



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 9, 2022

Mr. Hunter W. Mattocks  
Counsel for the City of Duncanville  
Nichols, Jackson, Dillard, Hager, & Smith, L.L.P.  
500 North Akard Street, Suite 1800  
Dallas, Texas 75201

OR2022-16573

Dear Mr. Mattocks:

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# 952840.

The Duncanville Police Department (the "department"), which you represent, received a request for the requestor's complete personnel file. The department states it is releasing some of the requested information. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims 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, including federal law. The submitted information consists of W-2 tax forms. Section 6103(a) of title 26 of the United States Code provides that tax return information is confidential. *See* 26 U.S.C. § 6103(a)(2), (b)(2)(A), (p)(8); *see also* Attorney General Op. MW-372 (1981). Employee W-2 tax forms are excepted from disclosure by section 6103(a). *See* Open Records Decision No. 226 (1979) (W-2 forms). Accordingly, the department must generally withhold the submitted information under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code.

However, the requestor is the employee whose information is at issue. Section 6103(e) of title 26 of the United States Code creates an exception to confidentiality under section 6103(a) and provides for disclosure of tax return information to the taxpayer. *See id.* § 6103(e)(7) (information may be disclosed to any person authorized by subsection (e) to obtain such information if Secretary of Treasury determines such disclosure would not seriously impair tax administration); *see also Lake v. Rubin*, 162 F.3d 113 (D.C. Cir. 1998)

(26 U.S.C. § 6103 represents exclusive statutory route for taxpayer to gain access to own return information and overrides individual's right of access under federal Freedom of Information Act). Therefore, the department must release the submitted information to this requestor pursuant to section 6103(e) of title 26 of the United States Code.<sup>1</sup>

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/jxd

Ref: ID# 952840

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup> We note the requestor has a right of access to the information being released. Thus, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.