

**DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
FREEDOM OF INFORMATION ACT DOCUMENT COVERSHEET:
EXEMPTION LIST AND APPEALS RIGHTS**

**Part I
Document Cover Sheet**

<p>1. Requesters' Name Robert Tobiassen</p> <p>3. Requested documents were referred by the following agency: N/A</p> <p>5. Package ends with documents No.: N/A</p> <p>7. Exemptions cited for information withheld on pages released: (See Part II of explanations of exemptions) <input type="checkbox"/> (b)(1) <input type="checkbox"/> (b)(2) <input type="checkbox"/> (b)(3) (26 USC 6103) <input type="checkbox"/> (b)(3) <input type="checkbox"/> (b)(4) <input type="checkbox"/> (b)(5) <input type="checkbox"/> (b)(6) <input type="checkbox"/> (b)(7)(a) <input type="checkbox"/> (b)(7)(b) <input type="checkbox"/> (b)(7)(c) <input type="checkbox"/> (b)(7)(d) <input type="checkbox"/> (b)(7)(e) <input type="checkbox"/> (b)(7)(f)</p>	<p>2. File No. 2019-04-143</p> <p>4. Documents are being released: <input type="checkbox"/> at cost <input checked="" type="checkbox"/> without cost</p> <p>6. Total Number of documents denied: N/A</p>
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Documents completely withheld:

Document No.	Exemption	Document No.	Exemption	Document No.	Exemption

**Part II
List of Freedom of Information Act Exemptions
Title 5 United States Code 552(b) – Information Exempt from Disclosure**

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| <p>(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and are in fact properly classified pursuant to such Executive order;</p> <p>(2) Related solely to the internal personnel rules and practices of an agency;</p> <p>(3) Specifically exempted from disclosure by statute;</p> <p>(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;</p> <p>(5) Inter-agency or intra-agency memoranda or letter which would not be available by law to a party other than an agency in litigation with the agency;</p> <p>(6) Personnel and medical files and similar files, disclosure of which would constitute a clear and unwarranted invasion of personal privacy;</p> <p>(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records could:</p> <p style="padding-left: 20px;">(a) interfere with enforcement proceedings;</p> | <p>(b) deprive a person of a right to a fair trial or an impartial adjudication;</p> <p>(c) constitute an unwarranted invasion of personal privacy;</p> <p>(d) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;</p> <p>(e) disclose investigative techniques and procedures;</p> <p>(f) endanger the life or physical safety of law enforcement personnel</p> <p>(8) Contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or</p> <p>(9) Geological and geophysical information and data, including maps, concerning wells.</p> |
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Part III Right of Appeal – Procedure

If you are not satisfied with our response to your request, you may appeal within 90 calendar days from the date of the initial determination response letter, stating the reasons why the requested information should be released under the Act; and why the determination is in error. Your letter of appeal must:

1. Be signed by the requestor and addressed to: Freedom of Information Appeal, Assistant Administrator (Headquarters), Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Box 12, Washington, DC 20005;
2. Be submitted to TTB within ninety (90) calendar days of the date of our initial determination letter;
3. Reasonably describe the requested records which the appeal concerns;
4. Set forth the address where the requester desires notification of the determination of the appeal;
5. Specify the date of the initial request and the date of the letter denying the initial request, including the FOIA number;
6. Petition TTB to grant the request for records and present arguments supporting the appeal; and
7. Enclose the appeal in an envelope clearly marked "FREEDOM OF INFORMATION ACT APPEAL"

Part IV 26 U.S.C. 6103 Disclosure

In order to respect citizens' reasonable expectation of the privacy of their tax information, Congress created, and has amended over the years, 26 U.S.C. 6103 (section 6103) to provide that tax returns and return information are confidential and are not subject to disclosure except in limited situations, where disclosure is warranted. For each allowed disclosure delineated by the Internal Revenue Code (IRC), Congress attempted to balance the particular office's or agency's need for the information with the citizen's right to privacy, as well as the impact of the disclosure upon the continuation of compliance with the voluntary tax assessment system.

Permissible Disclosures. Though the general rule of section 6103 protects the confidentiality of return information, it outlines a number of circumstances where disclosure or inspection of return information is permissible.

