



**ATTORNEY GENERAL OF TEXAS**

**TAXATION DIVISION**

**COMPTROLLER OF PUBLIC ACCOUNTS  
CASE LIST AND SUMMARY OF ISSUES**

**NOVEMBER 2009**



# Table of Contents

## Table of Cases xiii

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### Franchise Tax

Anadarko E&P Co., L.P. vs Combs, et al.	1
Anadarko OGC Company v. Combs, et al.	1
Anadarko Petroleum Corporation v. Combs, et al.	2
Apache Corp. vs Compt., et al.	2
AROC (Texas), Inc. v. Combs, et al.	3
Brink's Home Security, Inc. v. Strayhorn, et al.	3
Central Telephone Company of Texas and United Telephone Company of Texas v. Rylander, et al.	4
Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.	4
Chevron USA Holdings, Inc. v. Combs, et al.	5
Chrysler Financial Services Americas v. Combs, et al.	5
DaimlerChrysler Services North American, L.L.C.	6
Fairfield Industries, Inc. v. Combs, et al.	6
Fairfield Industries, Inc. v. Strayhorn, et al.	7
Galland Henning Nopak, Inc. v. Strayhorn, et al.	7
Gulf Chemical & Metallurgical Corp. v. Compt., et al.	8
Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.	9
Kellwood Company, The v. Strayhorn, et al.	9
Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al.	10
Papa John's USA, Inc. v. Compt., et al.	10
Shell Trading Services Co. v. Combs, et al.	11
Southwestern Bell Telephone Company v. Rylander, et al.	11
Taco Bell Corp. v. Combs, et al.	12
Texaco, Inc. v. Combs, et al.	12
TGS-NOPEC Geophysical Company v. Strayhorn, et al.	13
Tyson Foods, Inc. v. Strayhorn, et al.	14
Viacom International, Inc. v. Strayhorn, et al.	15
York International Corporation v. Strayhorn, et al.	15

### Sales Tax

7-Eleven, Inc. v. Strayhorn, et al.	17
7-Eleven, Inc. v. Strayhorn, et al.	17

AccuTel of Texas, L.P. v. Rylander, et al.	18
Aetna Life Ins. Co. v. Compt., et al.	18
Air Liquide America, L.P. v. Compt., et al.	19
Allegiance Telecom of Texas, Inc. v. Strayhorn, et al.	19
Alumax Mill Products, Inc. v. Combs, et al.	20
Anh Thai Corp. v. Compt., et al.	20
Apache Corp. vs. Compt., et al.	21
Aramis Services, Inc. v. Rylander, et al.	21
Aramis Services, Inc. v. Sharp, et al.	22
Ardsey, Inc. dba Noche Caliente Nightclub v. Strayhorn, et al.	22
AT&T Corporation; Teleport Communications of Houston, Inc.; TCG of Dallas, Inc.; AT&T Network Procurement, L.P.; AT&T Communications of Texas, L.P.; and AT&T Communications of the Southwest, Inc. v. Strayhorn, et al.	23
Austin Engineering Co., Inc. v. Combs, et al.	24
Awad, Mike v. Strayhorn, et al.	24
BBB Trading Co. v. State of Texas, et al.	25
Bell Bottom Foundation Company v. Rylander, et al.	25
Bell Helicopter Textron, Inc. v. Compt., et al.	26
BHR Texas L.P. v. Combs, et al.	26
Black Thirst, LLC v. Combs, et al.	27
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.	27
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.	28
Boeing North America, Inc. v. Rylander, et al.	28
Boeing North America, Inc. v. Strayhorn, et al.	29
BP America Inc. v. Compt., et al.	29
Broadwing Corporation v. Strayhorn, et al.	30
Burns, Kevin D. v. Strayhorn, et al.	30
C & T Stone Company v. Rylander, et al.	31
C.C. Carlton Industries, Ltd. v. Combs, et al.	31
CallSource, Inc. v. Compt., et al.	32
Capitol Aggregates, Ltd. v. Compt., et al.	32
Cashiola, James v. Strayhorn, et al.	33
CEC Entertainment, Inc. v. Strayhorn, et al.	33
Cellular City Ltd. v. Strayhorn, et al.	34
Centreport Partners, L.P. v. Combs, et al.	34
Chapal Zenray, Inc. v. Rylander, et al.	35
Chevron USA, Inc. v. Compt., et al.	35

Chevron USA, Inc. v. Strayhorn, et al.	36
Church & Dwight Company, Inc. v. Rylander, et al.	36
Cingular Wireless of Austin, LP, formerly known as GTE Mobilnet of Austin, LP; GTE Mobilnet of South Texas, LP; GTE Mobilnet of Texas RSA #17, LP; et al. v. Strayhorn, et al.	37
City of Webster and the Webster Economic Development Corporation v. Strayhorn	37
Clear Lake City Community Association, Inc. v. Strayhorn, et al.	39
Clinique Services, Inc. v. Rylander, et al.	39
Clinique Services, Inc. v. Sharp, et al.	40
Clinique Services, Inc. v. Strayhorn, et al.	40
Coastal Industries, Inc. v. Compt., et al.	41
Coca-Cola Company, The v. Strayhorn, et al.	41
Cosmair, Inc. v. Strayhorn, et al.	42
Crown Central Petroleum Corporation v. Strayhorn, et al.	42
Crown Central, L.L.C., et al. v. Combs, et al.	43
Day Cruises Maritime, L.L.C. v. Strayhorn, et al.	43
Day Cruises Maritime, L.L.C. v. Strayhorn, et al.	44
Del Monte Fresh Produce (Texas), Inc. v. Combs, et al.	44
Delta Air Lines, Inc. v. Strayhorn, et al.	45
Dick Roberts Corp., et al. v. Combs, et al.	45
EFW, Inc. v. Rylander, et al.	46
EFW, Inc. v. Strayhorn, et al.	46
El Paso Electric Co. v. Combs, et al.	47
El Paso Merchant Energy-Petroleum Company v. Strayhorn, et al.	48
ELC Beauty, L.L.C., as a Successor-in-Interest to Estee Lauder Services, Inc. v. Strayhorn, et al.	48
ELC Beauty, L.L.C., as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al.	49
ELC Beauty, L.L.C., as Successor-in-Interest to Origins Services, Inc. v. Strayhorn, et al.	49
Embassy Equity Development Corporation, et al. v. Strayhorn, et al.	50
Energy Education of Montana, Inc. v. Combs	51
Energy Education of Montana, Inc. v. Combs, et al.	51
Entertainment Publications, Inc. v. Compt., et al.	52
Estee Lauder Services, Inc. v. Rylander, et al.	52
Estee Lauder Services, Inc. v. Sharp, et al.	53
Estee Lauder Services, Inc. v. Sharp, et al.	53
F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al.	54
First Class Enterprises, Inc. v. Combs, et al.	54

Florida Management, Inc., et al. v. Compt., et al.	55
Frito-Lay, Inc. v. Compt., et al.	55
Future A's Limited Liability v. Combs, et al.	56
General Dynamics Corporation v. Rylander, et al.	56
General Dynamics Corporation v. Rylander, et al.	57
GEO Group, Inc., The v. Combs, et al.	57
Geoscapes of Texas, Inc. v. State of Texas, et al.	57
Gift Box Corporation of America, Inc. v. Rylander, et al.	58
Glazier Foods Co. v. Combs, et al.	58
Golf Works, Inc. vs Susan Combs, Compt., et al.	59
Grocers Supply Co., Inc. v. Combs, et al.	59
Grocers Supply-Institutional-Convenience, Inc. v. Combs, et al.	60
Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.	60
Grocers Supply-Produce Co., Inc. v. Combs, et al.	61
GSC Enterprises, Inc. v. Strayhorn, et al.	61
GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.	62
GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.	62
GTE Southwest, Inc. v. Combs, et al.	63
GTE Southwest, Inc. v. Strayhorn, et al.	63
GTE Southwest, Inc. v. Strayhorn, et al.	64
GTE Southwest, Inc. v. Strayhorn, et al.	65
GTE Southwest, Inc. v. Strayhorn, et al.	65
GTE Southwest, Inc. v. Strayhorn, et al.	66
GTE Southwest, Inc. v. Strayhorn, et al.	66
GTE Southwest, Inc. vs Compt., et al.	67
Harsco Corp. vs Combs, et al.	67
Health Care Service Corp., et al. vs. Compt., et al.	68
Home & Garden Party, Ltd. v. Strayhorn, et al.	68
Home Depot, USA, Inc. v. Strayhorn, et al.	69
Hoss Equipment Co. v. Combs, et al.	69
I-Ball Corp., dba The Gatsby Social Club v. Combs, et al.	70
J.C. Penney Company, Inc. v. Strayhorn, et al.	70
J.C. Penney Company, Inc. v. Strayhorn, et al.	71
Jerman Cookie Company v. Rylander, et al.	72
Kenneth O. Lester Co., et al. v. Susan Combs, Compt., et al.	72
Kroger Company, The v. Combs, et al.	73

Kroger Texas, LP v. Combs, et al.	73
Kroger Texas, LP v. Compt., et al.	74
La Frontera Lodging Partners, L.P., Tex-Air Investment Company, John Q. Hammons Hotels Two, L.P. and John Q. Hammons Hotels, L.P. v. Strayhorn, et al.	74
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.	75
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.	76
Lee Construction and Maintenance Company v. Rylander, et al.	76
Levy, Tara, et al. v. OfficeMax, Inc. and Best Buy Stores, L.P.	77
Lewis & Lambert, Inc. v. Combs, et al.	78
Lewis & Lambert, Inc. v. Combs, et al.	78
Liberty Vending Services, Inc. v. Strayhorn, et al.	78
Lockheed Corporation v. Rylander, et al.	79
Lockheed Martin Corporation v. Rylander, et al.	79
Lockheed Martin Kelly Aviation Center, Inc. v. Strayhorn, et al.	80
Lone Star Steel Company v. Strayhorn, et al.	80
Lubrizol Corp., The v. Combs, et al.	81
Lyondell Chemical Co. v. Combs, et al.	81
Macy's TX I, LP, Successor in Interest to the May Department Stores Company v. Strayhorn, et al.	82
Marco A. Mascorro v. Compt., et al.	82
Mars, Inc. v. Compt., et al.	83
Mars, Inc. v. Strayhorn, et al.	83
Matoka, Inc. vs. Compt., et al.	84
Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.	84
Olarnpunsagoon, Suchon v. Combs, et al.	85
Olmos Abatement, Inc. v. Compt., et al.	86
Reynolds Metals Co. vs. Combs, et al.	86
Richard's Heating & Air Conditioning, Inc. v. State of Texas, et al.	86
Roadway Express, Inc. v. Rylander, et al.	87
Roark Amusement & Vending, L.P. v. Strayhorn, et al.	88
Roark Amusement & Vending, L.P. v. Strayhorn, et al.	88
Salim Abbas Merchant v. Combs, et al.	89
San Antonio Spurs, L.L.C. v. Strayhorn, et al.	89
Shanks Surveyors, L.L.P. v. Compt., et al.	90
Southern Union Company v. Strayhorn, et al.	90
Southern Union Gas v. Combs, et al.	91

