



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 17, 2010

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2010-02394

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 370415 (PIR No. 09-26664).

The Office of the Attorney General (the "OAG") received a request for information pertaining to David Boatright. The OAG has released most of the information but asserts the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.136 of the Government Code. We have considered the OAG's claimed exceptions to disclosure and have 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. This exception encompasses information other statutes make confidential. Section 6103(a) of title 26 of the United States Code provides tax return information is confidential. 26 U.S.C. § 6103(a)(2), (b)(2)(A); *see* Open Records Decision No. 600 (1992); Attorney General Op. MW-372 (1981). Therefore, the OAG must withhold the W-4 forms.

An Employment Eligibility Verification, Form I-9, is governed by title 8, section 1324a of the United States Code, which provides the form "may not be used for purposes other than for enforcement of this chapter" and for enforcement of other federal statutes governing crime and criminal investigations. 8 U.S.C. § 1324a(b)(5); *see* 8 C.F.R. § 274a.2(b)(4).

Release of this document under the Act would be "for purposes other than for enforcement" of the referenced federal statutes. Accordingly, these forms are confidential under section 552.101 and may only be released in compliance with the federal laws and regulations governing the employment verification system. We note one of the forms the OAG marked is not an I-9 form; therefore, the OAG may not withhold this form under federal law. However, we will consider whether the form is otherwise confidential.

Section 552.101 also encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). This office has found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 600 (1992) (designation of beneficiary of employee's retirement benefits, direct deposit authorization, and forms allowing employee to allocate pretax compensation to group insurance, health care or dependent care), 545 (1990) (deferred compensation information, mortgage payments, assets, bills, and credit history), 523 (1989). However, information concerning financial transactions between an employee and a public employer is generally of legitimate public interest. *Id.* The form at issue concerns the employee's personal financial information that does not relate to a financial transaction with a governmental body. Thus, the form is private and we have marked the form the OAG must withhold.

Section 552.130 of the Government Code excepts from public disclosure information relating to a Texas driver's license. Gov't Code § 552.130. Thus, we agree the OAG must withhold the Texas motor vehicle record information it marked under section 552.130.

Finally, section 552.136 of the Government Code states "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). "Access device" is an account number, personal identification number, electronic serial number, mobile identification number, or other instrument identifier or means of account access that alone or in conjunction with another access device may be used to 1) obtain money, goods, services, or another thing of value or 2) initiate a transfer of funds other than a transfer originated solely by paper instrument. Accordingly, the OAG must withhold the bank account and routing numbers it marked under section 552.136.

In summary, the OAG must withhold 1) the W-4 and I-9 forms under federal law; 2) the personal financial information we marked under common-law privacy; 3) the Texas motor

vehicle record information it marked under section 552.130; and 4) the bank account and routing numbers it marked under section 552.136.¹ The OAG must release the remainder.

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, toll free, at (888) 672-6787.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 370415

Enc: Marked documents

c: Requestor
(w/o enclosures)

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including W-4 forms under section 6103(a) of title 26 of the United States Code; Form I-9 under section 1324a of title 8 of the United States Code; and bank account and routing numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.