We may be able to provide you with this information, subject to the provisions of 26 U.S.C. 6103, which controls the disclosure of tax returns and tax return information collected under the Internal Revenue Code. Accordingly, in order for us to comply with the provisions of section 6103 that outline the circumstances under which we can share information, the request must come in a specific format. The request must come from an official who is at least a first-line supervisor and contain the following information:

1. Identify the name, title and agency of the requester.
2. Identify the name, address, and (if available) the employer identification number, social security number, or taxpayer identification number of the taxpayer/subject.
3. Briefly explain why the requester's official duties require TTB to disclose the information. For example, if the request is pursuant to an investigation involving a tax administration matter or another Federal law not related to tax administration, please indicate such.
4. If known, please indicate the subparagraph of 26 U.S.C. 6103 under which you are requesting the information.
5. If there is a need for a quick turnaround, identify the time frame in which the information is needed.
6. Identify, if applicable, the type of tax and the tax periods covered by the request.
7. Finally, the requester must agree to safeguard all information in accordance with the terms of section 6103(p)(4) of the IRC, and must acknowledge awareness of the laws imposing civil and criminal liability on Federal employees who improperly disclose return information.



DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
WASHINGTON, D.C. 20005

May 2, 2019

Refer to: **2019-04-143**
4040000

SENT VIA EMAIL TO: robert.tobiassen@gmail.com

Robert Tobiassen
Tobiassen Consulting Plus Solutions LLC
6705 Moly Drive
Falls Church, VA 22046

Dear Robert Tobiassen:

This letter is to acknowledge receipt of your Freedom of Information Act (FOIA) request to the Alcohol and Tobacco Tax and Trade Bureau (TTB) dated April 21, 2019 and received in this office on April 22, 2019. In the first part of your request, you are requesting copies of the personnel or other records held by TTB covering fiscal years 2016, 2017, 2018, and 2019, showing the employee names, position titles, reason for the award or bonus (that is, the write up by the supervisor justifying the award), type of award or bonus, and dollar amounts received by the TTB employees of the enumerated types of awards (listed in your letter and shown below) and bonuses received by some 22 employees you list by name and position title, including the Administrator, Deputy Administrator, and certain directorate heads, managers and attorneys.

In the second part of your request, you are requesting the similar documentation on the enumerated awards during the same fiscal years for any TTB employee where such award or bonus was, directly or indirectly, related to investigations and or settlements or administrative actions conducted under the unfair trade practice provisions of the Federal Alcohol Administration Act, 27 U.S.C. 205(a) to (d), including any investigations relating to the accuracy or validity of the basic permits held by industry members being investigated under these provisions.

In your request you state: "To the extent that you redact the names of the industry members who are the subjects of these investigations, I request that you disclose the names of any industry members for whom I have a Power of Attorney on file at the National Revenue Center."

The awards and bonuses include, but are not limited to:

- 1) Special Act Awards;
- 2) Achievement Awards;
- 3) Quality Step Increase Awards;
- 4) Spot Awards;
- 5) Time off Awards; and

6) Senior Executive Service Bonus Awards.

You also state that the second request covers anyone that you did not specifically list but who received one of the enumerated awards or bonuses during the fiscal years noted and for which any aspect of the unfair trade practices under the FAA Act, directly or indirectly, were involved.

Your request includes a legal argument in support of your request, and we will take it into account in providing a substantive response.

You also request that all fees be waived "to the extent that you believe they must be charged." In accordance with 31 CFR. 1.7(k), we weighed your assertions of a public interest in the requested information against your commercial interests in the information as principal of Tobiassen Consulting Plus Solutions LLC and find the commercial interest of the consulting firm in "enable[ing] industry members to undertake voluntary compliance" to be the primary one. Consequently, the request for a fee waiver is denied.

Finally, you request expedited processing. With regard to expedited processing, your request does not meet any of the three criteria provided in the Department of the Treasury regulations at 31 CFR 1.4(e). As a result, expedited processing is denied, and your request will be processed in turn.