Southwestern Bell Telephone, L.P. v. Strayhorn, et al.	91
Southwestern Bell Yellow Pages, Inc. v. Strayhorn, et al.	92
Spacenet Services, Inc. v. Strayhorn, et al.	93
Spirit Drilling Fluids, GP, LLC v. Combs, et al.	93
Sysco Food Services of Austin, Inc. v. Strayhorn, et al.	94
Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.	94
Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.	95
Sysco Food Services of San Antonio, LP, et al. v. Combs	95
Target Corp. v. Combs, et al.	96
Target Corporation v. Combs, et al.	96
Target Corporation v. Strayhorn, et al.	97
TDI-Halter, Inc. v. Rylander, et al.	97
Texas and Kansas City Cable Partners LP v. Combs, et al.	98
Texas Gulf, Inc. v. Bullock, et al.	98
Time Warner Entertainment & Advance Newhouse v. Combs, et al.	99
Time Warner Telecom of Texas, L.P. v. Combs, et al.	99
Time Warner Telecom of Texas, L.P. v. Combs, et al.	100
T-Mobile West Corp. v. Combs, et al.	100
Tyler Holding Company, Inc. v. Strayhorn, et al.	101
U.S. Foodservice, Inc., et al. v. Combs, et al.	101
United Scaffolding, Inc. v. Strayhorn, et al.	102
United Space Alliance, L.L.C. v. Strayhorn, et al.	102
United Space Alliance, L.L.C. v. Strayhorn, et al.	103
United Space Alliance, L.L.C. v. Strayhorn, et al.	103
V.H. Salas & Associates, Inc. v. Comptroller	104
Verizon Business Network Services, Inc. v. Compt. Et. Al.	105
Verizon North, Inc. v. Strayhorn, et al.	105
Watson Sysco Food Services, Inc. v. Strayhorn, et al.	106
White Swan, Inc. v. Strayhorn, et al.	106
White Swan, Inc. v. Strayhorn, et al.	107
Wireless Now, L.P. v. Combs, et al.	107
Wyndham International Operating Partnership, LP v. Strayhorn, et al.	108
Zale Delaware, Inc. v. Rylander, et al.	108
Zale Delaware, Inc. v. Strayhorn, et al.	109
Zimmer US, Inc. v. Combs, et al.	109

## Insurance Tax

AXA Equitable Life Insurance Company v. Strayhorn, et al.	111
Fireman's Fund Insurance Company of Ohio v. Rylander, et al.	111
Metropolitan Life Insurance Company, et al. v. Combs, et al.	112
New York Life Insurance Company v. Strayhorn, et al.	113
Prudential Insurance Company, The v. Strayhorn, et al.	113
Warranty Underwriters Insurance Company v. Rylander, et al.	114

## Other Taxes

35 Bar & Grill, LLC, et al. v. Compt., et al.	115
A & D Interests, Inc., dba Heartbreakers v. Compt., et al.	115
Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.	115
Bassam Jaber Hantouli v. Susan Combs, Compt., et al.	116
Benelux Corp., dba The Palazzo & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.	116
Benelux Corp., dba, et al. v. Compt., et al.	117
Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.	117
D. Houston, Inc., dba v. Compt., et al.	118
Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector	119
El Paso Entertainment, Inc. dba v. Compt., et al.	119
El Paso Natural Gas Company v. Sharp	120
Enterprise Operating Co., Inc., dba v. Compt., et al.	120
Eustace ISD v. Compt., et al.	120
FW, Inc. and S & S Bros., Inc. v. Compt., et al.	121
Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.	121
I Gotcha, Inc., dba, et al. v. Compt., et al.	122
Isis Partners, L.P., et al. vs. Combs, et al.	122
Jim Hogg County ISD v. Compt., et al.	123
John P. Bellam, dba Showgirl v. Compt., et al.	123
Karpod, Inc., dba, et al. v. Compt., et al.	124
Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.	124
MC/VC, Inc. v. Compt., et al.	124
Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.	125
Mulligan's North Bar & Grill, LLC vs. Compt., et al.	125
Nextel of Texas, Inc. v. Strayhorn, et al.	126
North By East, Inc., et al. v. Compt., et al.	126

Point Isabel ISD v. Texas Comptroller of Public Accounts	127
Price & Company v. Combs, et al.	127
Ranger Fuels & Maintenance, L.L.C. v. Rylander, et al.	128
Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.	128
RPM Entertainment, Inc., et al. v. Compt., et al.	129
Savvy, Inc., dba v. Compt., et al.	129
Sherman ISD v. Compt., et al.	130
SIFA Investment Inc. v. Compt., et al.	130
SSD Enterprises, Inc. v. Compt., et al.	131
Stuart, Robert T. Jr., Estate of v. Strayhorn, et al.	131
Texas Cabaret, Inc., dba, et al. v. Compt., et al.	132
Texas Richmond Corp. v. Compt., et al.	132
The King Lounge, Inc., dba v. Compt., et al.	132
The Men's Club Corp. v. Compt., et al.	133
TPI Petroleum, Inc. v. Strayhorn, et al.	133
Travis Co., Texas, Nelda Wells Spears, et al. v. Susan Combs, Compt., et al.	134
Valero Retail Holdings, Inc. & MRP Properties Co., LLC v. Compt., et al.	134
Vinson Oil Distribution v. Strayhorn, et al.	135

## **Closed Cases**

7-Eleven, Inc. v. Strayhorn, et al.	137
7-Eleven, Inc. v. Strayhorn, et al.	137
7-Eleven, Inc. v. Strayhorn, et al.	138
7-Eleven, Inc. vs. Compt., et al.	139
Alcatel Network Systems, Inc. v. Strayhorn, et al.	139
Alcatel Network Systems, Inc. v. Strayhorn, et al.	140
Allstate County Mutual Insurance Company; Allstate Insurance Company; Allstate Indemnity Company; Allstate Texas Lloyds; and Allstate Property and Casualty Insurance Company v. Strayhorn, et al.	140
Arnold, Jessamine J., Estate of, Deceased, and Jim Arnold, Jr., Independent Executor v. Rylander, et al.	141
Barney Holland Oil Co. vs Compt., et al.	141
BASF Corp. v. Compt., et al.	142
Beadles, Joe Haven v. Strayhorn	142
CallSource, Inc. v. Compt., et al.	143
Carlos Manrique De Lara, M.D., P.A., v. State of Texas	143
Charles Dawson, et al. vs. Comptroller, et al.	144
Chevron USA, Inc. v. Combs, et al.	144

Coastal Industries, Inc. v. Compt., et al.	145
Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.	146
Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.	146
Culberson County-Allamoore ISD v. Strayhorn	147
Daingerfield-Lone Star ISD v. Strayhorn	147
Design Masterpiece Landscaping, Inc. v. Strayhorn, et al.	148
E.A. Enterprises v. Texas State Comptroller	148
El Paso Corporation v. Strayhorn, et al.	149
El Paso Natural Gas Company v. Strayhorn, et al.	149
El Paso Natural Gas Company v. Strayhorn, et al.	150
El Paso Natural Gas Company v. Strayhorn, et al.	151
El Paso Natural Gas Company v. Strayhorn, et al.	152
ExxonMobil Oil Corporation v. Combs, et al.	152
First American Title Ins. Co. vs Compt., et al.	153
First American Title Insurance Company v. Combs, et al.	153
First American Title Insurance Company v. Combs, et al.	155
First American Title Insurance Company v. Strayhorn, et al.	155
First American Title Insurance Company v. Strayhorn, et al.	156
First American Title Insurance Company v. Strayhorn, et al.	156
Graybar Electric Company, Inc. v. Sharp, et al.	157
Herndon Marine Products, Inc. v. Sharp, et al.	157
Kendrick Oil Company v. Combs, et al.	158
Mabank ISD v. Comptroller	158
Malakoff ISD v. Comptroller	159
Minyard Food Stores, Inc. vs Compt., et al.	159
Northrop Grumman Systems Corporation (Successor to Northrop Grumman Corporation and Vought Aircraft Company) v. Rylander, et al.	160
Office Depot, Inc. and Viking Office Products, Inc. v. Combs, et al.	160
Office Depot, Inc., et al. v. Compt., et al.	161
Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.	161
Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.	162
Old Republic National Title Ins. Co. vs. Compt.	163
Old Republic National Title Insurance Company v. Strayhorn, et al.	163
Old Republic National Title Insurance Company v. Strayhorn, et al.	164

Old Republic National Title Insurance Company v. Strayhorn, et al.	164
Old Republic National Title Insurance Company v. Strayhorn, et al.	165
Old Republic Title Insurance Company v. Combs, et al.	165
Old Republic Title Insurance Company v. Strayhorn, et al.	166
Owens Corning v. Strayhorn, et al.	167
Phenomenom v. Strayhorn, et al.	167
Preston Motors by George L. Preston, Owner v. Sharp, et al.	168
Reynolds Metals Company v. Strayhorn, et al.	168
Rockwell Collins, Inc. v. Rylander, et al.	169
Sharper Image Corporation v. Rylander, et al.	169
Sharper Image Corporation v. Rylander, et al.	170
Southern Plastics, Inc. v. Strayhorn, et al.	170
Southwest Food Processing & Refrigerated Services, aka Southwest Refrigerated Warehousing Services v. Rylander, et al.	171
Stantrans Partners, L.P. v. Strayhorn, et al.	172
Stantrans Partners, L.P. v. Strayhorn, et al.	172
Steamatic of Austin, Inc., et al. v. Rylander, et al.	173
STP Nuclear Operating Co. v. Combs	173
STP Nuclear Operating Company v. Combs, et al.	174
STP Nuclear Operating Company v. Strayhorn, et al.	175
STP Nuclear Operating Company v. Strayhorn, et al.	175
STP Nuclear Operating Company v. Strayhorn, et al.	176
Tree of Life, Inc. v. Strayhorn, et al.	176
Uretek U.S.A., Inc. v. Strayhorn, et al.	177
USCOC of Texahoma, Inc., Successor to USCOC of Corpus Christi, Inc. v. Strayhorn, et al.	178
Williams, Duane Everett v. Comptroller	178
<b>Index</b>	<b>181</b>

# Table of Cases

35 Bar & Grill, LLC, et al. v. Compt., et al.	115
7-Eleven, Inc. v. Strayhorn, et al.	17
7-Eleven, Inc. v. Strayhorn, et al.	17
7-Eleven, Inc. v. Strayhorn, et al.	137
7-Eleven, Inc. v. Strayhorn, et al.	137
7-Eleven, Inc. v. Strayhorn, et al.	138
7-Eleven, Inc. vs. Compt., et al.	139
A & D Interests, Inc., dba Heartbreakers v. Compt., et al.	115
AccuTel of Texas, L.P. v. Rylander, et al.	18
Aetna Life Ins. Co. v. Compt., et al.	18
Air Liquide America, L.P. v. Compt., et al.	19
Alcatel Network Systems, Inc. v. Strayhorn, et al.	139
Alcatel Network Systems, Inc. v. Strayhorn, et al.	140
Allegiance Telecom of Texas, Inc. v. Strayhorn, et al.	19
Allstate County Mutual Insurance Company; Allstate Insurance Company; Allstate Indemnity Company; Allstate Texas Lloyds; and Allstate Property and Casualty Insurance Company v. Strayhorn, et al.	140
Alumax Mill Products, Inc. v. Combs, et al.	20
Anadarko E&P Co., L.P. vs Combs, et al.	1
Anadarko OGC Company v. Combs, et al.	1
Anadarko Petroleum Corporation v. Combs, et al.	2
Anh Thai Corp. v. Compt., et al.	20
Apache Corp. vs Compt., et al.	2
Apache Corp. vs. Compt., et al.	21
Aramis Services, Inc. v. Rylander, et al.	21
Aramis Services, Inc. v. Sharp, et al.	22
Ardsey, Inc. dba Noche Caliente Nightclub v. Strayhorn, et al.	22
Arnold, Jessamine J., Estate of, Deceased, and Jim Arnold, Jr., Independent Executor v. Rylander, et al.	141
AROC (Texas), Inc. v. Combs, et al.	3
AT&T Corporation; Teleport Communications of Houston, Inc.; TCG of Dallas, Inc.; AT&T Network Procurement, L.P.; AT&T Communications of Texas, L.P.; and AT&T Communications of the Southwest, Inc. v. Strayhorn, et al.	23
Austin Engineering Co., Inc. v. Combs, et al.	24
Awad, Mike v. Strayhorn, et al.	24
AXA Equitable Life Insurance Company v. Strayhorn, et al.	111
Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.	115
Barney Holland Oil Co. vs Compt., et al.	141
BASF Corp. v. Compt., et al.	142
Bassam Jaber Hantouli v. Susan Combs, Compt., et al.	116

