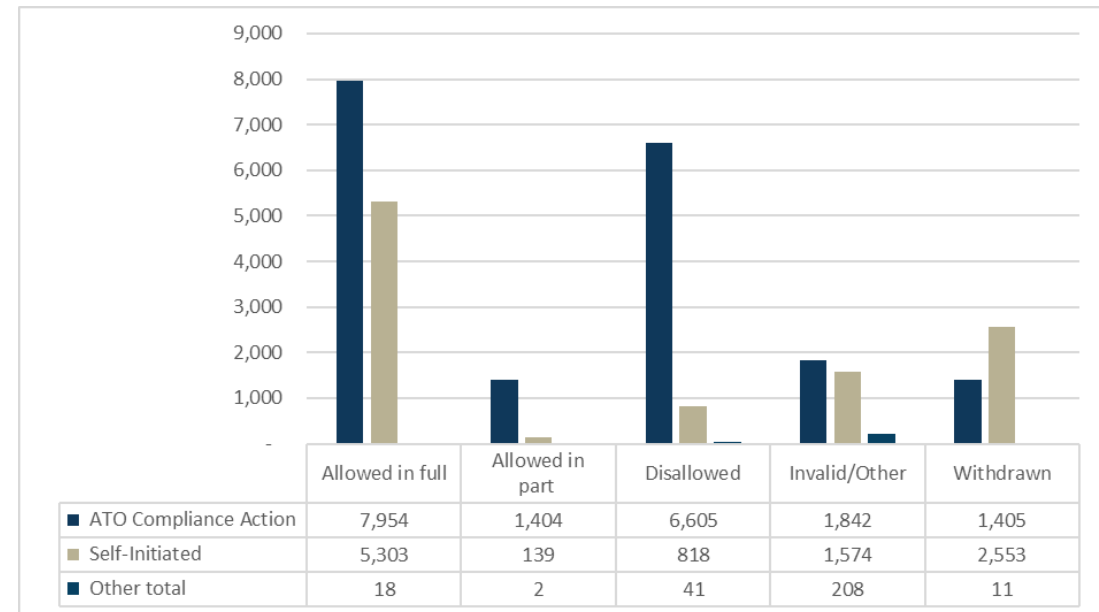


Figure 6.27: Total breakdown (ATO compliance vs self-initiated) for FY21



Objection Timeframes

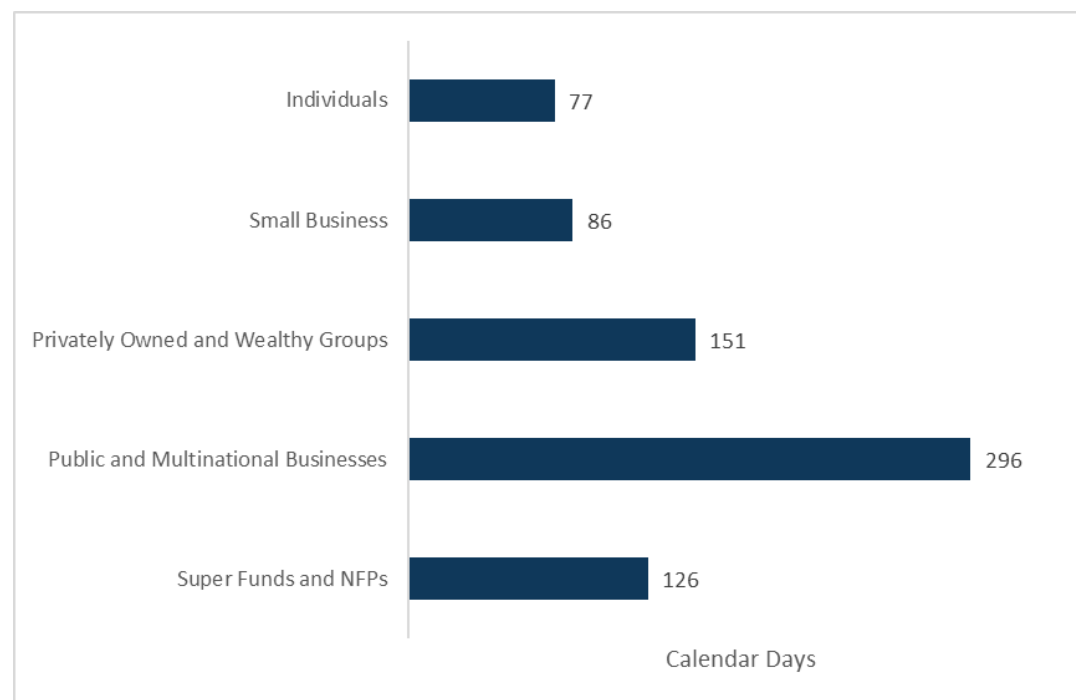


There is no deadline to finalise an objection

Days to finalise objections

- Up until FY16, the ATO applied a service standard of 56 days to finalise objections
- The due date is now agreed between the ATO and taxpayer
- Although an objection service standard is not a taxpayer right, the statute provides an escalation mechanism and deemed disallowed objection result after 120 days (60 days after the taxpayer serves notice on the ATO)
 - : As per ATO website
 - : *If we have not responded to your objection in 60 days of lodgment, you can give us written notice to make a decision. Then, if we don't make a decision in 60 days of this notice, your objection is deemed to be disallowed. This means you can seek an external review by a court or tribunal.*
 - : Section 14ZYA TAA 1953

Figure 2.17: Average duration of objections from receipt to finalisation (FY19-FY21)



Most objections are finalised within six months

Figure 7.1: Breakdown of finalised objections by timeframes (Overall)