Apart from the matter of your requests for a fee waiver and expedited processing, provisions of the FOIA allow agencies to recover part of the cost of complying with a FOIA request. See 5 U.S.C. 552(a)(4)(A). The applicable fee schedule is set forth in the Department of the Treasury regulations implementing the fee provisions of the FOIA and at 31 CFR 1.7. Based upon the information available in your request, we consider you to fall within the fee category applicable to "commercial use requesters," at 31 CFR 1.7(b)(1). As a commercial requester, you are liable for search and review costs, as well as duplication. See 31 CFR 1.7(c)(1).

A perfected FOIA request must include a firm agreement to pay applicable fees associated with processing a FOIA request. See 31 CFR 1.7(e). In accordance with that same section, we are notifying you that the estimated fees to be assessed to cover the search costs to process your request are approximately \$1,040. The fee for reviewing the records cannot be estimated until the records are located and retrieved; however, depending on the volume of records retrieved and the determination of FOIA exemptions to be applied, if any, the review fees could equal or exceed the search fees. Although your request did not specify the format in which you wish to receive the requested records, if you wish to receive hard copies, you will also be charged duplication fees at the rate of \$0.15 per page in accordance with 31 CFR 1.7(c)(2).

Robert Tobiassen
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In your letter, you agreed to pay up to \$1,000.00 in any search fees associated with your request to the extent we believe they must be charged. Since your letter did not provide a firm agreement to pay the other fees to be assessed for producing the requested records, your request, as currently written, is not perfected. See https://ttb.gov/foia/make_request-foia.shtml for additional guidance on "Making a Perfected" FOIA request.

Please send your written commitment to pay the total fees to be assessed in processing your request (including search, review and if applicable, duplication) to:

Attn: Quinton Mason
TTB FOIA Requester Service Center
1310 G Street, NW
Box 12
Washington, DC 20005
FAX: 202-453-2331
E-mail: TTBFOIA@ttb.gov

Once we receive written confirmation of your commitment to pay the fees to be assessed as described above, we will immediately begin processing your request. If we do not hear from you within 30 days from the date of this letter, we will consider your request closed.

In the alternative, you may decide to narrow the scope of your request, or place a fee cap on the amount you wish to spend to cover all applicable fees. Please be advised that if records are withheld from disclosure pursuant to a FOIA exemption, you will still be responsible for the payment of any fees associated with searching for, reviewing, and, if applicable, duplicating these records.

Enclosed is a Document Cover Sheet with your appeal rights outlined on the reverse side. If you choose to appeal our denial for expedited processing, a waiver of fees, and commercial requester category, you must do so within 90 days from the date of this response.

Please note that a FOIA Public Liaison is available if you would like to discuss any issues regarding a FOIA response. A FOIA Public Liaison is a supervisory official with the Department of the Treasury to whom FOIA requesters can raise questions or concerns about the agency's FOIA process. FOIA Public Liaisons can explain agency records, suggest agency offices that may have responsive records, provide an estimated date of completion, and discuss how to reformulate and/or reduce the scope of requests in order to minimize fees and expedite processing time.

If you would like to discuss this response, perhaps to resolve a dispute before filing an appeal, you may contact Paul Levitan, the FOIA Public Liaison, by email at FOIAPL@treasury.gov or by telephone at (202) 622-8098.

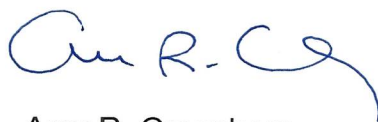
If you are unable to resolve a FOIA dispute through the FOIA Public Liaison, the Office of Government Information Services (OGIS) at the National Archives and Records Administration, offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), please note that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
Email: ogis@nara.gov
Telephone: 202-741-5770
Toll free: 1-877-684-6448
Fax: 202-741-5769

Please be advised that contacting any agency official (including the Disclosure Officer or FOIA Public Liaison) and/or OGIS **is not** an alternative to filing an administrative appeal and **does not** stop the 90-day appeal clock.

Once we receive written confirmation of your willingness to pay fees as a "commercial requester", we will immediately begin processing your request. If you have any questions regarding this letter, feel free to contact Quinton Mason, TTB Disclosure Officer, by telephone at (202) 882-9904 or by e-mail at TTBFOIA@ttb.gov, and reference FOIA number **2019-04-143**.

Sincerely,



Amy R. Greenberg
Director, Regulations and Rulings Division

Enclosure(s): As stated