BBB Trading Co. v. State of Texas, et al.	25
Beadles, Joe Haven v. Strayhorn	142
Bell Bottom Foundation Company v. Rylander, et al.	25
Bell Helicopter Textron, Inc. v. Compt., et al.	26
Benelux Corp., dba The Palazzo & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.	116
Benelux Corp., dba, et al. v. Compt., et al.	117
BHR Texas L.P. v. Combs, et al.	26
Black Thirst, LLC v. Combs, et al.	27
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.	27
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.	28
Boeing North America, Inc. v. Rylander, et al.	28
Boeing North America, Inc. v. Strayhorn, et al.	29
BP America Inc. v. Compt., et al.	29
Brink's Home Security, Inc. v. Strayhorn, et al.	3
Broadwing Corporation v. Strayhorn, et al.	30
Burns, Kevin D. v. Strayhorn, et al.	30
C & T Stone Company v. Rylander, et al.	31
C.C. Carlton Industries, Ltd. v. Combs, et al.	31
CallSource, Inc. v. Compt., et al.	32
CallSource, Inc. v. Compt., et al.	143
Capitol Aggregates, Ltd. v. Compt., et al.	32
Carlos Manrique De Lara, M.D., P.A., v. State of Texas	143
Cashiola, James v. Strayhorn, et al.	33
CEC Entertainment, Inc. v. Strayhorn, et al.	33
Cellular City Ltd. v. Strayhorn, et al.	34
Central Telephone Company of Texas and United Telephone Company of Texas v. Rylander, et al.	4
Centreport Partners, L.P. v. Combs, et al.	34
Chapal Zenray, Inc. v. Rylander, et al.	35
Charles Dawson, et al. vs. Comptroller, et al.	144
Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.	4
Chevron USA Holdings, Inc. v. Combs, et al.	5
Chevron USA, Inc. v. Combs, et al.	144
Chevron USA, Inc. v. Compt., et al.	35
Chevron USA, Inc. v. Strayhorn, et al.	36
Chrysler Financial Services Americas v. Combs, et al.	5
Church & Dwight Company, Inc. v. Rylander, et al.	36
Cingular Wireless of Austin, LP, formerly known as GTE Mobilnet of Austin, LP; GTE Mobilnet of South Texas, LP; GTE Mobilnet of Texas RSA #17, LP; et al. v. Strayhorn, et al.	37
City of Webster and the Webster Economic Development Corporation v. Strayhorn	37
Clear Lake City Community Association, Inc. v. Strayhorn, et al.	39

Clinique Services, Inc. v. Rylander, et al.	39
Clinique Services, Inc. v. Sharp, et al.	40
Clinique Services, Inc. v. Strayhorn, et al.	40
Coastal Industries, Inc. v. Compt., et al.	41
Coastal Industries, Inc. v. Compt., et al.	145
Coca-Cola Company, The v. Strayhorn, et al.	41
Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.	146
Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.	146
Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.	117
Cosmair, Inc. v. Strayhorn, et al.	42
Crown Central Petroleum Corporation v. Strayhorn, et al.	42
Crown Central, L.L.C., et al. v. Combs, et al.	43
Culberson County-Allamoore ISD v. Strayhorn	147
D. Houston, Inc., dba v. Compt., et al.	118
DaimlerChrysler Services North American, L.L.C.	6
Daingerfield-Lone Star ISD v. Strayhorn	147
Day Cruises Maritime, L.L.C. v. Strayhorn, et al.	43
Day Cruises Maritime, L.L.C. v. Strayhorn, et al.	44
Del Monte Fresh Produce (Texas), Inc. v. Combs, et al.	44
Delta Air Lines, Inc. v. Strayhorn, et al.	45
Design Masterpiece Landscaping, Inc. v. Strayhorn, et al.	148
Dick Roberts Corp., et al. v. Combs, et al.	45
Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector	119
E.A. Enterprises v. Texas State Comptroller	148
EFW, Inc. v. Rylander, et al.	46
EFW, Inc. v. Strayhorn, et al.	46
El Paso Corporation v. Strayhorn, et al.	149
El Paso Electric Co. v. Combs, et al.	47
El Paso Entertainment, Inc. dba v. Compt., et al.	119
El Paso Merchant Energy-Petroleum Company v. Strayhorn, et al.	48
El Paso Natural Gas Company v. Sharp	120
El Paso Natural Gas Company v. Strayhorn, et al.	149
El Paso Natural Gas Company v. Strayhorn, et al.	150
El Paso Natural Gas Company v. Strayhorn, et al.	151
El Paso Natural Gas Company v. Strayhorn, et al.	152
ELC Beauty, L.L.C., as a Successor-in-Interest to Estee Lauder Services, Inc. v. Strayhorn, et al.	48
ELC Beauty, L.L.C., as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al.	49
ELC Beauty, L.L.C., as Successor-in-Interest to Origins Services, Inc. v. Strayhorn, et al.	49
Embassy Equity Development Corporation, et al. v. Strayhorn, et al.	50
Energy Education of Montana, Inc. v. Combs	51

Energy Education of Montana, Inc. v. Combs, et al.	51
Enterprise Operating Co., Inc., dba v. Compt., et al.	120
Entertainment Publications, Inc. v. Compt., et al.	52
Estee Lauder Services, Inc. v. Rylander, et al.	52
Estee Lauder Services, Inc. v. Sharp, et al.	53
Estee Lauder Services, Inc. v. Sharp, et al.	53
Eustace ISD v. Compt., et al.	120
ExxonMobil Oil Corporation v. Combs, et al.	152
F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al.	54
Fairfield Industries, Inc. v. Combs, et al.	6
Fairfield Industries, Inc. v. Strayhorn, et al.	7
Fireman’s Fund Insurance Company of Ohio v. Rylander, et al.	111
First American Title Ins. Co. vs Compt., et al.	153
First American Title Insurance Company v. Combs, et al.	153
First American Title Insurance Company v. Combs, et al.	155
First American Title Insurance Company v. Strayhorn, et al.	155
First American Title Insurance Company v. Strayhorn, et al.	156
First American Title Insurance Company v. Strayhorn, et al.	156
First Class Enterprises, Inc. v. Combs, et al.	54
Florida Management, Inc., et al. v. Compt., et al.	55
Frito-Lay, Inc. v. Compt., et al.	55
Future A's Limited Liability v. Combs, et al.	56
FW, Inc. and S & S Bros., Inc. v. Compt., et al.	121
Galland Henning Nopak, Inc. v. Strayhorn, et al.	7
General Dynamics Corporation v. Rylander, et al.	56
General Dynamics Corporation v. Rylander, et al.	57
GEO Group, Inc., The v. Combs, et al.	57
Geoscapes of Texas, Inc. v. State of Texas, et al.	57
Gift Box Corporation of America, Inc. v. Rylander, et al.	58
Glazier Foods Co. v. Combs, et al.	58
Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.	121
Golf Works, Inc. vs Susan Combs, Compt., et al.	59
Graybar Electric Company, Inc. v. Sharp, et al.	157
Grocers Supply Co., Inc. v. Combs, et al.	59
Grocers Supply-Institutional-Convenience, Inc. v. Combs, et al.	60
Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.	60
Grocers Supply-Produce Co., Inc. v. Combs, et al.	61
GSC Enterprises, Inc. v. Strayhorn, et al.	61
GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.	62
GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.	62
GTE Southwest, Inc. v. Combs, et al.	63
GTE Southwest, Inc. v. Strayhorn, et al.	63
GTE Southwest, Inc. v. Strayhorn, et al.	64

GTE Southwest, Inc. v. Strayhorn, et al.	65
GTE Southwest, Inc. v. Strayhorn, et al.	65
GTE Southwest, Inc. v. Strayhorn, et al.	66
GTE Southwest, Inc. v. Strayhorn, et al.	66
GTE Southwest, Inc. vs Compt., et al.	67
Gulf Chemical & Metallurgical Corp. v. Compt., et al.	8
Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.	9
Harsco Corp. vs Combs, et al.	67
Health Care Service Corp., et al. vs. Compt., et al.	68
Herndon Marine Products, Inc. v. Sharp, et al.	157
Home & Garden Party, Ltd. v. Strayhorn, et al.	68
Home Depot, USA, Inc. v. Strayhorn, et al.	69
Hoss Equipment Co. v. Combs, et al.	69
I Gotcha, Inc., dba, et al. v. Compt., et al.	122
I-Ball Corp., dba The Gatsby Social Club v. Combs, et al.	70
Isis Partners, L.P., et al. vs. Combs, et al.	122
J.C. Penney Company, Inc. v. Strayhorn, et al.	70
J.C. Penney Company, Inc. v. Strayhorn, et al.	71
Jerman Cookie Company v. Rylander, et al.	72
Jim Hogg County ISD v. Compt., et al.	123
John P. Bellam, dba Showgirl v. Compt., et al.	123
Karpod, Inc., dba, et al. v. Compt., et al.	124
Kellwood Company, The v. Strayhorn, et al.	9
Kendrick Oil Company v. Combs, et al.	158
Kenneth O. Lester Co., et al. v. Susan Combs, Compt., et al.	72
Kroger Company, The v. Combs, et al.	73
Kroger Texas, LP v. Combs, et al.	73
Kroger Texas, LP v. Compt., et al.	74
La Frontera Lodging Partners, L.P., Tex-Air Investment Company, John Q. Hammons Hotels Two, L.P. and John Q. Hammons Hotels, L.P. v. Strayhorn, et al.	74
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.	75
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.	76
Lee Construction and Maintenance Company v. Rylander, et al.	76
Levy, Tara, et al. v. OfficeMax, Inc. and Best Buy Stores, L.P.	77
Lewis & Lambert, Inc. v. Combs, et al.	78
Lewis & Lambert, Inc. v. Combs, et al.	78
Liberty Vending Services, Inc. v. Strayhorn, et al.	78
Lockheed Corporation v. Rylander, et al.	79
Lockheed Martin Corporation v. Rylander, et al.	79
Lockheed Martin Kelly Aviation Center, Inc. v. Strayhorn, et al.	80
Lone Star Steel Company v. Strayhorn, et al.	80
Lubrizol Corp., The v. Combs, et al.	81
Lyondell Chemical Co. v. Combs, et al.	81

Mabank ISD v. Comptroller	158
Macy's TX I, LP, Successor in Interest to the May Department Stores Company v. Strayhorn, et al.	82
Malakoff ISD v. Comptroller	159
Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.	124
Marco A. Mascorro v. Compt., et al.	82
Mars, Inc. v. Compt., et al.	83
Mars, Inc. v. Strayhorn, et al.	83
Matoka, Inc. vs. Compt., et al.	84
Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.	84
MC/VC, Inc. v. Compt., et al.	124
Metropolitan Life Insurance Company, et al. v. Combs, et al.	112
Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al.	10
Minyard Food Stores, Inc. vs Compt., et al.	159
Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.	125
Mulligan's North Bar & Grill, LLC vs. Compt., et al.	125
New York Life Insurance Company v. Strayhorn, et al.	113
Nextel of Texas, Inc. v. Strayhorn, et al.	126
North By East, Inc., et al. v. Compt., et al.	126
Northrop Grumman Systems Corporation (Successor to Northrop Grumman Corporation and Vought Aircraft Company) v. Rylander, et al.	160
Office Depot, Inc. and Viking Office Products, Inc. v. Combs, et al.	160
Office Depot, Inc., et al. v. Compt., et al.	161
Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.	161
Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.	162
Olarnpunsagoon, Suchon v. Combs, et al.	85
Old Republic National Title Ins. Co. vs. Compt.	163
Old Republic National Title Insurance Company v. Strayhorn, et al.	163
Old Republic National Title Insurance Company v. Strayhorn, et al.	164
Old Republic National Title Insurance Company v. Strayhorn, et al.	164
Old Republic National Title Insurance Company v. Strayhorn, et al.	165
Old Republic Title Insurance Company v. Combs, et al.	165
Old Republic Title Insurance Company v. Strayhorn, et al.	166
Olmos Abatement, Inc. v. Compt., et al.	86
Owens Corning v. Strayhorn, et al.	167
Papa John's USA, Inc. v. Compt., et al.	10
Phenomenom v. Strayhorn, et al.	167
Point Isabel ISD v. Texas Comptroller of Public Accounts	127
Preston Motors by George L. Preston, Owner v. Sharp, et al.	168
Price & Company v. Combs, et al.	127

