



Australian Government
Inspector-General of Taxation
Taxation Ombudsman

The Australian Taxation Office's administration and management of objections – phase 2

By the Inspector-General of Taxation
October 2024



© Commonwealth of Australia 2024

Ownership of intellectual property rights in this publication

Unless otherwise noted, copyright (and any other intellectual property rights, if any) in this publication is owned by the Commonwealth of Australia (referred to below as the Commonwealth).

Creative Commons licence

With the exception of the Coat of Arms (see below), the IGT logo and ATO sourced material, this publication is licensed under a Creative Commons Attribution 3.0 Australia Licence.



Creative Commons Attribution 3.0 Australia Licence is a standard form licence agreement that allows you to copy, distribute, transmit and adapt this publication provided that you attribute the work. A summary of the licence terms is available from: <http://creativecommons.org/licenses/by/3.0/au/deed.en>. The full licence terms are available from <http://creativecommons.org/licenses/by/3.0/au/legalcode>.

The Commonwealth's preference is that you attribute this publication (and any material sourced from it) using the following wording:

Source: Licensed from the Australian Government Inspector-General of Taxation under a Creative Commons Attribution 3.0 Australia Licence.

The Australian Government Inspector-General of Taxation does not necessarily endorse third party content of this publication.

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are set out on the Department of the Prime Minister and Cabinet website – see www.pmc.gov.au/government/commonwealth-coat-arms.



The Inspector-General of Taxation and Taxation Ombudsman acknowledges the Traditional Owners and Custodians of country throughout Australia and acknowledges their continuing connection to land, sea and community. We recognise the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples. We pay our respects to the people and their Elders past, present and emerging.

Artwork used with permission from Kayannie Denigan, Luritja artist

Table of Contents

Report at a glance and key data	3
Why we undertook this review.....	4
What is an objection?	6
Key findings and recommendations	7
1. Accessibility	10
2. Streamlining processes.....	15
3. Taxpayer engagement	19
4. Learning from objections.....	23
Appendix A — ATO response	27

Report at a glance and key data

On average, the ATO annually receives and resolves over

25,000
objections.

Approximately

12% of objections are withdrawn.

The cost to the ATO of managing self-initiated objections is estimated to be **\$3m – \$4m per year but may be higher.**



Approximately

40%

of objections are lodged in paper form, by post or fax.

Digital lodgement of objections is largely unavailable to unrepresented taxpayers.



96%
of objections

from taxpayers who are represented by registered tax agents were lodged digitally.

87% of objections from unrepresented taxpayers were lodged via non-digital channels.

55% of objections are self-initiated by the taxpayer, most often to correct their prior returns.

Over 85% of such cases are finalised with a decision allowed in full or in part.

Approximately

78%

of self-initiated objections are finalised within **3 months** and up to **95%** are finalised within **6 months**.

25% of “objection” communications are immediately redirected to other areas of the ATO as they are identified as not being objections.

Feedback from objections is provided on a case level, but there are limited processes to share systemic learnings and improvement opportunities from the more than **25,000 objections** managed each year.



Timeframes for the resolution of objections against decisions or assessments where the taxpayer did not have opportunity to engage with the ATO is approximately **2 to 6 times longer** than objections against other compliance activities.

Why we undertook this review

The law provides all taxpayers the right to object to a tax assessment or certain decisions of the Commissioner of Taxation (**Commissioner**) if they believe the assessment or decision to be excessive or incorrect. This makes objections a key component of Australia's tax administration system. For many taxpayers, lodging an objection may be the only viable channel to seek review of Australian Taxation Office (**ATO**) decisions due to the costs and complexity associated with legal review channels.

On average, the ATO annually receives and resolves over 25,000 objections, the majority of which are from individual taxpayers and small businesses. In the 2023–24 financial year, the ATO reported that it resolved 30,429 objections. Given the high volume of objections received annually, a sufficiently resourced objections function is critical to ensuring effective management and efficiency in turnaround timeframes.

Importantly, objections are also a statutory gateway through which taxpayers disputing tax assessments or decisions must pass before they are able to seek independent, external review of their matter. A taxpayer disputing a tax assessment or decision cannot lodge an application for external review by the Administrative Review Tribunal (formerly the Administrative Appeals Tribunal) or the Federal Court of Australia until they have first objected to the assessment or decision and received an objection decision from the Commissioner.

The objections process therefore serves two primary purposes.

Firstly, it provides the taxpayer with a process through which they can require that the ATO review and reconsider the tax assessment or decision under dispute.

Secondly, in acting as a gateway, the objections process also assists to address and resolve disputes and therefore reduces the numbers of cases that are escalated to the Administrative Review Tribunal and the Federal Court of Australia.

Due to its critical role within the tax system, the objections process and the way in which the ATO manages objections must be robust, fair and efficient.

The Objections and Review function may not always receive additional funding when the ATO is funded for additional compliance/revenue raising activities, although objections workload may increase as a consequence of new compliance initiatives. We have observed that resources in the objections function are tight, and this can impact on the timeliness of responses to objections received. Therefore, any opportunities for greater efficiencies in the handling of objections should be pursued in order to drive quicker outcomes for taxpayers and better value for money for the ATO.

Interim report

We undertook this investigation to examine how the ATO currently manages the objections process and to explore opportunities to enhance the objection process both for the benefit of taxpayers engaging with the system and the ATO who is responsible for administering the system.

In the interim report of this investigation, we presented a large amount of data to provide community insight about the nature of objections and a range of different perspectives about those taxpayers who were objecting, issues in dispute, timeframes and outcomes.

Following the issue of that interim report we invited stakeholders to identify issues of concern for further investigation. We received feedback from stakeholders about a range of issues including accessibility and lodgement, resourcing of objections, independence of the objections function and support for vulnerable taxpayers.

Due to delays in finalising this review, we have determined to release a concise report examining the key areas of the administration of objections, namely:

1. accessibility
2. streamlining processes
3. taxpayer engagement
4. learning from objections

We have been greatly assisted in both phases of this review by stakeholders who have generously shared their time, expertise and insights. We appreciate stakeholders' interest in the ATO's management of objections and the range of issues that have been surfaced for consideration. We will continue to maintain a watching brief over them through our dispute investigation function and stakeholder engagement activities.

