



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 13, 2011

Mr. Mark G. Mann  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2011-09972

Dear Mr. Mann:

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# 423882 (GCA# 11-0338).

The City of Garland (the "city") received a request for the amount of income reported to the United States Treasury on W-2 forms for all employees of the city earning more than \$100,000 for the calendar year 2010. You 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.

Initially, we note the requestor seeks the amount of income reported to the United States Treasury on W-2 forms for certain employees of the city. You have submitted documents that contain information beyond this specific piece of information. Thus, the portions of the submitted documents that do not consist of the amount of income reported to the United States Treasury on W-2 forms are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release that information in response to the request.

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 exception encompasses information other statutes make confidential. Prior decisions of this office have held section 6103(a) of title 26 of the United States Code renders tax return information confidential. *See* Attorney General Opinion H-1274 (1978) (tax returns); Open Records Decision Nos. 600 (1992) (W-4 forms), 226 (1979) (W-2 forms). Section 6103(b) defines the term "return information" as "a taxpayer's identity, the nature,

source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, 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 with respect to the determination of the existence, or possible existence, of liability . . . for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense[.]” 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).

You state the submitted information consists of a list compiled from W-2 information that was submitted to the Internal Revenue Service for the purpose of determining the existence or extent of any tax liabilities. Thus, you argue the responsive information constitutes tax return information for purposes of section 6103(a) of title 26 of the United States Code. Upon review, we agree the responsive information constitutes confidential tax return information. Accordingly, the city must withhold the responsive information under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code.<sup>1</sup>

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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/em

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

Ref: ID# 423882

Enc. Submitted documents

c: Requestor  
(w/o enclosures)