



# OFFICE OF THE **TAX OMBUD**

## **Promotion of Access to Information Manual**

This manual was prepared in accordance with:

Sections 14 and 51 of the Promotion of Access to Information Act, 2000

*(hereinafter referred to as PAIA)*

To address the requirements of the Protection of Personal Information Act, 2013.

*(hereinafter referred to as PoPIA)*

This manual applies to:

## **The Office of the Tax Ombud**

## 1. Policy Statement

It is the **Tax Ombud's** policy to conduct its operations in compliance with all legal and regulatory requirements. This manual regulates access to information and records owned, held by, or otherwise under the control of the **Tax Ombud**. The manual also specifies the release of any such information or records by its employees, agents, or anyone acting on its behalf.

## 2. Application

This manual applies to information and records owned, held by, or under the control of the Tax Ombud, and the release of any such information or records.

## 3. Objectives

The objectives of this manual are to:

1. Provide a non-exhaustive list of information, records, and other details held by the **Tax Ombud**.
2. Set out the requirements on how to request information in terms of **PAIA** and **PoPIA**, as well as the grounds on which a request may be refused.
3. Define the manner and form in which a request for information must be submitted.

**PAIA** specifies that a person may only request information, if that information is required to exercise or protect a right. **PoPIA** provides that a data subject may request the responsible party to confirm, free of charge, all the information it holds about the data subject, upon proof of identity. The data subject may also request access to such information, including information about the identity of third parties who have, or have had access to such information.

**PoPIA** further provides that where the data subject is required to pay a fee for services provided to him/her/it, the responsible party must provide the data subject with a written estimate of the amount payable before delivering the service. In addition, the responsible party may require that the requestor pay a deposit for all, or part of the fee.

The capacity under which a requester asks for documentation or information will determine the category within which they fall.

Please note that the requester category has a bearing on the conditions of access to the information.

Requesters have been classified into four categories:

1. A Personal Requester: requests information about himself/herself/itself.
2. A Representative Requester: requests information relating to, and on behalf of someone else.
3. A Third-Party Requester: requests information about another person.
4. A Public Body: requests information in the public interest.

Proof of identity is required to authenticate the request and the requester. In view hereof, a requester will be required to submit acceptable proof of identity such as a certified copy of their Identity Document, or other legal forms of identification.

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## 1 Background to the Promotion of Access to Information Act

The Promotion of Access to Information Act, 2 of 2000 (“**PAIA**”) was enacted on 03 February 2000. It gave effect to the constitutional right, in terms of section 32 of the Bill of Rights, of access to any information held by the state, and any information that is held by another person, that is required to exercise or protect any rights; as contained in the Constitution of the Republic of South Africa 108 of 1996 (the “Constitution”).

In terms of section 51 of PAIA, all private bodies are required to compile an Information Manual (“PAIA Manual”).

Where a request is made in terms of PAIA, the body to whom the request is made is obliged to release the information, subject to applicable legislative and regulatory requirements, except where PAIA expressly provides that the information may be adopted when requesting information from a public or private body.

## 2 Definitions

The following words shall bear the same meaning as in PoPIA:

**Consent** means a voluntary, specific, and informed expression of will, in which a data subject agrees to the processing of personal information relating to them.

**Data Subject** means the person to whom the personal information relates.

**Minister** means the Minister of Justice and Constitutional Development.

**Personal Information** means information relating to an identifiable, living, natural person, and where applicable, an identifiable, existing juristic person, including:

- a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person.

- b) Information relating to the person's education, medical, financial, criminal or employment history.
- c) Any identifying number, symbol, email address, physical address, telephone number or other particular assignments to the person.
- d) The blood type or any other biometric information of the person.
- e) The personal opinions, views or preferences of the person.
- f) Correspondence sent by the person that is implicitly or explicitly of a private or confidential nature, or further correspondence that would reveal the contents of the original correspondence.
- g) The views or opinions of another individual about the person.
- h) The name of the person, if it appears with other personal information relating to the person, or if the disclosure of the name itself would reveal information about the person.

