



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Disclosure Log Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

Application Details	
Ref. No.	CMTEDDFOI 2024-288
Date of Application	12 September 2024
Date of Decision	15 October 2024
Processing time (in working days)	22
Fees	N/A
Decision on Access	Full Release
Information Requested (summary)	Statistical information related to the Home Buyer Concession Scheme (HBCS).
Publication Details	
Original application	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
Decision notice	<input checked="" type="checkbox"/> Published <input type="checkbox"/> N/A
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Decision made by Ombudsman	N/A
Additional information identified by Ombudsman	N/A
Decision made by ACAT	N/A
Additional information identified by ACAT	N/A

From: [REDACTED]
To: [CMTEDD.FOI](#)
Subject: CMTEDDFOI 2024-288 - FOI Request - Home Buyer Concession Scheme statistical information
Date: Thursday, 12 September 2024 10:28:38 AM
Attachments: [FOI Request - Home Buyer Concession Scheme statistical information.docx](#)

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Dear FIO Information Officer,

Please find attached an FOI request.

I can be contacted via this email address.

This request is for Statistical information related to the Home Buyer Concession Scheme (HBCS). The purpose is to obtain an overview of how many concessions have been incorrectly applied over the life of the scheme, with the focus on Notices of Reassessment issued in the previous four financial years and the current financial year.

This request does not seek any personally identifiable information, and requires only numbers.

This request is also only seeking numbers related to finalised outcomes. For example, if an investigation was begun in the 2019-2020 financial year, and the Notice of Reassessment was issued in the 2022-2023 financial year, all the relevant information would apply to the 2022-2023 financial year.

A table has been included to aid in completing this request.

In this request:

HBCS means Home Buyer Concession Scheme administered by the ACT Revenue Office.

exempted or partially exempted means when transaction had the HBCS applied to it and it resulted in no stamp duty payable, or part of the stamp duty exempted as the property price was above the relevant threshold.

NoR means a Notice of Reassessment issued by the ACT Revenue Office directly related to the Home Buyer Concession Scheme.

TADI means *Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination* Disallowable instrument including, and prior to, DI2024–175.

In the financial years of 2021-2022, 2022-2023, 2023-2024, 2024-2025(present) and separated into each financial year:

1. The total number of stamp duty payments exempted or partially exempted under the HBCS.
2. The total number of NoRs issued.
3. The number of NoRs issued as a result of voluntary self-disclosure.
4. The number of NoR issued following a notice of investigation.
5. The number of NoRs issued following an investigation.
6. The number of NoRs issued as the transaction was subsequently deemed to not be an eligible transaction as it failed to meet the relevant criteria paragraph 6(1)(a) of any TADI, and the year the concession was initially claimed.
7. The number of NoRs issued as the transaction was subsequently deemed to not be an eligible transaction as it failed to meet the relevant criteria in paragraph 6(1)(b) of any TADI, and the year the concession was initially claimed.
8. The number of NoRs issued as the transaction was subsequently deemed to not be an eligible transaction as it failed to meet the relevant criteria in paragraph 6(1)(c) of any TADI, and the year the concession was initially claimed.
9. The number of NoRs issued as the transaction was subsequently deemed to not be an eligible transaction as it failed to meet the relevant criteria in paragraph 6(1)(d) of any TADI, and the year the concession was initially claimed.
10. The number of NoRs issued as the transaction was subsequently deemed to not be an eligible transaction as it failed to meet the relevant criteria in paragraph 6(1)(e) of any TADI, and the year the concession was initially claimed.
11. The total number of NoRs that included an interest payable and a penalty tax.
12. For each transaction in 11, penalty tax rate applied to each NoR as determined under Division 5.2 of the *Taxation Administration Act 1999* (ACT) (the TAA).
13. The total number of NoRs from the relevant financial year objected to.
14. The total number of NoRs from the relevant financial objected to that resulted in a determination reducing or eliminating and interest or penalty tax imposed.
15. The total number of determinations that commenced merits review under the *ACT Civil and Administrative Tribunal Act 2008* (ACT) (whether finalised or not).