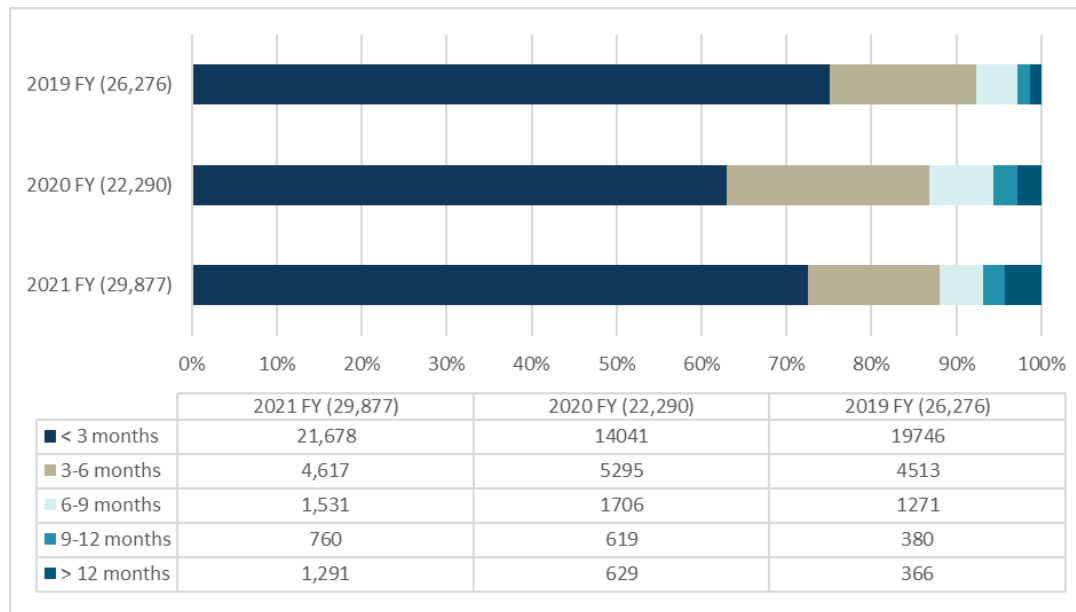
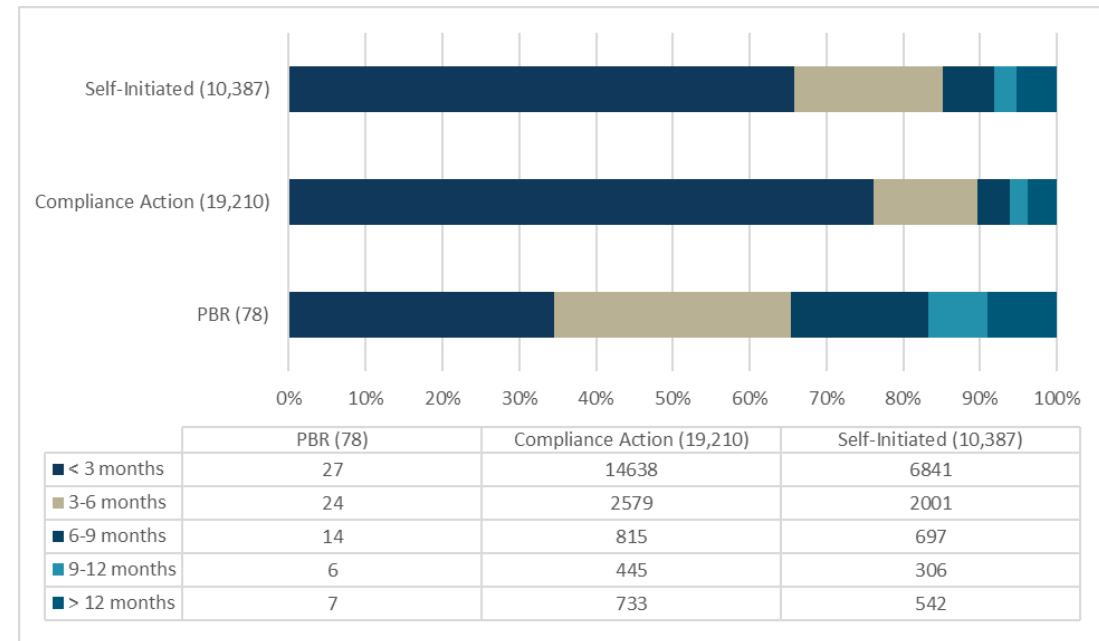
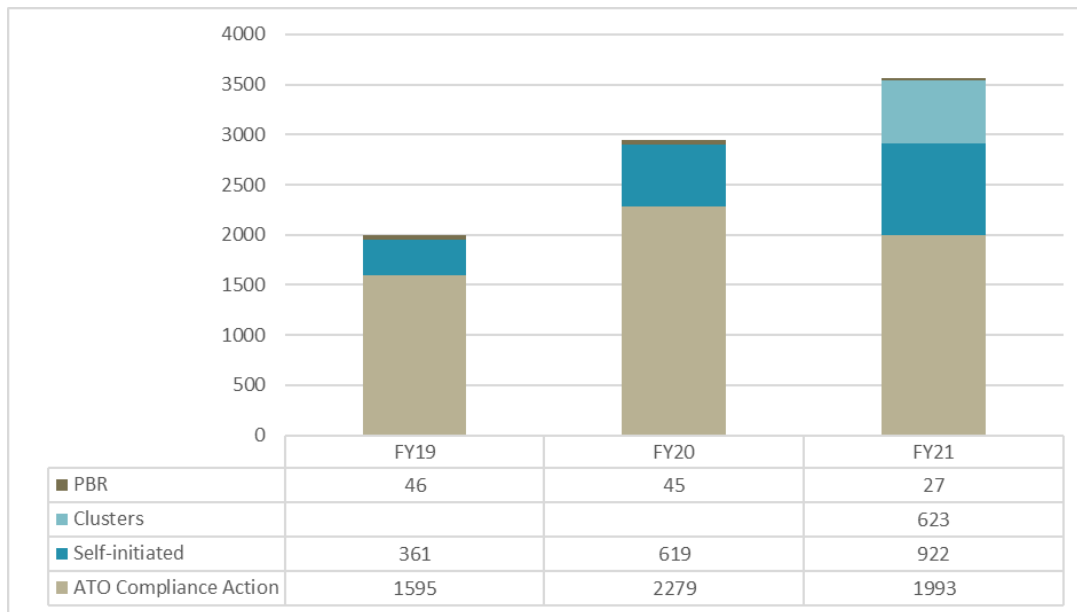


Figure 7.9: Timeframes Comparison – FY21



Objections which take longer than six months to finalise...

