



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 6, 2009

Ms. Ruth H. Soucy
Deputy General Counsel for Open Records
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2009-04483

Dear Ms. Soucy:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 339025.

The Texas Comptroller of Public Accounts (the "comptroller") received a request for the following information: 1) a list of all taxpayers that paid in excess of \$1,000,000 in franchise tax based on taxable margin for 2008; 2) a list of all taxpayers that paid \$500,000 or more, but less than \$1,000,000, in franchise tax based on taxable margin for 2008; and 3) a list of all taxpayers that paid \$250,000 or more, but less than \$500,000, in franchise tax based on taxable margin for 2008. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 also encompasses section 171.206 of the Tax Code, which provides in part:

Except as provided by Section 171.207, the following information is confidential and may not be made open to public inspection:

- (1) information that is obtained from a record or other instrument that is required by this chapter to be filed with the comptroller; or
- (2) information, including information about the business affairs, operations, profits, losses, cost of goods sold, compensation, or

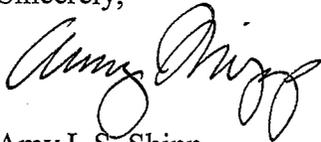
expenditures of a taxable entity, obtained by an examination of the books and records, officers, partners, trustees, agents, or employees of a taxable entity on which a tax is imposed by this chapter.

Tax Code § 171.206. You state that franchise taxpayers are required to file franchise tax reports reporting, among other things, total franchise tax due. You further state that “[t]he only way to provide the requested lists is to pull the tax due information from the confidential franchise tax reports.” Having considered your representations and reviewed the information at issue, we agree that the requested information is subject to section 171.206. You do not inform us, nor are we otherwise aware, that section 171.207 applies to this information.¹ We therefore conclude the requested information is confidential under section 171.206 of the Tax Code and must be withheld pursuant to section 552.101 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

¹Section 171.207 of the Tax Code provides:

The following information is not confidential and shall be made open to public inspection:

- (1) information contained in a document filed under this chapter with a county clerk as notice of a tax lien; and
- (2) information contained in a report required by Section 171.203 or 171.2035.

Ref: ID# 339025

Enc. Submitted documents

c: Requestor
(w/o enclosures)