

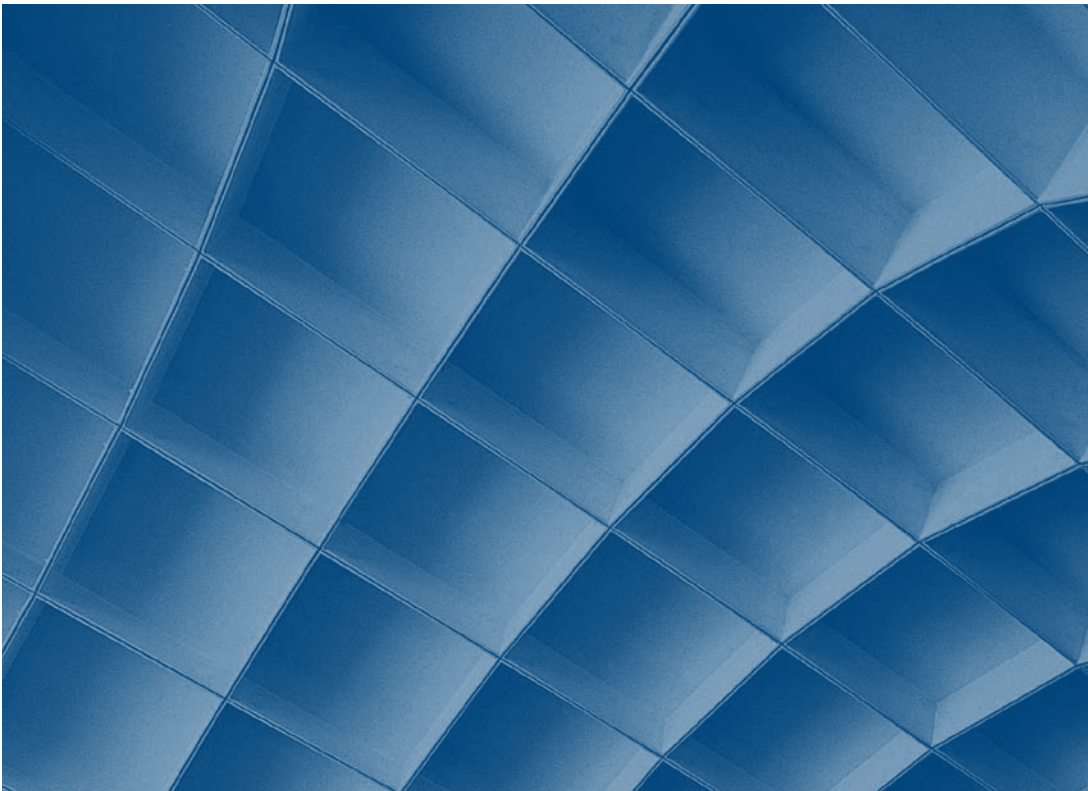


Australian Government

Australian Taxation Office

Taxpayers' charter

Accessing information under the Freedom of Information Act



OUR COMMITMENT TO YOU

We are committed to providing you with advice and information you can rely on.

If you feel this publication does not fully cover your circumstances, please seek help from the Tax Office or a professional adviser.

The information in this publication is current at January 2007. We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at **www.ato.gov.au** or contact us.

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INTRODUCTION

The *Freedom of Information Act 1982* gives you the right to have access to information about you in documents we hold. You can also access documents that help us to make decisions, such as public rulings, Tax Office procedures and guidelines.

Under the Act you can also ask us to correct information we hold about you if it is incomplete, incorrect, out of date or misleading.

The charter is for everyone who deals with us on tax, including superannuation, excise and the other laws we administer.

Throughout this publication, unless we say otherwise, 'tax' means all matters dealt with by the Tax Office.

HOW TO ACCESS OUR DOCUMENTS

If you want to access any of our documents, contact us first. We can provide copies of some of the more commonly requested documents without the need for you to make a freedom of information request.

For example, we can provide a copy of any of your recent notices of assessment free of charge. We can also provide a copy of any of your recent tax returns, although there may be a small fee.

MAKING A FREEDOM OF INFORMATION REQUEST

If you make a request under the Act for access to documents, it must be in writing, provide enough information for us to identify the documents, specify an address in Australia to reply to and be signed by you.

You can download an application form (NAT 2877) from www.ato.gov.au by searching for '2877', or phone **1300 720 092** to have a copy posted to you.

You will need to include the prescribed fee with your request. The form provides details of the fees involved.

After you lodge your application, we must acknowledge it within 14 days. We must give you our decision and the reasons for that decision within 30 days. If this is not possible, for example if you have asked for a large number of documents, we will send you an interim response and negotiate an extended time with you.

If we have to consult with someone else, for example if you ask for a document which contains information about them, we have a further 30 days to tell you our decision.

If we do not meet these 30-day time limits, you can ask the Administrative Appeals Tribunal to review our decision on the basis that we are deemed to have refused your request.

WHY YOU MAY BE REFUSED ACCESS

Under the Act, we may refuse to give you access to documents because they are exempt documents.

Exempt documents include those where disclosure of the documents or the information in them:

- could reasonably be expected to prejudice an investigation
- could reasonably be expected to prejudice the proper administration of the law or the proper and efficient conduct of our operations
- would involve the unreasonable disclosure of personal information of another person or constitute a breach of confidence
- is prohibited under other legislation, for example, under the tax law secrecy provisions
- is subject to legal professional privilege, or
- is contrary to the public interest, and they are internal working documents.