Prudential Insurance Company, The v. Strayhorn, et al.	113
Ranger Fuels & Maintenance, L.L.C. v. Rylander, et al.	128
Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.	128
Reynolds Metals Co. vs. Combs, et al.	86
Reynolds Metals Company v. Strayhorn, et al.	168
Richard's Heating & Air Conditioning, Inc. v. State of Texas, et al.	86
Roadway Express, Inc. v. Rylander, et al.	87
Roark Amusement & Vending, L.P. v. Strayhorn, et al.	88
Roark Amusement & Vending, L.P. v. Strayhorn, et al.	88
Rockwell Collins, Inc. v. Rylander, et al.	169
RPM Entertainment, Inc., et al. v. Compt., et al.	129
Salim Abbas Merchant v. Combs, et al.	89
San Antonio Spurs, L.L.C. v. Strayhorn, et al.	89
Savvy, Inc., dba v. Compt., et al.	129
Shanks Surveyors, L.L.P. v. Compt., et al.	90
Sharper Image Corporation v. Rylander, et al.	169
Sharper Image Corporation v. Rylander, et al.	170
Shell Trading Services Co. v. Combs, et al.	11
Sherman ISD v. Compt., et al.	130
SIFA Investment Inc. v. Compt., et al.	130
Southern Plastics, Inc. v. Strayhorn, et al.	170
Southern Union Company v. Strayhorn, et al.	90
Southern Union Gas v. Combs, et al.	91
Southwest Food Processing & Refrigerated Services, aka Southwest Refrigerated Warehousing Services v. Rylander, et al.	171
Southwestern Bell Telephone Company v. Rylander, et al.	11
Southwestern Bell Telephone, L.P. v. Strayhorn, et al.	91
Southwestern Bell Yellow Pages, Inc. v. Strayhorn, et al.	92
Spacenet Services, Inc. v. Strayhorn, et al.	93
Spirit Drilling Fluids, GP, LLC v. Combs, et al.	93
SSD Enterprises, Inc. v. Compt., et al.	131
Stantrans Partners, L.P. v. Strayhorn, et al.	172
Stantrans Partners, L.P. v. Strayhorn, et al.	172
Steamatic of Austin, Inc., et al. v. Rylander, et al.	173
STP Nuclear Operating Co. v. Combs	173
STP Nuclear Operating Company v. Combs, et al.	174
STP Nuclear Operating Company v. Strayhorn, et al.	175
STP Nuclear Operating Company v. Strayhorn, et al.	175
STP Nuclear Operating Company v. Strayhorn, et al.	176
Stuart, Robert T. Jr., Estate of v. Strayhorn, et al.	131
Sysco Food Services of Austin, Inc. v. Strayhorn, et al.	94
Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.	94

Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.	95
Sysco Food Services of San Antonio, LP, et al. v. Combs	95
Taco Bell Corp. v. Combs, et al.	12
Target Corp. v. Combs, et al.	96
Target Corporation v. Combs, et al.	96
Target Corporation v. Strayhorn, et al.	97
TDI-Halter, Inc. v. Rylander, et al.	97
Texaco, Inc. v. Combs, et al.	12
Texas and Kansas City Cable Partners LP v. Combs, et al.	98
Texas Cabaret, Inc., dba, et al. v. Compt., et al.	132
Texas Gulf, Inc. v. Bullock, et al.	98
Texas Richmond Corp. v. Compt., et al.	132
TGS-NOPEC Geophysical Company v. Strayhorn, et al.	13
The King Lounge, Inc., dba v. Compt., et al.	132
The Men's Club Corp. v. Compt., et al.	133
Time Warner Entertainment & Advance Newhouse v. Combs, et al.	99
Time Warner Telecom of Texas, L.P. v. Combs, et al.	99
Time Warner Telecom of Texas, L.P. v. Combs, et al.	100
T-Mobile West Corp. v. Combs, et al.	100
TPI Petroleum, Inc. v. Strayhorn, et al.	133
Travis Co., Texas, Nelda Wells Spears, et al. v. Susan Combs, Compt., et al.	134
Tree of Life, Inc. v. Strayhorn, et al.	176
Tyler Holding Company, Inc. v. Strayhorn, et al.	101
Tyson Foods, Inc. v. Strayhorn, et al.	14
U.S. Foodservice, Inc., et al. v. Combs, et al.	101
United Scaffolding, Inc. v. Strayhorn, et al.	102
United Space Alliance, L.L.C. v. Strayhorn, et al.	102
United Space Alliance, L.L.C. v. Strayhorn, et al.	103
United Space Alliance, L.L.C. v. Strayhorn, et al.	103
Uretek U.S.A., Inc. v. Strayhorn, et al.	177
USCOC of Texahoma, Inc., Successor to USCOC of Corpus Christi, Inc. v. Strayhorn, et al.	178
V.H. Salas & Associates, Inc. v. Comptroller	104
Valero Retail Holdings, Inc. & MRP Properties Co., LLC v. Compt., et al.	134
Verizon Business Network Services, Inc. v. Compt. Et. Al.	105
Verizon North, Inc. v. Strayhorn, et al.	105
Viacom International, Inc. v. Strayhorn, et al.	15
Vinson Oil Distribution v. Strayhorn, et al.	135
Warranty Underwriters Insurance Company v. Rylander, et al.	114
Watson Sysco Food Services, Inc. v. Strayhorn, et al.	106
White Swan, Inc. v. Strayhorn, et al.	106
White Swan, Inc. v. Strayhorn, et al.	107
Williams, Duane Everett v. Comptroller	178

Wireless Now, L.P. v. Combs, et al.	107
Wyndham International Operating Partnership, LP v. Strayhorn, et al.	108
York International Corporation v. Strayhorn, et al.	15
Zale Delaware, Inc. v. Rylander, et al.	108
Zale Delaware, Inc. v. Strayhorn, et al.	109
Zimmer US, Inc. v. Combs, et al.	109



## Franchise Tax

### ***Anadarko E&P Co., L.P. vs Combs, et al.***

Cause Number: D-1-GN-07003385 AG Case #: 072475932

Filed: 10/3/2007

Franchise Tax; Protest & Refund

Claim Amount Reporting Period

\$4,518,016.85 1999-2001 Texas Franchise Tax Report

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether the Comptroller correctly calculated the value of impairment of its long-lived assets under the applicable principles for successful efforts accounting.

Status: Discovery in progress.

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### ***Anadarko OGC Company v. Combs, et al.***

Cause Number: D-1-GN-09-004036 AG Case #: 093165967

Filed: 11/25/2009

Franchise Tax; Refund

Claim Amount Reporting Period

\$2,019.43 \$5,387,747.55/\$1,013,096.12 (1997 through 2002)

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether the Comptroller correctly calculated the value of impairment of taxpayer's long-lived assets under the applicable principles for successful efforts accounting. Whether the taxpayer is entitled to use an alternate method of computing accumulated depreciation.

Status: Answer filed.

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***Anadarko Petroleum Corporation v. Combs, et al.***

Cause Number: D-1-GN-07-000670 AG Case #: 072441751

Filed: 3/6/2007

Franchise Tax; Refund

Claim Amount	Reporting Period
\$3,100,129.00	1995 - 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff may include proved reserves when computing impairment for long-lived assets. Whether Plaintiff is entitled to use an alternative GAAP method of computing accumulated depreciation and net pension liabilities. Whether Plaintiff is entitled to a franchise tax credit for tax paid on property used in manufacturing. Plaintiff requests that penalty and interest be waived.

Status: Discovery in progress.

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***Apache Corp. vs Compt., et al.***

Cause Number: D-1-GN-07003861 AG Case #: 072481518

Filed: 11/6/2007

Franchise Tax;

Claim Amount	Reporting Period
\$2,121,145.00	1998-1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff may make an impairment adjustment to its long-lived assets under the successful efforts accounting method and whether it may use a double declining balance

method of depreciation.

Status: Answer filed.

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***AROC (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000882 AG Case #: 072445745

Filed: 3/23/2007

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$241,435.17	01/01/01 - 12/31/02
\$114,245.78	01/01/01 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Whether debts of the Plaintiff are inter-company debts or equity infusions, causing the debts to be treated as equity and therefore taxable. Plaintiff claims its assets had been collateralized to a third party lender in return for funding.

Status: Discovery in progress.

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***Brink's Home Security, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004615 AG Case #: 062430392

Filed: 12/14/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$91,372.00	2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Bernal, Jr., Gilbert J. Stahl, Bernal & Davies / Austin  
Sewell, David J.

Issue: Whether Plaintiff's gross receipts should include those receipts for services apportioned

outside of the State. Plaintiff claims the Comptroller has misapplied the statutes and rules at issue and imposition of tax against Plaintiff is unconstitutional. Plaintiff claims violation of the Commerce Clause.

Status: Discovery in progress.

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***Central Telephone Company of Texas and United Telephone Company of Texas v. Rylander, et al.***

Cause Number: GN100332

AG Case #: 011409646

Filed: 2/1/2001

Franchise Tax; Protest

Claim Amount	Reporting Period
\$300,772.95	1988 - 1994
\$204,616.25	1988 - 1994

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether inclusion of access charges in Texas' gross receipts violates Comptroller rules on franchise tax treatment of interstate telephone receipts. Whether inclusion of the charges violates equal protection.

Status: Discovery stayed pending appeal of Southwestern Bell case.

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***Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000789    AG Case #: 062297486

Filed: 3/6/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$559,579.09	1994 - 1995

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether the Comptroller correctly applied Plaintiff's business loss carry-forward on earned surplus during years when the earned surplus surtax was computed at zero.

Status: Answer filed. Case placed on Dismissal docket for 03/28/07; Motion to Retain granted 12/23/08.

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***Chevron USA Holdings, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-000748 AG Case #: 093110088

Filed: 3/6/2009

Franchise Tax; Refund

Claim Amount	Reporting Period
	01/01/97 through 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene	OAG Taxation / Austin
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*Opposing Counsel*

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Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Plaintiff may carry forward its impairment losses and exclude abandonment costs in computing its taxable capital.

Status: Answer filed.

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***Chrysler Financial Services Americas v. Combs, et al.***

Cause Number: D-1-GN-09-002293 AG Case #: 093139905

Filed: 7/17/2009

Franchise Tax; Refund

Claim Amount	Reporting Period
\$899,270.00	01/01/1999 through 12/31/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Langenberg, Ray

Issue: How should proceeds from the sale of accounts receivables, including retail and wholesale, be calculated for franchise tax apportionment purposes. Whether Plaintiff's accounts receivables are capital assets or investments. Plaintiff claims that the Comptroller's use of the net gain method instead of the gross receipts method in calculating Plaintiff's total gross receipts for franchise tax apportionment purposes violates the Texas Tax Code, the Comptroller's rules, Comptroller policy, and the constitutional requirements of equal protection and equal and uniform taxation.

Status: Answer filed.