	2021-2022	2022-2023	2023-2024	2024-2025
1. Total number of stamp duty payments (partially) exempted under the HBCS.				
2. Total number of NoRs issued.				
3. Number of NoRs issued as a result of voluntary self-disclosure.				
4. Number of NoRs issued following a notice of investigation.				
5. Number of NoRs issued following an investigation.				
6. NoRs issued as failed to meet 6(1)(a).				
6.1 Year HBCS initially claimed.				
7. NoRs issued as failed to meet 6(1)(b).				
7.1 Year HBCS initially claimed.				
8. NoRs issued as failed to meet 6(1)(c).				
8.1 Year HBCS initially claimed.				
9. NoRs issued as failed to meet 6(1)(d).				
9.1 Year HBCS initially claimed.				
10. NoRs issued as failed to meet 6(1)(e).				
10.1 Year HBCS initially claimed.				
11. Total NoRs with interest and penalty tax.				
12. Penalty tax rate(s) applied.				
13. Total number of NoRs objected to.				
14. NoRs objected to resulting in reduced interest or penalty tax.				
15. Number of merits review.				

To aid in identifying what would be in scope of the request, the following example is provided:

Mr Smith purchased a home in September 2019 and claimed the Home Buyers Concession Scheme, stating that he was eligible. In the beginning of 2022, the ACT Revenue Office conducted an investigation and found that his income in the 2018-2019 financial year was above the income threshold. Mr Smith was delivered a Notice Of Reassessment with interest and 50% penalty tax charged, as he the 2019 transaction was not an **eligible transaction** under paragraph 6(1)(c) of the *Taxation Administration (Amounts payable - Home Buyer Concession Scheme) Determination 2019 (No 1) Disallowable instrument DI2019-70* in force 05/06/2019 to 30/06/2019.

He objected to the reassessment and was notified in late 2022 that the penalty tax would be reduced to 25% based on exceptional circumstances. He did not seek merits review.

This case would result in:

- One (1) addition to 2. *Total number of NoRs issued for 2021-2022.*
- One (1) addition to 5. *Number of NoRs issued following an investigation for 2021-2022.*
- One (1) addition to 8. *NoRs issued as failed to meet 6(1)(c) for 2021-2022.*
- The addition of '2019' to 8.1 *Year HBCS initially claimed.*
- One (1) addition to 11. *Total NoRs with interest and penalty tax for 2021-2022.*
- The addition of '50%' to 12. *Penalty tax rate(s) applied for 2021-2022.*
- One (1) addition to 13. *Total number of NoRs objected to for 2021-2022.*
- One (1) addition to 14. *NoRs objected to resulting in reduced interest or penalty tax for 2022-2023.*



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Economic Development

Our ref: CMTEDDFOI 2024-288



FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 26 September 2024, in which you sought access to:

"...Statistical information related to the Home Buyer Concession Scheme (HBCS). The purpose is to obtain an overview of how many concessions have been incorrectly applied over the life of the scheme, with the focus on Notices of Reassessment issued in the previous four financial years and the current financial year.

This request does not seek any personally identifiable information, and requires only numbers.

This request is also only seeking numbers related to finalised outcomes. For example, if an investigation was begun in the 2019-2020 financial year, and the Notice of Reassessment was issued in the 2022-2023 financial year, all the relevant information would apply to the 2022-2023 financial year..."

On 10 October 2024, you agreed that the scope would be revised to:

For each financial year beginning July 2021:

- 1. The total number of stamp duty payments exempted or partially exempted under the HBCS.*
- 2. The total number of NoRs issued.*
- 3. The total number of NoRs that included an interest payable and a penalty tax.*

Authority

I am an Information Officer appointed by the Director-General of CMTEDD under section 18 of the Act to deal with access applications made under Part 5 of the Act.

