



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 20, 1998

Ms. Sandra C. Joseph
Open Records/Disclosure Officer
Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR98-1270

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# 115627.

The Comptroller of Public Accounts (the "comptroller") received a request for all the filings for Hearing Numbers 8,146; 21,706; 22,546; and 26,506. You inform us that you have provided the requestor with deidentified copies of the final decisions for these hearings. However, you assert that section 552.101 of the Government Code, in conjunction with section 111.006(a)(2) of the Tax Code, excepts some parts of the requested information from required public disclosure. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 111.006(a)(2) 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). Accordingly, you must withhold, in their entirety, the documents obtained from the taxpayer pursuant to section 111.006(a)(2) of the Tax Code, including the original petitions for reconsideration and statement of grounds. You must also withhold any other portions of the information that were obtained from the taxpayer pursuant to section 111.006(a)(2) of the Tax Code. We have marked the information that must be withheld under this section.

As for the position letters and any other requested information not protected by section 111.006(a)(2), we agree that the comptroller must withhold only the information that identifies the taxpayer pursuant to section 552.101 of the Government Code. In this way, we believe the business operations of a particular business are protected while the resolutions of tax questions, including the legal issues and related fact findings raised, are available to the public. *See* Open Records Letter No. 96-2203 (1996) (requiring comptroller to deidentify position letters); *cf.* Attorney General Decision H-223 (1974) (requiring comptroller to deidentify administrative hearing decisions under predecessor of Tax Code sections 111.006 and 151.027). Accordingly, we conclude that the comptroller must release the position letters and the other documents not protected by section 111.006(a)(2) to the public but with deletions of all information that identifies a particular taxpayer. Therefore, we agree that the information you have highlighted should be withheld.

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# 115627

Enclosures: Submitted documents

cc: Ms. Sandi Rundle
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