



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 18, 1997

Ms. Sandra C. Joseph  
Open Records Counsel/Disclosure Officer  
Comptroller of Public Accounts  
LBJ State Office Building  
111 East 17th Street  
Austin, Texas 78774-0100

OR97-2510

Dear Ms. Joseph:

You have asked whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110162.

The Comptroller of Public Accounts (the "Comptroller") received a request for "all documents, such as legal filings, interoffice memorandum, letters, etc., written regarding Texas Comptroller of Public Accounts Hearing No. 33,689." You assert that some of the requested information is excepted from disclosure pursuant to sections 552.101 and 552.111 of the Government Code.

Section 552.101 of the Government Code excepts from public disclosure information that is deemed confidential by law, including information made confidential by statute. Section 111.006(a)(2) of the Tax Code provides that information "secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer" is confidential. Tax Code § 111.006(a)(2).

You assert that, in compliance with a prior decision issued by this office, Open Records Letter No. 96-1612 (1996), the comptroller has already provided a de-identified version of the final decision in this case to the requestor. You assert that, based upon that prior decision, the other documents filed in connection with this hearing must also be de-identified to protect the taxpayer's identity in compliance with section 111.006(a)(2) of the Tax Code. We agree.

You also submitted to this office interagency memoranda that includes the identity of the taxpayer and information that was secured, derived, or obtained by the comptroller during an examination of the taxpayer's books and records. You rely upon this office's

decisions in Open Records Letter Nos. 96-1612 and 96-2203 (1996), concerning the applicability of section 111.006(a)(2) to position letters and private letter rulings, to protect the taxpayer identity in this situation. We agree that information identifying the taxpayer must be withheld from disclosure in this particular situation. Also, information that was secured, derived, or obtained by the comptroller during an examination of the taxpayer's books and records must be withheld from disclosure pursuant to section 111.006(a)(2) of the Tax Code.

You marked some information in interagency documents that you assert is protected from disclosure pursuant to section 552.111 of the Government Code. Section 552.111 exempts from disclosure interagency or intra-agency communications "consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body." Open Records Decision No. 615 (1993) at 5. We agree that the information you have marked in the interagency documents is excepted from disclosure pursuant to section 552.111.

You must withhold the information we agree is made confidential by law. Section 552.111 allows the comptroller to withhold certain marked information in the interagency documents. The other requested information must be provided to the requestor. We are resolving this matter with this 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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 110162

Enclosures: Submitted documents

cc: Ms. Sandi Rundle  
Ryan & Company P.C.  
13155 Noel Road  
12<sup>th</sup> Floor, LB-72  
Dallas, Texas 75240-5090  
(with Open Records Letter Nos. 96-1612 and 96-2203 (1996))