Figure 2.18: Number and breakdown of objections requiring > 6 months to finalise



Mostly ATO compliance action objections

- Across all three FYs and client experience groups, objections relating ATO compliance action appear to take the longest to finalise
 - The only exception to this overall trend is in relation to Public and Multinational Businesses
 - only in relation to FY21, where objections within a particular cluster accounted for the largest cohort of cases taking more than 6 months
- : See Figures 2.18 – 2.23 of the Interim Report

Individuals



Individual objections are high volume and low complexity

The majority are self-initiated

Figure 4.3: Objections Received and Finalised - Individuals

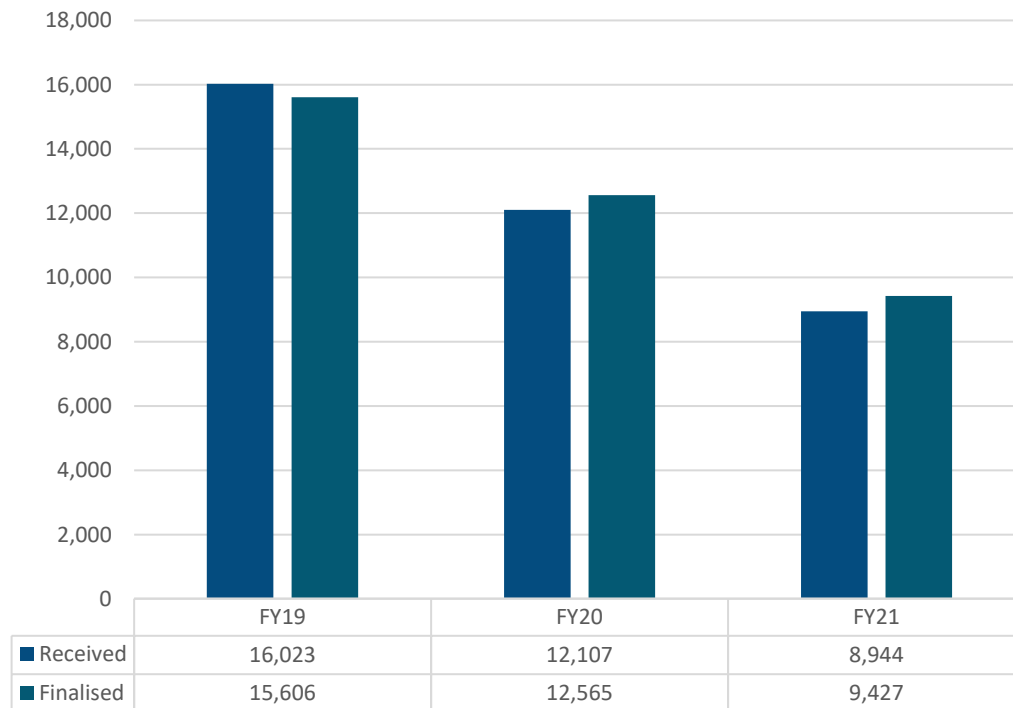
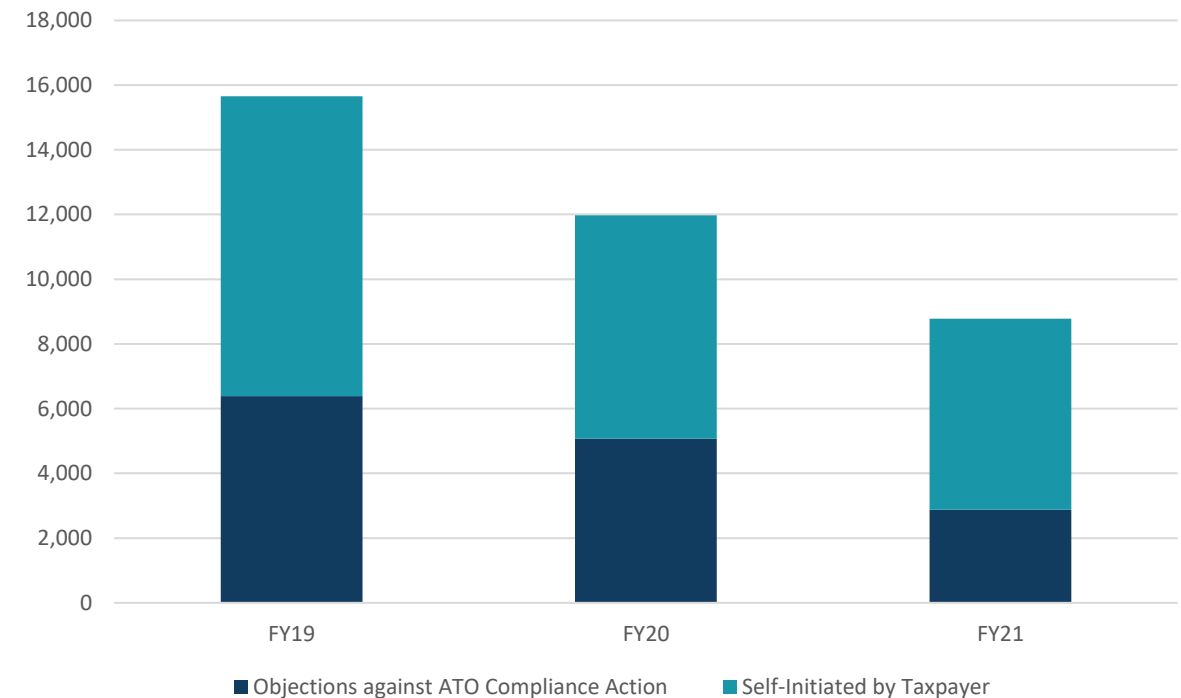


Figure 4.20: Objections against ATO Compliance Action vs Self-Initiated Objections – Individuals



Small Business



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Small Business objections increased in FY21 - due to COVID-19 tax measures

