



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1994

Ms. Nora A. Linares
Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR94-859

Dear Ms. Linares:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. You received two requests from the same person for information about persons who have won the Texas Lottery. The first request, which has been assigned ID# 27895, seeks copies of the Texas Lottery Winner Claim Forms for winners who are being paid over a period of time. The second request, assigned ID# 29137, seeks the name and address of each winner, including past winners up to the present, and the name, address and social security number or tax identification number for each corporation, partnership, or trust that are winners, including past winners up to the present. The blank claim form you have submitted to this office requires the claimant to provide his name, address, and social security number or federal employment identification number,¹ as well as other information.

¹You do not refer to a specific statute or rule that makes federal employee identification numbers confidential. Social security numbers are used as the numerical identification system for all federal civil service employees. 70A AM. JUR.2d *Social Security and Medicare* § 187. We will assume for purposes of this ruling that federal employee identification numbers are subject to the same confidentiality requirements as social security numbers.

The claim form does not reflect any information described as a "tax identification number." We assume the requestor seeks the social security number or federal employment identification number that claimants are required to supply.

Pursuant to rules implementing the State Lottery Act, a lottery winner must complete a claim form to claim a prize of \$600 or more. 16 T.A.C. § 401.302(f)(1), (2); *see id.* § 401.301 (defining “[c]laim form” and “[h]igh-tier prize”). The winner claim forms contain information that you state is exempt from public disclosure, specifically, the winner’s street address, telephone number, and social security number. You state that you will provide copies of the requested winner claim forms with street address, telephone numbers, and social security numbers redacted for release to the requestor.

The State Lottery Act, Gov’t Code ch. 466, provides that the following information is confidential and exempt from disclosure under the Open Records Act:

(3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information.

Gov’t Code § 466.022(3); *see* Letter Opinion No. 92-33 (1992). You inform us that, to date, no prize winner who is being paid over a period of time has consented to release of his or her telephone number or address. Accordingly, this information is confidential pursuant to section 466.022 of the Government Code and you may not release it.

The claim form requires the prize winner to provide a social security number or federal employee identification number so that the Texas Lottery Commission may file the appropriate income reporting form with the Internal Revenue Service. *See* 16 T.A.C. § 401.302(f)(6) (filing of income reporting forms with Internal Revenue Service for prizes of \$600 or more; withholding of federal income tax from prizes of more than \$5,000). You claim that social security numbers are exempt from disclosure pursuant to section 405(c)(2)(C)(vii) of title 42 of the United States Code, which provides in part:

(I) Social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law, enacted on or after October 1, 1990, shall be confidential

An “authorized person” includes “an officer or employee of any State, political subdivision of a State, or agency of a State or political subdivision of a State.” 42 U.S.C. § 405(c)(2)(C)(vii)(III). *See* Open Records Decision No. 622 (1994).

The State Lottery Act was enacted in 1991. Acts 1991, 72d Leg., 1st C.S., ch. 6 § 2. Officers and employees of the Texas Lottery Commission obtain and maintain social security numbers of prize winners pursuant to a law adopted after October 1, 1990, and the social security numbers are therefore confidential pursuant to section 405(c)(2)(C)(vii)(III) of title 42, of the United States Code. You may not release them to the requestor.

You state with respect to the second request that the Texas Lottery Commission maintains records only of winners whose tickets are cashed at one of the Texas Lottery claim centers. You are willing to release the names of all such winners to the requestor, but you believe that the winners' addresses and social security numbers or federal employee identification numbers are confidential. Our response to the first request also resolves the second: you may not release the addresses and social security numbers or federal employee identification numbers of lottery winners.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/LRD/rho

Ref.: ID# 27895

Enclosures: Open Records Decision No. 622
Letter Opinion No. 92-33 (1992)

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(w/o enclosures)