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***DaimlerChrysler Services North American, L.L.C.***

Cause Number: GN401380

AG Case #: 041965591

Filed: 4/30/2004

Franchise Tax; Refund

Claim Amount	Reporting Period
\$2,123,382.74	1988 - 1991

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Meese, Matthew J.

Issue: How should proceeds from the sale of accounts receivables, including retail and wholesale, be calculated for franchise tax apportionment purposes. Whether Plaintiff's accounts receivables are capital assets or investments. Plaintiff claims that the Comptroller's use of the net gain method instead of the gross receipts method in calculating Plaintiff's total gross receipts for franchise tax apportionment purposes violates the Texas Tax Code, the Comptroller's rules, Comptroller policy, and the constitutional requirements of equal protection and equal and uniform taxation.

Status: Discovery in progress. Hearing on Plaintiffs' Motion for Summary Judgment was passed.

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***Fairfield Industries, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001289    AG Case #: 093131944

Filed: 4/21/2009

Franchise Tax; Protest

Claim Amount      Reporting Period  
\$2,008,004.32      plus penalty & interest \$549,036.15 2005-2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Mann, Christopher S.              Jones, Walker, Waechter, Poitevent, Carrere &  
Denegre, L.L.P / New Orleans, LA

Issue: Whether the Comptroller incorrectly apportioned gross receipts from licensing seismic data.

Status: Citation issued.

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***Fairfield Industries, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-05-003289    AG Case #: 052214558

Filed: 9/13/2005

Franchise Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period  
\$1,107,256.04      2002 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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White, John D.                      Jones, Walker, Waechter, Poitevent, Carrère &  
Denégre, L.L.P. / The Woodlands

Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payor or the location of the alleged use of data. Whether the transfer of seismic data is a "license" or the transfer of an intangible for franchise tax apportionment purposes. Plaintiff also requests that penalties be waived and recovery of attorneys' fees.

Status: Inactive. Pending disposition of TGS-NOPEC case, Cause #D-1-GN-05-00637.

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***Galland Henning Nopak, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001409    AG Case #: 062312129

Filed: 4/21/2006

#03-09-00347-CV  
#07-09-00250-CV

Franchise Tax; Protest

Claim Amount	Reporting Period
\$16,751.35	1995 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Davidson, William C.                      Law Offices of Minter Joseph & Thornhill, P.C. /  
Austin

Issue: Whether Plaintiff had sufficient nexus in Texas to be assessed taxes under both the taxable capital component and the earned surplus component of the Texas Franchise Tax.

Status: Summary Judgment hearing reset by agreement for 05/28/09. The trial court granted Defendants' Plea to the Jurisdiction and Motion for Summary Judgment and denied Defendants' No-evidence Motion for Summary Judgment and Plaintiff's Motion for Summary Judgment. Plaintiff's Notice of Appeal filed 06/18/09. Case transferred to 7th COA on 07/20/09. Clerk's Record filed 08/07/09. Appellant's brief due 09/08/09. Appellant's Motion for Extension of Time to File Brief filed and granted 09/03/09. Appellant's Second Motion for Extension of Time to File Brief filed and granted 10/05/09. Supplemental Clerk's Record filed 10/15/09. Appellant's brief filed 11/20/09. Appellee's Motion for Extension of Time to File Brief filed and granted 12/10/09. Appellee's brief due 01/20/10.

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***Gulf Chemical & Metallurgical Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002313    AG Case #: 082518937

Filed: 7/2/2008

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$262,066.00	2001 through 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                          Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether tax credits were properly applied. Whether gross receipts were properly determined for fee/credit transactions. Whether the officer add-back provisions of the franchise tax are unconstitutional. Whether penalty should be waived.

Status: Answer filed.

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***Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004636 AG Case #: 062430582

Filed: 12/15/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$245,571.02	1997 - 2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: How should processing fees and metals credit be calculated for franchise tax apportionment purposes. Whether Plaintiff is entitled to a refund resulting from the elimination of the addback for officer and director compensation.

Status: Discovery in progress.

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***Kellwood Company, The v. Strayhorn, et al.***

Cause Number: GN500508

AG Case #: 052102654

Filed: 2/16/2005

Franchise Tax; Protest

Claim Amount	Reporting Period
\$129,355.44	2001 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Lipstet, Ira A. DuBois Bryant Campbell & Schwartz, L.L.P. /  
Austin

Issue: How should pension reversion gain be allocated for franchise tax apportionment purposes. Is the pension reversion gain non-unitary or unitary earned surplus income. Whether Plaintiff's pension reversion gain should be calculated with Plaintiff's Texas gross receipts. What methodology the Comptroller should apply to not distort the amount of taxable earned

surplus apportionable to Texas. Plaintiff also claims violation of the Due Process and Commerce Clauses of the US Constitution and the Due Course of Law provision of the Texas Constitution.

Status: Court sent Notice of DWOP for 10/05/07. Plaintiff filed Motion to Retain 10/01/07; granted 04/21/08. Trial setting passed by agreement.

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***Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000655 AG Case #: 062295894

Filed: 2/23/2006

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,862,261.31	1996 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether Plaintiff may deduct from its surplus the pre-acquisition negative retained earnings of a subsidiary's subsidiary. Whether Plaintiff may write-down subsidiary's investments in subsidiaries. Whether the Comptroller correctly determined Plaintiff's original cost basis in its subsidiary.

Status: Discovery in progress. Summary Judgment hearing tentatively set for November 2009. Opposing counsel has asked for extension until March or April.

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***Papa John's USA, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002376 AG Case #: 082519620

Filed: 7/7/2008

Franchise Tax; Refund

Claim Amount	Reporting Period
\$48,842.33	2001-2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether the officer add-back provision is unconstitutional.

Status: Answer filed.

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***Shell Trading Services Co. v. Combs, et al.***

Cause Number: D-1-GN-09-003859 AG Case #: 093163046

Filed: 11/9/2009

Franchise Tax; Refund

Claim Amount Reporting Period

\$1,416,829.00 2002-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene

OAG Taxation / Austin

*Opposing Counsel*

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Schmauch, Jason Michael Houston

Issue: Whether payments made to certain individuals were payments subject to the officer and director add back provision, notwithstanding taxpayer's contention that it was reimbursed for such salary payments by a third party.

Status: Citation issued.

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***Southwestern Bell Telephone Company v. Rylander, et al.***

Cause Number: GN204559

AG Case #: 031730666

Filed: 12/20/2002

#03-07-00142-CV

#07-07-00172-CV

#09-0128

Franchise Tax; Protest

Claim Amount Reporting Period

\$25,163,579.92 1996 - 1999; 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether local loop access charges are Texas receipts for franchise tax purposes.  
Whether treating the revenues as Texas receipts violates the Comptroller's Rule on interstate calls and the Due Process, Equal Protection and Commerce Clauses of the Constitution.  
Whether other charges related to message services are Texas receipts.

Status: First Amended Original Petition adding 2001 final report filed. Cross-MSJ hearing held 02/14/07. On 02/16/07 Defendants' MSJ granted; Plaintiff's denied. Notice of Appeal filed 03/08/07. Clerk's Record filed 03/21/07. Appellant's brief filed 04/20/07. Case transferred to Seventh Court of Appeals 05/01/07. Appellee's amended brief filed 06/27/07. Appellants' reply brief filed 07/23/07. Appellees' Pre-submission filed 05/27/08. Case submitted on oral argument to the Amarillo COA sitting in Austin on 06/09/08. Opinion issued affirming trial court's judgment 10/28/08. Appellant's Motion for Extension of Time to File Motion for Rehearing filed 11/07/08; granted 11/12/08. Motion for Rehearing filed 11/26/08; overruled 12/30/08. Southwestern Bell's Petition for Review filed in the Texas Supreme Court on 02/12/09. Waiver of response filed 03/03/09. Response to Petition for Review requested 04/10/09. Motion for Extension of Time to File Response filed 04/16/09; granted 04/17/09. Response filed 06/10/09. Briefing on the merits requested 08/21/09. Petitioner's brief on the merits filed 10/21/09. Respondent's brief on the merits due 01/15/10.

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***Taco Bell Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-003637 AG Case #: 093159101

Filed: 10/21/2009

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,273,294.00	1999 through 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H. Clark, Thomas & Winters / Austin

Issue: Whether the Taxpayer, a foreign corporation, conducted business within Texas during the audit period. Whether the activities of a franchisee, performed on behalf of the Taxpayer, would be sufficient to establish a physical presence.

Status: Answer filed.

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***Texaco, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001386 AG Case #: 093123461

Filed: 4/30/2009

Franchise Tax; Refund



Record due 12/14/07. Notice of Late Record sent 01/15/08. Clerk's record filed 01/17/08. Appellant TGS and Cross-Appellant Comptroller filed a Joint Motion for Extension of Time to File Briefs 02/04/08; granted 02/07/08. Cross-Appellant's brief filed 04/18/08; Oral Argument requested. Appellant's brief filed 04/21/08; oral argument not requested. Appellee's brief filed 05/22/08; oral argument requested. Cross-Appellee's brief filed 05/20/08; oral argument not requested. Oral Argument denied 05/30/08. Appellants' reply brief filed 06/11/08. Trial court's judgment affirmed on 08/15/08. Appellee's Motion for Rehearing filed 09/02/08. Appellant's Motion for Rehearing filed 10/13/08. Appellants' and Appellees' Motion for Rehearing overruled 11/03/08. Petitioner's Unopposed Motion for Extension of Time to File Petition for Review in the Supreme Court filed and granted 12/17/08. Petition for Review filed 01/21/09. Respondent's Response to Petition for Review waived 02/18/09. The International Association of Geophysical Contractors submitted an amicus brief in support of TGS on 03/13/09. Response to Petition for Review requested on 03/27/09. Response to Petition filed 05/27/09. Petitioner's Reply filed 06/11/09. Briefing on the merits requested 06/26/09. Petitioner's Brief on The Merits filed 08/26/09. Petitioner's Amended Brief filed 08/27/09. Respondent's Motion for Extension of Time to File Brief filed 10/23/09; granted 10/27/09. Respondent's briefing on the merits filed 11/20/09. Petitioner's reply brief due 12/14/09.

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***Tyson Foods, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-302279

AG Case #: 031818966

Filed: 6/27/2003

Franchise Tax; Refund

Claim Amount      Reporting Period

\$4,462,424.56      1992 - 1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether Plaintiff may re-state asset values for franchise tax purposes by using straight-line depreciation after it used accelerated depreciation to reduce asset values for federal income and franchise tax purposes before report year 1992. Whether penalty and interest should have been waived because Plaintiff's affiliates had overpayments during the audit period that could have been credited to Plaintiff's deficiencies. Amended Petition: Whether the throw-back statute violates the Commerce Clause; whether officer-director compensation add-back is constitutional.

Status: Hearing on Cross-Motions for Partial Summary Judgment held 07/19/06. On 07/26/06

the district court granted Defendants' Motion for Partial Summary Judgment and denied Plaintiff's on the depreciation/basis issue. Discovery on remaining claims in progress. Plaintiff's Motion for Partial Summary Judgment (penalty & interest offset) filed on 02/18/09. Motion for Summary Judgment hearing set for 07/30/09 was passed. Agreed Judgment entered 11/19/09.

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***Viacom International, Inc. v. Strayhorn, et al.***

Cause Number: GN402433

AG Case #: 041999269

Filed: 7/30/2004

Franchise Tax; Protest

Claim Amount	Reporting Period
\$754,178.16	1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.                  Clark, Thomas & Winters / Austin

Issue: Whether revenue received from third-party cable television system operators is revenue earned from licensing or from the service of producing, creating, editing, packaging and transmitting 24-hour-per-day network programming performed out-of-state. Should revenue from providing these services be considered Texas receipts for franchise tax purposes. Plaintiff also claims violation of Due Process and the Commerce Clause.

Status: Discovery in progress.

