

REVENUE CIRCULAR GEN008.1
Privacy
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Preamble

1. To demonstrate its commitment to protecting personal privacy the ACT Revenue Office has created a privacy statement. The privacy statement applies to all users who access the revenue website at www.revenue.act.gov.au, as well as to the practices and protocols of the ACT Revenue Office.

Privacy Statement

2. All information collected by the ACT Revenue Office is protected by secrecy provisions in Acts administered by the Office. This information is only used for the purposes of those Acts. In addition, personal information provided to the ACT Revenue Office is protected by the *Information Privacy Act 2014*. Information (including personal information) is not disclosed to any third party unless authorised by law, or with the consent of the person involved.

Circular

3. This Circular sets out the framework on which the ACT Revenue Office Privacy Statement is based.
4. The framework regulates the privacy practices and protocols of the ACT Revenue Office.

Framework

5. The framework regulating how the ACT Revenue Office manages personal information is provided by:
 - a. the ACT Government Full Privacy Statement;
 - b. the *Information Privacy Act 2014*;
 - c. the *Privacy Act 1988* (Cth);
 - d. the *Taxation Administration Act 1999*; and
 - e. the *First Home Owner Grant Act 2000*.

ACT Government Privacy Statement

6. The Information Privacy Commissioner has issued a number of guidelines which apply to all ACT Government Directorates and Agencies. These guidelines are reflected in the ACT Government Full Privacy Statement, which provides details of the ways in which ACT Government discharges its privacy obligations.

Information Privacy Act 2014

7. The *Information Privacy Act 2014* applies to the ACT and operates, so far as it can, concurrently with ACT laws providing for the disclosure, or transfer of personal information.

8. The *Information Privacy Act 2014* contains 11 Territory Privacy Principles (TPPs) based on international OECD guidelines. The TPPs set out the purposes for which data and information can be used. Under the TPPs the ACT Revenue Office must regulate:
 - a. open and transparent management of personal information;
 - b. anonymity and pseudonymity;
 - c. collection of solicited personal information;
 - d. dealing with unsolicited personal information;
 - e. notification of the collection of personal information;
 - f. use or disclosure of personal information;
 - g. cross-border disclosure of personal information;
 - h. quality of personal information;
 - i. security of personal information;
 - j. access to personal information; and
 - k. correction of personal information.

The *Information Privacy Act 2014* and its explanatory material provide further information regarding the TPPs is available at <http://www.legislation.act.gov.au/a/2014-24/default.asp>.

Taxation Administration Act 1999

9. Part 9 of the *Taxation Administration Act 1999* (TAA) requires the ACT Revenue Office to respect the confidentiality of the information it obtains as a result of a tax law.
10. ACT Tax Acts are defined as tax laws which include the *Taxation Administration Act 1999*, *Duties Act 1999*, *Emergencies Act 2004* schedule 1 (Ambulance levy), *Land Rent Act 2008*, *Land Tax Act 2004*, *Payroll Tax Act 2011*, *Rates Act 2004*, *Utilities Act 2000* part 3A (Energy industry levy), *Planning and Development Act 2007* Division 9.6.3 (Variation of nominal rent leases) and *Utilities (Network Facilities Tax) Act 2006*. As such, they are subject to the provisions of the TAA about the administration and enforcement of tax laws generally.
11. Section 95 of the TAA prohibits the ACT Revenue Office from making unauthorised records or disclosures of the information it obtains.
12. Section 98 of the TAA prohibits secondary disclosure of information obtained from a tax officer in accordance with the TAA.
13. Section 99 of the TAA restricts disclosures by a person who is, or has been a tax officer from divulging protected information to a court, unless the disclosure is necessary for the purpose of the administration, or execution of a tax law.
14. However, Section 96 and 97 of the TAA permit the ACT Revenue Office to disclose personal information in certain circumstances where the information disclosed:
 - a. does not identify a particular taxpayer or details of their personal affairs;
 - b. is in the public interest in relation to types of statistical information;
 - c. is disclosed with the consent of the person concerned;
 - d. relates to the administration of a tax law;
 - e. is required by law; or
 - f. is disclosed to an authorised government official: see Section 97 (d) of the TAA.
15. The TAA empowers ACT Revenue Office inspectors to exercise search and entry powers for purposes related to the administration, or enforcement of a tax law, including of other

jurisdictions. In such circumstances, an inspector may require the production of information, enter premises and seize documents.

16. Anything obtained during an inspection or at the Commissioner's request can be kept:
 - a. for as long as it is reasonably necessary to enable it to be inspected;
 - b. if liable to tax – until the tax is paid;
 - c. if required as evidence – until the legal proceeding is decided; and
 - d. if the owner of the thing is convicted as a result of the legal proceeding, the court may direct that the thing be forfeited to the Territory, and in that case it may be disposed of as the Minister directs.
17. The TAA also authorises the ACT Revenue Office to share information with other jurisdictions for the purposes of investigating matters that relate to the administration, or enforcement of tax laws.

First Home Owner Grant Act 2000

18. Part 3 of the *First Home Owner Grant Act 2000* (FHOG Act) authorises the ACT Revenue Office to conduct inspections.
19. Section 50 of the FHOG Act provides that a person commits an offence if the person does something that discloses protected information (i.e. information about an applicant for a First Home Owner Grant obtained while administering the FHOG Act) and is reckless about whether the information is protected information and about disclosing the information.
20. Section 50 does not apply if the information is disclosed:
 - a. under the FHOG Act, or another Territory law;
 - b. in the exercise of a function under the FHOG Act, or another Territory law;
 - c. in relation to the administration or enforcement of a corresponding law, or a law of the Commonwealth, a State or another Territory for the assessment or imposition of a tax;
 - d. with the consent of the person to whom the information relates or a person acting for that person;
 - e. for the purpose of a legal proceeding; or
 - f. as authorised by regulation.

Privacy practices and protocols

21. ACT Revenue Office staff are required to comply with the Privacy Statement to protect the privacy of any personal information to which they have access. Privacy practices and protocols apply to assist officers meet this requirement.

Signed

Kim Salisbury
Commissioner for ACT Revenue
2 September 2014