

January 28, 1999

Ms. Sandra Joseph
Open Records/Disclosure Officer
Comptroller of Public Accounts
111 East 17th Street, Room G14
Austin, Texas 78774-0100



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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OR99-0252

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121443.

The Comptroller of Public Accounts received a request for information regarding applications for refunds of sales and use taxes and franchise taxes under Chapter 111, subchapter F of the Tax Code, "Tax Refund for Economic Development." These detailed provisions authorize refunds ("subchapter F refunds") to certain taxpayers who paid ad valorem taxes to a school district on property located in a reinvestment zone where such property was exempt from city and county taxes under a tax abatement agreement but not subject to a tax abatement agreement with the school district. The requestor seeks the names of taxpayers "who applied for a refund under this program during the initial filing period," the "corresponding amount of refund calculated for each taxpayer under this program," and the "location by County" of such taxpayers. You submit information responsive to the request but ask to what extent such information is confidential under section 552.101 of the Government Code in conjunction with section 111.006(a)(2).

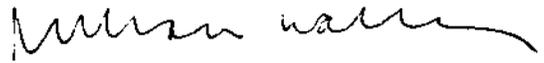
Section 552.101 requires withholding *inter alia* information made confidential by statute. Section 111.006(a)(2) of the Tax Code makes confidential "all information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer."

As you note, this office has previously determined that a taxpayer's submission of a refund request "constitutes an 'examination' " for purposes of section 111.006(a)(2). See Open Records Letter No. 96-2203 (1996). In our opinion,

portions of the submitted information here are subject to section 111.006(a)(2). We believe that the dollar figures, "amount of refund," must be considered to be "derived" by the comptroller in the course of the "examinations" and thus must be withheld under that provision. The remaining portions of the submitted information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/nc

Ref: ID# 121443

Enclosures: Submitted documents

cc: Mr. Mark E. Garner
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(w/o enclosures)