Australian Government
Australian Taxation Office

Mr Paul Echo
c/- Right to Know website

Our reference: 1-KA0S8KP
Contact officer: A Manzie
Email: foi@ato.gov.au

Date: 7 February 2020

Decision regarding your Freedom of Information request

Dear Mr Echo,

I refer to your request made under the *Freedom of Information Act 1982* (FOI Act) on 7 January 2020 at 12:12pm.

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

Scope

You have requested the following information:

> "I would like to know how do you handle Tax Evasion Tip off?
> What producers, Tools are being used when you get a complaint/tip off."

You have asked questions as part of your FOI request. The FOI Act provides a right of access, with exceptions, to existing documents held by government agencies. The FOI Act does not provide a right of access to information generally nor does it require an agency to create new documents in response to a FOI request except in very limited circumstances.

I have therefore read your request as being for documents showing the current procedures, products and tools used when a tax evasion tip-off is received.

Decision

I have identified two documents within the scope of your request and I have decided to grant you access to both documents in part.

Material taken into account

In reaching my decision I relied on the following:

- the terms of your request;
- the content of the documents requested;
- the FOI Act;
- consultation with relevant ATO officers; and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Reasons for decision

Section 22

Section 22 of the FOI Act permits an agency to release an edited copy of a document that prevents the disclosure of material that is exempt or irrelevant to the request. I considered that it was possible for me to prepare an edited copy of the documents that removes material irrelevant to the scope of your request as well as removing exempt material. I have therefore decided to release versions of two documents that I have edited under section 22 of the FOI Act.

Section 47E(d)

Section 47E(d) of the FOI Act provides that a document is exempt if its disclosure could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency and disclosure is against the public interest.

In relation to the Tax Integrity Centre Analyst Procedure, I have exempted user identifications of ATO staff members. ATO user identifications are unique identifiers used by ATO staff to access the ATO's systems which contain sensitive taxpayer information. Release of user identifications could reasonably be expected to increase the risk of unauthorised access to the ATO's systems as they constitute part of the authentication requirements for system access. A successful attack on the ATO's systems would lead to loss of confidentiality, integrity and/or availability of affected systems and taxpayer information. I therefore consider that user identifications are conditionally exempt from disclosure under section 47E(d) of the FOI Act.

The Stakeholder Reference Tool document contains behaviours, criteria, indicators and key words that officers use to assess a tax evasion tip-off. Some of the information is very specific about the types of risks and sources of information that the ATO and the Black Economy Standing Taskforce members use to detect tax evasion and assess next steps. I consider that, if released, this information could reasonably be used by those engaging in tax evasion to modify their behaviour to elude detection. I consider that release of this information could reasonably be expected to reduce the effectiveness of the ATO's ability to detect tax evasion as well as impact the agency's ability to properly assess tax evasion tip-offs. Given the ATO's important role in protecting revenue and identifying people and businesses operating outside the tax system, I am satisfied that this would have a substantial adverse effect on the proper and efficient conduct of the operations of the agency. This information is therefore conditionally exempt under subsection 47E(d) of the FOI Act.

As section 47E(d) of the FOI Act is a conditional exemption, it is subject to the public interest test in subsection 11A(5); access must be given unless the balance of public interest is against release. I have considered the public interest factors for and against release. I have not taken into account any of the factors in subsection 11B(4) of the FOI Act, which are explicitly not to be considered.

The strong general public interest in promoting the objects of the FOI Act and furthering an applicant's general rights of access to information held by a Commonwealth agency is, in my opinion, outweighed by the stronger general public interest in protecting ATO systems and maintaining the integrity of compliance activities and specific methods for assessing and handling tax evasion tip-offs.

I consider that the balance of public interest is against release and the information is therefore exempt under section 47E(d) of the FOI Act.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Australian Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the ATO for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter, quoting our reference number at the top of this letter, and be lodged in one of the following ways:

email: **FOI@ato.gov.au**
post: Australian Taxation Office, General Counsel, GPO Box 4889, Sydney NSW 2001.

Where possible please attach reasons why you believe review of the decision is necessary.

The internal review will be carried out by another officer within 30 days. If you have not been informed of the outcome of the review within that time, you may apply to the Australian Information Commissioner under section 54L of the FOI Act.

Australian Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Australian Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: **https://forms.business.gov.au/aba/oaic/foi-review-/**
email: **enquiries@oaic.gov.au**
post: GPO Box 5218, Sydney NSW 2001
in person: Level 3, 175 Pitt Street, Sydney NSW

Visit the Australian Information Commissioner website, **www.oaic.gov.au/freedom-of-information/foi-reviews**, for more information about Australian Information Commissioner review.

Complaints

Any complaint about the processing of your FOI request can be forwarded to the OAIC. The complaint needs to be in writing and identify the agency against which the complaint is made. There is no particular form required to make a complaint, however using the online form is preferable.

online: **https://forms.business.gov.au/aba/landing.htm?formCode=ICCA_1**
email: **enquiries@oaic.gov.au**
post: GPO Box 5218, Sydney NSW 2001
in person: Level 3, 175 Pitt Street, Sydney NSW

The OAIC can be contacted on 1300 363 992 for the cost of a local call.

Questions about this decision

If you wish to discuss this decision, please contact foi@ato.gov.au.

Yours sincerely

A Manzie
Senior Lawyer
ATO General Counsel