

**Report Published under Section 48(2) of the
Personal Data (Privacy) Ordinance (Cap. 486)**

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香港個人資料私隱專員公署
Office of the Privacy Commissioner
for Personal Data, Hong Kong

**Inland Revenue Department Failed to Take All Reasonably
Practicable Steps to Ensure the Accuracy of a Taxpayer’s Address**

This report in respect of an investigation carried out by me pursuant to section 38(a) of the Personal Data (Privacy) Ordinance, Cap. 486 (the “**Ordinance**”) against Inland Revenue Department is published in the exercise of the power conferred on me by Part VII of the Ordinance. Section 48(2) of the Ordinance provides that “*the Commissioner may, after completing an investigation and if he is of the opinion that it is in the public interest to do so, publish a report –*

- (a) *setting out -*
 - (i) *the result of the investigation;*
 - (ii) *any recommendations arising from the investigation that the Commissioner thinks fit to make relating to the promotion of compliance with the provisions of this Ordinance, in particular the data protection principles, by the class of data users to which the relevant data user belongs; and*
 - (iii) *such other comments arising from the investigation as he thinks fit to make; and*
- (b) *in such manner as he thinks fit.”*

Allan CHIANG
Privacy Commissioner for Personal Data

Case Background

1. The data user under investigation was Inland Revenue Department (“**IRD**”), the tax administration in Hong Kong. The Complainant in this case was a member of the tax paying public. In May 2008, the Complainant received a “Notice to File the Tax Return” (“**Tax Return**”) which was sent to her home address by IRD. She duly completed her Tax Return and returned it to IRD. By mid-October, having not received her “Notice of Assessment and Demand for Tax” (“**Tax Demand**”), the Complainant sent 4 separate inquiry emails to IRD between 15 and 29 October 2008 inclusive. The Complainant still did not receive any reply from IRD, she then telephoned IRD’s hotline and visited IRD’s office in person on 30 October 2008 to meet with an IRD officer.

2. During the aforesaid meeting, the Complainant was informed that an IRD officer had inadvertently changed her address in IRD’s record to an address reported by another taxpayer (“**Address X**”). As a result, the Complainant’s Tax Demand was sent to Address X. The mail containing the Complainant’s Tax Demand was subsequently returned by the Post Office to IRD. Another IRD officer attempted to rectify the problem by changing the record back to the Complainant’s address. Unfortunately, the flat number of the Complainant’s address was wrongly input as “Flat A” instead of “Flat F”. This mistake had led the Complainant’s Tax Demand being sent to another third party’s address (“**Address Y**”) in September 2008. On 15 October 2008, upon receiving the Complainant’s aforesaid inquiry email, IRD sent a duplicate copy of the Complainant’s Tax Demand to Address Y without identifying the cause of the problem.

3. The Complainant complained to this Office that she had not requested for a change of address but IRD changed her correspondence address several times and retained an incorrect record of her address.

The Legal Requirements

4. The following provision of Data Protection Principle 2(1) (“**DPP2(1)**”) in Schedule 1 to the Ordinance is relevant to this investigation:-

“All practicable steps shall be taken to ensure that-

- (a) *personal data are accurate having regard to the purpose (including any directly related purpose) for which the personal data are or are to be used;*
 - (b) *where there are reasonable grounds for believing that personal data are inaccurate having regard to the purpose (including any directly related purpose) for which the data are or are to be used-*
 - (i) *the data are not used for that purpose unless and until those grounds cease to be applicable to the data, whether by the rectification of the data or otherwise; or*
 - (ii) *the data are erased;*
- ...”

The Investigation

5. In response to our investigation, IRD submitted the following information and documents.

The Incident

6. According to the information provided by IRD, a Tax Return (B.I.R. 60 (4/2007)) consisted of two documents, a form for taxpayer to fill in his personal particulars and income information for tax assessment (the “**Main Return**”) and an appendix (the “**Appendix**”). A taxpayer might notify IRD to amend her information including the postal and residential address by completing and returning the Appendix to IRD.

7. All incoming Tax Return documents were initially handled by a group of staff who would open and extract the Tax Return documents from envelopes. If a Tax Return was returned with a completed Appendix, the Appendix would be attached to the Main Return and grouped with the other Tax Return documents (with or without Appendix). Afterwards, the information in the Tax Return documents (including the Appendix) would be updated in the IRD’s database by another group of staff. The investigation conducted by IRD revealed that upon receiving the Complainant’s Tax Return, a temporary clerk (“**Officer A**”) had wrongly attached the Appendix of another taxpayer to the Main Return of the

Complainant.

8. When the Tax Return of the Complainant was forwarded to another officer (“**Officer B**”) for updating of records, Officer B failed to discover that the file numbers on the Appendix and the Complainant’s Main Return were different. As a result, the Complainant’s address was updated to Address X reported by another taxpayer in the IRD’s database. Accordingly, the Complainant’s Tax Demand was sent to Address X and was later returned undelivered.