We thank the various ATO officers who have been involved in this investigation for their time, assistance and professional engagement.

What is an objection?

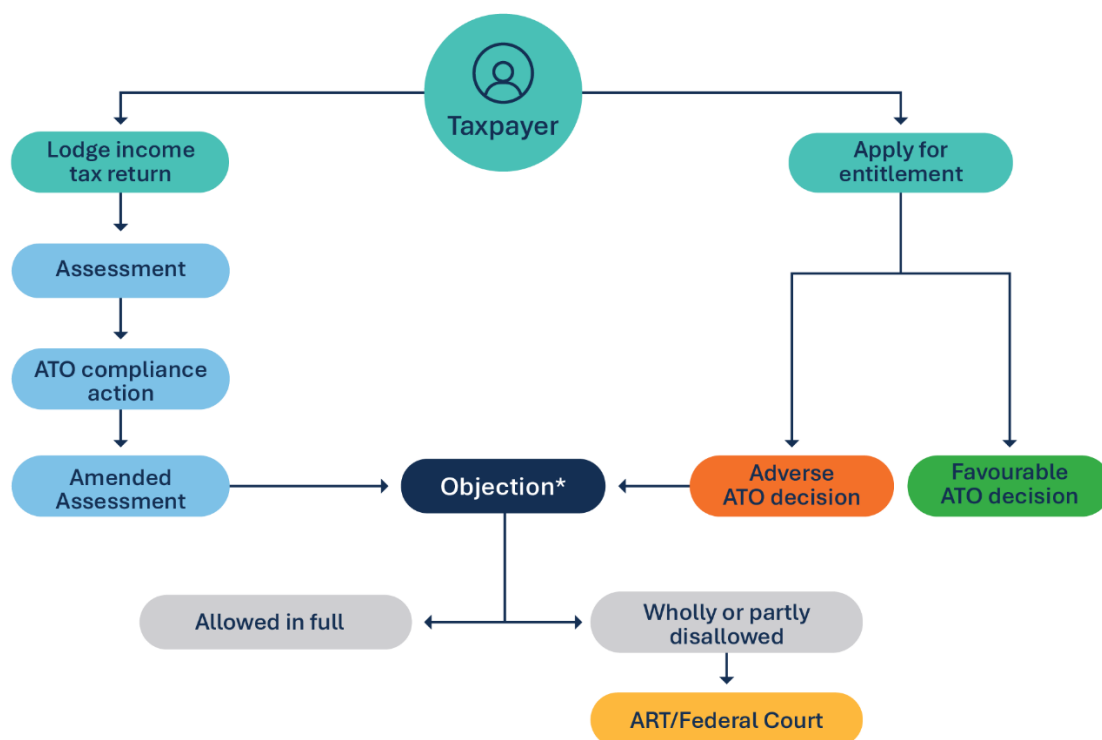
An objection is a statutory right to request an internal review of an assessment or decision of the Commissioner. Part IVC of the *Taxation Administration Act 1953* sets out the general provisions relating to objections. Objections are therefore one of the main avenues through which taxpayers can challenge a decision of the ATO on the tax they are required to pay.

An objection is valid where it complies with the following requirements:

- it is made in the ‘approved form’; and
- lodged with the ATO within the relevant period; and
- states in it, fully and in detail, the grounds relied upon.

Once an objection is lodged, it is reviewed by the ATO and a decision will be made to either allow the objection, in whole or in part, or disallow it. The taxpayer will receive a written notice of the decision. The taxpayer then has a period of 60 days to appeal to either the Administrative Review Tribunal or Federal Court of Australia if they wish to challenge the decision further.

Objections therefore form a critical part of the life cycle of a tax dispute as illustrated below.



* In some instances, a reconsideration may occur before an objection. The ATO and the taxpayer may also reach a settlement at the objection stage to resolve the dispute.

Key findings and recommendations



Accessibility

Findings

Unrepresented individual taxpayers and professionals who are not registered tax agents cannot lodge objections electronically. They are required to use paper forms which are either mailed or faxed.

A digital objection form available to all taxpayers has the potential to:

- provide instantaneous confirmation of receipt of the objection and allow taxpayers to track progress of their matter
- reduce the timeframes associated with providing supporting information by enabling files to be uploaded digitally
- improve overall accuracy of objections by reducing transcription errors
- minimise the risk of objections being lodged for matters that have no objection review rights.

There is presently no self-service option for taxpayers to find out the status of their objections or expected timeframes for allocation and finalisation.

ATO systems do not currently differentiate objections lodged by tax professionals other than registered tax agents.

Recommendation 1

The ATO:

- (a) prioritise the ‘Optimising Disputes’ project to deliver an online channel for taxpayers and tax professionals to lodge objections electronically;
- (b) capture and report on timeframes elapsing between objections first being received within the ATO and other key milestones leading to the first contact with a taxpayer or tax practitioner and through to resolution; and
- (c) explore options to differentiate objections lodged by professionals other than registered tax agents (such as accountants and legal professionals) within ATO systems to enhance overall reporting and analysis in objections work and outcomes.



Streamlining processes

Findings

Approximately 55% of objections are self-initiated and not in response to any ATO action.

These cases are mostly taxpayers seeking to amend their prior returns but are out of time. The objection pathway is the only option to seek amendment once the period of review has passed. They are high volume, low risk cases.

We have conservatively estimated the cost of managing these cases to be approximately \$3–\$4 million per year.

Recommendation 2

The ATO:

- (a) explore options to better streamline self-initiated objections that are lodged for the purpose of seeking to make amendments to prior lodgements which are out of time, where those amendments are of low value or low risk to revenue; and
- (b) where no feasible options exist, provide a briefing to Treasury and the Government about the time and resources devoted to self-initiated objections (particularly from individual taxpayers) and options for policy or legislative change to improve the overall taxpayer and administrative experience, in line with the recent changes for small business.



Taxpayer engagement

Findings

Objections against decisions where the taxpayer did not have opportunity to engage with the ATO, such as certain cases resulting in default assessments or covert audits, on average, take longer than objections to other compliance activities.

