



Australian Government
Inspector-General of Taxation
Taxation Ombudsman

Opening Statement – House of Representatives Tax and Revenue Committee Inquiry into the Commissioner of Taxation Annual Report 2018- 2019

Friday – 31st July 2020

The Inspector-General of Taxation and Taxation Ombudsman (IGTO) welcomes the opportunity to appear before the Committee and to assist with its Inquiry into the Commissioner of Taxation's 2018- 2019 Annual Report.

We have made a detailed written submission canvassing a number of different areas, together with recommendations for the Committee's consideration.

The ATO's Annual report is an important document in the Parliamentary accountability framework – it includes information to measure and report on the ATO's performance. It is an opportunity to provide the Parliament and the community with useful information as to where and how ATO resources have been deployed in the financial year.

The ATO performs several important functions on behalf of the Australian nation as a whole, including tax collection. However, the manner in which the tax laws are administered is equally important for the community - their experience will ultimately influence levels of voluntary compliance.

Inevitably where the ATO chooses to deploy its resources will have implications for the community. This is because the community must then:

- commit its own resources to respond to ATO actions - dealing with ATO audit, investigation and disputes;
- encounter ATO delays - in responses to objections, registrations and refund payments; or
- manage a self assessment system with the available ATO advice and guidance.

Oversight and investigation of taxation complaints about tax administration decisions and systems is important for both functions of the Inspector-General and Taxation Ombudsman.

Where ATO resourcing impacts on the community, this ultimately translates into approaches to the IGTO in the form of requests for assurance, complaints or requests for systemic reviews.

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It is interesting to note that the ATO Annual Report does not include details on how many ATO resources it has committed to managing complaints from the community – individuals, companies, trusts, superannuation funds, small business and large business taxpayers and practitioners and other representatives. The Annual report does note:

... that in FY19 there were 19,826 complaints received by the ATO including 1,391 complaints that were lodged via the IGTO.

It is worth noting that ALL IGTO complaint investigations are first notified to the ATO – as required by our governing statute. That is, an investigation does not commence without the IGTO notifying the ATO. We have made several observations about the ATO's reporting of taxation complaints in our submission.

During an online Wolters Kluwer/CCH/Terrapin webinar on 6 July 2020, a poll of participants (mainly professional advisers) was taken on their level of awareness for making a formal tax complaint.

- 67% of professional advisers polled were NOT aware of the ATO Complaints Area as the channel for lodging formal complaints with the ATO (refer Annexure A)
- 72% of professional advisers polled were NOT aware of the Taxation Ombudsman Complaints Service (refer Annexure A)

Further since July 2017 the IGTO has requested online complainants to confirm if they have first sought to resolve their complaint with the ATO. In 86% of those IGTO online complaints, the complainant in fact believed they had already lodged a complaint with the ATO but the ATO has advised the IGTO, that there is no record of an ATO complaint having been made (refer Annexure B).

These results suggest there is some level of community unawareness and disconnect for taxpayers seeking to resolve their taxation complaints – refer Annexure C. Without quality reporting and transparency, it is difficult to make informed observations on how effectively and efficiently the ATO is serving the community and what impact ATO resourcing decisions is having on the community.

The IGTO has made a number of recommendations for the Committee's consideration. Our submission highlights areas for improved ATO reporting and transparency for measuring outcomes achieved. In particular we have identified a number of areas where ATO resourcing allocations may be impeding an efficient delivery of ATO services, leading to community dissatisfaction and complaints or concerns being raised, including with the IGTO in certain cases. In summary, these areas include:

- a decline in the proportion of complaints which are resolved and finalised by the ATO within 15 business days (rather than a longer negotiated deadline) – Part 2 of this submission;
- a decline in the level of public binding advice produced by the ATO and the timeliness for issuing such advice – Part 3 of this submission;

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- a backlog of several thousand objections awaiting allocation and action, resulting in complaints being made to the IGTO - about lack of timeliness and limited communication on progress of these objections– Part 4 of this submission; and
- the outcomes from the ATO's audit and assurance activities and the level of tax gap reported – Part 6 of this submission.

Although the deployment of ATO resources to deliver services to the community is an important consideration in determining outcomes, service levels and levels of complaint, it will not be a complete explanation. It is nonetheless an important consideration.

The Australian Taxation Office (ATO) is one of the largest employers within the Australian public service and one of the largest service delivery agencies of the Commonwealth of Australia.

