



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2011

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2011-15840

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 434500 (PIR No. 11-31488).

The Office of the Attorney General (the "OAG") received a request for "the original petition and answer for Cause No. D-1-GN-11-002206." The OAG released some of the information and asserts the marked portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the OAG's claimed exception to disclosure and have reviewed the submitted sample of information.¹

Section 552.101 of the Government Code excepts from disclosure information that is made confidential by law, including information made confidential by statute. Gov't Code § 552.101. This section encompasses information protected by other statutes such as section 171.206 of the Tax Code, which provides the following information is confidential:

- (1) information that is obtained from a record or other instrument that is required by this chapter to be filed with the comptroller; or

¹We assume 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 those records contain substantially different types of information than that submitted to this office.

(2) information, including information about the business affairs, operations, profits, losses, cost of goods sold, compensation, or expenditures of a taxable entity, obtained by an examination of the books and records, officers, partners, trustees, agents, or employees of a taxable entity on which a tax is imposed by this chapter.

Tax Code § 171.206. The OAG explains its Financial and Tax Litigation Division maintains the submitted documents in its capacity as counsel for the Texas Comptroller of Public Accounts (the “comptroller”). Furthermore, the OAG informs this office chapter 171 of the Tax Code requires the taxpayer to file the submitted franchise tax report with the comptroller, and the marked information is obtained from records required to be filed with the comptroller. We therefore find the OAG must withhold the franchise tax report and the marked information under section 552.101 of the Government Code in conjunction with section 171.206 of the Tax Code.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 434500

Enc: Submitted documents

c: Requestor
(w/o enclosures)