



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

## Freedom of Information Publication Coversheet

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

FOI Reference: CMTEDDFOI 2023-356

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	N/A
4. Additional information identified	Yes/No
5. Fees	N/A
6. Processing time (in working days)	12
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

**From:** [no-reply@act.gov.au](mailto:no-reply@act.gov.au)  
**To:** [CMTEDD FOI](#)  
**Subject:** Freedom of Information request  
**Date:** Sunday, 15 October 2023 4:04:03 PM

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**Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

### Your details

**All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.**

Title:  
First Name:  
Last Name:  
Business/Organisation:  
Address:  
Suburb:  
Postcode:  
State/Territory:  
Phone/mobile:  
Email address:



### Request for information

**(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)**

I am seeking the total number of ACT Revenue Office (or previous named iterations of this portfolio) Notice of Reassessment advices regarding the Home Buyer Concession Scheme for the previous (2) two financial years, along with the number of advices for the current financial year to date. I am specifically seeking the Notice of Reassessment advices where a penalty tax or interest has been incurred. I am seeking this information to understand the extent of home buyers not meeting their tax obligations.

I do not want to access the following documents in relation to my request:

I do not seek specific information on each advice.

Thank you.  
Freedom of Information Coordinator



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Our ref: CMTEDDFOI 2023-356



## 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 16 October 2023, in which you sought access to:

*I am seeking the total number of ACT Revenue Office (or previous named iterations of this portfolio) Notice of Reassessment advices regarding the Home Buyer Concession Scheme for the previous (2) two financial years, along with the number of advices for the current financial year to date. I am specifically seeking the Notice of Reassessment advices where a penalty tax or interest has been incurred. I am seeking this information to understand the extent of home buyers not meeting their tax obligations. I do not seek specific information on each advice*

### 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 27 November 2023.

### 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:

Financial Year	Number of Home Buyer Concession Notice of Reassessments
2021-22	8
2022-23	81
2023-24 (to end of September 2023)	31

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](mailto:actfoi@ombudsman.gov.au)

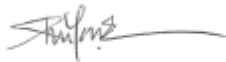
### **ACT Civil and Administrative Tribunal (ACAT) Review**

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 6205 9626 or email [ACTRO.FOI@act.gov.au](mailto:ACTRO.FOI@act.gov.au).

Yours sincerely,



Shu-Yen Ee  
Information Officer  
Revenue Management  
Chief Minister, Treasury and Economic Development Directorate  
1 November 2023