9. The undelivered Tax Demand then went through the automatic redirection process. Under this process, a staff member would scan the barcode appearing on the envelope of the undelivered Tax Demand. The computer system would then proceed to automatically check the IRD’s database to confirm if there was an updated address of the taxpayer available for redirection. If a new address was found, the system would generate a covering letter to the taxpayer at the new address. The undelivered Tax Demand would then be sent out together with the covering letter. In the present case, since no new address was found by the system, the undelivered Tax Demand was handled manually by a General Clerk of IRD (“**Officer C**”). Officer C checked the tax return of the Complainant’s employer and found the accurate residential address of the Complainant for redirection. Officer C then proceeded to update the Complainant’s records in the IRD’s database with the Complainant’s address provided in her employer’s tax return. Unfortunately, the flat number of the Complainant’s address was wrongly input as “Flat A” instead of “Flat F” by Officer C. This mistake had led the Complainant’s Tax Demand being sent to another third party at Address Y in September 2008.

10. By October 2008, the Complainant still had not received her Tax Demand. So she sent emails to IRD to inquire about the matters. A Taxation Officer (“**Officer D**”) did not look into the cause of the matter, but simply instructed her subordinate to send duplicate copies of the Complainant’s Tax Demand to the address as per the IRD’s database (i.e. Address Y) as many as three times. These mail items were not returned.

11. The Complainant visited IRD in person on 30 October 2008 and finally obtained a copy of her Tax Demand. IRD then correctly updated the Complainant’s address on 30 October 2008 and issued two written apologies to

the Complainant on 3 and 20 November 2008.

Measures taken by IRD prior to the incident to ensure the personal data of taxpayers held by IRD were accurate, securely stored and properly handled

12. IRD stated that they had devised relevant policies, guidelines and instructions on the collection, use and security of taxpayers' personal data for their staff's general reference and strict compliance.

13. With regard to the amendment of address, IRD had in place procedural guidelines which were set out in their circulars, checklists and staff handbooks. IRD staff were required to verify the identity of the taxpayer and to exercise special care when amending taxpayer's address. These guidelines were disseminated to and were easily accessible by all staff through their intranet. Staff were regularly reminded to exercise due care when updating taxpayer's information and address during staff briefings and by re-circulation of relevant circulars. Sample checks were conducted by supervisors on a random basis.

Remedial measures taken by IRD in response to this complaint

14. IRD considered that the complaint was an isolated incident that arose through the carelessness, oversight or errors of the handling staff. In response to the complaint, IRD had taken the following remedial measures to prevent the recurrence of similar incident in future in respect of the mistakes made by Officers A, B, C and D.

Officers A & B

15. The "*Checklist on amendment of Correspondence Address*" was revised by IRD on 15 April 2009, requiring its staff to ensure that the file numbers on the Appendix and the Main Return were the same when updating an individual taxpayer's address.

Officer C

16. IRD enhanced the address amendment function of its computer system on 29 June 2009 by adding a pop-up screen to display the updated/amended address

input manually by its officer. This allowed the officer to check the input data before the same were finally saved in the IRD's database.

17. The "*Checklist for manual redirection of undelivered CTR¹ Notices of Assessment*" and the "*Document Processing Centre Staff Handbook*" (the "**Handbook**") were revised in April and August 2009 respectively requiring staff to check the accuracy of input information before the same were saved in IRD's database.

Officer D

18. New guidelines were issued in December 2008, requiring IRD staff responsible for handling public inquiries relating to non-receipt of Tax Return/ Tax Demand/ other correspondence, to contact the taxpayer by telephone or email where appropriate to verify the address information before a duplicate copy of Tax Return/ Tax Demand/ other correspondence were issued to the taxpayer concerned.

19. Officer D was reprimanded for the inappropriate actions taken in this case. All enquiries answered by her would be checked by her immediate supervisor so as to monitor her performance closely.

Random check

20. IRD implemented new computer system to random check the transactions for address amendments. The system would select randomly a transaction for updating an address in the database and notify the handling officer by a pop-up message on the computer screen. The selected transaction would then be locked until the handling officer had printed the message. The handling officer was then required to submit the printouts of the data-updating steps that he had performed regarding the transaction to his supervisor with supporting documents for checking.

Others

21. The above newly devised checklists and guidelines were uploaded to

¹ "CTR" represents "Composite Tax Return"

IRD's intranet for staff's attention and had been incorporated into the Handbook. Both verbal and written reminders were issued to IRD's staff on 1 December 2008 to remind them of the importance of maintaining accurate addresses of taxpayers. Briefing sessions were conducted on 25 March 2009 to all officers responsible for the redirection of Tax Demand documents.