In many of these cases, the ATO's assessment was reached without taxpayer engagement. This may be as a result of a miscommunication, taxpayers' circumstances such as physical or mental health issues, or the nature of the ATO's compliance activities which may have limited engagement.

As such, the objection officer is considering the taxpayer's information and circumstances in the first instance.

Recommendation 3

The ATO review options available to administratively reconsider audit decisions or assessments that were finalised in circumstances where the taxpayer did not have opportunity to engage.



Learning from objections

Findings

The objections function is well positioned to provide feedback to other areas of the ATO to improve early engagement processes and minimise the risk of dispute.

This generally occurs at a case level, and more broadly between objections and some areas of the ATO, where feedback is warranted. There is opportunity for the ATO to improve its systemic feedback loop to share learnings and improvement opportunities.

Recommendation 4

The ATO further develop its structured feedback framework between the objections function and all business lines to share feedback and learnings arising from objections matters, both at a case level and on a more systemic level and consider monitoring the impact of the improvements.



1. Accessibility

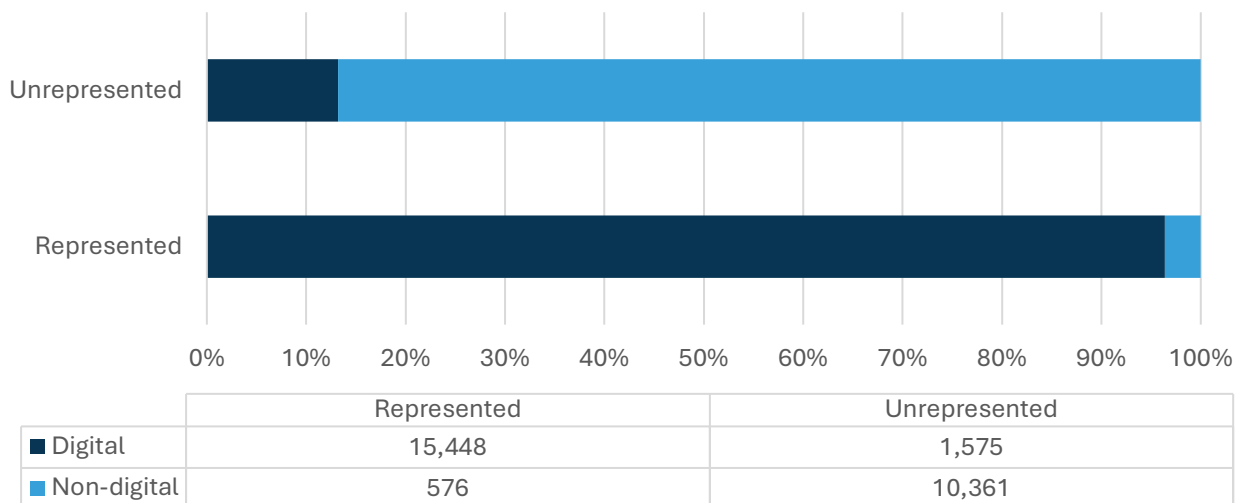
A simple and efficient process for all taxpayers to lodge their objections is important to ensure that it is accessible to all, regardless of whether they are represented.

What we found

Businesses, including sole traders, and taxpayers who are represented by registered tax agents may lodge objections using an online form through Online Services for Agents or Online Services for Business. All other taxpayers are required to lodge their objections manually, either by post or fax.

The following table provides a breakdown of the methods for lodging objections. The high proportion of postal and fax objections in the unrepresented population aligns with statistics indicating that a large proportion of objections are lodged by individual taxpayers. These taxpayers either are unrepresented, or otherwise have chosen not to seek assistance from a registered tax agent with their objections.

Figure 1.1: Methods of lodged objections in FY24



Source: data provided by the ATO.

The paper lodgement process is inconsistent with broader digital transformation initiatives both within the ATO and across government. It results in an inefficiency and creates an uneven level of service delivery to a large proportion of taxpayers lodging objections.

The inability to lodge objections digitally also creates administrative burdens for the ATO as without the benefit of a structured digital form, objections may either be lacking in essential information or are otherwise lodged for matters which have no objection rights. Furthermore, there is a risk of transcription errors where forms are hand-written.

When the ATO receives a communication that may be an objection, it undertakes a triage process to determine whether the communication meets the requirements of an objection. If it does not, it is redirected to an appropriate area of the ATO for actioning.

We found that approximately 25% of communications initially identified and routed to the objections team for triage were subsequently redirected to another area of the ATO to manage. Communications that are redirected are not reported as an objection, but nonetheless require objections officer resources to examine, triage and redirect. This high proportion of redirected correspondence suggests a lack of understanding of objections, and a need for better explanation or signposting for taxpayers.

Table 1.1: Communications from Objections to other ATO areas

	Total communications received	Objections	Redirected to other ATO areas	Percentage redirected
FY19	36,054	27,016	9,038	25%
FY20	29,743	21,892	7,851	26%
FY21	37,398	27,780	9,618	26%
FY22	23,386	17,040	6,346	27%

Source: data provided by the ATO.

The triage process is a manual process and requires the triage officer to:

- check taxpayer details such as name and Tax File Number/Australian Business Number to confirm that identity information on the ATO’s systems is the same as the one on the objection request
- confirm if there are any duplicate requests in the ATO’s systems, as well as if the request involves multiple taxpayers and revenue products
- undertake an initial validity check based on the available information

- assess the complexity and priority of the objections received using the Objections and Review Triage Prioritisation Matrix.¹ The matrix assesses several factors including the taxpayer/ATO value of the dispute, time criticality, risks and opportunities including precedential value and job size.²
- send an acknowledgment of receipt of the objection to the taxpayer. Acknowledgments are generally sent either online (if the objection was lodged online), by SMS, or by postal letter.³

As it is a manual process, undertaking the above steps may impact turnaround times if resourcing is limited.

Our observations

How an objection is lodged influences both the taxpayer experience and the amount of time and effort needed for ATO officers to triage and allocate the case to the relevant areas. During our investigation, we examined internal ATO triage processes which showed that objections lodged through the digital form available to businesses and registered tax agents are more likely to contain all necessary information to enable the ATO to quickly identify the issue and business lines involved to allocate the case. This is due to the structured data fields in the form which pre-populate the relevant information on ATO systems.

