

GPO Box 2934, Adelaide SA 5001

To: Mr Bob Alice

Our reference: 1-GK60YDE

## Decision regarding Freedom of Information (FOI) request

Dear Mr Alice,

I refer to your application requesting copies of documents under the *Freedom of Information Act 1982* (FOI Act), which was received on 10 November 2017.

I am an officer authorised under section 23 of the FOI Act to make decisions regarding access to documents.

### Your request

In your application, you referred to “*a recent large-scale breach of security at the tax office whereby large volumes of sensitive taxpayer data have been stored on unrestricted ‘share drives’ without appropriate access or audit controls*”, and you requested the following:

- *The recent email sent from Smarter Data to all Smarter Data staff on this issue.*
- *Documents showing this issue has been fixed or if it has not been fixed documents showing what measures are being undertaken to fix this issue.*
- *Documents put to the Executive or Smarter Data senior management where in this problem is identified and/or explained.*
- *Documents put to external agencies such as the Privacy or Information Commissioner’s officers in respect of this issue.*

### My decision in relation to your FOI application

I have located no documents that meet the scope of your request.

I have attached my *Statement of Reasons* for this decision to this letter.

In reaching my decision, I have relied on the following evidence and authorities:

- Contents of the documents requested.
- The FOI Act.
- Consultation with the relevant business and service lines (BSL’s) within the ATO.
- FOI Guidelines issued by the Australian Information Commissioner pursuant to section 93A of the FOI Act (the FOI guidelines)<sup>1</sup>.

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<sup>1</sup> <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/>

## Your rights of review

If you are unhappy with my decision, you can either request an internal review or request an independent review by the Australian Information Commissioner. You can also apply to the Australian Information Commissioner after an internal review has been conducted.

A request for an internal review needs to:

- be in writing
- be sent to us within 30 days of being notified of my decision, and
- be sent, quoting the reference number **1-GK60YDE**, via:

-email at [foi@ato.gov.au](mailto:foi@ato.gov.au), or

-mail to:

Australian Taxation Office

GPO Box 2934

ADELAIDE SA 5001

The internal review will be done by an officer who did not make the initial decision.

A request for an independent review by the Australian Information Commissioner needs to:

- be sent within 60 days of being notified of my decision
- include a copy of this notice
- include an address where notices can be sent (e.g. your email address), and
- be sent to:

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au) or,

Mail: GPO Box 5218

Sydney NSW 2001

For further details regarding the Australian Information Commissioner visit **[www.oaic.gov.au](http://www.oaic.gov.au)**

You may also apply to the Australian Information Commissioner if you have not been informed of the outcome of an internal review within 30 days.

## Complaints

Any complaint about the processing of your FOI request can be forwarded to the Information Commissioner. 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](https://forms.business.gov.au/aba/landing.htm?formCode=ICCA_1)

email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

post: GPO Box 5218, Sydney NSW 2001

in person: Level 3, 175 Pitt Street, Sydney NSW

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

Yours sincerely

**R Pridham**  
A/Senior Lawyer  
General Counsel  
Australian Taxation Office

## **Statement of Reasons**

### **Applicant Details**

Mr Bob Alice

### **Decision**

In your request you seek information concerning what you refer to as “a recent large scale breach of security at the tax office whereby large volumes of sensitive taxpayer data was stored on unrestricted ‘share drives’ without appropriate access or audit controls.” You seek “a recent email sent from Smarter Data to all Smarter Data staff on this issue” and other related documents as described in your request. Searches have been made by relevant officers in Smarter Data, however no email as you describe has been identified. Therefore documents falling within the scope of your FOI request cannot be found or do not exist.

Subsection 26(1) of the FOI Act provides that, where a decision is made to refuse to grant access to a document, I am required to provide you with reasons for that decision.

### **Reasons for Decision**

Section 11 of the FOI Act provides that you have a legally enforceable right to obtain access to a document of the ATO. Under section 11A of the FOI Act, the ATO must give you access to a document upon your request.

However, access to a document or part of a document cannot be provided where:

- The documents cannot be found or do not exist (section 24A of the FOI Act).

### ***Section 24A of the FOI Act – Requests may be refused if the documents cannot be found***

Section 24A of the FOI Act provides that, an agency may refuse access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document does not exist.

Our Smarter Data business line has conducted a reasonable search of all relevant ATO computer systems that may contain documents within the scope of your request. For further information about what constitutes a reasonable search for documents, see the Guidelines issued by the Australian Information Commissioner under s 93A of FOI Act (2010) Part 3 (Processing requests for access).

Despite the relevant searches being made the ATO has been unable to locate the email you describe in your FOI request. Given that no email was identified by Smarter Data, the ATO is unable to identify any documents or correspondence relating to any such “email or documents about this issue” that fall within the scope of your FOI request.

As I am satisfied those documents cannot be found or do not exist, I must refuse access under section 24A of the FOI Act.