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***York International Corporation v. Strayhorn, et al.***

Cause Number: GN600153

AG Case #: 062275193

Filed: 1/13/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$362,337.18	1993 - 1996

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Sigel, Doug

Issue: Whether Plaintiff is entitled to record the assets and liabilities of previously acquired entities at their historical book values for purposes of determining taxable capital under Tax Code Section 171.109(b). Whether the Comptroller incorrectly calculated Plaintiff's push-down adjustments under Tax Code Section 171.109(m). Whether the Comptroller used the proper accounting method to value transferred assets. Whether Plaintiff's claim is barred as a second refund.

Status: Answer filed. Court sent Notice of DWOP on 01/30/08.

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## Sales Tax

### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: GN403369

AG Case #: 042046367

Filed: 10/8/2004

#03-08-00212-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$299,328.98	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether the purchase of bookkeeping software installed on computers located out-of-state and subsequently shipped to stores in-state qualifies for the sale for resale exemption.

Status: Hearing on cross-motions for summary judgment and defendants' plea to the jurisdiction held 02/05/08. Judgment granted for the State on 03/24/08. Plaintiff filed Notice of Appeal 04/07/08. Clerk's Record filed 06/19/08. Appellant's brief filed 07/21/08. Appellees' brief filed 08/20/08. Appellant's Reply Brief filed 09/16/08; accepted for oral argument. Appellant's Motion to Postpone Oral Argument filed 01/12/09. Submission cancelled 01/13/09. Submitted on oral argument on 04/08/09. Opinion issued 08/31/09, reversing the summary judgment in favor of the State, rendering judgment that 7-Eleven is entitled to a partial sales-tax refund with respect to the software that it transferred to its franchise stores, and remanding to the trial court the portion of the cause pertaining to software that was delivered to its out-of-state company stores. The State filed a Motion for Rehearing on 10/06/09 and re-filed its' Motion for Rehearing on 11/02/09. Response requested 11/18/09. Appellant's Motion for Extension of Time to File Response filed 11/25/09; granted 12/01/09. Appellant's Response filed 12/03/09.

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### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002424

AG Case #: 062380290

Filed: 6/30/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$615,638.45	04/01/93 - 09/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff purchased non-taxable programming services rather than taxable software.

Status: Inactive.

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***AccuTel of Texas, L.P. v. Rylander, et al.***

Cause Number: GN300091

AG Case #: 031735236

Filed: 1/10/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$45,658.15	06/01/97 - 11/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Feiger, Robert E.                      Friedman & Feiger, L.L.P. / Dallas

Issue: Whether Plaintiff should have been assessed interest and penalty.

Status: Case Dismissed for Want of Prosecution 04/27/07. Plaintiff's Agreed Motion to Reinstate filed 08/31/07; granted 09/04/07.

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***Aetna Life Ins. Co. v. Compt., et al.***

Cause Number: D-1-GN-08-002422      AG Case #: 082519794

Filed: 7/10/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,228,278.73	02/01/97 thru 01/31/01 & 02/01/01 thru 6/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether Aetna received data processing services. If so, whether services were properly allocated to Texas.

Status: Discovery in progress.

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***Air Liquide America, L.P. v. Compt., et al.***

Cause Number: D-1-GN-09-000193    AG Case #: 093101491                      Filed: 1/21/2009  
Sales and use Tax; Refund

Claim Amount	Reporting Period
\$2,769,627.00	01/01/98 through 12/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to credit interest on the gross amount of credits rather than the net amount.

Status: Answer filed.

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***Allegiance Telecom of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000056    AG Case #: 062269030                      Filed: 1/6/2006  
Sales Tax; Refund

Claim Amount	Reporting Period
\$2,660,546.29	10/01/97 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether equipment purchased by Plaintiff is exempt from sales tax as tangible personal property used in manufacturing and processing. Whether freight charges are exempt from sales tax under the manufacturing exemption.

Status: Answer filed. Court sent Notice to Dismiss for Want of Prosecution on 01/30/08.  
Unopposed Motion to Reinstate filed 09/22/08. Trial set for 12/06/10.

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***Alumax Mill Products, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000165 AG Case #: 072435746

Filed: 1/22/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$78,359.28	07/01/98 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether industrial solid waste removal is exempt as a real property service. Whether Plaintiff's purchases of repair and replacement parts for and repair services performed on rolling stock equipment are exempt from sales and use tax as services performed on exempt tangible personal property.

Status: Answer filed.

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***Anh Thai Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-003086 AG Case #: 082526096

Filed: 8/26/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$158,443.19	April 1, 2001 through Dec. 31, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Buck, E. Rhett

Houston

Issue: Whether percentages of sales were properly computed. Whether Plaintiff had sufficient records to perform audit without relying on standards of AP92.

Status: Answer filed.

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***Apache Corp. vs. Compt., et al.***

Cause Number: D-1-GN-08-001989 AG Case #: 082513300

Filed: 6/6/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$5,894,089.15	1/01/2003 through 06/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff's property qualifies for exemption under various provisions of section 151.318. Whether Plaintiff paid tax on non-taxable services. Whether some property was used for exempt environmental work. Whether sales prices were correctly determined.

Status: Answer filed.

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***Aramis Services, Inc. v. Rylander, et al.***

Cause Number: 0000384

AG Case #: 001273051

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$281,676.36	04/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Court sent Notice of DWOP for 08/23/02. Plaintiff filed Motion to Retain; granted 02/27/03. Court DWOP the case 06/15/05. Plaintiff filed Motion to Reinstate 07/12/05. Defendants filed first amended answer, plea to the jurisdiction, special exceptions and motion for attorneys' fees 11/17/06.

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***Aramis Services, Inc. v. Sharp, et al.***

Cause Number: 98-03527

AG Case #: 98930349

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$291,196.00	04/01/90 - 03/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/25/01. Court sent DWOP notice for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 01/16/03. Defendants filed Motion to Dismiss 05/11/04; set for 05/20/04. Hearing passed by agreement.

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***Ardsey, Inc. dba Noche Caliente Nightclub v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004768

AG Case #: 072431349

Filed: 12/28/2006

Sales Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
\$343,876.21	03/01/02 - 08/31/05 -Sales Tax
\$39,699.43	03/01/02 - 08/31/05 -Mixed Beverage Gross Receipts

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.                      Martens & Associates / Austin

Seay, Michael B.

Issue: Whether Plaintiff should be assessed sales tax on door receipts collected by bands. Whether excess fees above an agreed dollar amount collected at the door and paid to Plaintiff are royalty rentals and real property rentals and not door receipts, which would be taxable sales. Plaintiff seeks injunction and attorneys' fees.

Status: Case DWOP'd 08/24/09.

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***AT&T Corporation; Teleport Communications of Houston, Inc.; TCG of Dallas, Inc.; AT&T Network Procurement, L.P.; AT&T Communications of Texas, L.P.; and AT&T Communications of the Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002080    AG Case #: 062365986

Filed: 6/7/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$21,934,496.00	01/01/95 - 07/31/04
\$1,484,356.00	01/01/00 - 07/31/04
\$1,391,152.00	01/01/00 - 07/31/04
\$22,827,857.00	01/01/00 - 07/31/04
\$4,435,506.00	01/01/99 - 07/31/04
\$4,435,506.00	01/01/00 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                              OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether purchases of electricity used in a manufacturing process are exempt from sales tax. Whether the manufacturing process used by Plaintiff results in a physical change to tangible personal property being resold. Whether electricity purchased and used to process tangible personal property for sale as tangible personal property is exempt from sales tax under the manufacturing and processing exemption. Whether Plaintiffs' purchases and/or leases of tangible personal property directly used or consumed in or during a manufacturing process are exempt from sales tax.

Status: Motion to retain filed and granted. Trial set for 12/06/10.

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***Austin Engineering Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000565 AG Case #: 072440159

Filed: 2/23/2007

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$53,654.00	01/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A. Mondrik & Associates / Austin

Issue: Whether fees that Plaintiff received for erosion control services, environmental construction services and utility construction services are exempt from sales and use tax. Whether services performed by Plaintiff to exempt entities are exempt from sales and use tax. Whether Plaintiff's transactions with its customers qualify as non-taxable or exempt services, or included the sale of tangible personal property, thus making certain items taxable. Plaintiff claims the Comptroller erroneously assessed tax on purchases which were non-taxable or exempt, or on which the sales and use tax had already been paid. Plaintiff claims violation of equal protection, equal and uniform taxation, and the Commerce clause.

Status: Discovery in progress. Motion for Summary Judgment hearing set for 03/10/10.

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***Awad, Mike v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003807 AG Case #: 062419668

Filed: 10/6/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$196,853.60	07/01/00 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Roberts, William A.                The Roberts Law Firm / Dallas  
Coleman, Kyle

Issue: Whether Plaintiff's business products are exempt as "sale for resale" items or taxable. Whether the Comptroller erred by misapplying burden of proof and whether the requirement is constitutional. Whether Tax Code §112.108 is constitutional. Plaintiff claims violation of due process, that all penalties and interest be waived, and attorneys' fees.

Status: Jurisdictional plea, motion to dismiss and counterclaim filed.

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***BBB Trading Co. v. State of Texas, et al.***

Cause Number: C-1-CV-08-011446    AG Case #: 082539305                      Filed: 10/28/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$426,282.46	June 01, 2003 to Nov. 30, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Leeper, David P.                      El Paso

Issue: Plaintiff claims that the Comptroller should grant insolvency relief. Plaintiff seeks injunctive relief, exemplary damages, and attorney's fees.

Status: Plaintiff filed Motion for Summary Judgment on 09/21/09. No hearing requested yet.

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***Bell Bottom Foundation Company v. Rylander, et al.***

Cause Number: 99-01092                      AG Case #: 991112186                      Filed: 1/29/1999

Sales Tax; Protest

Claim Amount	Reporting Period
\$81,571.73	01/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Trickey, Timothy M.                      The Trickey Law Firm / Austin

Issue: Whether taxpayer's sub-contract was a separated contract since the general contractor's construction contract was separated.

Status: Case dismissed for want of prosecution 06/17/03. Motion to Reinstate granted.  
Negotiating an agreed scheduling order. Motion to Retain filed 11/29/06; granted 03/27/07.

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***Bell Helicopter Textron, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002279    AG Case #: 082516972                      Filed: 6/27/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,438,127.83	01/01/01 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to interest on the gross amount of credit in a managed audit. Whether Plaintiff is entitled to the manufacturing exemption for property sold under the applicable FAR's even though the government may not take possession of the manufactured property. Whether Plaintiff's gas and electricity are used in manufacturing.

Status: Plaintiff's Partial Motion for Summary Judgment filed 10/09/09.

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***BHR Texas L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-003056    AG Case #: 093150829                      Filed: 9/10/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$19,590.14	05/01/2000 through 07/31/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery & similar items provided to hotel guests are exempt from sales tax as sales for resale.

Status: Citation issued.

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***Black Thirst, LLC v. Combs, et al.***

Cause Number: D-1-GN-09-001389 AG Case #: 093123933

Filed: 4/30/2009

Sales and use Tax; Declaratory Judgment

Claim Amount Reporting Period

\$281,499.71

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Hopkins, Mark D.

Savrick, Schumann, Johnson, McGarr, Kaminski  
& Shirley / Austin

Issue: Whether Plaintiff owes tax as a successor to a business with outstanding tax liabilities.

Status: Answer filed.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN401955

AG Case #: 041988023

Filed: 6/21/2004

#03-09-00617-CV

Sales Tax; Refund

Claim Amount Reporting Period

\$3,750,000.00 12/01/88 - 05/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Order consolidating with Cause #D-1-GN-06-000787. Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial held 09/02/08. Evidence reopened. Letter ruling in favor of Blue Cross issued 07/16/09. Judgment for Plaintiff on 07/31/09. Notice of Appeal filed 10/28/09. Reporter's Record filed 11/24/09.