Figure 2.3: Breakdown of total objections received for Small Business

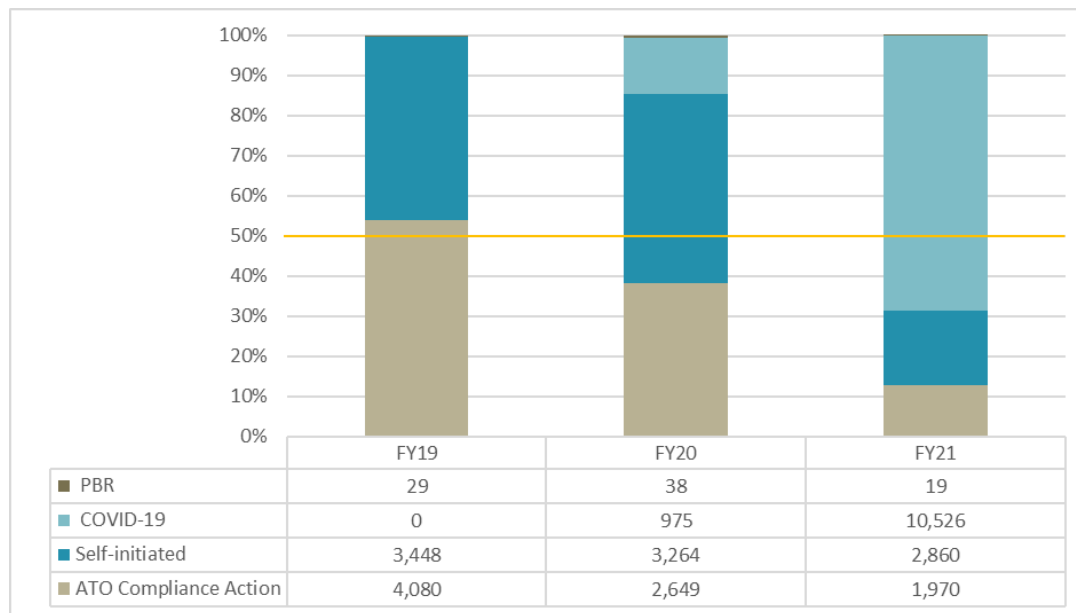
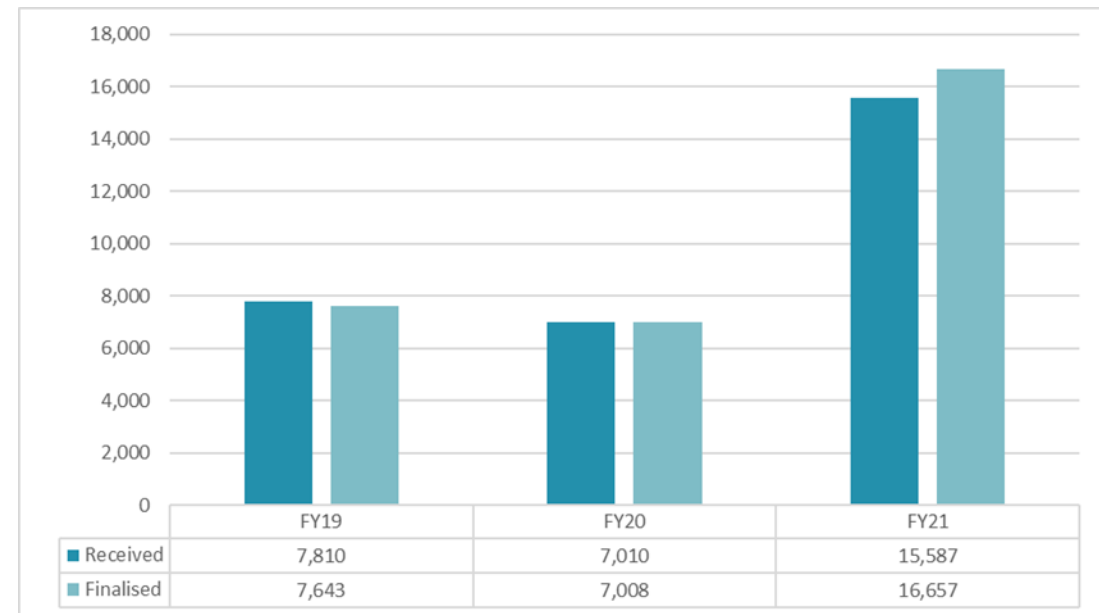


Figure 4.5: Objections Received and Finalised – Small Business



Small Business increased their reliance on registered tax agents for objections in FY21 - many tax agents are themselves also small businesses

Figure 4.25: Objections lodged by registered tax agents vs lodged by taxpayer/other - Overall

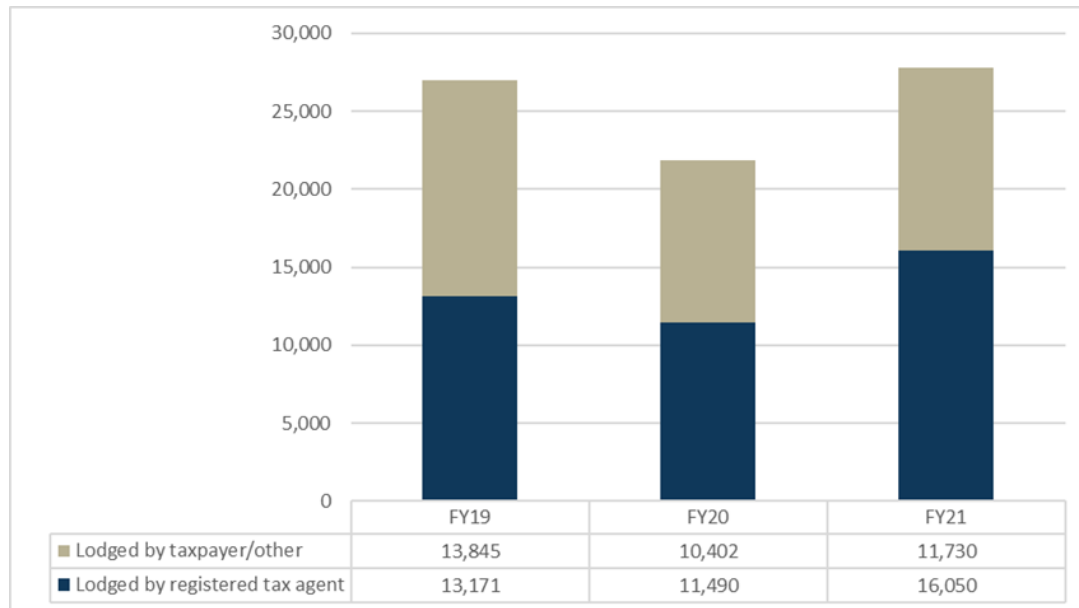
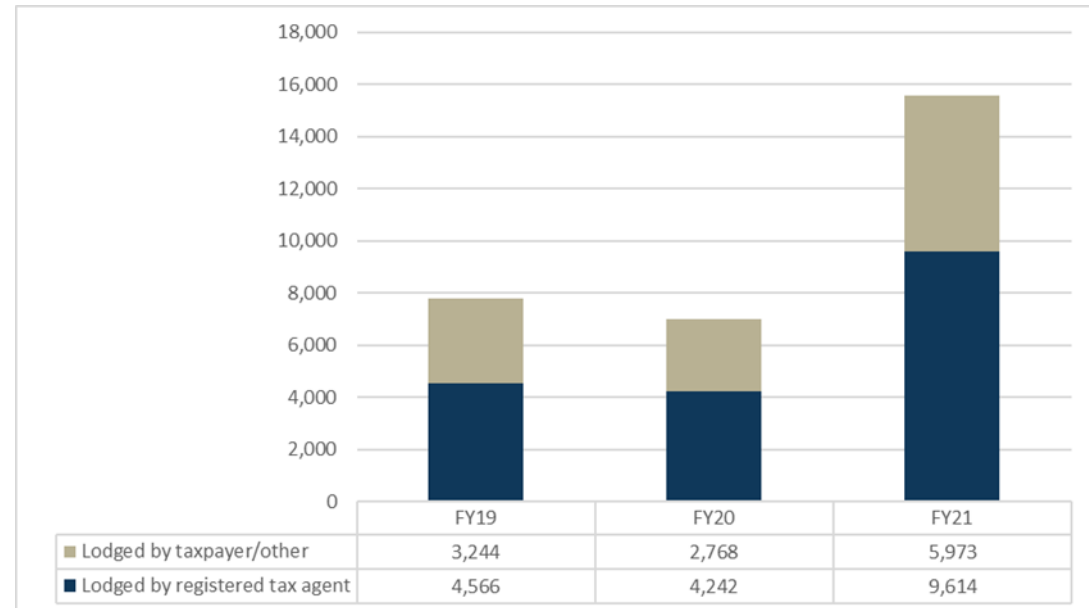