**Public Body** means (a) any department of state or administration in the national or provincial sphere of government, or any municipality in the local sphere of government; or (b) any other functionary who –

- (i) exercises power or performs a duty in terms of the Constitution or a provincial constitution; or
- (ii) exercises public power or performs a public function in terms of any legislation.

**Processing** means any operation or activity, or any set of operations, by automatic or manual means, concerning personal information, including:

- a) The collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- b) Dissemination by means of transmission, distribution, or making available in any other form; or
- c) Merging, linking, blocking, degradation, erasure, or destruction of information.

**Responsible Party** means a public or private body, or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information.

### 3 Tax Ombud

In 2013, through the Tax Administration Act (TAA), the Tax Ombud was appointed by National Treasury to review and address any taxpayer complaint regarding service, procedural, or any administrative matter, arising from SARS' application of the provisions of the Tax Act.

The OTO complies with the legislative mandates of the Constitution of the Republic of South Africa, Act. 108 of 1996 (the Constitution), and the Tax Administration Act 28 of 2011.

In terms of s195 of the Constitution of the Republic of South Africa, Act 108 of 1996, public administration must be governed by the democratic values and principles enshrined in the Constitution. These include a high standard of professional ethics; the efficient, economical, and effective use of resources; provision of an impartial, fair and equitable service; transparency and accountability.

The mandate of the Tax Ombud is to:

- a) Review and address any complaint by a taxpayer regarding a service matter or a procedural or administrative matter arising from the application of the provisions of the Tax Act by SARS; and
- b) At the request of the Minister or through the initiative of the Tax Ombud, and with the approval of the Minister, review any systemic and emerging issue related to a service matter or the application of the provisions of the Tax Act, or procedural or administrative provisions of the Act.

This PAIA Manual and the services rendered to the Public, as well as how to access these services, are available on the Tax Ombud website ([www.taxombud.gov.za](http://www.taxombud.gov.za)) or from the Information Officer.

## 4 Purpose of the PAIA Manual

PAIA aims to promote the right of access to information, and foster a culture of transparency and accountability within the Tax Ombud. This is to be achieved by giving the right to information and to protect any rights that needs to be protected and actively promote a society where the people of South Africa have adequate access to information that enables them to exercise and protect their rights.

To promote effective governance of private bodies, it is necessary to ensure that stakeholders are empowered and educated to understand their rights concerning public and private bodies. Section 9 of PAIA recognises that the right to access information cannot be unlimited, and should be subject to justifiable limitations, including, but not limited to:

- a) Limitations aimed at the reasonable protection of privacy;
- b) Commercial confidentiality; and
- c) Effective, efficient, and good governance.

The right to access information in a manner that balances that right with any other rights, including those contained in the Bill of Rights in the Constitution.

This PAIA Manual complies with the PAIA guide's requirements mentioned in section 10 of PAIA. It recognises that the Information Regulator, appointed from time to time, will be responsible for regulating compliance with PAIA and its regulations by private and public bodies.

## 5 The Information Officer

PAIA prescribes the appointment of an Information Officer for public bodies. The Information Officer is responsible for, inter alia, assessing requests for access to information. The head of a private body fulfils such a function in terms of section 51.

The Tax Ombud has opted to appoint an Information Officer to assess such requests for access to information, and oversee its required functions in terms of PAIA.

The Information Officer appointed in PAIA also refers to the Information Officer in PoPIA. The



Information Officer oversees the functions and responsibilities required for **PoPIA** and the duties and responsibilities in terms of section 55 of PoPIA.

The Information Officer may appoint, where it is deemed necessary, Deputy Information Officers, as allowed in section 17 of PAIA and section 56 of PoPIA.

This is to render the Tax Ombud as accessible as possible for requesters of its records, and to ensure the fulfilment of its obligations and responsibilities as prescribed in section 55 of the PoPIA.

All requests for information on this Act must be addressed to the Information Officer.

