



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

UNOFFICIAL TRANSLATION

Annotation

No. 01/AV/2011/GPDP

The supplement to Authorization No. 01/A/2010/GPDP

**Subject: Increase of data controller approved by Authorization 01/A/2010/GPDP
for data combination**

On February 9th, 2010, the Office for Personal Data Protection (hereinafter referred to as GPDP) issued the Authorization No. 01/A/2010/GPDP to the Financial Services Bureau (hereinafter referred to as DSF) and the Public Security Police Force (hereinafter referred to as PSP), for combination aimed at processing the data of the DSF's database for coercive collection. Hereby the Tax Enforcement Division (Repartição das Execuções Fiscais), a new data controller, is added by annotation to the Authorization No. 01/A/2010/GPDP based on the following reasons:

Under Article 3(2) of Decree Law 33/99/M, it regulates that the Tax Enforcement Division is a subordinate department of the DSF, and its functions are governed by specialized laws and regulations. In addition, under Article 1(1) of Decree Law 36/99/M, the Director of Finance Services is, inherently, also the head of Tax Enforcement Division. However, according to Article 3(1) of the Decree Law last mentioned, amongst its statutory duties the Tax Enforcement Division has the authority to monitor the compliance of the tax laws, and it is a public authority.....”

In accordance with Article 29 of Decree Law 30/99/M and the relevant regulations of the Tax Enforcement Code, the Tax Enforcement Division, in regard coercive tax collection, has the competence of a public authority which is exercised independent of the DSF. In terms of the source of information for tax collection, coercive collection and penalties for administrative offenses, the Tax Enforcement Division has its independent database, the Tax Collection Database, to which it exercises the right to control and right to decide for the processing of the information. Therefore, the processing of the information of Tax Collection Database is within the legal competence of the Tax Collection Division; in other words, it is the data controller of this database (see Article 4(1)(5) of the PDPA)¹.

¹ Article 4(1)(5) of the PDPA regulates that “controller shall mean the natural or legal person, public entity, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data”.



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

UNOFFICIAL TRANSLATION

Moreover, as the Tax Collection Division is a subordinate department of the DSF, the latter is required to assist and the former to obtain and update the information of the Coercive Collection Database. In other words, the concerned system, in particular the technical assistance and maintenance thereof is at the discretion of the DSF to a certain extent. As a consequence the DSF is considered as the data controller.

In light of the above, the Tax Collection Division decides for the processing purposes of the information contained in the Coercive Collection Database, and the processing methods are decided by the DSF. Thus, the information of the mentioned database is jointly governed² by the Tax Collection Division and the DSF, even though decisions are made by these authorities in various operational stages. Therefore, the two authorities are the data controllers the data of the Coercive Collection Database.

Upon the above, in this Annotation, the Tax Collection Division is added as the entity for the combination for Authorization 01/A/2010/GPDP, while the remaining parts of this Authorization remain unchanged.

Chan Hoi Fan
Coordinator
6 May 2011

² For the joint decision for data processing made by two or a number of entities, please refer to Part III.1d) of Opinion 1/2010 on the concepts of “controller” and “processor”, adopted on February 16th, 2010. It states that “in this perspective, joint control will arise when different parties determine with regard to specific processing operations either the purpose or those essential elements of the means which characterize a controller.”