

PROMOTION OF ACCESS TO INFORMATION ACT

AND

THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013 MANUAL

FOR

CENTATAX (PTY) LTD

(the “Company”)

REGISTRATION NUMBER 2003/003208/0

1. Background of Promotion of Access to Information Act

CentaTax (Pty) Ltd (hereinafter referred to as “**the Company**”) conducts business in the provision of Tax Consulting and related advisory services.

On 9 March 2001 the Promotion of Access to Information Act “**the Act**” came into effect. The Act seeks to advance a culture of transparency and accountability in both public and private bodies. The legislation was enacted as a direct response to Section 32(2) of the constitution of South Africa (hereinafter referred to as “**the Constitution**”)– the right of access to information – which requires that the Government implements laws in an effort to make information pertaining to public and private bodies more accessible to all.

The Act gives effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of the Act, the body to which the request is made is obliged to release the information, except where the Act expressly provides that the information may or must not be released.

2. Availability of the PAIA Manual

This PAIA Manual is available to view at its premises as well as on its website, www.centatax.com.

3. Purpose of the PAIA Manual

This PAIA Manual is intended to ensure that the company complies with the Act and to foster a culture of transparency and accountability within the company by giving effect to the right to information that is required for the exercise or protection of any right and to actively promote a society in which the people of South Africa have effective access to information to enable them to exercise and protect their rights.

To promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the Act for them to exercise their rights in relation to public and private bodies.

Section 9 of the Act recognises that the right to access information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:

- 3.1.1. Limitations aimed at the reasonable protection of privacy;
- 3.1.2. Commercial confidentiality; and
- 3.1.3. Effective, efficient and good governance;

and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

This PAIA Manual complies with the requirements of section 10 of the Act and recognises that upon commencement of the Protection of Personal Information Act 4 of 2013, that the appointed Information Regulator will be responsible to regulate compliance with the Act and its Regulations by public and private bodies.

4. Contact Details of the Company:

Registered Name: CentaTax (Pty) Ltd
Physical Address: 12 Pongola Crescent, Kramerville, 2196
Telephone: +27 11 262 6626
Email: office@centatax.com

5. The Information Officer

The Act prescribes the appointment of an Information Officer for public bodies where such Information Officer is responsible to, inter alia, assess requests for access to information. The head of a private body fulfils such a function in terms of section 51. The company has opted to appoint an Information Officer to assess requests for access to information as well as to oversee its required functions in terms of the Act.

The Information Officer appointed in terms of the Act also refers to the Information Officer as referred to in the Protection of Personal Information Act 4 of 2013. The Information Officer oversees the functions and responsibilities as required for in terms of both this Act as well as the duties and responsibilities in terms of section 55 of the Protection of Personal Information Act 4 of 2013 after registering with the Information Regulator.

The Information Officer may appoint, where it is deemed necessary, Deputy Information Officers, as allowed in terms of section 17 of the Act as well as section 56 of the Protection of Personal Information Act 4 of 2013. This is to render the company as accessible as reasonably possible for requesters of its records and to ensure fulfilment of its obligations and responsibilities as prescribed in terms of section 55 of the Protection of Personal Information Act 4 of 2013. All requests for information in terms of the Act must be addressed to the Information Officer.

Contact Details of the Information Officer

Information Officer: Legal Advisor
Physical Address: 12 Pongola Crescent, Sandton
Telephone: +27 11 262 6626
Email: info@centatax.com

6. Guide of SA Human Rights Commission

The Guide is available in all the official languages of the Republic of South Africa. Any enquiries regarding this Guide should be directed to: The South African Human Rights Commission, at:

PAIA Unit (The Research and Documentation Department),

Private Bag X2700, Houghton, 2041

Telephone Number: (011) 877-3803

Facsimile Number: (011) 403-0625

E-mail: paia@sahrc.org.za

The Guide is available for inspection, *inter alia*, at the offices of the Human Rights Commission at 29 Princess of Wales Terrace, corner York and St. Andrews Street, Parktown and on its website at www.sahrc.org.za.