Contact Details of the Information Officer of the Tax Ombud are as follows:

Name and Surname	<b>Thabo David Legwaila</b> <i>has been registered with the Information Regulator by the Office of the Tax Ombud as the Information Officer, in terms of section 55(2) of the Protection of Personal Information Act 4 of 2013 on the 9<sup>th</sup> of February 2022.</i>
Registered Address	Menlyn Corner Boulevard, 2 <sup>nd</sup> Floor 87 Frikkie De Beer Street Menlyn, Pretoria, 0181
Email address	<a href="mailto:TLegwaila@taxombud.gov.za">TLegwaila@taxombud.gov.za</a>
Telephone number	+27 12 431 9000
Website	<a href="http://www.taxombud.gov.za">www.taxombud.gov.za</a>

Contact Details of the Deputy Information Officer of the Tax Ombud, should the Information Officer not be available, are as follows:

Name and Surname	<b>Gert van Heerden</b> <i>has been appointed as Deputy Information Officer by the Information Officer of the Office of the Tax Ombud as the Deputy Information Officer, in terms of section 17 of the Protection of Personal Information Act 4 of 2013 on 17 May 2023.</i>
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Registered Address	Menlyn Corner Boulevard, 2 <sup>nd</sup> Floor 87 Frikkie De Beer Street Menlyn, Pretoria, 0181
Email address	<a href="mailto:gvanheerden@taxombud.gov.za">gvanheerden@taxombud.gov.za</a>
Telephone number	+27 12 431 9000
Website	<a href="http://www.taxombud.gov.za">www.taxombud.gov.za</a>

## 6 Guide of SA Human Rights Commission [Section 51(1) (b)]

PAIA grants a requester access to records of a private body if the record is required to exercise or protect any rights. If a public body lodges a request, the public body must be acting in the public interest. Requests in terms of PAIA shall be made in accordance with the prescribed procedures, at the rates provided. The forms and tariffs are address with in paragraphs 6 and 7 of PAIA.

Requesters are referred to the Guide in terms of Section 10 of PAIA, compiled by the South African Human Rights Commission, which will contain information to exercise Constitutional Rights. The Guide is available from the SAHRC.

The contact details of the Commission are as follows:

**PAIA Unit**

29 Princess of Wales Terrace, c/o York and Andrew Streets, Parktown.

Private Bag 2700, Houghton 2041,

Tel: +27 11 877 3600.

email: [PAIA@sahrc.org.za](mailto:PAIA@sahrc.org.za)

Website: [www.sahrc.org.za](http://www.sahrc.org.za)

## **7 The Latest Notice in Terms of Section 52(2) [Section 51(1)(c)]**

No notice has been published on the categories of records automatically available, without a person requesting access in terms of Section 52(2) of PAIA.

## **8 Subjects and Categories of Records Available only on Request to Access in Terms of PAIA [Section 51(1) (e)]**

### **8.1 Records held by the Tax Ombud**

For clause 9.1, Personnel refers to any person who works for, or provides services to, or on behalf of the Tax Ombud, and receives or is entitled to receive remuneration, as well as any other person who assists in carrying out or conducting the business of the Tax Ombud. This includes, without limitation, all permanent, temporary, and part-time staff and contract workers.

This clause serves to reference the categories of information that the Tax Ombud holds. The data is classified and grouped according to records relating to the following subjects and categories:

Subject	Category
<b>Information relating to Taxpayers</b>	All information relating to Taxpayers.
<b>Accounting Records</b>	Annual Financial Reports Annual Financial Statements Asset Registers Bank Statements Banking details and bank accounts Banking Records Invoices Paid Cheques Policies and procedures Rental Agreements
<b>Communications Department</b>	Advertising and promotional material
<b>Risk Management and Audit</b>	Audit reports Risk management frameworks Risk management plans
<b>Safety, Health and Environment</b>	Complete Safety, Health and Environment Risk Assessment Environmental Management Plans Inquiries, inspections, examinations by environmental authorities
<b>IT Department</b>	Computer/mobile device usage policy documentation Disaster recovery plans Hardware asset registers Information security policies/standards/procedures information technology systems User manuals Information usage policy documentation Project implementation plans Software licensing System documentation and manuals

## 8.2 Note

Accessibility of the records may be subject to grounds of refusal as set out in this PAIA manual.

Amongst others, records deemed confidential on the part of a third-party will necessitate permission from the third-party concerned, in addition to normal requirements, before the Tax Ombud will consider access.

