



澳門特別行政區政府
Governo da Região Administrativa Especial de Macau
個人資料保護辦公室
Gabinete para a Protecção de Dados Pessoais

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Authorization

No. 16/A/2008/GPDP

Subject: The Civic and Municipal Affairs Bureau applied for data combination to process the information of the Financial Services Bureau's "Tax Registration Database"

The Civic and Municipal Affairs Bureau (IACM) has filed a personal data combination application for the data processing authorization of the Financial Services Bureau's "Tax Registration Database" (hereinafter as "Tax Database") with the Office for Personal Data Protection (GPDP).

The data of the Tax Database which the IACM applied for combination includes the name of each taxpayer, his/her gender, date of birth, marital status, address, telephone and identity card number. Under Article 4(1)(1) of Law 8/2005 (Personal Data Protection Act, or the PDPA), the data last said is considered as the personal data of the identified individuals, whose processing shall be regulated by laws. Based on Article 3 idem, processing of this type of data is governed by the PDPA.

Pursuant to Article 4(1)(10) of the PDPA, "combination of data shall mean a form of processing that consists of the possibility of correlating data in a filing system with data in a filing system or systems kept by another or other controllers or kept by the same controller for other purposes." The IACM has linked to the DSF's "Tax Database" through the Informac Network of the Public Administration and Civil Service Bureau (SAFP) provided, wherein real-time access to the DSF's tax registration information is allowed through the Informac. Therefore, connection is established between the two databases that fits into the legal definition of personal data processing by means of combination.

According to Article 22 of the PDPA, data combination is a kind of prior monitoring of personal data processing. Under Article 9 idem, "the combination of personal data not provided for in a legal provision or a statutory regulation with organizational nature shall be subject to the authorization of the public authority, requested by the controller or jointly by the corresponding controllers under Article 22(1). The combination of personal data must be necessary for pursuing the legal or statutory purposes and legitimate interests of the controller; not involve discrimination or a reduction in the fundamental rights and freedoms of the data subjects; be covered by adequate security measures; and take account of the type of data subject to combination".

According to the information the IACM provided, the combination of the data of



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“Tax Database” established with the DSF is aimed to access the taxation record data, and to carry out the statutory duties of licenses issuing as laid down by Law 7/89/M, Decree Law Law 47/98/M, Decree Law Law 16/96/M, Administrative Regulation 16/2003 and Administrative Regulation 28/2004.

According to paragraphs 8 and 12 of Article 2, Annex of Law 17/2001, Regulations of the Organization of the Civic and Municipal Affairs Bureau, the IACM’s statutory duties include issuing administrative licenses, in accordance with laws, for relevant acts, projects and activities; and, pursuant to stipulations of laws and regulations, supervising the compliance of the regulations concerning its legal competence, in particular the activities and projects that administrative licenses are required and are with respect to public health, animal supervision, environmental protection, etc. Being a public authority invested with the legal competence to issue administrative licenses or permits, the IACM is responsible to issue the following licenses or permits according to Law 7/89/M, Decree Law 47/98/M, Decree Law 16/96/M, Administrative Regulation 16/2003 and Administrative Regulation 28/2004:

1. According to Article 19 of Law 7/89/M (The General Regime of Advertising Activities), license issued by the IACM is required before any installation of advertisement signboards.

2. According to Article 2 of Decree Law Law 47/98/M, if an economic activity falls into the categories as referred in Table I and Table II of the same Decree Law, permit/ license shall be applied or issued in advance from the entity with the concerned legal competence. Pursuant to Article 12(1)(b) and Article 20 idem, most of the economic activities referred in the above mentioned Table I and Table II are required to obtain a permit/ license issued by the IACM. The economic activities that require a permit include entertainment projects with non-profit or charitable nature, auction, barber shops, beauty parlors, entertainment venues which are opened to the public or centres running entertainment activities and so forth. On the other hand, activities that require a license include public performance, cinemas and theatres, billiard parlors, bowling alleys, amusement game centres, selling of pornographic objects, laundry shops and dyeing factories and so forth. In addition, in accordance with Article 5(1) of the Decree Law last mentioned, permit or license shall only be issued if an applicant has settled the tax of the concerned activities.

3. According to Articles 2 and 6 of Decree Law 16/96/M, and Articles 1 and 3 of Administrative Regulation 16/2003 (Amendment of the License Issuing Procedures for Food and Beverage Establishment), the IACM is the one stop services that has the legal competence to issue license for food/beverage establishments and to supervise their activities. In addition, before running a food or beverage establishment an owner shall apply for a license from the IACM.