7. Records available only on request

Records held by the company

For the purposes of this clause 6.1, "Personnel" refers to any person who works for, or provides services to, or on behalf of the Company, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of the company. This includes, without limitation, directors (executive and non-executive), all permanent, temporary and part-time staff, as well as contract workers.

7.1.1. This clause serves as a reference to the categories of information that the company holds. The information is classified and grouped according to records relating to the following subjects and categories:

7.1.1.1. Accounting Records

7.1.1.2. Financial Records

7.1.1.3. Company's Secretarial Records

7.1.1.4. Statutory Employee Records

7.1.1.5. Personnel Records

7.1.1.6. Administration and Contractual Records

7.1.1.7. Legal Records

- 7.1.1.8. Information Technology Records
- 7.1.1.9. Marketing Records
- 7.1.1.10. Intellectual Property
- 7.1.1.11. Operational Records
- 7.1.1.12. Tax Records
- 7.1.1.13. Insurance

8. Records available in terms of any other legislation

Where applicable to its operations, the company also retains records and documents in terms of the legislation listed below. Unless disclosure is prohibited in terms of legislation, regulations, contractual agreement or otherwise, records that are required 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 the Act; the below mentioned legislation, and applicable internal policies and procedures, should such interested parties be entitled to such information. A request to access must be done in accordance with the prescriptions of the Act:

- 8.1.1. Basic Conditions of Employment Act No. 75 of 1997;
- 8.1.2. Broad-Based Black Economic Empowerment Act, 2003;
- 8.1.3. Companies Act No. 71 of 2008;
- 8.1.4. Compensation of Occupational Injuries and Diseases Act No. 130 of 1993;
- 8.1.5. Competition Act. No. 71 of 2008;
- 8.1.6. Customs and Exercise Act No. 91 of 1964;
- 8.1.7. Electronic Communications and Transaction Act No. 25 of 2002;
- 8.1.8. Employment Equity Act No. 55 of 1998;
- 8.1.9. Financial Intelligence Centre Act No 38 of 2001;
- 8.1.10. Identification Act No.68 of 1997;
- 8.1.11. Income Tax Act No. 58 of 1962;
- 8.1.12. Intellectual Property Laws Amendment Act 38 of 1997;
- 8.1.13. Labour Relations Act No. 66 of 1995;
- 8.1.14. Occupational Health and Safety Act No. 85 of 1993;

- 8.1.15. Prevention of Organised Crime Act No. 121 of 1998;
- 8.1.16. Promotion of Access to Information Act No. 2 of 2000;
- 8.1.17. Protection of Personal Information Act No. 4 of 2013;
- 8.1.18. Taxation Laws Amendment Act No. 7 of 2010;
- 8.1.19. Transfer Duty Act No 40 of 1949;
- 8.1.20. Unemployment Insurance Act No. 30 of 1966;
- 8.1.21. Value Added Tax Act 89 of 1991.

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

9. Request procedure

Procedural Requirements

- 9.1.1. A “requester” is any person making a request for access to records of the Company”.
- 9.1.2. The requester must comply with all the procedural requirements contained in the Act relating to the request for access to records.
- 9.1.3. The requester must complete the prescribed [form](#) and submit the same as well as payment of the request fee and a deposit, if applicable, to the Information Officer at the postal or physical, fax or electronic mail address as stated above.
- 9.1.4. The prescribed form must be filled in with sufficient to at least enable the Information Officer to identify:
 - 9.1.4.14. the record or records requested; and
 - 9.1.4.15. the identity of the requester.
- 9.1.5. The requester should indicate which form of access is required and specify the postal address, telephone number and fax number of the requester in the Republic;
- 9.1.6. The requester must state that he/she requires the information to exercise or protect her/his right and clearly state what the nature of the right is to be exercised or protected. In addition, the requester must clearly specify why the records are necessary to exercise or protect such a right.