Figure 4.27: Objections lodged by registered tax agent vs lodged by taxpayer/other – Small Business



Small Business objection outcomes for FY21 requires further analysis

Noting ATO compliance action includes COVID-19 related decisions

Figure 6.48: Small business – outcomes of BAU objections vs COVID-19 related objections in FY21

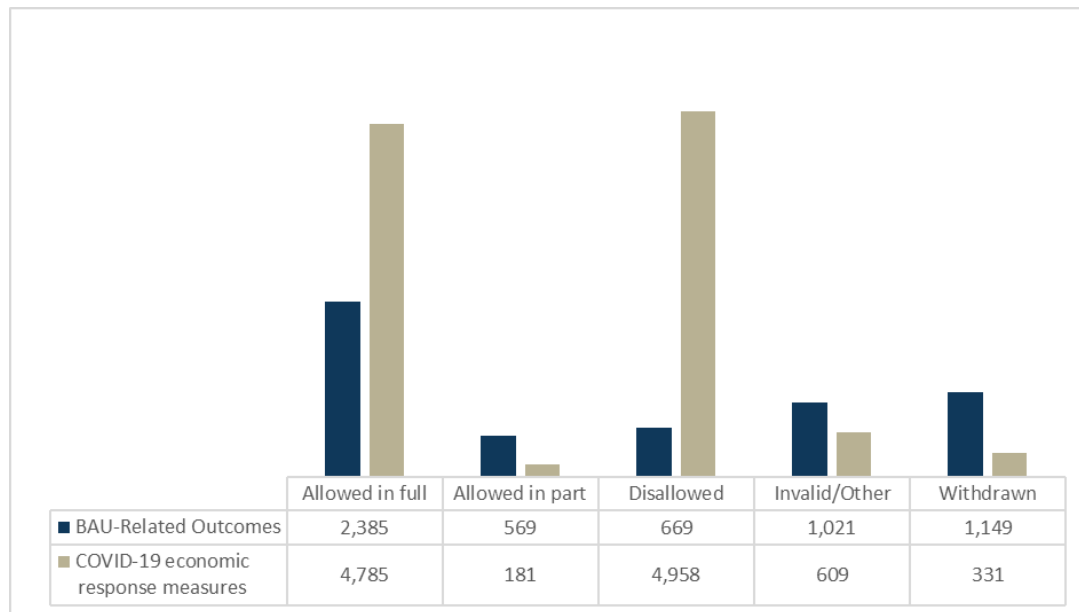
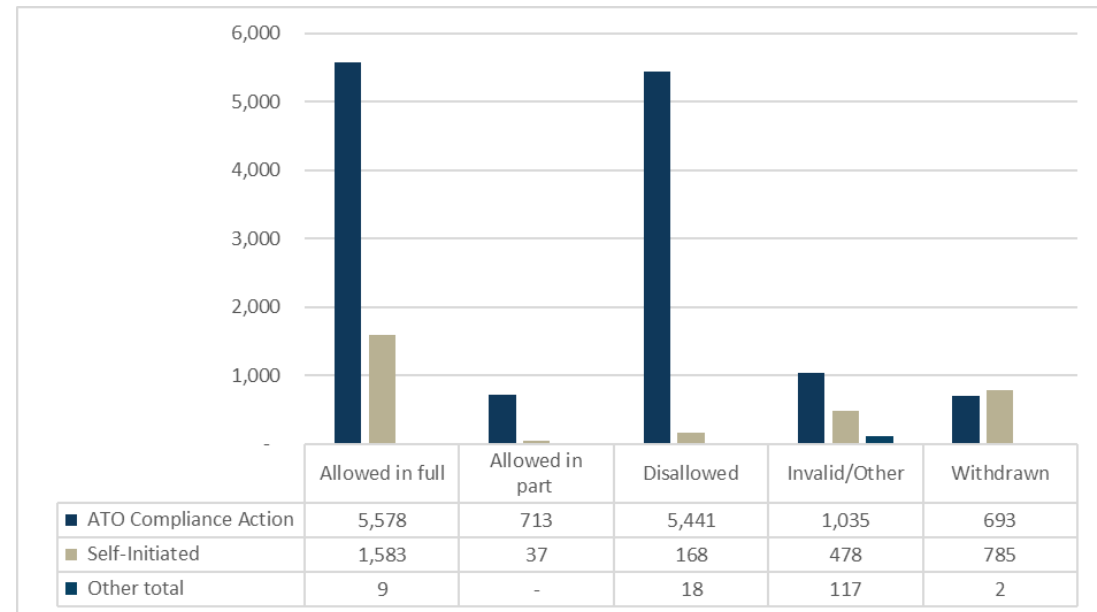


Figure 6.33: Small business – total breakdown (ATO compliance vs self-initiated) for FY21



Small Business objections were disallowed in FY21

A significant number and proportion of objections were disallowed in FY21 compared to the previous two years

Figure 6.9: Small business – total number of outcomes of finalised objections for FY19 to FY21