## **9 Records Available without a Request to Access in terms of PAIA [Section 15 of the PAIA Act]**

Records of a public nature, typically those disclosed on the Tax Ombud website ([www.taxombud.gov.za](http://www.taxombud.gov.za)), may be accessed without submitting a formal application.

Please see Annexure OTO 1 for the list of records available.

## **10 Description of the Records of the Body which are available in accordance with any other legislation [Section 14 of the PAIA Act]**

Where applicable to its operations, the Tax Ombud also retains records and documents in terms of the legislation below. Unless disclosure is prohibited in terms of legislation, regulations, contractual agreement or otherwise, records that are to be made available in terms of these Acts shall be made available for inspection by interested parties in terms of the requirements and conditions of PAIA. In addition, the below-mentioned legislation and applicable internal policies and procedures are available, should an interested party be interested in such information.

A request to access must be made as per the prescriptions of PAIA.

1. Auditing Professions Act, 26 of 2005
2. Basic Conditions of Employment Act, 75 of 1997
3. Broad-Based Black Economic Empowerment Act, 75 of 1997
4. Business Act, 71 of 1991
5. Companies Act, 71 of 2008

6. Compensation for Occupational Injuries & Diseases Act, 130 of 1993
7. Competition Act, 71 of 2008
8. Constitution of the Republic of South Africa 2008
9. Copyright Act, 98 of 1978
10. Customs & Excise Act, 91 of 1964
11. Electronic Communications Act, 36 of 2005
12. Electronic Communications and Transactions Act, 25 of 2002
13. Employment Equity Act, 55 of 1998
14. Financial Intelligence Centre Act, 38 of 2001
15. Identification Act, 68 of 1997
16. Income Tax Act, 58 of 1962
17. Intellectual Property Laws Amendment Act, 38 of 1997
18. Labour Relations Act, 66 of 1995
19. Long Term Insurance Act, 52 of 1998
20. Occupational Health & Safety Act, 85 of 1993
21. Pension Funds Act, 24 of 1956
22. Prescription Act, 68 of 1969
23. Prevention of Organized Crime Act, 121 of 1998
24. Promotion of Access to Information Act, 2 of 2000
25. Protection of Personal Information Act, 4 of 2013
26. Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2002
27. Revenue laws Second Amendment Act. 61 of 2008
28. Skills Development Levies Act 9 of 1999
29. Short-term Insurance Act 53 of 1998
30. Trust Property Control Act 57 of 1988
31. Unemployment Insurance Contributions Act 4 of 2002
32. Unemployment Insurance Act 30 of 1966
33. Value Added Tax Act 89 of 1991
34. The Tax Administration Act, 28 of 2011

In the Tax Ombud's best endeavour to supply a list of applicable legislation, this list may be incomplete. Should the Tax Ombud be made aware of existing or new legislation allowing a requester access on a basis other than those set out in PAIA, the Tax Ombud shall update the list accordingly. Suppose a requester believes that a right of access to a record exists in terms of other legislation than listed above. In that case, the requester is required to indicate what legislative right the request is based on, to allow the Tax Ombud's Information Officer the opportunity to consider the request.

It is further recorded that accessibility to documents and records may be subject to the grounds for refusal as set out in this PAIA Manual.

## **11 Detail to Facilitate a Request for Access to a Record of the Tax Ombud [Section 14 of PAIA]**

- a) The requester must comply with all the procedural requirements in PAIA relating to the request for access to a record.
- b) The requester must complete and submit the prescribed form enclosed herewith, as well as pay the request fee and a deposit (if applicable), to the Information Officer or the Deputy Information Officer at the postal, physical, or electronic mail address as noted in clause five above.
- c) The prescribed form must be completed with sufficient information to enable the Information Officer to identify:
  - i) the record or records requested; and
  - ii) the identity of the requester.
- d) The requester should indicate which form of access is required, and specify their postal or email address in the Republic.
- e) The requester must state that they require the information to exercise or protect a right, and clearly state the nature of the right to be exercised or protected. In addition, the requestor must specify why the record is necessary to exercise or defend such a right [section 53(2)(d)].
- f) The Tax Ombud will process the request within 30 (thirty) days, unless the requester has stated special reasons, to the satisfaction of the Information Officer, that circumstances dictate that the above periods not be complied with.