We have guidelines to help us make fair and consistent decisions about requests for information under freedom of information.

If you are refused access to documents, you can have that decision reviewed. For more information see page 7.

Sometimes we may give you a document with the exempt material deleted. You can ask why this material was deleted and have our decision reviewed.

CHANGING YOUR PERSONAL INFORMATION

You can ask us to change the personal information we hold about you if you think that the information:

- is incomplete, incorrect, out of date or misleading, and
- has been used, is being used, or is available to be used for an administrative purpose.

You do not have to pay a fee for this request.

Your request must be in writing and, as far as possible:

- give details of the document and the information you believe is incomplete, incorrect, out of date or misleading
- give reasons why you are asking for the amendments, and
- provide an address in Australia for us to reply to.

We must give you our decision and the reasons for that decision within 30 days of receiving your request. If we do not meet this deadline, you can ask the Administrative Appeals Tribunal to review our decision because we are deemed to have refused your request.

ADDING A NOTE TO YOUR INFORMATION

If we decide we will not change our information about you, you can ask us to add a note setting out:

- which information you are concerned about
- whether you think the information is incomplete, incorrect, out of date or misleading
- your reasons for the claim, and
- any other information you think will correct this.

As long as your note is not considered to be irrelevant, defamatory or unnecessarily long, we will add it to our information about you.

You can also apply directly for us to add to, rather than change, our information about you. Again, there is no fee for this.

If we refuse to change or add a note to your records, you can have this decision reviewed. For more information see page 7.

HOW LONG DO WE KEEP YOUR INFORMATION?

Under the law, we only have to hold your information for a fixed period.

We keep different kinds of information for different lengths of time. Some examples are:

- income tax returns – for most people we keep these for four years after the date of assessment
- audit papers – we keep these for six years after the case is finalised (except deliberate evasion cases), and
- debt collection files – we keep these for six years after the last action.

LOOKING AT AND BUYING TAX OFFICE DOCUMENTS

We have manuals and other documents to help us when we make decisions about your tax affairs.

These include policies, taxation rulings, determinations and law administration practice statements.

The Act gives you the right to look at most of these documents and buy copies of them. We must make documents available on request (unless they are exempt documents).

Before making a request, check our website because many of these documents are available there.

If you are refused access to a Tax Office document or part of one, you have the right to have that decision explained and reviewed. For more information see the opposite page.

HOW MUCH WILL IT COST?

The cost of freedom of information requests is set by the law.

The charges are listed on the application form, or you can contact us for the information.

EXPLAINING AND REVIEWING OUR DECISIONS

EXPLAINING OUR DECISIONS

We must give you a statement setting out the reasons for our decision if we refuse to:

- allow you access to a document
- amend your personal information, or
- waive or reduce the amount of your fees or charges.

We will also tell you how to get the decision reviewed.

Generally, we must provide the statement within 30 days of receiving your request.

REVIEWING OUR DECISIONS

You can ask us to review our decision if you do not agree with it. There are some very limited exceptions, for example, if the decision was made personally by the Commissioner of Taxation.

By law, we must charge a fee for this review. Contact us for details of the current fees and charges.

Your request must be in writing. You should send it to us within 30 days of being notified of our decision. If you cannot request a review within 30 days, you can apply for an extension of time. Your application should set out the reasons why you are unable to seek the review within 30 days.

A tax officer who was not involved in the original decision will conduct the review.

Normally, we will give you our decision and the reasons for it within 30 days of receiving your request for a review. If this is not possible, we will send an interim response.

FURTHER REVIEW PROCESS

You can apply to the Administrative Appeals Tribunal for a review of:

- our review decision, or
- our original decision, if you had no right of internal review.

You can also apply to the tribunal if we have taken more than 30 days to make a decision about your application for access to documents or your request for an internal review.

Your application must be in writing and be sent with the normal application fee. You should lodge your application within 60 days of receiving our decision.

You do not have to pay the application fee in some circumstances, for example, if you hold a pensioner health benefit card.

- 🔗 For more information about fees, see the Administrative Appeals Tribunal website at www.aat.gov.au or contact them on **1300 366 700** for the cost of a local call.

APPEAL RIGHTS

You may be able to appeal to the Federal Court and the High Court of Australia. Contact us or the court registries for more information.

MORE INFORMATION

For more information about the taxpayers' charter, visit www.ato.gov.au and search for 'charter'. To have a copy posted to you, phone **1300 720 092** and tell us the NAT number of the publication you want from the list below.

TAXPAYERS' CHARTER PUBLICATIONS

- *Taxpayers' charter – what you need to know* (NAT 2548)
- *Taxpayers' charter – expanded version* (NAT 2547)
- *Treating you fairly and reasonably* (NAT 2549)
- *Your honesty and complying with the tax laws* (NAT 2550)
- *Your privacy and the confidentiality of your tax affairs* (NAT 2552)
- *Getting advice from the Tax Office* (NAT 2553)
- *Accessing information under the Freedom of Information Act* (NAT 2554)
- *Who can help with your tax affairs* (NAT 2555)
- *If you're not satisfied* (NAT 2556)
- *If you're subject to enquiry or audit* (NAT 2558)
- *Fair use of our access and information gathering powers* (NAT 2559)

