



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 13, 2009

Ms. Ruth H. Soucy
Deputy General Counsel for Open Records
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2009-01940

Dear Ms. Soucy:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 335669.

The Texas Comptroller of Public Accounts (the "comptroller") received a request for a list of all taxpayers currently permitted for Texas sales and use tax that reported more than \$2 million in total sales for the 12-month period ended September 30, 2008, or, if the information is available only by calendar year, for the most recent completed year. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of the requested information.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, including section 151.027 of the Tax Code, which provides in relevant part:

(a) Information in or derived from a record, report, or other instrument required to be furnished under this chapter is confidential and not open to public inspection, except for information set forth in a lien filed under this title or a permit issued under this chapter to a seller and except as provided by Subsection (c) of this section.

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(b) Information secured, derived, or obtained during the course of an examination of a taxpayer's books, records, papers, officers, or employees, including the business affairs, operations, profits, losses, and expenditures of the taxpayer, is confidential and not open to public inspection except as provided by Subsection (c) of this section.

Tax Code § 151.027(a)–(b). Section 151.027 excepts from public disclosure information that is contained within or derived from records, reports, or other instruments that a taxpayer must file under chapter 151. In this instance, the responsive information consists of a list containing the names, tax numbers, and addresses of businesses falling within the requested criteria. You inform us that sales taxpayers are required by chapter 151 to furnish sales tax returns reporting total sales to the comptroller. You further state that the submitted list of responsive information consists of information extracted from these required reports. We note, however, that the requestor did not ask for, and the responsive information does not include, any information related to the actual revenue amounts reported by any of the listed taxpayers. Because the responsive list encompasses a large range of annual revenues, the responsive information does not reveal the actual revenue amounts contained within any individual taxpayer's required filings. As such, we determine that the requested information is not made confidential by section 151.027(a) of the Tax Code and the comptroller may not withhold the information under section 552.101 on that basis. As you raise no other exceptions to disclosure, we conclude that the comptroller must release the requested information to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

Ref: ID# 335669

Enc. Submitted documents

cc: Requestor
(w/o enclosures)