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***Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000787 AG Case #: 062296876 Filed: 3/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,029,344.00	06/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Order consolidating with Cause # GN401955 signed 05/14/07.

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***Boeing North America, Inc. v. Rylander, et al.***

Cause Number: GN203340 AG Case #: 021676804 Filed: 9/13/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$343,487.00	01/01/95 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.

Clark, Thomas & Winters / Austin

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Plaintiff also claims a denial of equal protection and an exemption under §151.3111.

Status: Answer filed.

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***Boeing North America, Inc. v. Strayhorn, et al.***

Cause Number: GN304372

AG Case #: 031884471

Filed: 11/10/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$500,000.00	01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***BP America Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004207    AG Case #: 083091371

Filed: 11/20/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$10,457,007.25	01/01/97 - 12/31/96 and 01/01/97 - 06/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff brings about fifty different issues on sales and use tax in connection with its production and refining operations. Claims include casualty losses, manufacturing exemptions, tax credits, and various service issues.

Status: Answer filed.

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***Broadwing Corporation v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003733 AG Case #: 062412879

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$217,355.92	01/01/99 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether finish-out work or improvements to real property is subject to tax when a part of the structure and leased space had been previously used and occupied.

Status: Discovery in progress.

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***Burns, Kevin D. v. Strayhorn, et al.***

Cause Number: GN504208 AG Case #: 052253457

Filed: 11/28/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,300,000.00	01/01/96 - 10/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether the transfer of certain tangible personal property from customers to Plaintiff to

be leased back to customers with a purchase option are non-taxable financing transactions. Whether sales taxes previously submitted are binding within Plaintiff's bankruptcy plan. Plaintiff claims violation of equal and uniform taxation, and also seeks attorneys' fees.

Status: Inactive.

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***C & T Stone Company v. Rylander, et al.***

Cause Number: GN002428

AG Case #: 001344233

Filed: 8/18/2000

Sales Tax; Protest

Claim Amount	Reporting Period
\$207,454.40	04/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Peckham, William T.                Attorney at Law / Austin

Issue: Whether Plaintiff owes sales tax on its sales of limestone to third parties under §151.311(a). Whether Plaintiff detrimentally relied on advice from the Comptroller's Office. Whether exemption certificates covered some sales that were assessed tax. Whether Plaintiff is entitled to the manufacturing exemption under §151.318(g). Whether penalty and interest should be waived.

Status: Inactive.

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***C.C. Carlton Industries, Ltd. v. Combs, et al.***

Cause Number: D-1-GN-08-003460    AG Case #: 082530270

Filed: 9/22/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$247,570.73	01/01/00 through 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                    OAG Taxation / Austin

*Opposing Counsel*

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Holcomb, Donald W.                Knolle, Holcomb, Kothmann & Callahan / Austin

Issue: Whether Plaintiff owes tax on construction and electrical work.

Status: Answer filed.

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***CallSource, Inc. v. Compt., et al.***

Cause Number: D-1-GN-09-000188 AG Case #: 093101202

Filed: 1/21/2009

Sales Tax; Protest

Claim Amount	Reporting Period
\$244,033.70	10/01/03 through 05/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Wahby, Peter S. Greenberg Traurig, LLP / Dallas

Issue: Whether customer information tracking services (associated w/marketing campaigns) are taxable as information services or exempt as proprietary information. Whether other, non-taxable, information services were included in lump-sum customer invoices. Preemption under the Internet Tax Freedom Act. Plaintiff also asserts multi-state benefit & lack of nexus.

Status: Answer & Request for Disclosure filed 02/12/09. Discovery in progress.

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***Capitol Aggregates, Ltd. v. Compt., et al.***

Cause Number: D-1-GN-08-003096 AG Case #: 082526229

Filed: 8/26/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$563,053.71	March 1, 1999 through Dec. 31, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether Plaintiff's coal mill qualifies for the manufacturing exemption. Whether real property repair and other services are exempt transactions among affiliated entities.

Status: Answer filed.

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***Cashiola, James v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004629 AG Case #: 072434863

Filed: 12/15/2006

Sales Tax; Administrative Appeal

Claim Amount	Reporting Period
\$1,112,768.76	11/21/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Grimsinger, William O. Chamberlain, Hrdlicka, White, Williams & Martin / Houston

Issue: Whether Plaintiff owes sales tax under successor liability. Plaintiff claims the Comptroller audited the acquired company for the same telecommunications consulting services and previously found no sales tax liability due. Plaintiff claims debts were created without his knowledge and the exercise of reasonable diligence would not have revealed the intention to create a tax debt.

Status: No Evidence Motion filed by Plaintiff. Consideration on repleading answer.

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***CEC Entertainment, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004594 AG Case #: 062430368

Filed: 12/12/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$244,808.38	01/01/02 - 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin

Issue: Plaintiff claims that paying sales tax on prizes awarded to successful contestants of coin-operated and non-coin operated games and on the admission price of non-coin operated games, in addition to annual occupational taxes, would be double taxation. Plaintiff claims violation of equal and uniform taxation, and due process.

Status: Inactive.

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***Cellular City Ltd. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004410 AG Case #: 062427919

Filed: 11/21/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$352,932.44	09/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether telephones purchased by Plaintiff, and subsequently sold to customers who contract for telephone service with a carrier associated with the Plaintiff, are exempt from sales tax under the sale for resale exemption.

Status: Answer filed.

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***Centreport Partners, L.P. v. Combs, et al.***

Cause Number: D-1-GN-07-000152 AG Case #: 072435795

Filed: 1/19/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$14,095.15	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed.

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***Chapal Zenray, Inc. v. Rylander, et al.***

Cause Number: GN204506

AG Case #: 031729197

Filed: 12/16/2002

Sales Tax; Protest

Claim Amount	Reporting Period
\$210,943.91	01/01/94 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Osterloh, Curtis J.

Issue: Whether items such as boxes, foam pads and twist ties are not subject to tax pursuant to Tex. Tax Code §151.011 (f)(2) and Rule 3.346 (c)(1)(c) when purchased by a person who uses the items to secure jewelry for shipment out-of-state.

Status: Plaintiff's Partial Motion for Summary Judgment granted.

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***Chevron USA, Inc. v. Compt., et al.***

Cause Number: D-1-GN-09-000333

AG Case #: 093103190

Filed: 4/27/2007

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$9,354,450.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                              OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray                              Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Severed from Chevron USA, AG# 072453475. Chevron continues to assert a laundry list of over 90 claims raised in its motion for rehearing in its original claim for a refund on scaffolding.

Status: Plaintiff's Motion to sever from Chevron USA, Inc. v. Combs, et al., Cause #D-1-GN-07-000292, filed 02/02/09. Discovery in progress.

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***Chevron USA, Inc. v. Strayhorn, et al.***

Cause Number: GN403978

AG Case #: 042071324

Filed: 12/6/2004

#03-07-00127-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$439,225.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether charges of contractors for erecting, maintaining and dismantling scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property.

Status: Discovery in progress. Hearing on cross-motions for summary judgment held 06/28/06. Chevron's motion for partial summary judgment granted; Comptroller's motion denied. Hearing for judgment held 01/31/07. Chevron's motion to sever granted; final judgment entered. State's Notice of Appeal filed 02/28/07. Clerk's Record filed 03/20/07. Court Reporter's Record filed 03/29/07. Appellants' brief filed 05/17/07; Oral Argument requested. Appellee's brief filed 06/15/07; Oral Argument requested. Appellants' reply brief filed 07/23/07. Case submitted on Oral Argument on 11/28/07. Appellant's Response filed 06/10/09. Appellant's Motion for Leave filed 06/16/09; granted 06/23/09.

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***Church & Dwight Company, Inc. v. Rylander, et al.***

Cause Number: GN000525

AG Case #: 001258201

Filed: 1/12/2000

Sales Tax; Refund

Claim Amount	Reporting Period
\$64,868.50	10/01/90 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Benesh, W. Stephen  
Sampson, Jr., Phillip L.

Bracewell & Patterson / Austin

Issue: Whether Plaintiff owes use tax on promotional materials shipped from out-of-state. Whether the Comptroller's imposition of use tax is invalid because Plaintiff made no use of the materials in Texas. Whether Rule 3.346(b)(3)(A) is invalid. Whether the tax violates the Commerce and Due Process Clauses of the United States Constitution.

Status: Plaintiff waiting for outcome of Estee Lauder Services, Inc. cases. Case dismissed for want of prosecution 06/15/05. Case re-opened. Reinstated by bill of review 11/22/05.

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***Cingular Wireless of Austin, LP, formerly known as GTE Mobilnet of Austin, LP; GTE Mobilnet of South Texas, LP; GTE Mobilnet of Texas RSA #17, LP; et al. v. Strayhorn, et al.***

Cause Number: GN502649

AG Case #: 052186616

Filed: 7/29/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$10,177,377.49	01/01/93 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether purchases of telecommunications equipment qualify as tangible personal property for ultimate sale as tangible personal property that are exempt from sales tax under the manufacturing and processing exemption. Whether electricity purchased and used in telecommunications is exempt from sales tax under the manufacturing and processing exemption.

Status: Unopposed Motion to Reinstate filed 08/27/08. Trial set for 12/06/10.

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***City of Webster and the Webster Economic Development Corporation v. Strayhorn***

Cause Number: D-1-GV-06-001823  
#03-08-00291-CV

AG Case #: 062409446

Filed: 9/15/2006

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$502,620.70	05/01/02 - 01/31/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Feldman, David M. Cowan, Robert W.	Feldman & Rogers, L.L.P. / Houston
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Gregg, Jr., Dick H.	Gregg & Gregg, P.C. / Houston
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Issue: Whether the Comptroller's reallocation of local sales taxes based on the filing of amended tax returns violates the procedural and substantive due course of law provisions of the Texas Constitution and constitutes a taking. Whether the Comptroller's interpretation of Tax Code §321.002(a)(3) is constitutional. Whether Plaintiffs and Intervenors have standing to challenge the Comptroller's interpretation of sec. 321.002 of the Tax Code under the Texas Constitution, UDJA, and APA. Whether sovereign immunity bars Plaintiffs' & Intervenors' suit. Plaintiffs also request attorneys' fees.

Status: Discovery in progress. Defendant's Plea to the Jurisdiction filed 02/14/07. Original Plea in Intervention & Third Party Petition filed 04/18/07 by cities of Denton, Humble, Lewisville, Mesquite, North Richland Hills, and Plano, and Denton County Transportation Authority and Fort Worth Transportation Authority. Original Answer filed by City of Grand Prairie, third party defendant, on 05/29/07. First Amended Plea in Intervention filed on 06/12/07, adding the City of Waco as a party. Second Amended Plea in Intervention And Third-Party Petition filed 09/28/07. Hearing on Defendant's First Amended Plea to the Jurisdiction 02/07/08 at 9:00 a.m. Letter Ruling issued on 03/26/08, denying Defendant's First Amended Plea to the Jurisdiction and First Supplemental Plea to the Jurisdiction; Proposed Order submitted to court on 04/09/08 by Counsel for Intervenors. 04/11/08 Order denying Comptroller's 1st Amended & 1st Supplemental Pleas to the Jurisdiction signed by the court. Notice of Appeal filed 05/01/08. Hearing on Intervenors' Motion to Compel 06/11/08. Court ordered that commencement of trial, and all other proceedings in the trial court, including discovery, are automatically stayed pending resolution of the Comptroller's interlocutory appeal on 06/17/08. Appellant's brief filed 07/11/08. Appellee's brief filed 08/18/08. Appellant's Reply Brief filed 09/15/08. Submitted on oral argument on 06/10/09. Supplemental brief received from Appellee on 06/19/09. Response due 06/29/09. Appellee's Motion for Leave filed 06/29/09; granted 07/02/09. Opinion issued 10/02/09, affirming the trial court's denial of the plea to the jurisdiction as to the UDJA claim on the issue of whether the comptroller acted outside her authority regarding the determination of where specific sales were consummated, but reversed the trial court and dismissed the other UDJA claims, constitutional claims and APA claims and dismissed those claims for lack of subject matter jurisdiction. Supplemental Clerk's Record

filed 10/15/09. Appellee's Motion for Rehearing filed 10/20/09.

