



Mr Rex Banner

Sent by email only: [foi+request-9692-c2d27034@righttoknow.org.au](mailto:foi+request-9692-c2d27034@righttoknow.org.au)

Our reference: 1-W7P21BY  
Contact: FOI@ato.gov.au

12 January 2023

## Notice of intention to refuse your Freedom of Information (FOI) request

Dear Mr Banner,

1. I refer to your request for access to documents under the *Freedom of Information Act 1982 (FOI Act)* dated 12 December 2022.
2. I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests.
3. I am writing to tell you that I believe the work involved in processing your request in its current form would substantially and unreasonably divert the resources of the ATO from its other operations. This is called a 'practical refusal reason' (section 24AA of the FOI Act).
4. On this basis, I intend to refuse you access to the documents requested. However, before I make a final decision to do this, you have an opportunity to review your request. This is called a 'request consultation process' as set out in section 24AB of the FOI Act. You have 14 days to respond to this notice in one of the ways set out below.

### Why I intend to refuse your request

5. You have requested access to:  
*"...internal team logos of the Australian Tax Office..."*
6. I am satisfied that a 'practical refusal reason' exists due to the broad and non-specific scope of your request, the significant number of teams within the ATO and the resources required to search and consult with staff across the entire ATO.
7. Section 24AA of the FOI Act defines the circumstances in which a 'practical refusal reason exists'. Subparagraph 24AA(1)(a)(i) provides that a 'practical refusal reason' exists in relation to a request for documents if, the work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operations.

8. Subsection 24AA(2) provides that, in deciding whether a 'practical refusal reason' exists, the ATO must have regard to the resources used for:
  - (a) identifying, locating or collating the documents within the filing system of the ATO;
  - (b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document;
  - (c) making a copy, or an edited copy of the document; and
  - (d) notifying any interim or final decision on the request.
9. Whether a 'practical refusal reason' exists will be a question of fact in the individual case and the resources available at the time the request is made.
10. As the scope of your request has wide-ranging definitions and seeks documents across all ATO business areas, determining if any documents exist will require an expansive search and retrieval process to be conducted by a significant number of ATO officers. This includes contacting all ATO business areas, followed by ATO business area coordinators contacting all relevant officers within their business areas to determine whether or not any of their teams has an 'internal team logo'. Further, all officers will need to provide a response to me and, if any relevant documents are identified, I will need to consult with each of the officers to come to a decision on whether any exemptions may apply under the FOI Act.
11. I estimate that to undertake such a search and consultation process with all relevant officers in all teams across all business lines within the ATO would take several months.
12. The time required of these individual ATO officers, combined with the time required by me as the FOI decision-maker, must be considered when determining whether processing your request would substantially and unreasonably divert the ATO's resources from its other operations.
13. In addition to the search and consultation, further time would then be required to prepare a decision letter and statement of reasons.
14. Taking into consideration all the above, it is my view that searching for, consulting, reviewing, making a decision on and processing your FOI request in its current format would substantially and unreasonably divert the resources of the ATO from its other operations as specified in subsection 24AA(1)(a)(i) of the FOI Act.

### **Request consultation process**

15. Subsection 24AB(4) of the FOI Act requires that I provide you with a 'reasonable opportunity to consult' with me, and that I provide you with 'any information that would assist' you to revise your request.
16. You now have an opportunity to revise your request so as to remove the 'practical refusal reason' and enable me to process it.
17. Given the nature of your request, it is difficult to offer you suggestions on how you could reduce the scope of your request to make it more manageable. However, you could

consider limiting your request to a particular team or business area rather than the entire ATO.

### Next steps

18. The request consultation period runs for 14 days and starts on the day after you receive this notice. During this period, you are welcome to seek assistance from me (as the contact person for the purposes of this request consultation process) to revise your request. You can contact me via email to FOI@ato.gov.au.
19. If you need more time to respond to this notice, please contact me at FOI@ato.gov.au within the 14-day consultation period to discuss your need for an extension of time.
20. Before the end of the consultation period, **you must do one of the following, in writing, otherwise your request will be taken to be withdrawn pursuant to subsection 24AB(7) of the FOI Act:**
  - Withdraw your request;
  - Make a revised request; or
  - Tell us that you do not wish to revise your request.
21. I note that any written response must be received by me before the end of the consultation period.
22. If you indicate that you do not wish to revise your request, I will proceed to make a decision on whether to refuse the request on resource grounds under subsection 24(1) of the FOI Act.
23. If your request is revised in a way that adequately addresses the practical refusal grounds outlined above, I can recommence processing it.
24. Please note that the time taken to consult with you regarding the scope of your request is not taken into account for the purposes of the statutory timeframe for processing your request.

Yours sincerely,

R Rutten  
Acting Principal Lawyer  
Office of General Counsel  
Australian Taxation Office