The Findings of the Commissioner

22. A taxpayer's information maintained by IRD which include his/ her Hong Kong Identity Card number, address, income and tax payable, etc. are sensitive personal data of the taxpayer and it is vital for IRD to ensure that such data are accurate and should not be disclosed to unrelated parties. Grave consequences can arise if IRD fails to ensure the accuracy of the taxpayer's address. These will include the following situations. Tax information may be obtained by strangers; unintended recipients can use the tax information for illegitimate purposes; there will be delay in the taxpayer receiving the Tax Demand and consequently the government will receive the tax late. In the present case, the Complainant's name, Hong Kong Identity Card Number, income and tax payable contained in her Tax Demand were at stake.

23. The Commissioner understood that it was not possible to completely eliminate human errors. However, more sensitive personal data warranted a higher degree of care in its handling by the data user.

24. The Commissioner regretted to find the multiple human errors that had happened in the processing of the information of the Complainant. This reflected the lack of awareness on data accuracy not only on the part of a single staff member but across different units of IRD. As such, he did not accept IRD's contention that this case was an isolated incident (though this might be a very special case involving so many errors).

25. Although IRD had after the incident laid down guidelines requiring its staff to check the file number on the Appendix and the Main Return before the two documents were attached together and amendments were made, the Commissioner was of the view that the practicable step to eliminate the possible human errors in these two processes was to amend the design of the Tax Return by incorporating the change of address section in the Appendix into the Main

Return under, say, “Part 2 Notification”.

26. Although before the incident, IRD had already adopted supervisory checks on the accuracy of the work done by its staff, which included the checking of the updated records of personal particulars of taxpayers against the source documents for amendment, the percentage of work done by each officer to be checked by his supervisor was however not specified. In response to this complaint and having considered the number of undelivered Tax Demand documents returned to IRD annually (26,080 on average from 2005 to 2009), the Commissioner strongly suggested to IRD that it considered the carrying out of supervisory checks on at least 10% of the address amendments (more than 300,000 annually) made to the IRD’s database.

27. Last but not least, the Commissioner noted that IRD did not contact the occupant of the Address Y to trace the whereabouts of or to retrieve the misdelivered Tax Demand of the Complainant upon the discovery of the errors. This might minimize the risk of accidental disclosure of the Complainant’s personal data.

Conclusion

28. In conclusion, the Commissioner found that IRD had contravened the requirements of DPP2(1) for failing to take all reasonably practicable steps to ensure the accuracy of the Complainant’s address held and used by it.

29. The Commissioner informed IRD of his decision and the reasons thereof and later received a written undertaking from IRD confirming that the following remedial actions had been taken:

- (i) IRD had sent its Tax Inspector to trace the whereabouts of the Complainant’s Tax Demand sent to Address Y but to no avail.
- (ii) IRD’s Tax Return form was revised by incorporating the change of address section in the Appendix into the main form so as to eliminate the possibility of mismatching of Appendix where a request for address change was made. The new form was put into use with effect from April 2010 onwards.

- (iii) IRD had undertaken to conduct daily supervisory checking on at least 10% of the address amendments made manually to the IRD's database and to implement measures to ensure compliance by its staff with the procedures, guidelines and/or checklists issued by IRD in respect of the accuracy of taxpayers' information, including: (a) draw the attention of its staff to those procedures, guidelines and/or checklists, and the disciplinary actions to be taken on non-compliance with the same, from time to time at an interval of not less than six months; and (b) take disciplinary actions against staff who repeatedly fail to comply with those procedures, guidelines and/or checklists.

Enforcement Notice

30. Pursuant to section 50 of the Ordinance, the Commissioner might serve an enforcement notice on IRD if he was of the opinion that IRD had contravened the requirements of DPP2(1) of the Ordinance in circumstances that made it likely that the contravention would continue or be repeated. Having considered the above remedial actions taken by IRD, the Commissioner was of the view that there was no information showing that IRD's contravention will likely continue or be repeated. The Commissioner therefore decided that serving an enforcement notice under section 50 of the Ordinance on IRD in respect of the investigation would not be appropriate.

Other comments

31. The Commissioner is pleased to note that IRD has positively responded to this investigation and has been cooperative in offering assistance to his officers during the investigation. He is also glad to see that IRD has readily adopted the recommendations made by him in the Result of Investigation, on top of the existing guidelines and supervisory check procedures. The Commissioner notes IRD is adamant that guidelines and supervisory check procedures were in place well before this incident and that it has made strenuous efforts to ensure that staff at all levels fully understand the data protection policies. However, the irregularities identified in this investigation, which involved multiple mistakes committed by different staff across a number of work units, speak for themselves.

IRD is a large department in terms of the number of staff. Judging from the offhandedness displayed by the staff concerned in this case, it does not appear that the work norms shared by the staff emphasize enough user-centricity and data protection. The Commissioner hopes that this report will provide the aspirations to IRD (and other government departments handling vast amounts of personal data) to proactively build a corporate culture which embraces user-centricity and data protection. It is incumbent upon the top management to take the lead to inculcate the staff with these values through effective communication and due reinforcement, instead of sliding into complacency.