In all other cases, submissions are lodged using the PDF smart form available on the ATO's website which requires the forms to be completed and posted to the ATO where it is then received, scanned and routed to the ATO's triage team. This process may take longer than the electronic smart form and, during our discussions with the ATO, examples were shown of the scanned paper forms which included handwritten information, missing or unclear information and a lack of clarity about the dispute and area to which the dispute should be sent. This can impact turnaround times as further clarification may be required.

The ATO has recognised the benefits of more taxpayers being able to lodge their objections electronically. During our investigation, the ATO shared that in early 2021 it had commenced work on the 'Optimising Disputes' project to enhance the objections lodgement experience. The project aimed to address several issues including automating the triage process. Due to the need for prioritisation of resources, the ATO formally paused the project in October 2022.

In 2023, the ATO made the decision to prioritise the 'Online Disputes' project for design. As at the date of finalisation of the report, that design work is ongoing, after there was a direction to 'rescope' the original design made by the Finance Committee in August 2024. The project does not yet have committed funding.

1 Australian Taxation Office, *Objections and Review – Triage* (4 December 2023).

2 Australian Taxation Office, 'Objections and Review – Objections in the ATO – A look at the current state of taxation objections and our plans for 2021-22' (Internal ATO Document, 2021) p 4.

3 Australian Taxation Office, *Objections and Review – Triage* (4 December 2023).

Rationale for change

We consider that improvements in lodgement options for taxpayers would significantly assist to ensure that objections lodged are valid, complete, and easily perused and processed for triaging. At present, electronic lodgement is only possible for business taxpayers and those using the services of a registered tax agent. It is not available to unrepresented individual taxpayers, nor to taxpayers represented by any other tax professionals – in-house tax teams, chartered accountants, certified practising accountants, public accountants and legal practitioners (barristers or solicitors) unless these professionals are also registered tax agents with access to Online Services for Agents.

All taxpayers should have equal access to lodgement channels and options, regardless of whether they are represented. The ATO has made significant efforts in recent years to enhance its digital offerings to taxpayers, but lodgement of objections remains paper-based for many. We believe that it would be appropriate and beneficial for the ATO to revisit and reprioritise its ‘Optimising Disputes’ project to deliver an improved taxpayer experience with objection lodgements as soon as is practicable and as resources allow.

We are also of the view that two further improvements could be made. Firstly, the ATO’s systems do not presently differentiate objections lodged by tax professionals other than registered tax agents. This limits the ATO’s ability to conduct data analysis about the objections experience – who is lodging objections, outcomes, level and quality of engagement – to identify opportunities for improvement.

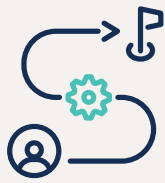
Secondly, the ATO should examine and actively capture dates and times elapsed between an objection case being received within the ATO and various key milestones leading to the ATO’s first contact with a taxpayer and resolution. The indicative data suggests that there may be significant variance in these timeframes, some of which may be attributable to human error or manual input, making the analysis difficult. Such analysis and reporting will enable the ATO to more readily identify pain points within the lodgement, receipt and allocation process – all of which ultimately affect resolution timeframes – that may require or enable remedial action. In the longer term, the ATO may also wish to consider options to provide taxpayers with greater digital visibility about progress of their objections through key stage gates of the process.

In some cases (albeit rare), debt collection activity may continue even while objections remain on foot. Delays in finalising objections may therefore contribute to financial hardship and lead to significant uncertainty, anxiety, stress and confusion for taxpayers. Further insight for the ATO about the underlying causes of delay in finalising objections would assist it to forecast possible future delay and to take action or engage with taxpayers to manage these circumstances.

Recommendation 1

The ATO:

- (a) prioritise the 'Optimising Disputes' project to deliver an online channel for taxpayers and tax professionals to lodge objections electronically;
- (b) capture and report on timeframes elapsing between objections first being received within the ATO and other key milestones leading to the first contact with a taxpayer or tax practitioner and through to resolution; and
- (c) explore options to differentiate objections lodged by professionals other than registered tax agents (such as accountants and legal professionals) within ATO systems to enhance overall reporting and analysis in objections work and outcomes.



2. Streamlining processes

We have identified an opportunity to improve efficiency in an area of objections work that is high volume and low risk. These relate to objections lodged by taxpayers to amend their own prior year returns because they are out of time. This often occurs where taxpayers change registered tax agents, and the new agent identifies errors in prior year returns that require correction. Due to the taxpayers being out of time to lodge amendments, the only option presently available is for them to ‘object’ to their own returns.

What we found

Data provided to us by the ATO showed that in FY19 and FY20, approximately 55% of objections were self-initiated objections. The finding is consistent with the ATO’s own internal analysis of its objections workload and an external report undertaken in 2018 by Mr Stephen Frost, a former Deputy President of the Administrative Appeals Tribunal (as it then was) in relation to Small Business Experience related objections (the Frost Report). The report found that:⁴

Fewer than half of the cases reviewed could be regarded as genuine ‘disputes’ between the taxpayer and the ATO, where carefully formulated but opposing positions have been taken in full knowledge of the circumstances of the case.

This is a surprising finding, given that the raison d’etre of the objections area is to deal with and resolve disputes between taxpayers and the ATO.

On average, approximately 78% of self-initiated objections are finalised within three months of receipt and the vast majority are finalised within six months following receipt. Data provided in our interim report shows that in FY19 and FY20, 96% and 95% of self-initiated objections were finalised within 6 months following receipt. This figure fell in FY21, but nonetheless showed that 85% of self-initiated

⁴ Stephen Frost, *Small Business Client Experience – Review of Objections: Report to the Australian Taxation Office* (December 2018) p 22.

objections being finalised within 6 months of receipt.⁵ This is contrasted to the relatively short turnaround time to process an amendment request which is up to 20 days if lodged online or up to 50 business days if made in writing.

The time needed to process an objection that is simply an amendment request necessarily draws resources away from other important objections functions, such as undertaking an internal review of ATO decisions with which taxpayers are dissatisfied.

