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DEPARTMENT OF JUSTICE
Justice Building
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March 18, 1988

Robert P. Detrick
4729 Fern Valley Road
Medford, OR 97504

Re: March 14 Petition for Disclosure of
Department of Revenue Records

Dear Mr. Detrick:

This letter responds to your March 14, 1988 petition for a public records disclosure order of the Attorney General. You ask the Attorney General to order the Oregon Department of Revenue (ODOR) "to produce a copy of ODOR's official word definitions in regard to the taxing code, chapter 316 of [thirty-one listed] words."

Please be advised that the Department of Revenue voluntarily will meet with you and point out to you the definitions of many of the terms you list in your petition, as those definitions appear in ODOR's copies of the Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), and the Internal Revenue Code (IRC). Please contact Mr. Walter Sokolowski in the Medford office of the Department of Revenue to make arrangements for a meeting and the orderly disclosure of the definitions the department can furnish to you. With regard to these definitions, your petition is denied as moot because ODOR voluntarily will make disclosure without the necessity of an Attorney General's order.

In all other respects, your petition is denied because the other information you seek to inspect is not subject to the disclosure requirements of the Public Records Law, ORS 192.410 to 142.505, for at least two reasons.

First, the Department of Revenue maintains no compilation of "official word definitions" separate from its copies of the ORS, the OAR, and the IRC. Nor can the Department of Revenue be compelled to compile such a list. The Public Records Law

does not impose upon a public body the duty to create a public record, even where the public body has the means to do so. 44 Op Atty Gen 239, 277 (1984).

Second, the Department of Revenue simply has no official definition of many of the terms which you list in your petition. The following terms are used in their commonly understood sense:

6. Disallow
8. Tax liability, who is liable?
9. Adjustments
10. Deductions
13. Creator
15. Unallowable
16. Entity
17. Sham
18. Limitations
21. Recomputation
22. Defraud
23. Civil fraud
25. Penalties
26. Assessment
27. Reversionary interest, trust
30. What is lawful taxable activity?
31. Nontaxpayer

In short, there is no public record of a definition of these terms. As we note above, however, the Department of Revenue will meet with you and will show you the official definitions of the following terms as they appear in the ORS, the OAR or the IRC:

1. Taxpayer (ORS 316.022)
2. Trust (ORS 128.115)
3. Employee (ORS 314.835)
4. Employer (ORS 316.162)
5. Charitable contribution (IRC)
7. Dependent
11. Wages (ORS 316.162)
12. Income (IRC § 61)
14. Grantor, trust (ORS 86.705)
19. Gross income (IRC §61)
20. Net income (OAR 314.380(2))
24. Taxable Income (ORS 316.007, 316.022, 316.282, 316.307)
28. Capital expenditure (IRC)
29. Beneficiary (IRC)

We close this letter with a reminder: The Public Records Law affords members of the public a right to reasonable access to public records. A state agency presented with a request to inspect its records may take reasonable steps to protect the integrity of those records and to prevent undue interference with the operations of its offices. Such a state agency also may charge reasonable fees to cover its actual expenses in

searching for requested records and duplicating records. With these principles in mind, we expect your meeting with Mr. Sokolowski will proceed smoothly.

Respectfully,

James E. Mountain Jr.

JAMES E. MOUNTAIN, JR.
Special Counsel to the
Attorney General

JEM:cm
cc: Walter Sokolowski, Auditor, Oregon Department of Revenue
Elizabeth Stockdale, Assistant Attorney General
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