- 9.1.7. The Company will process the request within 30 days after the request has been received, unless the requester has stated special reasons to the satisfaction of the Information Officer that circumstances dictate that the above time periods not be complied with.
- 9.1.8. The requester shall be informed whether the access has been granted or denied in writing. If, in addition, the requester requires the reasons for the decision in any other manner, he/she must state the manner of the so required. If a request is made on behalf of another person, then the “requester” must submit proof of the capacity in which the “requester” is making a request to the reasonable satisfaction of the Information Officer and the ground upon which that person is making the request.
- 9.1.9. If an individual is unable to complete the prescribed form because of illiteracy or disability, such person may make the request orally.
- 9.1.10. The requester must pay the prescribed fee, before any further processing can take place.
- 9.1.11. All information as listed in this clause should be provided and failing which the process will be delayed until the required information is required. The prescribed time periods will not commence until the requester has furnished all the necessary and required information. The Information Officer shall server a record, if possible, and grant only access to that portion requested and which is not prohibited from being disclosed.

10. Grounds to Refuse Access

A private body such as the Company is entitled to refuse a request for information. The main grounds for the company to refuse a request for information relates to the:

- 10.1.1.1. 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;
- 10.1.1.2. mandatory protection of personal information and for disclosure of any personal information to, in addition to any other legislative, regulatory or contractual agreements, comply with the provisions of the Protection of Personal Information Act 4 of 2013;

- 10.1.1.3. mandatory protection of the commercial information of a third party (section 64), if the record contains:
 - 10.1.1.3.1. trade secrets of the third party;
 - 10.1.1.3.2. financial, commercial, scientific or technical information of the institution, which disclosure, could likely cause harm to the financial or commercial interest of the institution;
 - 10.1.1.3.3. information disclosed in confidence by a third party, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- 10.1.1.4. mandatory protection of confidential information of third parties if it is protected in terms of any agreement
- 10.1.1.5. mandatory protection of the safety of individuals and the protection of property, where such disclosure could endanger the life or physical safety of an individual, or prejudice or impair the security of:
 - 10.1.1.5.1. a building, structure or any system
 - 10.1.1.5.2. a means of transport any other property
- 10.1.1.6. mandatory protection of records, which would be regarded as privileged from production in legal proceedings.
- 10.1.2. The commercial information of private body, in that a request for access to a record may be refused if the record contains;
 - 10.1.2.1. trade secrets of that party
 - 10.1.2.2. financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interest of that third party.
 - 10.1.2.3. information which, if disclosed could prejudice or put the institution at a disadvantage in negotiations or commercial competition.
 - 10.1.2.4. a computer program which is owned by the institution and which is protected by copyright.

- 10.1.2.5. the research information of the institution or a third party, if its disclosure would disclose the identity of the institution, the researcher or the subject matter of the research and would place the research at a serious disadvantage.
- 10.1.3. Requests for information that are clearly frivolous or vexatious or which involved an unreasonable diversion of resources shall be refused.
- 10.1.4. All requests for information will be assessed on their own merits and in accordance with the applicable legal principles and legislation.
- 10.1.5. If a requested record cannot be found or if the record does not exist, the Information Officer shall, by way of an affidavit or affirmation, notify the requester that it is not possible to give access to the requested record. Such a notice will be regarded as a decision to refuse the request for access to the record concerned for the purpose of the Act. If the record should later be found, the requester shall be given access in the manner stipulated by the requester in the prescribed form, unless the Information Officer refuses access to such record.

11. Remedies available when the company refuses a request

- **Internal Remedies**

The Company does not have internal appeal procedures. The decision made by the Information Officer is final. Requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the requester is not satisfied with the answer supplied by the Information Officer.

- **External Remedies**

A requester that is dissatisfied with the Information Officer's refusal to disclose information, may within 30 (thirty) days of notification of the decision, may apply to a Court for relief.

A third party dissatisfied with the Information Officer's decision to grant a request for information, may within 30 (thirty) days of notification of the decision, apply to a Court for relief.

