



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 2021-146

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	N/A
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	7
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: [REDACTED]
To: [CMTEDD FOI](#)
Cc: [REDACTED]
Subject: FOI REQUEST – DUTY ON TRANSFER OF INTEREST
Date: Tuesday, 29 June 2021 2:20:41 PM

Good afternoon,

RE: FREEDOM OF INFORMATION REQUEST – DUTY ON TRANSFER OF INTEREST

Since the passage of the *Duties (Commercial Leases) Amendment Act 2014* in April 2014, the *Duties Act 1999* included an interest in a commercial lease as dutiable property; hence, a transfer of such an interest is liable for duty. It should be noted that a commercial lease with a premium was a separate item of dutiable property.

Regarding the transfer of an interest in a commercial lease, other than a commercial lease with a premium, for each financial year from 2014-2015 to 2020-21 (to date), I write to request under the *Freedom of Information Act 2016*:

1. All correspondence to ACT Treasury, including to the ACT Revenue Office, regarding duty on the transfer of an interest in a commercial lease
2. All lodgements to the ACT Revenue Office pertaining to the transfer of an interest in a commercial lease
3. The number and value of assessments of duty on the transfer of an interest in a commercial lease
4. The number and value of assessments of duty on the transfer of an interest in a commercial lease that were subject to objection under the *Taxation Administration Act 1999*
5. The number of allowed, part allowed and disallowed objections to an assessment of duty on the transfer of an interest in a commercial lease
6. The dollar value of allowed or part allowed objections.

Duplicate documents can be excluded.

Should you require any further information or clarification about my request, please contact my office on [REDACTED].

Kind regards,

[REDACTED]



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Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2021-146



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 29 June 2021, in which you sought access to Final Ministerial briefs directed to Minister for Tourism.

Specifically, you are seeking documents regarding the transfer of an interest in a commercial lease, other than a commercial lease with a premium, for each financial year from 2014-2015 to 2020-21 (to date) including:

1. All correspondence to ACT Treasury, including to the ACT Revenue Office, regarding duty on the transfer of an interest in a commercial lease
2. All lodgements to the ACT Revenue Office pertaining to the transfer of an interest in a commercial lease
3. The number and value of assessments of duty on the transfer of an interest in a commercial lease
4. The number and value of assessments of duty on the transfer of an interest in a commercial lease that were subject to objection under the *Taxation Administration Act 1999*
5. The number of allowed, part allowed and disallowed objections to an assessment of duty on the transfer of an interest in a commercial lease
6. The dollar value of allowed or part allowed objections.

Authority

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

Timeframes

On 13 July 2021, we sent a response to you in a letter with an intention to refuse. A response was received from your office on 23 July 2021 with a revised scope where the date range of the requested information was *changed to cover the period 2019-2020 and 2020-2021* instead of originally requested period, which was from financial year 2014-15 to 2020-21.

In accordance with section 40 of the Act, CMTEDD was required to provide a decision on your revised access application by 20 August 2021. On 4 August 2021, I wrote to you advising that I intended to refuse to deal with your request in its current form as I considered it would be an unreasonable diversion of resources. In that letter you were provided with the opportunity to amend your application. The time allowed for your response to my proposal, as stated under section 46(4)(a), was 10 working days meaning a response was due to this office by 20 August 2020. Processing time for this request was suspended for the 10-day consultation period. CMTEDD did not receive a response to this letter by that date.

Decision on access

As outlined in my letter dated 4 August 2021, I consider that dealing with your request in its current form is an unreasonable and substantial diversion of resources as the Revenue Office does not have a document that specifically outlines or tabulates all of the information you have requested.

The Revenue Office would have to create a document that tabulates and aggregates (for secrecy and confidentiality reasons) these numbers and values which will take a considerable amount of time and resources to compile. It is not necessarily within the spirit or intent of the FOI Act to require the creation of a document specifically to respond to an application request. This is not considered 'open access information' as it does not exist.

In addition, as the information contained in "all correspondence" and "all lodgements" would necessarily carry with it, taxpayer information, disclosure of which is also protected under the secrecy provisions of the *Taxation Administration Act 1999* (refer Division 9.4).

Considering all the points mentioned in my response to you on 4 August 2021 and in absence of a response to my request to amend the scope of your request, I have decided to refuse to deal with your application under section 43(1)(a).

Charges

Processing charges are not applicable for this request because no pages are being released to you

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. A description of the access application and my decision will be published in the CMTEDD disclosure log between 3-10 days after date of decision. Your personal contact details will not be published. You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi>.

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 in CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman at:

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

Level 4, 1 Moore St

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 02 6207 7754 or email CMTEDDFOI@act.gov.au.

Yours sincerely,



Daniel Riley

Information Officer

Information Access Team

Chief Minister, Treasury and Economic Development Directorate

23 August 2021