



April 23, 1999

Mr. Robert Gervais
Assistant City Attorney
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR99-1088

Dear Mr. Gervais:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125583.

The City of Galveston received a request for "copies of I.R.S. 1099 Forms on all contractors participating under the CDBG housing/rehab program for years of 1997-1998." You assert that you must withhold the federal tax documents under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted representative sample of documents.¹

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Prior decisions of this office have held that title 26, section 6103(a) of the United States Code renders tax return information confidential. Attorney General Opinion H-1274 (1978) (tax returns); Open Records Decision Nos. 600 (1992) (W-4 forms), 226 (1979) (W-2 forms). Generally, any information gathered by the Internal Revenue Service regarding a taxpayer's liability under title 26 of the United States Code is confidential. *Mallas v. Kolak*, 721 F. Supp. 748 (M.D.N.C. 1989); *Dowd v. Calabrese*, 101 F.R.D. 427 (D.C. 1984). After reviewing your arguments, we find that you

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

must withhold the 1099 forms from disclosure under section 552.101 as information deemed confidential by federal statute.

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Yen-Ha Le".

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref: ID# 125583

Encl: Submitted document

cc: Mr. Tarris Woods
811 37th Street
Galveston, Texas 77550
(w/o enclosures)