- g) The requester shall be advised in writing whether access is granted or denied. If, in addition, the requestor requires the reason(s) for the decision in any other manner, the requester will be obliged to state the manner in which the particulars are required.
- h) If a request is made on behalf of another person, then the requester must submit proof of the capacity in which they are making the request to the reasonable satisfaction of the Information Officer [section 53(2)(f)].
- i) If an individual cannot complete the prescribed form because of illiteracy or a disability, such a person may make the request orally, proving their identity to the reasonable satisfaction of the Information Officer.
- j) All information listed in clause 12 herein should be provided. Failing this, the process will be delayed until the required information is provided. The prescribed periods will not commence until the requester has furnished all the necessary information. The Information Officer may sever a record, if possible, and grant access only to the portion requested, and if it is not prohibited from being disclosed.

## **12 Refusal of Access to Records**

### **12.1 Grounds to Refuse Access**

The Tax Ombud is entitled to refuse a request for information.

- a) The main grounds for the Tax Ombud to refuse a request for information relates to the following:
  - 1) Mandatory protection of the privacy of a third-party who is a natural person or a deceased person [section 63] or a juristic person, as included in the Protection of Personal Information Act 4 of 2013, which would involve the unreasonable disclosure of personal information of that natural or juristic person.
  - 2) Mandatory protection of personal information and for disclosure of any personal information, in addition to any other legislative, regulatory or contractual agreements, comply with the provisions of the Protection of Personal Information Act 4 of 2013.
- b) Requests for frivolous or vexatious information or involving an unreasonable diversion of resources shall be refused.



- c) All requests for information will be assessed on their own merits, and follow the applicable legal principles and legislation.
- d) If a requested record cannot be found or if the record does not exist, the Tax Ombud's Information Officer shall notify the requester by way of an affidavit or affirmation that it is not possible to give access to the requested record. This notice will be regarded as a decision to refuse a request for access to the record concerned due to PAIA. However, if the record should later be found, the requester shall be given access to the record in the manner stipulated by the requester in the prescribed form, unless the Tax Ombud's Information Officer refuses access to such record based on reasons mentioned above.

## **13 Remedies Available When the Tax Ombud Refuses a Request**

### **13.1 Internal Remedies**

The Tax Ombud does not have internal appeal procedures. The decision made by the Tax Ombud's Information Officer is final. Requesters will have to exercise external remedies at their disposal if the request for information is refused, and the requestor is not satisfied with the response supplied by the Tax Ombud's Information Officer.

### **13.2 External Remedies**

- 1) A requestor dissatisfied with the Information Officer's refusal to disclose information may apply to a court for relief within 30 (thirty) days of notification of the decision.
- 2) A third-party dissatisfied with the Tax Ombud's Information Officer's decision to grant a request for information may apply to the Information Regulator for relief within 30 (thirty) days of notification of the decision. For purposes of PAIA, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court, or another court of similar status, a Magistrate's Court designated by the Minister of Justice and Constitutional Development, which is presided over by an appointed Magistrate.

## **14 Access to Records Held by the Tax Ombud**

### **14.1 Prerequisites for Access by Personal/Other Requester**

- 1) Records held by the Tax Ombud may be accessed once the prerequisite requirements for access have been met.
- 2) A requester is any person requesting access to a record of the Tax Ombud.

There are two types of requesters:

### **Personal Requester**

- a) A personal requester is a requester who is seeking access to a record containing personal information about the requester.
- b) The Tax Ombud will voluntarily provide the requested information or give access to any record regarding the requester's personal information.

### **Other Requester**

- a) This requester (other than a personal requester) is entitled to access information regarding a third-party.
- b) In considering such a request, the Tax Ombud will adhere to the provisions of PAIA. Section 71 of PAIA requires that the Tax Ombud's Information Officer take all reasonable steps to inform the third-party to whom the requested record relates of the request, informing them that they may make a written or oral representation to the Tax Ombud's Information Officer why the request should be refused, or where required, give written consent for the disclosure of the information.

