S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

September 15, 2001

Opinion No. 01-165

Confidentiality of Taxpayer Information Stated on Business License Application

QUESTIONS

1. May the business name, business owner's name, and business address stated on an application routinely made to a County Clerk or a municipal tax collector for the purpose of collecting the business tax be released as public information?

2. Does the telephone number or numbers listed by an applicant on the application mentioned in Question 1 for the purpose of obtaining a business license become public information?

3. Are other identifying numbers obtained by the State, county, or city for reporting and enforcing the business tax considered public information, including federal employer identification numbers, social security numbers or state sales tax numbers?

OPINIONS

1. Yes. The business name, business owner's name, and business address stated on an application routinely made to a County Clerk or a municipal tax collector for the purpose of collecting the business tax may be released as public information pursuant to Tenn. Code Ann. § 67-4-722(d).

2. No. The telephone number or numbers listed by an applicant on the application mentioned in Question 1 for the purpose of obtaining a business license do not become public information pursuant to Tenn. Code Ann. § 67-4-722(c).

3. No. Other identifying numbers obtained by the State, county, or city for reporting and enforcing the business tax, including federal employer identification numbers, social security numbers or state sales tax numbers, are not considered public information pursuant to Tenn. Code Ann. § 67-4-722(c) and Tenn. Code Ann. § 67-1-1701, *et seq*.

ANALYSIS

The Tennessee Public Records Act provides that "[a]ll state, county and municipal records . . . shall

at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, *unless otherwise provided by state law*." Tenn. Code Ann. § 10-7-503(a) (Supp. 2000) (emphasis added). State law otherwise provides in Tenn. Code Ann. § 67-4-722, a part of the Business Tax Act, for the confidentiality of information stated on an application for the purpose of collecting the business tax. Such an application normally takes the form of an application for a business license. Thus, § 67-4-722 is the controlling authority in regard to the confidentiality of information provided on a business license application.

Tenn. Code Ann. § 67-4-722 provides in relevant part:

> (c) (1) All statements, reports or returns of taxpayers and all audits of their records and files made as herein authorized are confidential; and it is unlawful for anyone to make known in any manner any information contained therein except as follows:
> (A) To the taxpayer personally;
> (B) To an attorney or other agent duly authorized by the taxpayer;
> (C) To employees of the department or of the other tax collectors for the purpose of checking, comparing and correcting returns;
> (D) To any collection, regulatory or inspection agency of this state, the United States, or another state; or
> (E) In accordance with proper judicial order or as otherwise required by law.
> (2) A violation of this subsection is a Class A misdemeanor.
> (d) Notwithstanding any other provision of law to the contrary, the name and address of any present or former owner or operator of any trade or business as appearing on any business or occupation license or application therefor is a public record open for public inspection within the meaning of the Public Records Act, compiled in title 10, chapter 7, and such record is not confidential information.

All statements of a taxpayer, which include any information stated on a business license application or on any other form completed for business tax purposes, are confidential pursuant to Tenn. Code Ann. § 67-4-722(c)(1). This information would also be confidential if it were in the possession of the Commissioner pursuant to Tenn. Code Ann. § 67-1-1701, *et seq*. Section 67-4-722(d) specifically exempts the "name and address of any present or former owner or operator" appearing on a business license application from other confidentiality requirements. Section 67-4-722(d) provides that this exemption controls "notwithstanding any other provision of law to the contrary." That declaration clearly removes the information exempted in § 67-4-722(d) from the confidentiality provisions of both Tenn. Code Ann. § 67-4-722(c)(1) and Tenn. Code Ann. § 67-1-1702 and makes such information a public record open for public inspection. Thus, all information provided on a business license application is confidential unless specifically exempted under Tenn. Code Ann. § 67-4-722.

Therefore, the business name, the business owner's name, and the business address obtained as information on a business license application routinely made to a County Clerk or a municipal tax collector may be released as public information pursuant to Tenn. Code Ann. § 67-4-722(d). Although the business name is not specifically mentioned under Tenn. Code Ann. § 67-4-722(d), such information cannot constitute public information since releasing the business name would be necessary to reference the correct business record. Any telephone number or numbers listed by an applicant on a business license application do not become public information because they are not exempted from the confidentiality provisions of Tenn. Code Ann. § 67-4-722(c) by Tenn. Code Ann. § 67-4-722(d). Other identifying numbers obtained by the State, county, or city for reporting and enforcing the business tax, including federal employer identification numbers, social security numbers, or state sales tax numbers are confidential for the same reason that the telephone numbers are confidential.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

WYLA M. POSEY
Assistant Attorney General

Requested by:

The Honorable Ward Crutchfield
Senate Majority Leader
Suite 13, Legislative Plaza
Nashville, TN 37243-0210