



Sean of the clan Green

foi+request-9459-3c9995bf@righttoknow.org.au

Our reference: 1-VGQWDRB

28 October 2022

Decision regarding your Freedom of Information (FOI) request

Dear Sean,

I refer to your request received on 11 October 2022, seeking access to documents under the *Freedom of Information Act 1982 (Cth)* (FOI Act).

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

Your request

You have sought access to "...any documents indicating that chickens aren't a legal form of income".

My decision in respect of your request

Under section 11 of the FOI Act, you have the right to obtain access to a 'document of an agency'. This is relevantly defined in section 4 of the FOI Act as a document that is in the possession of an agency. The definition of 'document' excludes material held for reference purposes that is otherwise publicly available.

You have requested information which can be found in legislation. Income is defined in legislation, including the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*.

All Australian government legislation is publicly available online at <http://www.legislation.gov.au> and is only held by the ATO for reference purposes. As such, legislation is not caught by the FOI Act.

Accordingly, under subparagraph 24A(1)(b)(ii) of the FOI Act I am refusing your request for access to documents because no documents subject to the FOI Act are held by the ATO.

Material on which my findings were based

In reaching my decision I relied on the following:

- The terms of your request;
- The FOI Act;
- The guidelines issued by the Australian 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/smartforms/servlet/SmartForm.html?formCode=ICR_10
email: foidr@oaic.gov.au
post: GPO Box 5218, Sydney NSW 2001

Visit the Australian Information Commissioner website, <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>, 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/smartforms/servlet/SmartForm.html?formCode=ICCA_1
email: foidr@oaic.gov.au
post: GPO Box 5218, Sydney NSW 2001

The Information Commissioner can be contacted on 1300 363 992.

Yours sincerely

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A/g Senior Lawyer
General Counsel
Australian Taxation Office