### **3) The Tax Ombud is not obliged to grant access to such records.**

The requester must fulfil the prerequisite requirements as per the provisions of PAIA, and as stipulated in Chapter 5, Part 3.

## **15 Time Periods**

### **15.1 Time Allowed to the Tax Ombud to grant or decline a request for information:**

- a) Within 30 (thirty) days of receipt of the request, the Tax Ombud will decide whether to grant or decline the request, and give notice with reasons (if required) to that effect.
- b) The 30 (thirty) day period within which the Tax Ombud must decide whether to grant or refuse the request may be extended for a further period of no more than (30) thirty days, if the information cannot be obtained within the original 30 (thirty) day period.
- c) The Tax Ombud will notify the requester in writing should an extension be required.

## **16 Protection of Personal Information Processed by the Tax Ombud**

**16.1** Chapter 3 of PoPIA provides for the minimum Conditions for Lawful Processing of Personal Information by a Responsible Party. These conditions may not be detracted from unless specific exclusions apply as outlined in PoPIA.

**16.2** The Tax Ombud needs Personal Information relating to both individual and juristic persons to carry out its business and organisational functions. The way this information is processed and the purpose for which it is processed is determined by the Tax Ombud. The Tax Ombud is accordingly a responsible party for the purposes of PoPIA, and will ensure that the Personal Information of a Data Subject:

- a) is processed lawfully, fairly, and transparently. This includes the provision of appropriate information to data subjects when their data is collected by the Tax Ombud, in the form of privacy or data collection notices. The Tax Ombud must also have a legal basis (for example, consent) to process personal information, to ensure that the information;
- b) is processed only for the purposes for which it was collected;
- c) will not be processed for a secondary purpose unless that processing is compatible with the original purpose.
- d) is adequate, relevant and not excessive for the purposes for which it was collected;
- e) is accurate and kept up-to-date;
- f) will not be kept for longer than necessary;
- g) is processed in accordance with integrity and confidentiality principles. This includes physical and organisational measures to ensure that personal information, in both physical and electronic forms, are subject to an appropriate level of security when stored, used and communicated by the Tax Ombud, in order to protect against access and acquisition by unauthorised persons, accidental loss, destruction or damage;
- h) is processed in accordance with the rights of data subjects, where applicable. Data subjects have the right to:
  - i. be notified that their personal information is being collected by the Tax Ombud.
  - ii. be notified in the event of a data breach;
  - iii. know whether the Tax Ombud holds personal information about them, and to have access to that information. Any request for information must be handled in

- accordance with the provisions of this manual;
- iv. request the correction or deletion of inaccurate, irrelevant, excessive, out of date, incomplete, misleading or unlawfully obtained personal information;
  - v. object to the Tax Ombud's use of their personal information, and request the deletion of such personal information (deletion would be subject to the Tax Ombud's record keeping requirements);
  - vi. object to the processing of personal information for purposes of direct marketing by means of unsolicited electronic communications; and
  - vii. complain to the Information Regulator regarding an alleged infringement of any of the rights protected under POPIA, and to institute civil proceedings regarding the alleged non-compliance with the protection of their or its personal information.

### **16.3 Purpose of the Processing of Personal Information**

As outlined above, personal information may only be processed for a specific purpose. The purposes for which the Tax Ombud processes personal information is set out in Part 1 of Appendix 2 hereto.

### **16.4 Categories of Data Subjects and Personal Information / Special Personal Information relating thereto**

As per section 1 of PoPIA, a data subject may either be a natural or a juristic person. Part 2 of Appendix 2 hereto sets out the various categories of data subjects that the Tax Ombud processes personal information on, and the types of personal information relating thereto.

### **16.5 Recipients of Personal Information**

Part 3 of Appendix 2 hereto outlines the recipients to whom the Tax Ombud may provide a data subject's personal information to.