For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status and a Magistrate's Court designated by the Minister of Justice and Constitutional Development and which is presided over by a designated Magistrate.

12. Access to records held by the company

Prerequisites for access by Personal / Other Requester

- 12.1.1. Records held by the company may be assessed by requests only once the prerequisite requirements for access have been met.
- 12.1.2. A requester is any person making a request for access to a record of the company. There are two types of requesters:
- 12.1.3. **Personal Requester**
 - 12.1.3.1. A personal requester is a requester who is seeking access to a record containing personal information about the requester.
 - 12.1.3.2. The Company will voluntarily provide the requested information or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.
- 12.1.4. **Other Requester**
- 12.1.5. This requester (other than a personal requester) is entitled to request access to information on third parties.
- 12.1.6. In considering such a request, the company will adhere to the provision of the Act. Section 71 requires the Information Officer take all reasonable steps to inform a third party to whom the requested record relates of the request, informing him / her that he / she may make a written or oral representation to the Information Officer why the request should be refused or, where required, give written consent for the disclosure of the Information.

The Company is not obliged to voluntarily grant access to such records. The requester must fulfil the prerequisite requirements, in accordance with the requirements of the Act and as stipulated in Chapter 5; Part 3, including the payment

13. Prescribed Fees

A requester whose request for access to a record has been granted, must pay an access fee as prescribed by the Act. For further information regarding the prescribed fees, please click [here](#)

14. Decision: Time Allowed to Institution

- 14.1. The company will, within 30 (thirty) days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.
- 14.2. The 30 (thirty) day period within which the company has to decide whether to grant or refuse the request, may be extended for a further period of not more than (30) thirty days if the request is for a large number of information, or the request requires a search for information held at another office of the company and the information cannot reasonably be obtained within the original 30 (thirty) day period.
- 14.3. The company will notify the requester in writing should an extension be sought.

15. Processing of Personal Information

- 15.1. The purpose of the Protection of Personal Information Act (POPIA) is to promote the protection of personal information of individuals and businesses as well as to give effect to their right of privacy as provided for in the Constitution.
- 15.2. The Company needs personal information relating to both individual and juristic persons in order to carry out its business, organisational functions and meet its legal obligations. Where necessary, it commits to ensure that the personal information:
 - Is processed in a fair, lawful and transparent manner in relation to a data subject;
 - Is processed strictly for the purposes it was collected;
 - Is not subject to further processing unless that processing is compatible with the original purpose;
 - Is accurate; and
 - Is not excessive for the purpose for which it was collected.

15.3. Purpose of Processing

- 15.3.1. The Company uses the Personal Information under its care in the following ways:
- 15.3.2. Conducting credit reference checks and assessments
- 15.3.3. Administration of agreements
- 15.3.4. Providing products and services to customers
- 15.3.5. Detecting and prevention of fraud, crime, money laundering and other malpractice
- 15.3.6. Conducting market or customer satisfaction research

- 15.3.7. Marketing and sales
- 15.3.8. In connection with legal proceedings
- 15.3.9. Staff administration
- 15.3.10. Keeping of accounts and records
- 15.3.11. Complying with legal and regulatory requirements

16. Categories of Data Subjects and their Personal Information

The Company may possess record relating to various stakeholders:

- Employees
- Clients
- Contractors, service providers and suppliers
- Third parties / Business Partners

17. Recipients to Whom Personal Information May be Supplied

The Company's business affiliates when necessary

18. Transborder flows of Personal Information

The Company may transfer personal information to a third party who is in a foreign country to administer certain services. We ensure that the personal information is awarded the same protection as South Africa legislation and that the receiving party has implemented similar technical and organisational measures.

19. Security Measures

We understand that data protection and information security is of extreme importance to our various stakeholders and have adopted a culture of continuous improvement in this area so as to ensure its confidentiality, integrity and availability. We are committed to ensure that all information and data that we receive (from our clients and partners) is protected by implementing reasonable technical and organisational security measures.