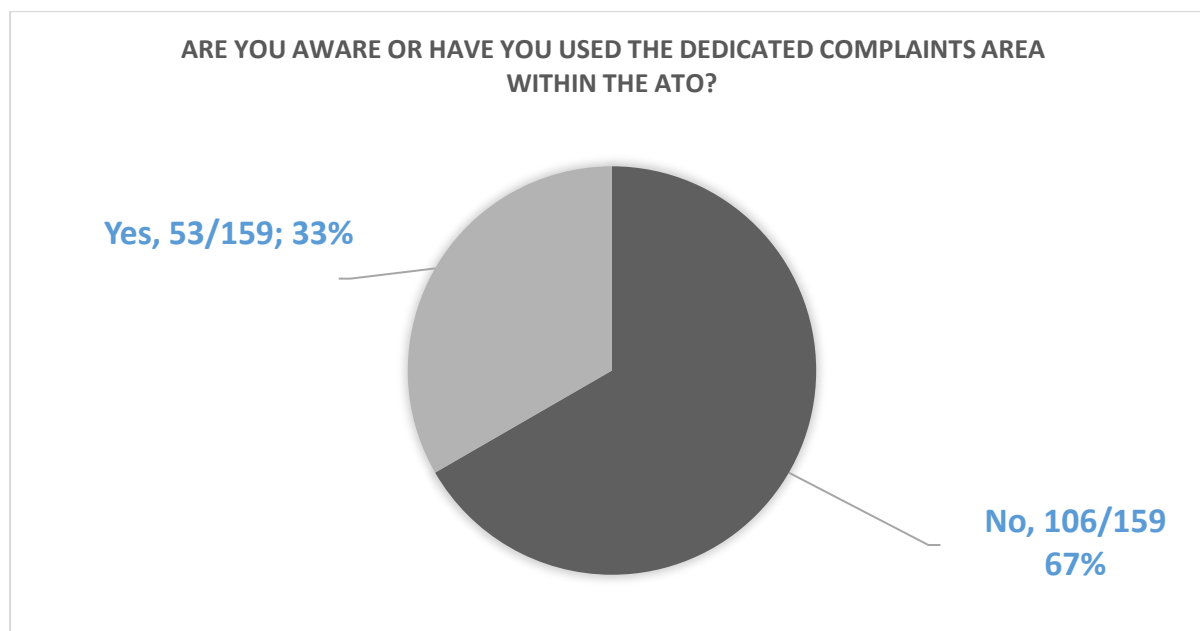
Better insight on areas where ATO resources are deployed for improved transparency, accountability and oversight would benefit, Parliament and its Committees and the broader tax and business community.

We trust our observations, submissions and recommendations are useful and we would be happy to provide any further context as would assist the Committee.

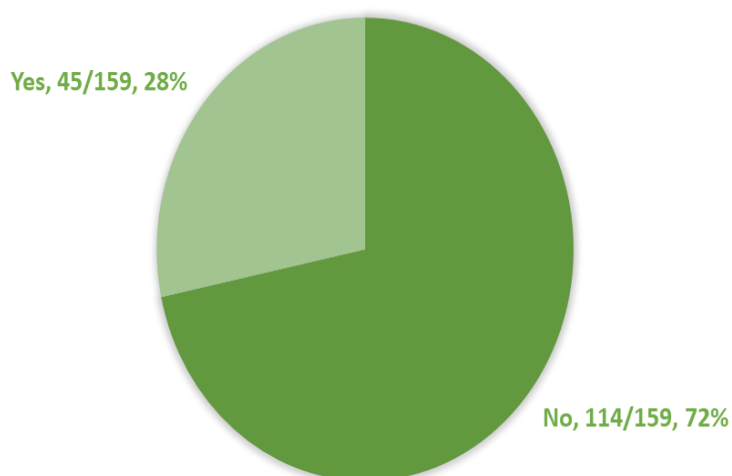
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Annexure A - 67% and 72% of those Polled were not aware of formal tax complaint options – Polling of Professional Advisers attending a Wolters Kluwer/CCH/Terrapin webinar on 6 July 2020