Even in the simplest cases where a taxpayer is seeking to amend a prior return for a low value sum, or to correct a prior error, the case nonetheless needs to be:

- lodged as an objection and meet the requirements to making a valid objection
- be received in ATO systems and routed to the relevant triaging team who will consider and allocate the case to the relevant objections team (depending on the type of taxpayer and nature of the request)
- considered by an objections officer and a decision made and communicated to the taxpayer
- escalated for the relevant amendment to be made and an amended notice of assessment issued to the taxpayer.

The ATO has not formally measured the resource and costs associated with managing these types of cases.

Using total numbers of self-initiated objections as set out in Figures 7.7, 7.8 and 7.9 of the interim report, we have conservatively estimated that the cost of managing such objections is \$3 to \$4 million per year, although the actual costs may be different.

Table 2.1: Estimated cost of managing self-initiated objections

	Self-initiated objections	Number of days	Number of officers (No of days/240)	Pay rate per ATO annual report	Estimated total cost
FY19	14,354	14,354	60	\$68,871	\$4,132,260
FY20	11,332	11,332	47	\$68,871	\$3,236,937
FY21	10,387	10,387	43	\$70,248	\$3,020,664

Note: We have assumed that each self-initiated objection takes 1 full working day to finalise; the cases are managed by an officer at APS 4 classification with the rate of pay being the minimum annual salary for this classification as reported in the ATO Annual Reports for the relevant financial years; and there are a total of 240 working days in a year (i.e. 5 working days multiplied by 48 working weeks to account for leave and other absences).

⁵ Inspector-General of Taxation and Taxation Ombudsman, *The Australian Taxation Office's Administration and Management of Objections – Interim Report*, October 2022, pp 167–169.

To improve efficiency and address the resourcing impacts, the ATO had explored the feasibility of implementing an automated decision-making process for high volume, low risk self-initiated objections seeking to amend out of time.

However, the Commissioner has no explicit legislative authority to use automated decision making on an objection and only the Commissioner and their delegated and authorised officers are empowered to make objection-related decisions.

Our observations

There would be benefit in the ATO exploring opportunities within the existing statutory framework for it to re-route and manage objections that are aimed at amending prior year returns in a more streamlined manner. We note the current position in relation to the use of automated decision-making and recognise that there is work under way across the Commonwealth government on ethical automated decision making. As such, any developments would likely be aligned with the overall Commonwealth framework.

Streamlining the processing of objections which meet certain criteria would assist in ensuring a more efficient objections function. However, this is most effective where the lodgement process is digital and relevant fields allow objections to be channelled appropriately.

As an alternative, if no feasible administrative options are identified, it would be worth considering whether legislative measures could be implemented to allow taxpayers to extend the time period to amend an assessment, so as to reduce the administrative burden of needing to lodge a self-initiated objection that is aimed solely at amending prior year returns. In September 2024, legislative amendments were introduced to extend the time for small and medium businesses to make self-amendments to their prior year returns from 2 years to 4 years. This is likely to reduce the number of self-initiated objections being lodged by small and medium businesses. While recognising the benefits of certainty in the tax system, the opportunity to mirror this change for individual taxpayers could be explored.

Rationale for change

There are significant benefits to be realised by developing a more streamlined approach to considering high volume, low complexity and low risk objections purely aimed at amending returns out of time. We consider that a more streamlined approach would enhance both the taxpayer's experience by reducing the 3 to 6 month wait time for an objection to be lodged, triaged, considered and finalised before the amendment is processed, as well as the cost to the ATO.

There are considerable benefits for the ATO in being able to redirect resources previously expended on self-initiated objections into actioning actual objections lodged against ATO amended assessments and adverse decisions. This would be expected to reduce the time taken to consider and engage with taxpayers on these objections.

Recommendation 2

The ATO:

- (a) explore options to better streamline self-initiated objections that are lodged for the purpose of seeking to make amendments to prior lodgements which are out of time, where those amendments are of low value or low risk to revenue; and
- (b) where no feasible options exist, provide a briefing to Treasury and the Government about the time and resources devoted to self-initiated objections (particularly from individual taxpayers) and options for policy or legislative change to improve the overall taxpayer and administrative experience, in line with the recent changes for small business.



3. Taxpayer engagement

Taxpayer engagement to provide necessary information during an ATO audit is essential to the effective operation of that function. It also flows on to the efficient consideration of any objections that are lodged against those audit decisions. Where such engagement does not occur, or where there was no opportunity for engagement during the audit, the objections officer is essentially required to engage with taxpayers to obtain supporting information, and to consider their circumstances for the first time.