### **16.6 Cross-border flows of Personal Information**

16.6.1 Section 72 of PoPIA provides that personal information may only be transferred out of the Republic of South Africa if the:

- i. recipient country can offer such data an "adequate level" of protection. This means

that its data privacy laws must be substantially similar to the Conditions for Lawful Processing as contained in PoPIA; or

- ii. data subject consents to the transfer of their personal information; or
- iii. transfer is necessary for the performance of a contractual obligation between the data subject and the responsible party; or
- iv. transfer is necessary for the performance of a contractual obligation between the responsible party and a third-party, in the interests of the data subject; or
- v. the transfer is for the benefit of the data subject, and it is not reasonably possible to obtain the consent of the data subject, and if it were, the data subject, would likely provide such consent.

16.6.2 Part 4 of Appendix 2 hereto sets out the planned cross-border transfers of personal information and the condition from above that applies thereto.

### **16.7 Description of information security measures to be implemented by the Tax Ombud**

Part 5 of Appendix 2 hereto sets out the types of security measures to be implemented by the Tax Ombud, to ensure that personal information is respected and protected. A preliminary assessment of the suitability of the information security measures to be implemented by the Tax Ombud may be conducted to ensure that the personal information that is processed by the Tax Ombud is safeguarded and processed in accordance with the Conditions for Lawful Processing.

### **16.8 Objection to the Processing of Personal Information by a Data Subject**

Section 11(3) of PoPIA and regulation 2 of the PoPIA regulations provide that a data subject may, at any time, object to the processing of their/its personal information using the prescribed form attached to this manual as Appendix 3, subject to exceptions contained in PoPIA.

### **16.9 Request for correction or deletion of Personal Information**

Section 24 of PoPIA and regulation 3 of the PoPIA regulations provide that a data subject may request that their personal information be corrected/deleted using the prescribed form attached as Appendix 4 to this PAIA Manual.

## **17 Availability and Updating of the PAIA Manual**

This PAIA manual is made available in terms of Regulation Number R.187 of 15th February 2002. The Tax Ombud will update this PAIA Manual at such intervals as may be deemed necessary. This PAIA Manual of the Tax Ombud is available to view at its premises and on its website.

## **18 Appendix 1: main-form-c1.pdf (treasury.gov.za)**

(Request for Information)

## **19 Appendix 2: Part 1 - Processing of Personal Information in Accordance with PoPIA**

### **For employees:**

- a) Verification of the applicant employees' information during the recruitment process
- b) General matters relating to employees':
  - i) Pension
  - ii) Medical aid
  - iii) Payroll
  - iv) Disciplinary action
  - v) Training
- c) Any other reasonably required purpose relating to the employment or possible employment relationship.

### **For vendors /suppliers /other businesses:**

- a) Verifying information and performing checks;
- b) Purposes relating to the agreement/ business relationship or possible agreement/ business relationships between the parties;
- c) Payment of invoices;
- d) Complying with the Tax Ombud's regulatory and other obligations; and
- e) Any other reasonably required purpose relating to the business of the Tax Ombud.

## **20 Appendix 2: Part 2 - Categories of Data Subjects and Categories of Personal Information relating thereto.**

### **Personnel / Employees**

- a) Name and contact details
- b) Identity number and identity documents, including passports
- c) Employment history and references
- d) Banking and financial details
- e) Details of payments to third parties (deductions from salary)
- f) Employment contracts
- g) Employment equity plans
- h) Medical aid records
- i) Pension Fund records
- j) Remuneration/salary records
- k) Performance appraisals
- l) Disciplinary records
- m) Leave records
- n) Training records

### **Taxpayers (which may include employees)**

- a) Postal and/or street address
- b) Title and name
- c) Contact numbers and/or email address
- d) Ethnic group
- e) Employment history
- f) Age
- g) Gender
- h) Marital status
- i) Nationality
- j) Language
- k) Financial information
- l) Identity or passport number

**Vendors /suppliers /other businesses:**

- a) Name and contact details
- b) Identity and/or company information and directors' information
- c) Banking and financial information
- d) Information about products or services
- e) Other information not specified, reasonably required to be processed for business operations.

**21 Appendix 2: Part 3 – trans transfers of Personal Information**

Personal information may be transmitted transborder to the Tax Ombud's stakeholders in other countries, and may be stored in data servers hosted outside South Africa, which may not have adequate data protection laws.

