



THE ATTORNEY GENERAL  
OF TEXAS

September 22, 1989

JIM MATTOX  
ATTORNEY GENERAL

Mr. David E. Whitmire  
Chief Appraiser  
Harrison Central Appraisal District  
P. O. Box 818  
Marshall, Texas 75671-0818

Dear Mr. Whitmire:

You ask whether an attorney who enters into a contract with a taxing unit for the enforcement of delinquent taxes is an agent of the taxing unit for purposes of the Open Records Act, article 6252-17a, V.T.C.S., and thereby possesses the same right of access to records in your custody as that of the taxing units themselves. Your request letter was assigned ID# 5747. This decision is OR89-305.

"Agency" is defined as the legal relation, founded on the express or implied contract of the parties or created by operation of law, by virtue of which one part, the agent, is authorized to act for the other party, who is the principal. Thompson v. Schmitt, 274 S.W. 554 (Tex. 1925). The term "agency" denotes a consensual relation existing between two persons, by virtue of which one of them is to act for and on behalf of the other, being subject to the other's control. American Employers Ins. Co. v. Kilgore, 412 S.W.2d 67 (Tex. Civ. App. - Amarillo 1967, writ ref'd. n.r.e.).

Transferring information from one government agency to another does not destroy the protected character of the information so long as each agency is authorized by law to have the information. Attorney General Opinion H-917 (1976); H-242 (1974); Open Records Decision No. 272 (1981). Similarly, transferring information from one department to another within a governmental body does not violate the act. There can be no doubt that a taxing unit is authorized by law to access to that information relevant to its collecting its own delinquent taxes. A delinquent tax attorney is an agent for the purposes of delinquent tax collection for the taxing unit with whom he enters into a contract. As such, he has both the same right of access to relevant tax information and is bound by the same requirements of confidentiality that bind his principal.

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Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-305.

Yours very truly,

*Open Government Section  
of the Opinion Committee*

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Prepared by Jim Moellinger  
Assistant Attorney General

JRM/bc

Ref.: ID# 5747