



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 12, 2011

Mr. Matthew C.G. Boyle
Assistant City Attorney for Grapevine
Boyle & Lowry, L.L.P.
4201 Wingren, Suite 108
Irving, Texas 75062-2763

OR2011-06577

Dear Mr. Boyle:

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# 420722.

The City of Grapevine (the "city"), which you represent, received a request for documents "that show or verify that the amount of expense reimbursements paid to members of the Grapevine city council are being reported to the Internal Revenue Service as required by law."¹ You state the city is providing some of the requested information to the requestor, but claim 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 information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes, including federal law. The submitted information consists of a W-2 tax form. Prior decisions of this office have held that section 6103(a) of title 26 of the United States Code renders tax return information confidential. Attorney General Opinion H-1274 (1978) (tax returns); Open Records Decision No. 226 (1979) (W-2 forms). Section 6103(b) defines the term "return information" as "a taxpayer's identity, the nature, source, or amount of income, payments,

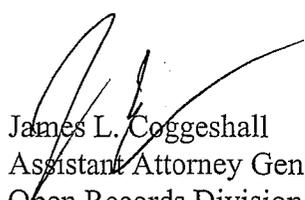
¹The requestor clarified her initial request for information. See Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); see also Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed).

. . . tax withheld, deficiencies, overassessments or tax payments . . . or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary [of the Internal Revenue Service] with respect to a return . . . or the determination of the existence, or possible existence, of liability . . . for any tax, penalty, . . . or offense[.]” See 26 U.S.C. § 6103(b)(2)(A). Federal courts have construed the term “return information” expansively to include any information gathered by the Internal Revenue Service regarding a taxpayer’s liability under title 26 of the United States Code. See *Mallas v. Kolak*, 721 F. Supp 748, 754 (M.D.N.C. 1989), aff’d in part, 993 F.2d 1111 (4th Cir. 1993). Therefore, the city must withhold the submitted W-2 form pursuant to section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code.²

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 420722

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a W-2 form under section 552.101 in conjunction with section 6103(a) of title 26 of the United States Code, without the necessity of requesting an attorney general opinion.