



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 27, 1998

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

OR98-1769

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# 117178.

The Comptroller of Public Accounts (the "comptroller") received a request for information relating to tax decisions concerning surplus lines insurers. 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.

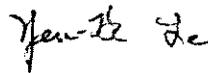
Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 111.006(a)(2) provides that information "secured, derived, or obtained by the comptroller or the attorney general during 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 taxpayers, which you have marked, pursuant to section 111.006(a)(2) of the Tax Code.

However, as for the remaining documents consisting of position letters, court orders, and documents submitted by the comptroller, we conclude that the comptroller must withhold only the information that identifies the taxpayers 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 de-identify 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, court orders, and documents submitted by the comptroller to the public but with deletions of all information that identifies a particular taxpayer.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 117178

Enclosures: Submitted documents

cc: Mr. Joseph C. Boggins
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(w/o enclosures)