I am a tax officer for the purposes of the *Taxation Administration Act 1999* (TAA), and a delegate of the Commissioner of ACT Revenue for the purpose of section 96 of the TAA.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by **25 October 2024**.

Decision on access

Searches were completed for relevant information and the ACT Revenue Office (ACTRO) has identified the following statistical data that falls within scope of your request.

I have decided to grant **full access** to the statistical data, tabled as follows:

1. The total number of stamp duty payments exempted or partially exempted under the HBCS:

Year	2021-22	2022-23	2023-24	YTD Sep 2024
HBCS	5059	4585	3889	958

2. The total number of Notice of Reassessments (NoRs) issued:

Year	No of NoRs issued
2021-22	8
2022-23	81
2023-24	236
2024-25 (to YTD Sep)	46

3. The total number of NoRs that included an interest payable and a penalty tax:

2021-22	
Reassessments	8
Penalty Tax Applied	7
Interest Applied	6

2022-23	
Reassessments	81
Penalty Tax Applied	76
Interest Applied	76

2023-24	
Reassessments	236
Penalty Tax Applied	224
Interest Applied	227

2024-25	
Reassessments	46
Penalty Tax Applied	46
Interest Applied	45

Pursuant to section 54(2) of the Act, a statement of reasons outlining my decision follows.

Statement of Reasons

In reaching my decision, I have taken the following into account:

- schedule 1 of the Act, to assess whether the information would be contrary to public interest to disclose;
- section 17 and schedule 2 of the Act, to perform the public interest test by balancing the factors favouring disclosure and factors favouring non-disclosure;
- the TAA, particularly the secrecy provisions under Division 9.4; and
- the information that falls within the scope of your request.

Contrary to Public Interest under schedule 1 of the Act

Particularly, I have considered section 1.3(6) and (7) of schedule 1:

1.3 Information disclosure of which is prohibited under law

(6) Any other information the disclosure of which is prohibited by a secrecy provision of the law.

(7) In this section:

secrecy provision — a provision of a law is a secrecy provision if it —

(a) applies to information obtained in the exercise of a function under the law; and

(b) prohibits people mentioned in the provision from disclosing the information, whether the prohibition is absolute or subject to stated exceptions or qualifications.

Division 9.4 of the TAA contains a 'secrecy provision' as defined in Schedule 1, sections 1.3(6) and (7) of the Act.

Under section 95(2) of the TAA, tax officers are prohibited from disclosing any information obtained under, or in relation to the administration of a tax law.

Section 96 provides that the Commissioner of ACT Revenue may disclose statistical information that does not and is not likely to directly or indirectly identify a particular taxpayer, or disclose matters about the personal affairs of a particular taxpayer.

Public Interest under schedule 2 of the Act

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interests lies. As part of this process, I must consider factors favouring disclosure and non-disclosure.

Taking into consideration the information found to be within the scope of your request, I have identified that the following public interest factor is relevant to determine if release of the information contained within these documents is within the 'public interest'.

Factor favouring disclosure in the public interest:

- (a) disclosure of the information could reasonably be expected to do any of the following:*
 - (ii) contribute to positive and informed debate on important issues or matters of public interest;*

I have placed weight on this factor favouring disclosure. It is reasonable to expect that information about this topic may be of interest to the Canberra community and could contribute to informed debate about issues of interest.

In light of the above, I have decided to release the statistical data to you in full.

Charges

Processing charges are not applicable for this request because the number of pages released to you is below the charging threshold of 50 pages.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application and my decision will be published on the CMTEDD disclosure log. Your personal contact details will not be published. You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi/disclosure-log-2023>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73

of the Act within 20 working days from the day that my decision is published on the disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may use this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
15 Constitution Avenue
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on 6207 0293 or email ACTRO.FOI@act.gov.au.

Yours sincerely

J Tonna

Joseph Tonna
Information Officer
Revenue Management
Chief Minister, Treasury and Economic Development Directorate
15 October 2024