ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 10, 2010

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

OR2010-18527

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# 403523 (Comptroller ID# 6672940495).

The Texas Comptroller of Public Accounts (the "comptroller") received a request for the House Bill 11 vendor data for each vendor for a specified taxpayer for a specified time period. You claim that the submitted 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 information.[1]

You seek to withhold the submitted information under section 552.101 of the Government Code in conjunction with sections 151.433(e), 154.212(d), and 155.105(d) of the Tax Code. We note this office recently issued Open Records Letter No. 2010-16295 (2010), a previous determination authorizing the comptroller to withhold information required to be filed with the comptroller in accordance with sections 151.433, 154.212, and 155.105 of the Tax Code pursuant to section 552.101 of the Government Code in conjunction with sections 151.433(e), 154.212(d), and 155.105(d) of the Tax Code, unless the exceptions to confidentiality listed in section 111.006 of the Tax Code are applicable to the information.

[1]We 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.

We note you have submitted to this office reports reflecting sales made by various distributors to the requestor's client, who is a retailer, for beer, wine, malt liquor, cigarettes, and other tobacco products. You state the submitted information was required to be filed with the comptroller in accordance with sections 151.433, 154.212, and 155.105 of the Tax Code. You also state the information does not fall within an exception to confidentiality under section 111.006. Furthermore, we note sections 151.433, 154.212, and 155.105 do not contain access provisions for retailer taxpayers or their authorized representatives. Therefore, pursuant to the previous determination issued in Open Records Letter No. 2010-16295, the comptroller must withhold the submitted information under section 552.101 in conjunction with sections 151.433(e), 154.212(d), and 155.105(d) of the Tax Code. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, facts, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

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, toll free at (888) 672-6787.

Sincerely,

Kate Hartfield

Kate Hartfield
Assistant Attorney General
Open Records Division

KH/em

Ref: ID# 403523

Enc. Submitted documents

c: Requestor
(w/o enclosures)