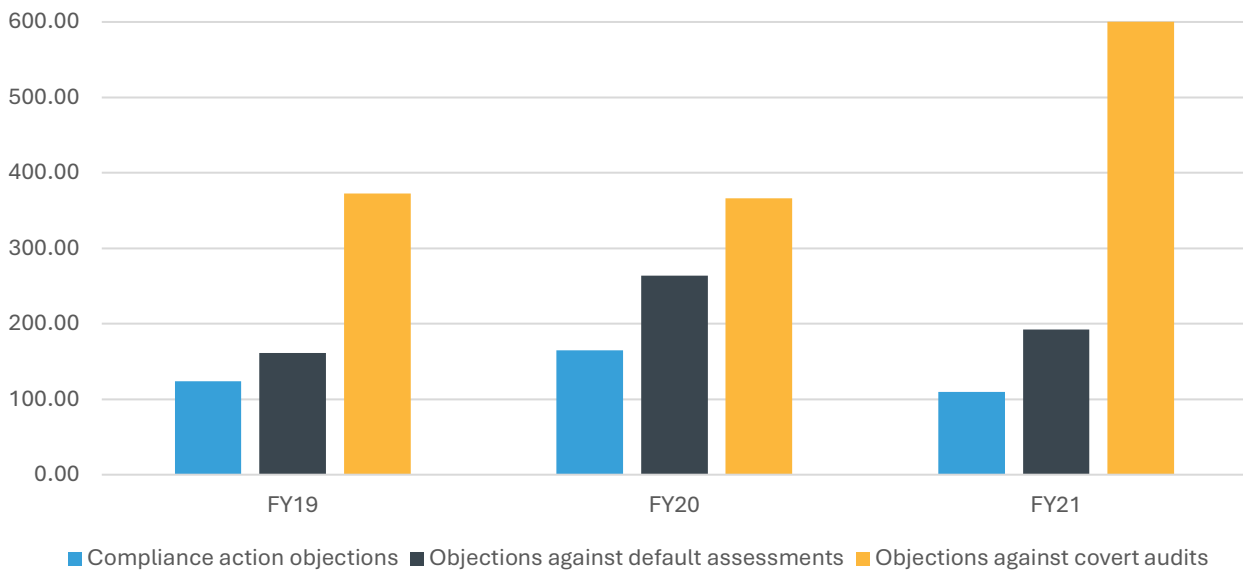
What we found

A number of audit types essentially proceed without taxpayer engagement, or without the opportunity for the taxpayer to engage either because of the nature of the ATO's compliance activities or the taxpayer's circumstances. These audit types include those related to data matching or certain audits which result in the issuing of default assessments. Often, these audits do not involve effective engagement from the taxpayer, resulting in an assessment being issued based on third party or other information available to the ATO.

Covert audits are another type of audit that often involve no engagement with the taxpayer until an assessment has been issued. These may be undertaken for a number of reasons including where there are connections to organised crime or fraud, or where notification to the taxpayer may risk dissipation of assets before the conclusion of the audit, thereby rendering any assessment moot.

We found that objections against default assessments or those in response to covert audits, on average, took longer than those objections where the taxpayer was engaged during the audit stage. In the case of audits resulting in default assessments, the average timeframes were up to 2 times longer. Objections against covert audits, on average, took 2 to 6 times longer than objections against other compliance activities.

Figure 3.1: Average days to finalise



Source: Data provided by the ATO for Client Experiences – Individuals, Small Businesses, and Private and Wealthy Groups.

Case study – default assessment (247 days)

The taxpayer is an individual and works as a truck driver who had not lodged their 2019 income tax return due to a series of medical problems and changes of address. In 2021, the ATO issued a default assessment to include income reported to it by the taxpayer’s employer.

In May 2023, the taxpayer’s representatives attempted to lodge an amendment to include deductions for the taxpayer’s 2019 income tax return, but was notified by the ATO in August 2023 that the amendment request could not be accepted due to the default assessment being issued by the ATO.

An objection was lodged by the taxpayer’s representatives in September 2023 to include the taxpayer’s deductions. The representatives explained the taxpayer’s reasons that led to the return not being lodged despite the ATO’s previous warnings.

The objection was allocated to an ATO objections officer in March 2024 (6 months after receipt). In April 2024, the ATO objections officer engaged with the taxpayer to provide supporting information. The taxpayer’s representatives were able to provide the information requested within a few days.

In May 2024, the taxpayer’s objection was finalised, with the deductions being claimed allowed in full.

Case study – covert audit (1,506 days)

The taxpayer is a trustee of a trust. The taxpayer's objection related to the taxable income of the trust and was lodged in mid-2018. This objection was one of a number of disputes involving unrelated taxpayers in the child care services industry with similar circumstances.

The objection arose out of a covert audit which resulted in unfavourable assessments. Due to the nature of the audit, there was no engagement with the taxpayer at audit stage. The objection lodged by the taxpayer did not provide supporting evidence to substantiate the net income of the trust. The extended time in progressing the objection may therefore be attributed to the extensive information gathering that was undertaken by the objections team, including formal notices issued to third party financial institutions. The technical issues were complicated by the lack of evidence provided. The case required substantial factual analysis and external legal counsel was engaged for advice. Input was sought internally on the progression of the matter from the ATO's Tax Counsel Network and relevant Senior Executive Service officers.

The taxpayer's objection regarding the trustee assessment was allowed in full and the objection was finalised in late-2022.

Our observations

Disputes arising from compliance activities where taxpayers did not have the opportunity to engage, such as certain cases resulting in default assessments or covert audits, present resource and cost inefficiencies both for the ATO and the taxpayer due to the absence of information and input from the taxpayer.

Default assessments may arise in circumstances where taxpayers may not have the opportunity to engage or are potentially vulnerable, for example, they may be affected by physical or mental health issues or are in financial difficulty, or they have missed communications.

We recognise that covert audits may be necessary in certain cases in order to protect the revenue against the risk of asset dissipation, fraud and connections to organised crime. Where assessments in these cases are challenged, objection officers are essentially performing the function of an auditor – being to gather and analyse information from the taxpayer and to form a view as to whether that information supports an assessment of the liability, when balanced against third party information that had been considered during the audit.

In certain areas of its administration, the ATO has implemented administrative reversals to consider information presented by taxpayers that had not been provided at the time of the audit taking place. An example of this may be found in relation to the ATO's data matching compliance activities.

The ATO has previously advised that administrative reversals have been used effectively to correct or reduce adjustments made following data matching activities. In these activities, taxpayers are informed that based upon third party information, the ATO considers that some income may not have been declared and proposes to amend the taxpayer's return unless the taxpayer provides information to show otherwise within a certain period of time. For a variety of reasons, including where taxpayers may not have received the notice or were otherwise away during the response period, an adjustment is made which may be later reversed upon receipt of the necessary information from the taxpayer.

Importantly, an administrative reversal is not a formal or statutory process and is administered by the business line and not the objections team. A request for administrative reversal does not affect a taxpayer's right to object if they are dissatisfied with the reversal.

Rationale for change

It is our view that there is merit in the ATO examining options to implement an administrative reversal process in relation to certain audit types where taxpayers did not, or could not, have engaged during the audit. These could include audits arising out of data matching or those resulting in default assessments.

Administrative reversals would serve to alleviate pressure on the objections team needing to essentially re-audit the taxpayer and fosters better engagement between the taxpayer and the audit team. As with the earlier recommendation regarding self-initiated audits, alleviating resource pressures on the objections team would enable those resources to be redeployed to manage other valid objections to reduce timeframes and enhance overall efficiency.

A balance needs to be struck between administrative efficiency and reducing compliance costs and the need to encourage taxpayers to meaningfully engage with the tax system and address serious risks of criminal behaviour. For example, we do not believe that taxpayers who were provided with sufficient opportunity to engage but who chose not to do so should be able to avail themselves of additional review opportunities. Similarly, cases representing a high risk to the tax system should be considered through appropriate statutory channels rather than informal ones aimed at alleviating compliance burdens.

