



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 5, 2019

Mr. David B. Tabor
Counsel for the Denton Central Appraisal District
Shackleford, Brown & McKinley
9201 N Central Expressway, 4th Floor
Dallas, Texas 75231

OR2019-06079

Dear Mr. Tabor:

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# 753574.

The Denton Central Appraisal District (the "district"), which you represent, received a request for heavy equipment inventory declarations filed during a specified period of time. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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. This section encompasses information protected by other statutes, such as section 23.1242 of the Tax Code, which provides, in relevant part:

(a) In this section:

¹We note the district did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the exception you claim can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

...

(2) “Dealer’s heavy equipment inventory,” “declaration,” “dealer,” “sales price,” “subsequent sale,” and “total annual sales” have the meanings assigned those terms by Section 23.1241.

(3) “Statement” means the dealer’s heavy equipment inventory tax statement filed on a form adopted by the comptroller under this section.

...

(f) On or before the 20th day of each month, a dealer shall file with the collector the statement covering the sale, lease, or rental of each item of heavy equipment sold, leased, or rented by the dealer in the preceding month. On or before the 20th day of a month following a month in which a dealer does not sell, lease, or rent an item of heavy equipment, the dealer must file the statement with the collector and indicate that no sales, leases, or rentals were made in the prior month. A dealer shall file a copy of the statement with the chief appraiser and retain documentation relating to the disposition of each item of heavy equipment sold and the lease or rental of each item of heavy equipment. A chief appraiser or collector may examine documents held by a dealer as provided by this subsection in the same manner, and subject to the same conditions, as provided by Section 23.1241(g).

...

(p) Section 23.123 applies to a declaration or statement filed under this section in the same manner in which that section applies to a statement or declaration filed as required by Section 23.121 or 23.122.

Tax Code § 23.1242(a)(2)-(3), (f), (p); *see id.* § 23.121(a)(2) (defining “collector” as county tax-assessor collector). Section 23.1241 of the Tax Code defines declaration as “a dealer’s heavy equipment inventory declaration form adopted by the comptroller under [section 23.1241 of the Tax Code]. *See id.* § 23.1241(a)(4), (f) (detailing the filing of declaration with collector). Section 23.123 of the Tax Code provides, in relevant part:

(b) Except as provided by this section, a declaration or statement filed with a chief appraiser or collector . . . is confidential and not open to public inspection. A declaration or statement and the information contained in either may not be disclosed to anyone except an employee of the appraisal office who appraises the property or to an employee of the county tax

assessor-collector involved in the maintenance of the owner's escrow account.

(c) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;

(3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;

(4) to a collector or chief appraiser;

(5) to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.121 or Section 23.122;

(6) for statistical purposes if in a form that does not identify specific property or a specific property owner;

(7) if and to the extent that the information is required for inclusion in a public document or record that the appraisal or collection office is required by law to prepare or maintain; or

(8) to the Texas Department of Motor Vehicles for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.

Id. § 23.123(b), (c). Thus, section 23.1242(p) and section 23.123(b) make a declaration and a statement filed pursuant to section 23.1242 of the Tax Code confidential. We note the submitted information consists of a dealer's heavy equipment inventory declaration form as defined by sections 23.1241 and 23.1242 of the Tax Code. There is no indication the requestor has a right of access to this information under section 23.123(c) of the Tax Code. Accordingly, we find this information is confidential pursuant to sections 23.1242(p) and 23.123(b) of the Tax Code, and the district must withhold it under section 552.101 of the Government Code on that basis.²

²As our ruling is dispositive, we need not address the remaining argument against disclosure.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PS/mo

Ref: ID# 753574

Enc. Submitted documents

c: Requestor
(w/o enclosures)