



September 29, 1999

Mr. Scott Fawcett
Legal Counsel
Open Records Division
Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR99-2751

Dear Mr. Fawcett:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128158.

The Comptroller of Public Accounts (the "Comptroller") received a request for the following information:

the company names – and, where possible, the address, telephone numbers, fax telephone numbers and registered agent(s) – of all "C" and "S" corporations in the counties of Bexar, Comal, Guadalupe and Kendall.

You state that you will supply the requestor with a list of all corporations in the listed counties. You contend, however, that information indicating whether the corporations are S or C corporations is excepted from disclosure under section 552.101 of the Government Code.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Chapter 171 of the Tax Code relates to the state franchise tax imposed on corporations and limited liability companies doing business in Texas. Section 171.206 of the Tax Code deems the following information confidential:

- (1) information that is obtained from a record or other instrument that is required by this chapter to be filed with the comptroller
- (2) information, including information about the business affairs, operations, profits, losses, or expenditures of a corporation, obtained

by an examination of the books and records of the employees of a corporation on which a tax is imposed by this code.

Section 171.207 of the Tax Code provides:

The following information is not confidential and shall be made open to public inspection:

- (1) information contained in a report filed under this chapter with a county clerk as notice of a tax;
- (2) information contained in a report filed under Section 171.203 of this code.

Section 171.203 of the Tax Code provides:

(a) A corporation on which this code is imposed shall file a report with the comptroller of the state:

- (1) the name of each corporation in which the corporation filing the report owns ten percent or greater interest and the percentage owned by the corporation;
- (2) the name of each corporation in which the corporation owns ten percent or greater interest in the report;
- (3) the name, title, and mailing address of each officer and director of the corporation;
- (4) the name and address of the corporation designated under Section 171.202, and
- (5) the address of the corporation's office and principal place of business.

(b) The corporation shall file the report on a form prescribed by the comptroller.

(c) The comptroller shall forward the report to the secretary of the state.

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A corporation doing business in Texas is required to file a franchise tax return each year. A corporation may qualify as an S corporation if it follows the requirements of § 1361 of the Internal Revenue Code. If a corporation is not an S corporation, then it is considered a C corporation . . . A corporation informs the Comptroller's office about its status as an S corporation by marking the appropriate box in the upper, right-hand corner of page 1 of a franchise tax report. If a corporation does not mark through this box, it is presumed to be a C corporation. Whether or not a taxpayer marked through this box is information contained in a record that corporations are required by Chapter 171 of the Tax Code to file with the Comptroller. (Footnotes omitted.)

ation's status as a C or S corporation is not within the scope of information as open to public inspection in section 171.203 or 171.207 of the Tax Code. your representations, we conclude that this information is confidential under 1.206 of the Tax Code. Accordingly, the Comptroller must withhold this from disclosure under section 552.101 of the Government Code.

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


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Attorney General
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itted documents

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(w/o enclosures)