Recommendation 3

The ATO review options available to administratively reconsider audit decisions or assessments that were finalised in circumstances where the taxpayer did not have opportunity to engage.



4. Learning from objections

The objections function is uniquely placed to identify and provide feedback to other areas of the ATO, both at a case level and on a more systemic level to identify improvements to ATO actions and decision making.

What we found

The Frost Report identified a range of behaviours within the ATO and taxpayer community which allowed matters to escalate to objection stage rather than being resolved earlier at the compliance stage. A concern expressed in the report was that where matters were not prevented from escalating beyond the compliance stage, the objections function was ultimately required to deal with issues that did not constitute genuine ‘objections’.

Amongst a suite of recommendations made, the ATO acknowledged the need for stronger feedback and information flows between business lines. Immediate opportunities recognised by the ATO included:⁶

Implement feedback processes between RDR [Review and Dispute Resolution] and business lines to work cohesively to improve client-centric decisions and outcomes including but not limited to:

- *discuss positive and negative feedback*
- *identification and addressing of systemic problems*
- *driving cultural change where required*

6 Australian Taxation Office, ‘ATO Response Stephen Frost Report Small Business Experience Objection Review’ (Internal ATO Document, February 2019), p 8.

We found evidence that some areas of the ATO have implemented strategies to receive feedback from objections. For example, there is a protocol in relation to objections arising out of actions in the Public Groups and International business line:⁷

Following the decision, discuss the outcome of the objections with the PG&I [Public Groups and International] case officer / stakeholder.

Similarly, the ATO's Quarterly Performance Report also stated:⁸

CEG [Client Engagement Group] and LDP [Law Design and Practice] are moving to implement activities to address recommendations made by Stephen Frost in his review of Small Business Objections. This includes significant improvement in how feedback is provided from RDR [Review and Dispute Resolution] to SMB [Small and Medium Businesses] and IND [Individuals] with respect to objections to facilitate culture and process improvement.

The information provided to us suggests that the ATO employs a number of different strategies and approaches to providing feedback including reporting dashboards, outcomes templates and feedback forms. A key focus of the feedback appears to be at a case level – that is, objection officers providing feedback about a particular case to the audit team that conducted the audit.

Our observations

Over the course of this review, we have observed that a material portion of disputes that progress to objection need not, and likely would not, have reached this stage in the first place had there been sufficient engagement and information exchanged between the ATO and the taxpayer during the audit. The ATO would benefit from strengthening its internal objections feedback, particularly to ensure that as much relevant information as possible is gathered from taxpayers at the audit stage.

The Frost Report observations reflect some of the concerns that stakeholders have raised with us about the objections process being used as a means of conducting further investigation, rather than reviewing original audit decisions. We acknowledge that there may be instances where additional information may be necessary at the objection stage to ensure that the best decision is reached by the objection officer. This should, ideally, be the exception and not the rule and only in circumstances where the information either did not exist at the time of the audit (i.e. expert reports or advice commissioned after the audit had been completed) or where it was not reasonable for the auditors to have identified the need for that information.

7 Australian Taxation Office, 'Strengthening communication protocols between RDR Objections case officers and PG&I staff', (Internal ATO Document, April 2021) p 1.

8 Australian Taxation Office, 'ATO Executive Quarterly performance report Quarter 2 2018-19: October to December' (Internal ATO Document, February 2019), p 16.

There may be a range of reasons why objection officers seek further information at the objection stage. Some of these reasons have been reflected to us as including circumstances where:

- the relationship between the audit team and the taxpayer has broken down,
- the taxpayer has been unable to understand what was being sought by the audit team,
- the information sought does not exist and/or does not exist in the specific form that has been requested, and there have not been engagements to explore alternative sources of information, or
- the information has not been provided because of perceived or actual strategic advantages in holding onto the information until a later stage of the dispute.

The underlying issue that needs to be addressed is why taxpayers are providing new information at the objections stage, rather than during the audit and how this behaviour can be remedied. Is this due to a lack of clear communication by auditors with respect to what information is needed from taxpayers to correctly assess their tax position? Is it due to a lack of taxpayer engagement/cooperation with auditors due to fear of the consequences, or preconceived notions of independence and fairness or the view that there may be a strategic advantage in presenting new facts at objections rather than during the audit? Or is it due to taxpayers simply not taking the ATO's request seriously and ignoring it?

We believe that the ATO would benefit from further developing and enhancing its framework to strengthen its objections feedback to compliance areas of the ATO. One area of focus would be to assist compliance areas to understand why taxpayers may not be engaging during the audit stage and to develop strategies to address these matters.

We consider that further developing the systematic feedback framework between the objections and the compliance functions will assist in enhancing its overall audit approaches and help minimise disputes escalating to objections. In particular, we consider that the enhanced framework should consider how trends and learnings identified in objections are communicated to key executives and cascaded to operational areas within the ATO to consider for process improvements. The ATO may also wish to consider options to monitor whether such feedback is resulting in upstream improvements that are observable or measurable through improved early engagement and information access and minimising unnecessary disputes and objections.

Improvements to systematic feedback may also provide insights on underlying causes of invalid or incomplete objections being lodged to inform public communications and guidance.

Rationale for change

As the gateway for a large proportion of taxpayer disputes with the ATO, the objections function receives a large amount of insight about the nature of disputes raised, common issues and areas for upstream improvements to actions and decision making. Such insights are likely to assist the ATO enhance its overall service delivery, reduce the likelihood of disputes and, where disputes occur, ensure they are appropriately considered and resolved.

There is clear evidence of internal communication protocols within the ATO which encourage feedback and sharing of insights at a case-specific level which will no doubt be useful for the relevant case areas and officers involved. Enhancing the insights provided at a more systemic level, and measuring the impact of such insights, will likely assist the ATO to more broadly improve its service delivery and communications, both internally and externally, to minimise the risk of disputes escalating unnecessarily and ensuring that when it is necessary to lodge an objection, such objections are valid and complete.

Recommendation 4

The ATO further develop its structured feedback framework between the objections function and all business lines to share feedback and learnings arising from objections matters, both at a case level and on a more systemic level and consider monitoring the impact of the improvements.