**22 Appendix 2: Part 4 – Description of information security measures**

The Tax Ombud undertakes to institute and maintain the data protection measures to accomplish the objectives outlined below. The details given are to be interpreted as examples of how to achieve an adequate data protection level for each objective. The Tax Ombud may use alternative measures and adapt to technological security development, as needed, provided that the objectives are achieved.

**1. Access Control of Persons**

The Tax Ombud shall implement suitable measures to prevent unauthorised persons from gaining access to the data processing equipment, where the data is processed.

**2. Data Media Control**

The Tax Ombud undertakes to implement suitable measures to prevent the unauthorised manipulation of media, including reading, copying, alteration or removal of the data media used by the Tax Ombud containing the personal data of customers.

**3. Data Memory Control**

The Tax Ombud undertakes to implement suitable measures to prevent unauthorised



input into data memory, and the unauthorised reading, alteration, or deletion of stored data.

#### **4. User Control**

The Tax Ombud shall implement suitable measures to prevent its data processing systems from being used by unauthorised persons, by means of data transmission equipment.

#### **5. Access Control to Data**

The Tax Ombud represents that the persons entitled to use its data processing system are only able to access the data within the scope and to the extent covered by their respective access permissions (authorisation).

#### **6. Transmission Control**

The Tax Ombud is obliged to enable the verification and tracing of the locations /destinations to which the personal information is transferred by using its data communication equipment/devices.

#### **7. Transport Control**

The Tax Ombud shall implement suitable measures to prevent personal information from being read, copied, altered, or deleted by unauthorised persons during the transmission thereof, or whilst transporting the data media.

#### **8. Organisation Control**

The Tax Ombud shall maintain its internal organisation in a manner that meets the requirements of this manual.

## 23 Appendix 3:

Objection to the Processing of Personal Information in terms of Section 11(3) of PoPIA Regulations Relating to The Protection of Personal Information, 2018.

Note:

1. Affidavits or other documentary evidence, as applicable, and in support of the objection may be attached.
2. If the space provided for in this form is inadequate, submit information as an Annexure to this form and sign each page.
3. Complete as is applicable.

### **A Details of Data Subject**

Unique Identifier/Identity Number

Residential, postal or business  
address:

Contact number(s):

Fax number / E-mail address:

### **B Details of Responsible Party**

Name(s) and surname/ registered name of data subject:

Residential, postal or business address:

Contact number(s):

Fax number / E-mail address:

### **C Reasons for objection in Terms of Section 11(1)(d) to (f)**

(Please provide detailed reasons for the objection)

## 24 Appendix 4:

Request for Correction or Deletion of Personal Information or Destruction or Deletion of Record of Personal Information in terms of Section 24(1) of the Protection of Personal Information Act, 2013.

### Regulations Relating to **PoPIA** [Regulation 3]

Note:

1. Affidavits or other documentary evidence, as applicable, and in support of the request may be attached.
2. If the space provided for in this form is inadequate, submit information as an Annexure to this form and sign each page.
3. Complete as is applicable.

Mark the appropriate box with an “x”.

Request for:

- Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.
- Destruction or deletion of a record of personal information about the data subject which is in possession or under the control of the responsible party and who is no longer authorised to retain the record of information.

#### **A Details of Data Subject**

Name(s) and surname/ registered name of data subject:

Unique Identifier/ Identity Number

Residential, postal or business

address: Contact number(s):

Fax number / E-mail address:

#### **B Details of Responsible Party**

Name(s) and surname/ registered name of data subject:

Residential, postal or business address:

Email:

Cell number:

Other contact number(s):

- C Reasons for Objection in Terms of Section 11(1)(D) to (F)**  
(Please Provide Detailed Reasons for The Objection)
  
- D Reasons for \*Correction or Deletion of the Personal Information about the Data Subject in Terms of Section 24(1)(a) which is in Possession or Under the Control of the Responsible Party; and or Reasons for \*Destruction or Deletion of a Record of Personal Information about the Data Subject in Terms of Section 24(1)(b) which the Responsible Party is no longer Authorised to Retain.**  
(Please Provide Detailed reasons for the request)