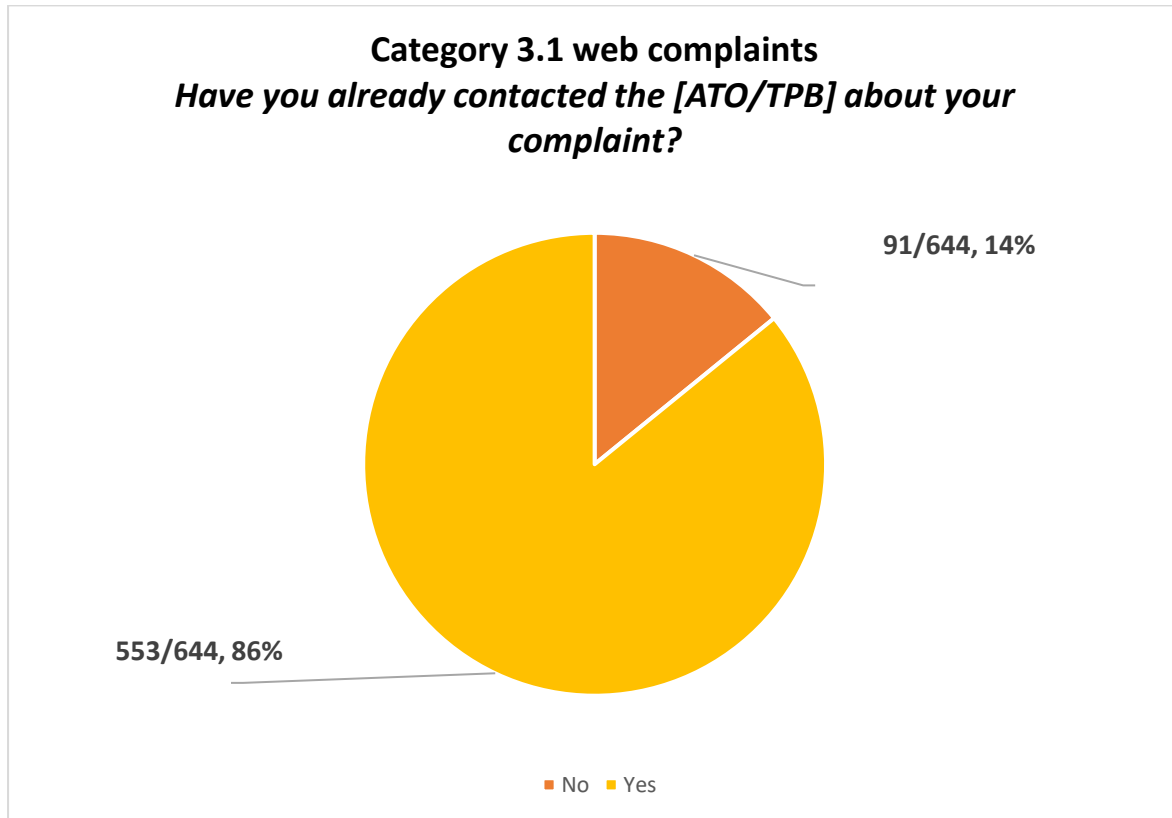
ARE YOU AWARE OR HAVE YOU USED THE INVESTIGATION SERVICES PROVIDED BY THE TAXATION OMBUDSMAN?



