



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 28, 1997

Ms. Sandra C. Joseph
Open Records Counsel/Disclosure Officer
Comptroller of Public Accounts
Austin, Texas 78774

OR97-0959

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 105597.

The Comptroller of Public Accounts (the "comptroller") has received three requests for particular auditor sign-out logs. You explain that you will release most of the requested information. You argue, however, that some of the requested information is excepted from disclosure by section 552.101 of the Government Code in conjunction with section 151.027 of the Tax Code. We have considered the exception you claim and have reviewed the representative sample that you have submitted.

Section 552.101 of the Government Code excepts from required public disclosure information that is confidential by law, including information made confidential by statute. Section 151.027(b) provides confidentiality for information collected under the Limited Sales, Excise, and Use Tax Act and reads as follows:

(b) Information secured, derived, or obtained during the course of an examination of a taxpayer's books, records, papers, officers, or employees, including the business affairs, operations, profits, losses, and expenditures of the taxpayer, is confidential and not open to public inspection except as provided by Subsection (c) of this section.

We believe that this provision prevents the disclosure of information and data "obtained" or "derived" from a taxpayer. *Cf. A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 668 (Tex. 1995) (construing section 111.006(a)(2) of Tax Code, which makes confidential information identical to information made confidential by section 157.027(b)). You explain that some of the information at issue was obtained from taxpayers through an audit questionnaire or in a face-to face interview. You indicated that these actions are the first step in an examination. We have previously held that information obtained from a taxpayer in this

manner must be withheld. Open Records Letter No. 96-2377 (1996). We conclude, therefore, that information "obtained" or "derived" from taxpayers through the audit questionnaires or examination interviews that is reflected on the auditor sign-out logs must be withheld under section 157.027(b) of the Tax Code.

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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 105597

Enclosures: Submitted documents

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