



Our reference: 1-OYKH2U0

Julie Middleton
c/o Right to Know

Date: 9 April 2021

Dear Ms Middleton

Decision regarding your Freedom of Information request

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982 (FOI Act)*.

Summary

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

By correspondence received from 'Right to Know' on 1 March 2021, and amended 1 April 2021, you requested copies of "*documents that contain the following information:*

1. *The annual cost to Australian taxpayers - from 2002 to 2020 - relating to expenses incurred in gaining or producing assessable income from residential premises. Rental property is said to be 'negatively geared' if an individual's deductible expenses are more than the income earned from the property.*
2. *The annual number of individuals with rental properties making a loss from 2002 to 2020."*

Documents and Decision

I have decided to refuse you access to the requested documents because they do not exist (subparagraph 24A(1)(b)(ii) of the FOI Act).

I contacted the relevant business area within the ATO that co-ordinates statistics and I was advised that the information you seek is publicly available in the *Taxation Statistics 2017-18*. This is the same document identified in our 19 March 2021 decision (published at <http://foi.order.com.au> under reference number 1-OM8QLKB), and is material maintained for reference purposes that is otherwise publicly available.

As such, *Taxation Statistics 2017-18* is not a 'document' for the purposes of the FOI Act (see the definition of 'document' in section 4 of the FOI Act) and I am satisfied that no 'document' falling within the scope of your request exists.

Taxation Statistics 2017-18 can be found at <https://data.gov.au/data/dataset/taxation-statistics-2017-18>, and contains the statistics you seek up to the 2017-18 income year (as the subsequent yearly stats are not yet available), notably in the Individuals Table 1A (select the Individuals – Table 1 preview) and particularly rows 614 and 615. Again, further inquiries regarding this information can be directed to taxstats@ato.gov.au.

Material taken into account

I have taken the following material into account in making my decision:

- the terms of your request
- information provided by ATO officers

- the FOI Act, and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or 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/smartforms/servlet/SmartForm.html?formCode=ICR_10**

email: **foidr@oaic.gov.au**

post: GPO Box 5218, Sydney NSW 2001

Visit the OAIC website, **<https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>**, 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/smartforms/servlet/SmartForm.html?formCode=ICCA_1**

email: **foidr@oaic.gov.au**

post: GPO Box 5218, Sydney NSW 2001

The OAIC can be contacted on 1300 363 992.

Yours sincerely

G Webeck

Principal Lawyer

General Counsel