Appendix A — ATO response

Second Commissioner of Taxation



Australian Government
Australian Taxation Office

Ruth Owen
Inspector-General of Taxation and Taxation Ombudsman
GPO Box 551
Sydney NSW 2001

Dear Ms Owen,

Re: Review into the ATO's administration and management of Objections

Thank you for the opportunity to comment on the Inspector-General of Taxation and Taxation Ombudsman (IGTO) final draft report on *The ATO's administration and management of Objections*, which was provided to us by email on 10 October 2024.

Given the importance of the ATO's objections function as part of our overall administration, the ATO welcomes the review and the opportunity to consider areas for improvement to ensure our service remains contemporary and fit-for-purpose.

We are pleased that the report aligns with our own priorities and that in some cases there is relevant work already in progress. We are similarly pleased that the report does not identify any significant systemic concerns that need immediate intervention.

We agree (fully, partly or in principle) with all the recommendations, noting some of our responses are influenced by organisational priorities and finite resources.

Our detailed response to the recommendations is attached.

Finally, we would like to acknowledge the efforts of all involved in undertaking this review and thank the IGTO for their collaborative, professional and constructive approach in the conduct of this review.

Yours sincerely

A handwritten signature in black ink, appearing to be 'K. Fish', written over a faint circular stamp.

Kirsten Fish
Second Commissioner of Taxation

25 October 2024

GPO Box 9977 SYDNEY NSW 2001 ato.gov.au

IGTO investigation into the ATO's administration and management of Objections

Final Draft Report – ATO response to recommendations

Page	Recommendation	ATO Comment
7	<p><i>Recommendation 1:</i></p> <p>The ATO:</p> <p><i>(a) prioritise the ‘Optimising Disputes’ project to deliver an online channel for taxpayers and tax professionals to lodge objections electronically;</i></p> <p><i>(b) capture and report on timeframes elapsing between objections first being received within the ATO and other key milestones leading to the first contact with a taxpayer or tax practitioner and through to resolution; and</i></p>	<p>Recommendation 1</p> <p>(a) Agree in principle</p> <p>The ATO is currently prioritising the design and costing of the ‘Optimising Disputes’ project with a focus on providing an online channel for individuals to lodge objections.</p> <p>Any decision to fund the delivery of the project will consider benefits and value to be realised, cost and organisational capacity.</p> <p>Tax professionals who are registered tax agents can lodge objections through Online Services for Agents. Further consideration will be given to whether it is feasible to provide an online channel for those tax professionals who do not have access to Online Services.</p> <p>(b) Agree in principle</p> <p>The decision to capture new data points involves balancing the costs of the required system changes and the administration involved in capturing the additional information in every objection, against the benefits that might flow from capturing the additional data.</p> <p>The ATO agrees to explore data collection in relation to objections timeframes not currently captured and give consideration to the benefits that might be realised from that additional data collection.</p>

Page	Recommendation	ATO Comment
	<p><i>(c) explore options to differentiate objections lodged by professionals other than registered tax agents (such as accountants and legal professionals) within ATO systems to enhance overall reporting and analysis in objections work and outcomes</i></p>	<p>(c) Agree</p> <p>The ATO agrees to explore options to differentiate objections lodged by non-agent tax practitioners.</p> <p>Any decision to implement a mechanism to differentiate objections within the ATO systems would involve an evaluation of the costs of the system changes against the benefits identified by the further differentiation.</p>
8	<p>Recommendation 2:</p> <p><i>The ATO:</i></p> <p><i>(a) explore options to better streamline self-initiated objections that are lodged for the purpose of seeking to make amendments to prior lodgements which are out of time, where those amendments are of low value or low risk to revenue; and</i></p> <p><i>(b) where no feasible options exist, provide a briefing to Treasury and the Government about the time and resources devoted to self-initiated objections (particularly from individual taxpayers) and options for policy or legislative change to improve the overall taxpayer and administrative experience, in line with the recent changes for small business.</i></p>	<p>Recommendation 2</p> <p>(a) Agree</p> <p>The ATO agrees to explore options to better streamline self-initiated objections that are lodged for the purpose of seeking to make amendments to prior lodgements which are out of time, where those amendments are of low value or low risk to revenue.</p> <p>The ATO has not costed and potential cost savings that may flow from this recommendation.</p> <p>(b) Agree in part</p> <p>After exploring the options referred to in recommendation 2(a), the ATO will brief Treasury on the practical operation of self-initiated objections, including the resources devoted to this work. The ATO will work with Treasury on any consequential activity in the usual manner.</p> <p>The ATO does not express a view on whether there are policy options to improve the system that should be considered. Any policy or legislative changes would be a matter for Government.</p>

Page	Recommendation	ATO Comment
9	<p><i>Recommendation 3:</i></p> <p><i>The ATO review options available to administratively reconsider audit decisions or assessments that were finalised in circumstances where the taxpayer did not have opportunity to engage.</i></p>	<p>Recommendation 3</p> <p>Agree in part</p> <p>The ATO agrees to explore options available to administratively reconsider some categories of audit decision finalised in circumstances where the taxpayer has not had an opportunity to engage. We anticipate that there will be opportunities to improve the current system. However, given the very broad range of circumstances in which assessments can be finalised without taxpayer engagement, the ATO considers that there will be some classes of cases where the taxpayer did not have opportunity to engage where administrative reconsideration will not be appropriate or feasible.</p> <p>In the Observations and Rationale for Change relating to this recommendation, a distinction is drawn between taxpayers who choose not to engage and those whose circumstances may mean they are unable to engage. The ATO notes that there may be practical difficulties in differentiating between these two types of situations that will need to be considered in implementation.</p>
9	<p><i>Recommendation 4:</i></p> <p><i>The ATO further develop its structured feedback framework between the objections function and all business lines to share feedback and learnings arising from objections matters, both at a case level and on a more systemic level and consider monitoring the impact of the improvements.</i></p>	<p>Recommendation 4</p> <p>Agree</p> <p>The ATO has well-developed processes to ensure effective and timely feedback is provided by the objections area to audit areas. However, the ATO agrees to further develop and evolve its feedback processes and structure, particularly at the systemic level, to drive continuous improvement.</p>