

Bob Snazz

Our reference: 1-HOFAM6E

3 May 2019

Decision regarding your Freedom of Information request

Dear Bob Snazz,

I refer to your application dated 20 April 2019 seeking access to documents under the *Freedom of Information Act 1982 (the FOI Act)*.

I am an officer authorised under subsection 23(1) of the FOI Act to make decisions regarding access to documents.

Scope

You have requested access to the exact tax rate that will be in place from 1 September 2020 on cigarettes (in stick form not exceeding in weight 0.8 grams per stick actual tobacco content), in terms of dollars per cigarette.

Decision and reason for decision

I have decided to refuse your request for access to a document under section 24A of the FOI Act.

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

The relevant ATO business line has confirmed that the excise rate on cigarettes will increase by 12.5% on both 1 September 2019 and 1 September 2020. In addition to these annual increases, the excise rate will also be adjusted on 1 September 2019, 1 March 2020 and 1 September 2020 based on the average weekly ordinary time earnings (**AWOTE**) indexation factor reported by the Australian Bureau of Statistics at that particular point in time. Therefore, in the absence of the relevant AWOTE indexation factor information, the ATO cannot currently provide the exact excise rate that will be in place from 1 September 2020. Please see <https://www.ato.gov.au/Business/Excise-and-excise-equivalent-goods/Tobacco-excise/Excise-rates-for-tobacco/>

Accordingly, I am satisfied that all reasonable steps have been taken to find the document, and that the document does not exist.

Material on which my findings were based

In reaching my decision I relied on the following:

- The terms of your request;
- Information provided by the relevant business area of the ATO;
- The FOI Act; and
- The guidelines issued by the Information Commissioner under section 93A of the FOI Act.

Your rights of review

If you are dissatisfied with my decision, you may apply for internal review or review by the Information Commissioner 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.

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 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 the Information Commissioner review.

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/oaic/foi-review/>
email: 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,

M McCafferty
General Counsel
Australian Taxation Office