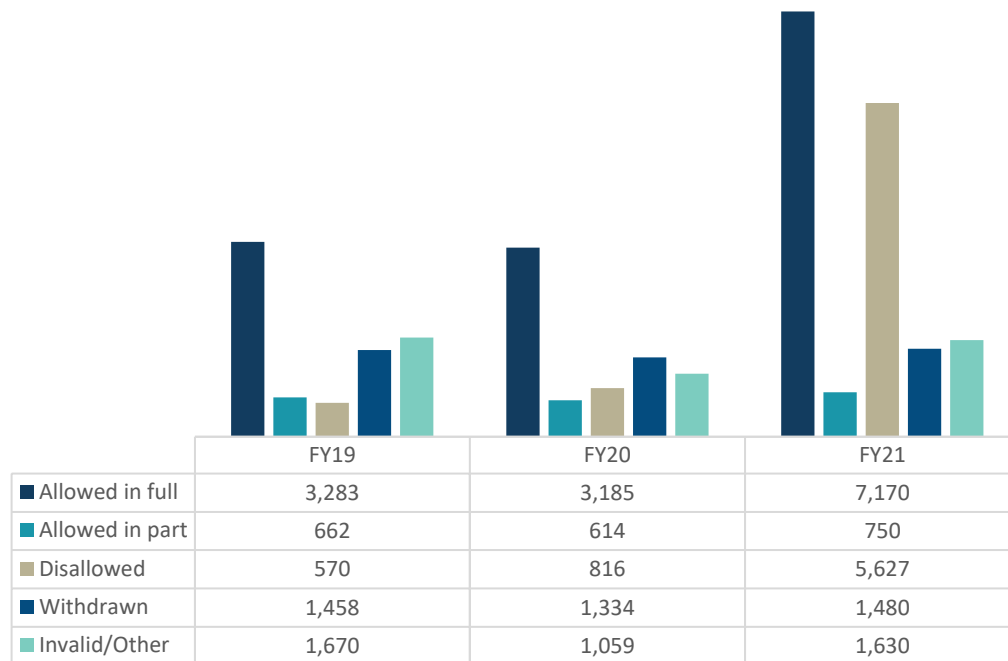
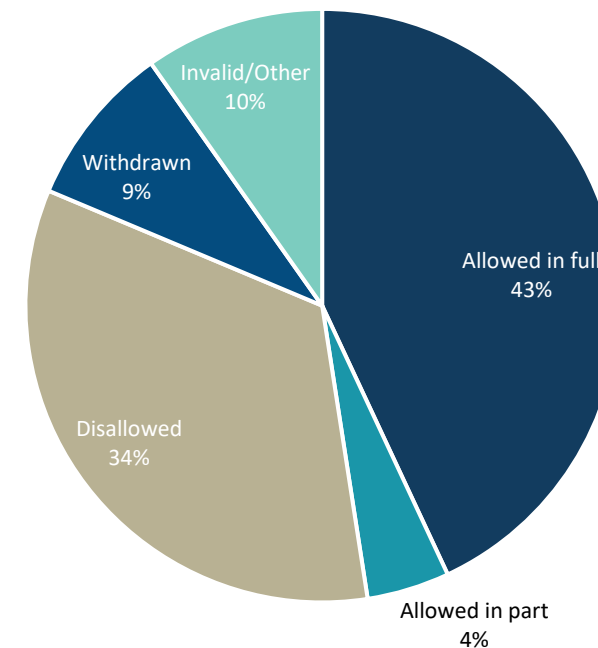


Figure 6.12: Small business – percentage of outcomes of finalised objections for FY21



Privately-owned and Wealthy Groups



Objection Outcomes for Privately owned and wealthy groups requires further analysis – e.g. withdrawn and disallowed

Figure 6.13: Privately owned and wealthy groups – total number of outcomes of finalised objections for FY19 to FY21

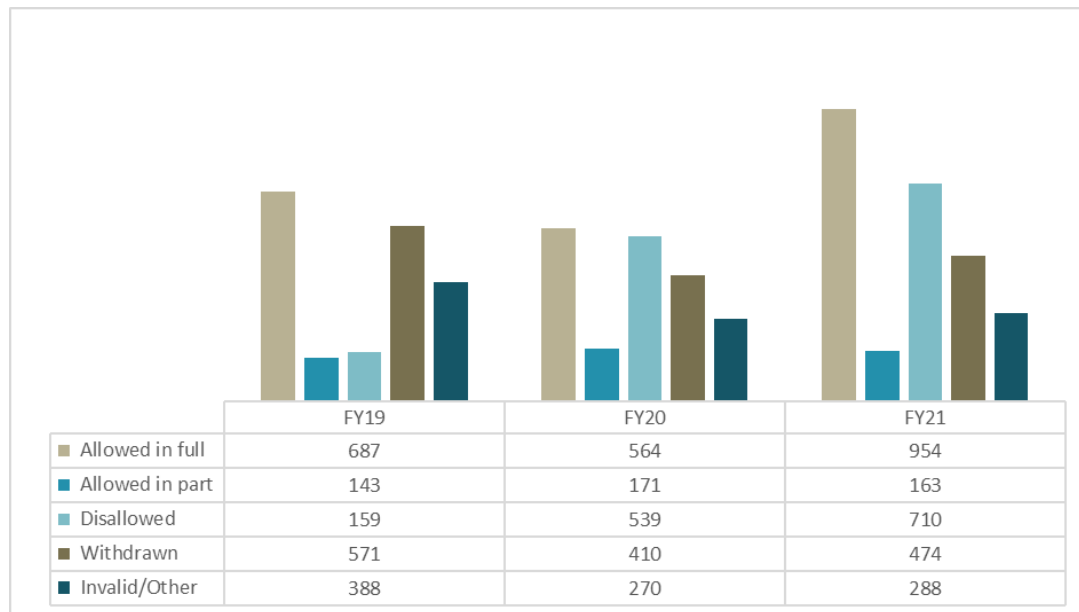
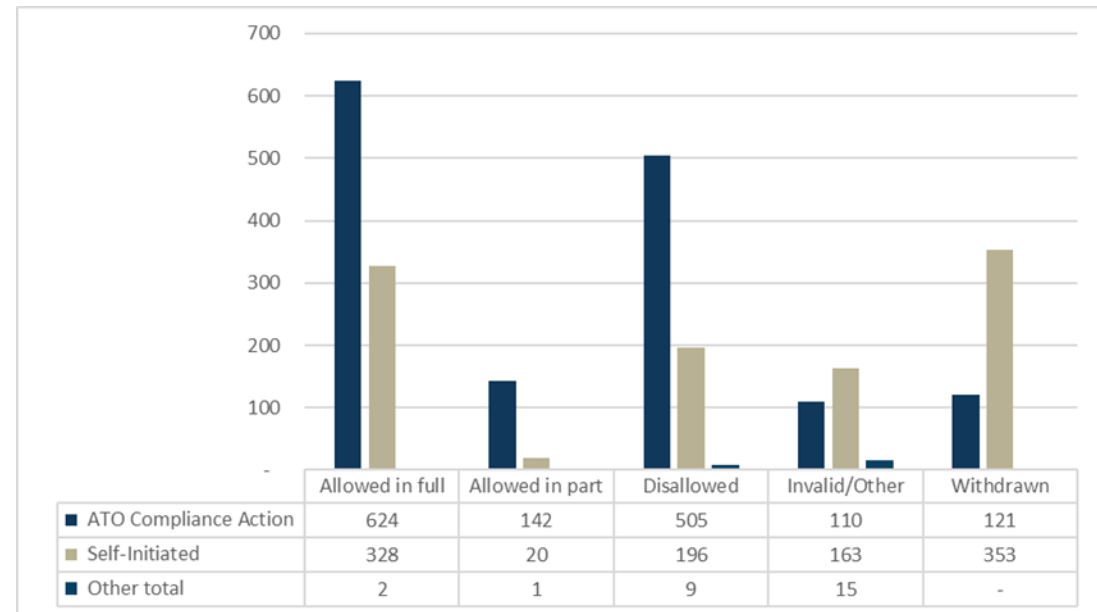