Article 4 of the Administrative Regulation 28/2004 states that “the IACM shall ensure the proper execution of the General Regulations Governing Public Places in the public facilities owned by the IACM and in the public spaces and other areas that the



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IACM manages. Furthermore, Articles 18 and 19 of General Regulations Governing Public Places, as approved by Administrative Regulation 28/2004, state that whenever a person occupies public space or running a business on such space for private interests shall obtain a valid permit or license before maintaining or running the concerned businesses. In other words, the IACM is the entity to approve and issue licenses regulated by the General Regulations Governing Public Places, which include construction works taking place in private and public places (see Article 20 idem); temporarily removing city facilities or occupying public places for matters, activities, construction works carried out for private interests (see Article 26 idem); and a valid license obtained for the installation of visual or audio advertisements on real estates, automobiles or any building structures (see Article 28 idem).

In addition, according to the Regulations of Industrial Tax (*contribuicao industrial*), as approved by Law 15/77/M, and the Regulations of Professional Tax (*imposto profissional*), as approved by Law 2/78/M, whenever a public authority, with the vested legal competence, issues a license or permit, or handles a taxpayer's application regarding industrial and business activities, this authority shall require the applicant to produce the proof of tax payment before processing his or her application. The relevant provisions include:

1. According to Article 33(1)(a) of the Regulations of Industrial Tax, in order to issue a license or permit, or to continuously process the application in relation to a taxpayer's operational activities of industrial or business nature, it is mandatory for the applicant to produce the original, copy, or certificate of the industrial tax document or the most recent tax payment.
2. According to the regulation stipulated under Article 33(3) of the Regulations of Industrial Tax, "in relation to any permit applications of business activities, paragraph(1)(a) of this Article does not apply, except when the issuing license organization is requested to produce the registration or documents of the concerned activities certifying that industrial tax payment is settled, application can then be approved.
3. According to Article 55 of the Regulations of Professional Tax, "receipt of the settled Professional Tax, or its certificate or photocopy, is the document mandatory to be produced by a person to whom the relevant license or permit is issued or with whom his business or occupational application is processed.

As said above, the IACM, with the statutory duties the aforementioned law regulated, is vested with the legal competence to issue license or permit. However, when examining and approving the said administrative license or permit, under Article 33 of the Regulations of Industrial Tax, Article 55 of the Regulations of Professional Tax, and Article 5 of Decree Law 47/98/M, the IACM, before approving an application, shall confirm under the circumstance that the applicant of the administrative license or permit has settled all official taxes.



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In view of this, for the examination and approval work of administrative license or permit and for the necessity to understand whether the entity which files an application has paid all official taxes, the IACM establishes the data combination with DSF's "Tax Database" through "combination" method, so as to verify the documents showing all tax payments have been settled as submitted by the applicant. Hence, the legitimacy of processing the data by the IACM complies with Article 6(4) of the PDPA, and belongs to the implementation of task with public interests and exercise of the competence of the administrative authority concerned. The establishment of "combination" is also in conformity with Article 5(1)(2) of the PDPA, without being deviated from the aim of collecting relevant data in contrast to the data processing, and such relevant data processing method corresponds to the legitimate interests of a data controller pursues.

As to whether the establishment of combination will cause any discrimination or reduction in rights, freedom and security of the data subject. Regarding this application, the IACM accessed the DSF's Tax Database, with the aim to verify the documents proofing the settlement of different types of the taxes. In other words, the IACM achieved the legitimacy of Article 6(4) of the PDPA, which is acting for public interests or exercising official authority. Its processing has not deviated from the collection purpose and conforms to Article 5(1)(2) idem, which means the concerned data processing is in line with the interests a data controller pursues.

As data combination shall not discriminate or prejudice the rights, freedom, and safeguard of the data subjects, in the current application of the IACM, accessing the Tax Database of DSF by means of combination is aimed to accommodate the tax laws and other concerned laws in order to approve the applications of licenses or permits. This ensures that the applications are approved legally and all types of taxes are settled, which discrimination of the rights of the data subjects does not exist.

In the aspect of the appropriate safety measures for the data combination, the IACM has processed the data of the Tax Database with the DSF through combination, by connecting to the Informac System provided by the SAFP. According to the information provided by the SAFP, the Informac is a closed network that allows the connection of systems or services between the public departments, being connected by optical fibers and designed with the DDN special lines and VPN login. In addition, the information from the IACM also shows that access to the system is controlled by user accounts and passwords.

To sum up, pursuant to Articles 9 and 22(1)(3) of the PDPA, the GPDP, based on the above mentioned purpose, hereby authorizes the combination between the IACM and the DSF in processing data of the "Tax Database", upon the conditions that data safety measures are safeguarded and is without reducing the data subject's rights.



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Chan Hoi Fan
Coordinator
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