



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 14, 2014

Ms. June B. Harden
Assistant Attorney General
Assistant Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2014-12078

Dear Ms. Harden:

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# 531886 (OAG PIR No. 14-38969).

The Office of the Attorney General (the "OAG") received a request for all information pertaining to a specified trust. You state the OAG will release some of the requested information. You claim the remaining 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 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

¹This letter ruling assumes the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent the other information is substantially different than that submitted to this office. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

§ 552.101. This section encompasses information that other statutes make confidential. Section 6103 of title 26 of the United States Code makes certain federal tax returns and tax return information confidential. *See* 26 U.S.C. § 6103(a); *see also id.* § 6103(b)(1)-(2) (defining “return” and “return information”). However, section 6104 of title 26 provides for the disclosure of tax return information in certain situations:

(d) Public inspection of certain annual returns[.]--

(1) In general.--In the case of an organization described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a) or an organization exempt from taxation under section 527(a)--

(A) a copy of--

(I) the annual return filed under section 6033 . . . by such organization,

. . .

shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and . . .

(B) upon request of an individual made at such principal office . . ., a copy of such annual return . . . shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

. . .

(2) 3-year limitation on inspection of returns.--Paragraph (1) shall apply to an annual return filed under section 6011 or 6033 only during the 3-year period beginning on the last day prescribed for filing such return (determined with regard to any extension of time for filing).

Id. § 6104(d)(1)(A)(I), (d)(B), (d)(2); *see* 26 C.F.R. § 301.6104(d)-1(a). Thus, a section 501(c) or (d) tax-exempt organization must generally make its annual returns available for public inspection for a period of three years from the last day prescribed for filing. You state the entity that submitted the Form 990-PF tax returns at issue is a section 501(c) tax-exempt organization. You further state the dates of filing for the forms were more than three years prior to the date the OAG

received the request for information. Thus, based on these representations, we determine the three-year inspection periods have lapsed regarding the submitted forms, and the requestor does not have a right of inspection under section 6104. Therefore, the OAG must withhold the Form 990-PF tax returns under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive, flowing style.

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/bhf

Ref: ID# 531886

Enc. Submitted documents

c: Requestor
(w/o enclosures)