Figure 6.36: Privately owned and wealthy groups – total breakdown (ATO compliance vs self-initiated) for FY21



Public and Multinational Groups



Public and Multinational objections are low volume, high complexity and often involve large sums in dispute

Figure 4.9: Objections Received and Finalised – Public and Multinational Businesses

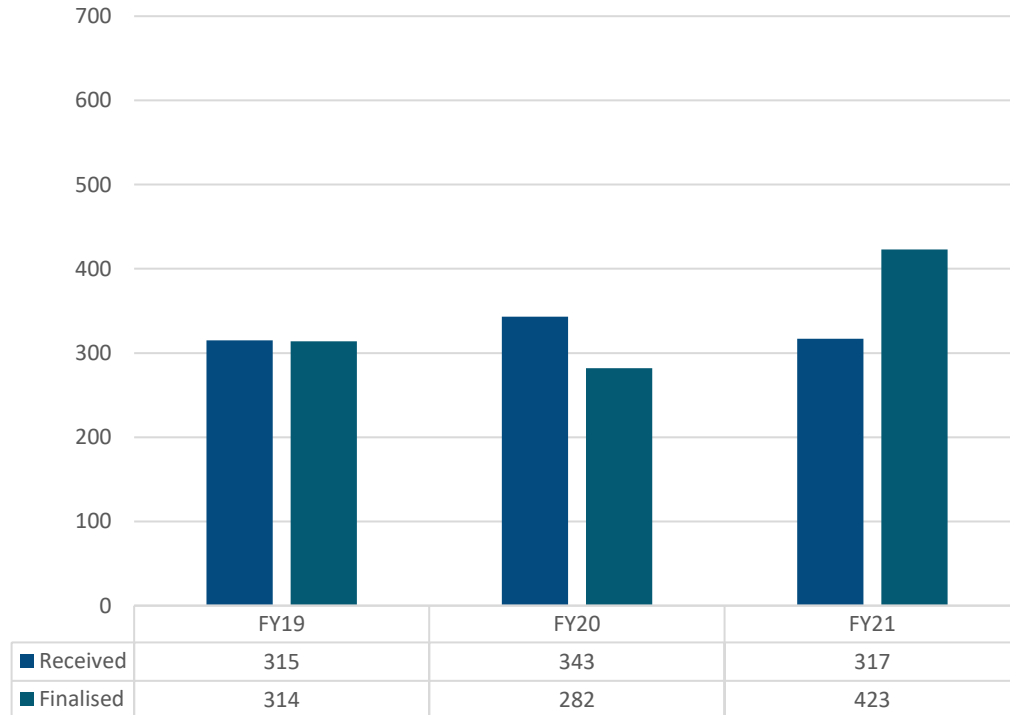
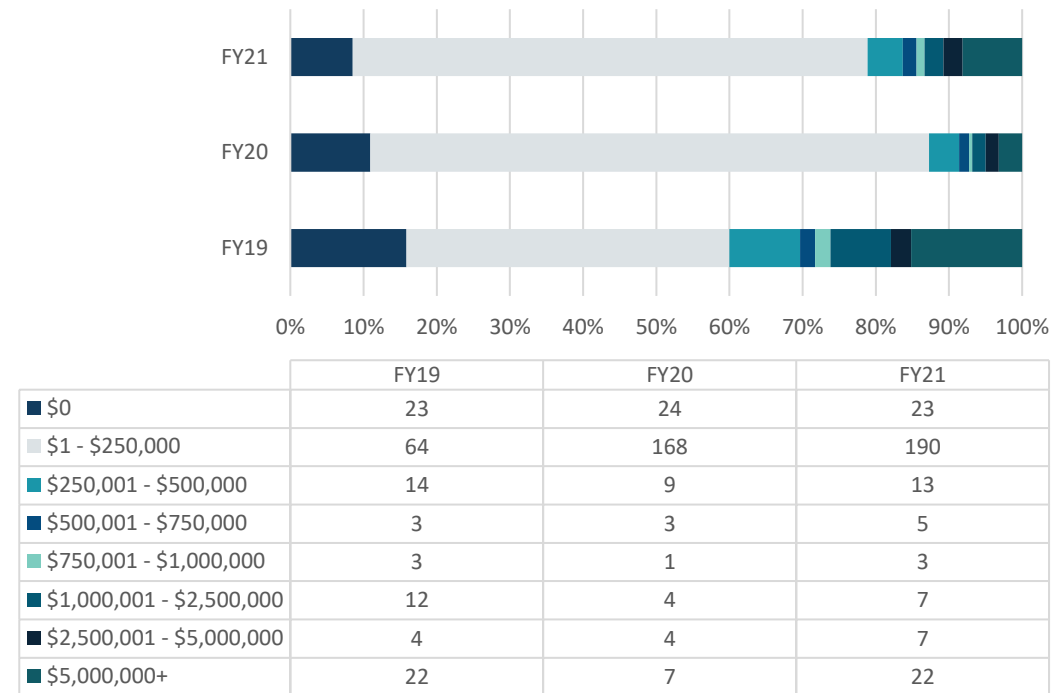


Figure 2.13: Quantum of tax in dispute – Public and Multinational Businesses



Superfunds and NFPs



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Superfunds and NFPs

53% - 80% of Objections were determined to be invalid in FY19 – FY21
(see Figures 6.21 – 6.24 of the Interim Report)