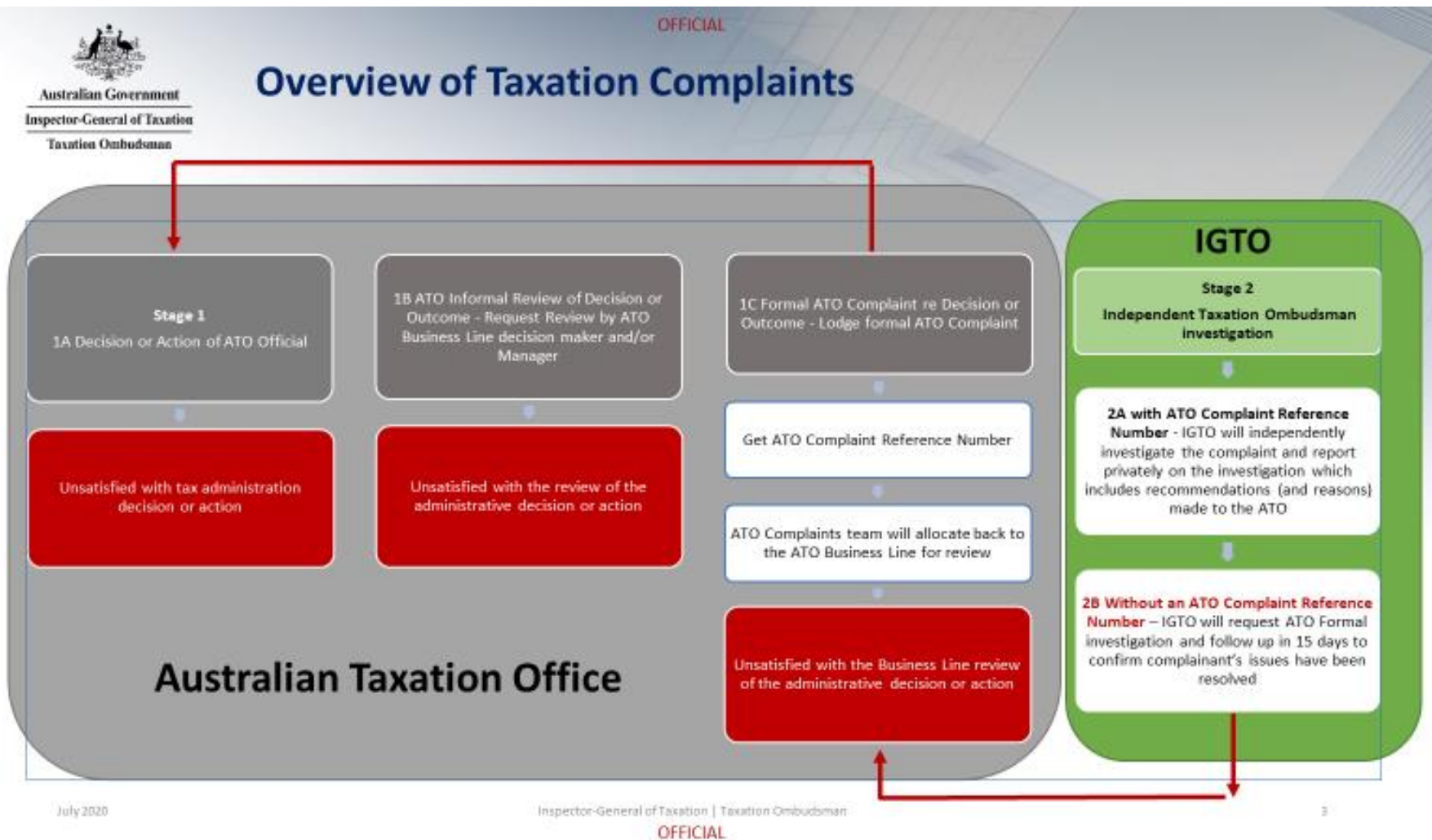
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Annexure B - 86% of IGTO online complaints - where the ATO advises it has no record of a complaint - think they have already lodged a complaint with the ATO



Annexure C – Overview of Taxation Complaint Process



Annexure D – Summary of Taxation Complaints Received about the ATO in 2018-2019

The IGTO breakdown of ATO complaints for FY19 was as follows:

	Independent Assistance and Assurance (1,094)	Complaints Received 2018-2019
Category 0	Insufficient information (i.e. the complainant is unable to provide the IGTO with sufficient information to be able to assist)	268
Category 1	Translation/Navigation (i.e. IGTO helps the complainant to make sense of ATO/TPB explanations, provides independent assurance regarding ATO/TPB actions of concern and/or charts out the options that are open to the complainant)	740
Category 2	Referral (i.e. IGTO refers complainant's information to most appropriate agency and/or declines to investigate)	86
	Independent Formal Investigation (1,376)	
Category 3.1*	ATO has no record of a previous complaint - IGTO identifies issues requiring formal investigation and options for resolution and requires the matter to be dealt with by an identifiable ATO/TPB officer providing accountability for the management and resolution of the complaint. IGTO also checks the ATO/TPB's handling of the complaint for satisfactory conclusion	820
Category 3.2*	Uncomplicated Cases - IGTO investigates independently, engages with the ATO to verify facts/issues, determines the most appropriate and timely actions, and identifies who will take them for early resolution	438
Category 3.3*	Frequently Raised Issues - IGTO identifies the case as involving a common area of complaint that is capable of being resolved efficiently and effectively through pre-agreed investigation processes	33
Category 4	Complex Cases - IGTO undertakes deeper inquiry and investigation to surface relevant evidence and determine the most appropriate options for resolution	80
Category 5	High Complex Cases - IGTO investigates by engaging directly with ATO senior management (SES), and provides ATO senior management with early warning of emerging risks and opportunity to address sensitive issues (providing early warning of emerging risks)	5
	Totals	2,470