Figure 6.21: Super Funds and NFPs – total number of outcomes of finalised objections for FY19 to FY21

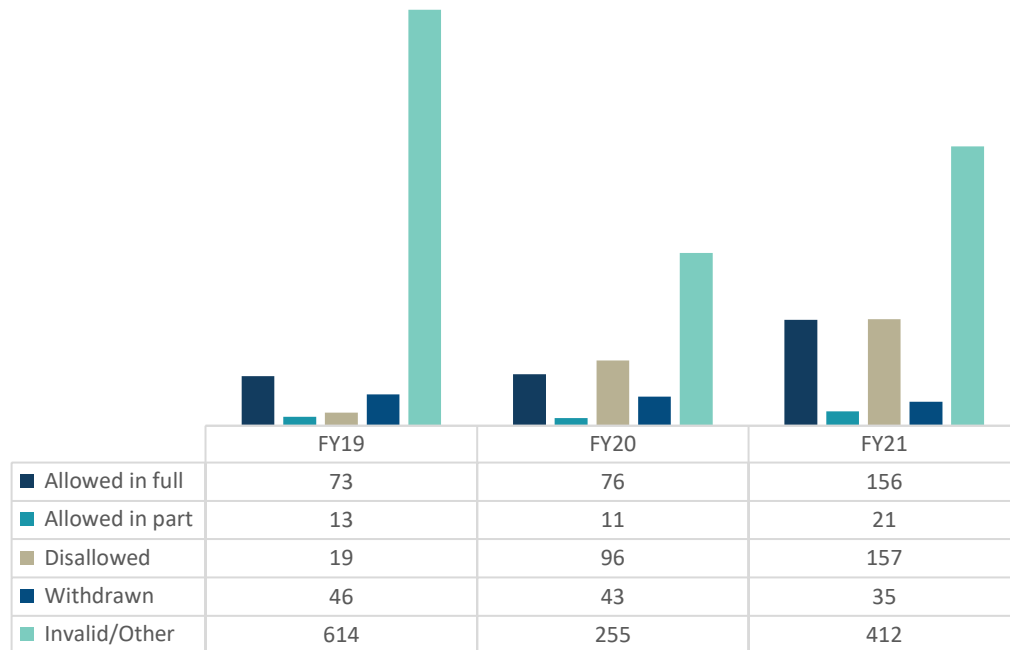
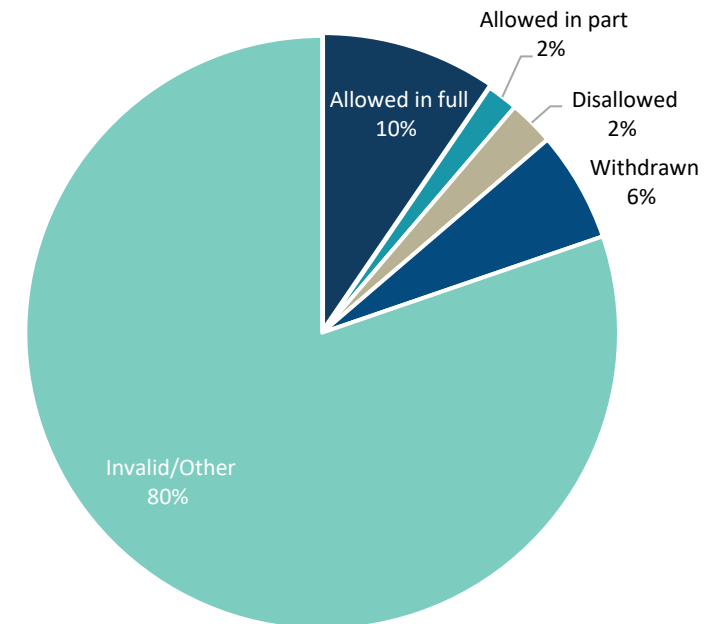


Figure 6.22: Super Funds and NFPs – percentage of outcomes of finalised objections for FY19



Looking Ahead – Phase 2

Areas for Investigation



- What are the underlying causes for taxpayers self-initiating an objection to their own assessment?
- Why do invalid objections occur and what happens once an objection is determined by the ATO to be invalid?
- Why are objections withdrawn?
- What factors contributed to the increase in small business objections disallowed in FY21?

Looking Ahead Phase 2 – ATO resourcing questions to follow up

Phase 2 to examine

- How the ATO is resourcing the objection function – for example:
 - the level of ATO officer making the objection decision versus the level of officer making the compliance/audit decision
 - How is the ATO view of the law communicated for consistency across the whole objections team
- Are there opportunities to reduce objections which are withdrawn and determined invalid to release ATO resources to progress other objections and assist with objection timeframes?

Looking Ahead – Phase 2 Cluster Objections

What are they and why do they arise?

- Can arise where the objection outcome depends on an ongoing case before the Courts
 - Commissioner of Taxation v Douglas [2020] FCAFC 220
 - Linfox Australia Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia [2019] FCAFC 131
 - Addy v Federal Commissioner of Taxation [2020] FCAFC 135
- Also where there are taxpayers in same industry and circumstances

How do they impact objections?

- Clusters of Objections are not addressed uniformly within the ATO
 - some are treated as projects
 - some are not identified either internally or reported externally
- Phase 2 will consider
 - What is communicated to taxpayers when objections are placed ‘on hold’ awaiting the outcome of a Court decision or an internal ATO view?
 - 14ZYA may not assist
- What is the tax in dispute for clusters and how is this reported?

Looking Ahead – Phase 2

Other issues raised by stakeholders in submissions

- The objection process lacks independence and impartiality, or is perceived to lack independence and impartiality
- There is no service standard for allocating and finalising objections, which may lead to delays
- There is a lack of clarity in objection decisions
- The objection function is insufficiently resourced, leading to objection officers reviewing decisions of more senior staff; or officers being involved in objections where they previously provided advice on the matter

Looking Ahead – Phase 2

Other issues raised by stakeholders in submissions

- Some taxpayers lack sufficient knowledge of the objection process and how to lodge effective objections, leading to unnecessary time and effort to consider objections that are ultimately unable to proceed
- The ATO could make greater use of alternative dispute resolution at the objection stage
- The ATO's collateral debt recovery actions can hamper taxpayers' ability to prosecute their objections
- There was a perception that the ATO was imposing penalties at the audit stage which are ultimately 'give away' at objections

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