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***Clear Lake City Community Association, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004281 AG Case #: 062425582

Filed: 11/13/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$83,936.63	08/01/00 - 10/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Knobelsdorf II, John C. Attorney at Law / Houston

Issue: Whether Plaintiff, as an exempt organization, is an exempt consumer of taxable real property services and not a seller of such services. Whether waste hauling service provided to association homeowners and paid for by Plaintiff is exempt from sales tax.

Status: Answer filed. Clerk sent notice to Dismiss for Want of Prosecution on 03/11/09. Plaintiff's Motion to Retain filed 03/31/09; granted 08/14/09.

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***Clinique Services, Inc. v. Rylander, et al.***

Cause Number: GN000376

AG Case #: 001273069

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$650,361.82	04/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E. Jones Day / Dallas  
Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-

standing policy. Alternatively, whether penalty should be waived.

Status: Court sent Notice of DWOP for 08/23/02. Plaintiff filed Motion to Retain; granted 02/27/03. Court DWOP on 06/15/05. Plaintiff filed Motion to Reinstate 07/12/05; granted 07/12/05. Defendants filed first amended answer, plea to the jurisdiction, special exceptions and motion for attorneys' fees 11/17/06.

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***Clinique Services, Inc. v. Sharp, et al.***

Cause Number: 98-03533

AG Case #: 98930330

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$519,192.00	04/01/90 - 03/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas  
Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 01/16/03. Plaintiff filed Motion to Retain; granted 03/27/06. Set for trial on 11/10/08.

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***Clinique Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500049

AG Case #: 052085933

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$654,245.96	04/01/98 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Coastal Industries, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004273 AG Case #: 083092296

Filed: 11/18/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,625.00	Oct. 1, 2000 - June 30, 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A. Mondrik & Associates / Austin

Issue: Whether mold remediation services are taxable. Whether work was done in a disaster area. Whether Comptroller rules are invalid. Whether equal protection and the commerce clause were violated. Whether Plaintiff detrimentally relied on Comptroller advice. Plaintiff also seeks declaratory relief.

Status: Answer filed. Discovery in progress.

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***Coca-Cola Company, The v. Strayhorn, et al.***

Cause Number: GN504213

AG Case #: 052253473

Filed: 11/28/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,060,883.03	07/01/97 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Hagenswold, R. Eric  
Osterloh, Curtis J.

Issue: Whether replacement parts and the repair of fountain drink machines leased to customers by Plaintiff are exempt from sales tax as manufacturing equipment and the sale for resale exemption.

Status: Scheduling order filed 01/09/09.

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***Cosmair, Inc. v. Strayhorn, et al.***

Cause Number: GN302009                      AG Case #: 031816135                      Filed: 6/9/2003  
Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,322,536.67	07/01/96 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas  
Lyda, Kirk

Issue: Whether Plaintiff owes use tax on items transferred free of charge that are subsequently brought into Texas. Plaintiff specifically challenges whether: 1) “use” includes distribution; 2) use was only out-of-state where control transferred; 3) longstanding policy may be changed; 4) Rule 3.346 does not support tax on promotional materials; 5) use tax applies without title or possession; 6) no consideration for transfer; 7) Rule 3.346(b)(3)(A) is invalid; 8) tax is bared by Commerce, Due Process and Equal Protection Clauses; and 9) resale exemption applies. Plaintiff also seeks attorneys’ fees.

Status: Answer filed. Agreed Motion to Retain filed 04/23/07; granted 08/14/07.

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***Crown Central Petroleum Corporation v. Strayhorn, et al.***

Cause Number: GN504190                      AG Case #: 052260197                      Filed: 11/22/2005  
Sales Tax; Refund

Claim Amount	Reporting Period
\$136,903.16	12/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether charges of contractors for erecting, moving and dismantling scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property. Whether certain work performed by contractors is new construction under a lump sum contract and thus not taxable.

Status: Discovery in progress. Plaintiff's Motion for Summary Judgment filed 02/11/08.  
Awaiting decision in Chevron.

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***Crown Central, L.L.C., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-000509    AG Case #: 093107126

Filed: 2/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$159,825.70	01/01/00 to 09/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff owes sales tax on scaffolding. Whether scaffolding charges were readily separable from charges for the lease or rental of property.

Status: Answer filed.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-063567    AG Case #: 062410139

Filed: 9/21/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$243,910.85	12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.                      Attorney at Law / Aransas Pass

Issue: Whether Plaintiff's charter of a vessel is leased property subject to sales and use tax. Whether the vessel was used or received within the state. Plaintiff claims that the Comptroller does not have legal authority to collect the assessed tax.

Status: Answer filed.

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***Day Cruises Maritime, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004734    AG Case #: 072432578

Filed: 12/27/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$243,910.85	12/01/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.                      Attorney at Law / Aransas Pass

Issue: Plaintiff filed suit 09/21/06 under protest questioning the assessed tax based on whether Plaintiff's charter of a vessel is leased property subject to sales and use tax, and whether the vessel was used or received within the State. Plaintiff now seeks judgment that the tax in question is unconstitutional and may not be legally demanded or collected by the Comptroller. Plaintiff requests jury trial.

Status: Case DWOP'd on 08/24/09.

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***Del Monte Fresh Produce (Texas), Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002414    AG Case #: 093142628

Filed: 7/28/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$1,877,825.91	01/01/2000 through 07/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Ohlenforst, Cynthia M.              Hughes & Luce / Dallas

Issue: Whether Del Monte qualifies for the manufacturing exemption on equipment, parts, packaging and electricity used in its operations with raw potatoes and tomatoes.

Status: Answer filed.

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***Delta Air Lines, Inc. v. Strayhorn, et al.***

Cause Number: GN400439

AG Case #: 041925868

Filed: 2/13/2004

#03-09-00312-CV

Sales Tax; Refund

Claim Amount      Reporting Period

\$1,642,267.15      02/01/93 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether Plaintiff's purchases of janitorial and building maintenance services being resold under a lease agreement are exempt under the sale for resale exemption. Whether Plaintiff's purchases of mechanical maintenance services were exempt as taxable services purchased in the performance of a real property contract for an exempt entity.

Status: Trial set for 12/08/08. Trial passed by agreement. Motion for Summary Judgment filed 04/09/09. Motion for Summary Judgment hearing held 04/30/09. Final Judgment granted for Defendants on 05/08/09. Notice of Appeal filed 06/02/09. Clerk's Record filed 07/02/09. Appellant's brief filed 08/10/09; oral argument requested. Appellee's brief filed 09/04/09. Oral argument denied 09/17/09. Appellant's Reply Brief filed 09/24/09.

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***Dick Roberts Corp., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-002917      AG Case #: 093150027

Filed: 9/2/2009

Sales and use Tax; Declaratory Relief

Claim Amount      Reporting Period  
\$451,000.00      10/01/1997 through 06/30/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray                              Ray, Wood & Bonilla, L.L.P. / Austin  
Ray, Doug W.

Issue: Whether the 50% penalty under §111.061 was properly applied to the underlying assessment. Whether the assessment of interest should be waived. Whether the Comptroller properly denied insolvency relief under §111.102.

Status: Discovery in progress.

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***EFW, Inc. v. Rylander, et al.***

Cause Number: GN200906                      AG Case #: 021579578                      Filed: 3/19/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period  
\$123,440.25      04/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                              OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                              Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug  
Osterloh, Curtis J.

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***EFW, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000058      AG Case #: 062269022                      Filed: 1/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$600,000.00	04/01/98 - 08/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug  
Osterloh, Curtis J.

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***El Paso Electric Co. v. Combs, et al.***

Cause Number: D-1-GN-09-001489    AG Case #: 093130326

Filed: 5/11/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$707,570.46	08/01/1995 through 06/30/1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether certain items were exempt under §151.318 (g) prior to Oct. 1, 1997. Whether a cross arm arrestor was exempt under §151.318 (a)(4) after Oct. 1, 1997.

Status: Trial set for 03/29/10.

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***El Paso Merchant Energy-Petroleum Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003071 AG Case #: 062403696

Filed: 8/23/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,416,604.28	01/01/92 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether Plaintiff is entitled to a refund of sales and use tax on services provided by contract labor, certain manufacturing equipment, services performed on manufacturing equipment, materials needed for machinery and equipment used in the manufacturing process, maintenance of real property, new construction, non-taxable services, programming services, manufacturing equipment with a useful life of six months or less, property shipped out-of-state, repair of real or tangible personal property resulting in a casualty loss, hazardous and industrial waste removal services, safety supplies, items and materials used for quality control purposes, pollution control equipment, and other non-taxable items.

Status: Plea to the Jurisdiction filed 07/31/07. Hearing held 12/20/07. Plea to the Jurisdiction denied 01/16/08.

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***ELC Beauty, L.L.C., as a Successor-in-Interest to Estee Lauder Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500048

AG Case #: 052085990

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$586,255.47	07/01/99 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***ELC Beauty, L.L.C., as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al.***

Cause Number: GN203514

AG Case #: 021681226

Filed: 9/26/2002

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$284,508.69	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas  
Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived.

Status: Answer filed.

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***ELC Beauty, L.L.C., as Successor-in-Interest to Origins Services, Inc. v. Strayhorn, et al.***

Cause Number: GN500047

AG Case #: 052085966

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$750,946.09	03/01/98 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas  
Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed. Whether Rule 3.346(b)(3)(A) is invalid and whether the Comptroller has authority to change its long-standing policy. Alternatively, whether penalty should be waived. Plaintiff also claims violation of rights under the Commerce and Due Process Clauses, and right to equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Embassy Equity Development Corporation, et al. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004267    AG Case #: 062425566

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$11,487.10	01/01/96 - 12/31/98
	06/01/97 - 05/31/01
\$10,494.52	01/01/95 - 12/31/98
\$17,485.53	12/01/98 - 03/31/02
\$2,615.82	01/01/98 - 12/31/00
\$4,190.26	09/01/94 - 06/30/97
\$1,658.68	09/01/94 - 05/31/98
\$2,894.76	09/01/94 - 03/31/98
\$4,044.05	07/01/95 - 12/31/98
	01/01/99 - 05/31/02
\$1,440.73	09/01/94 - 08/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed.

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***Energy Education of Montana, Inc. v. Combs***

Cause Number: D-1-GN-09-001249 AG Case #: 093120491

Filed: 4/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$890,601.19	06/06/03 to 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar

OAG Taxation / Austin

*Opposing Counsel*

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Rogers, Harold D.

Wichita Falls

Johnson III, Robert F.

Gardere Wynne & Sewell / Dallas

Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered out of state and registered there.

Status: Citation issued.

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***Energy Education of Montana, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002728 AG Case #: 093146496

Filed: 8/20/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$154,800.33	06/01/2003 through 06/30/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar

OAG Taxation / Austin

*Opposing Counsel*

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Johnson III, Robert F.

Gardere Wynne & Sewell / Dallas

Issue: Whether Plaintiff's purchase of an aircraft is non-taxable when the aircraft is delivered out of state and registered there.

Status: Citation issued.

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***Entertainment Publications, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002240 AG Case #: 082517616  
#03-08-00474-CV

Filed: 6/26/2008

Sales Tax; Protest

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Baker, Scott McGinnis, Lochridge & Kilgore, LLP / Austin  
Galant, Carl

Issue: Whether Plaintiff may be considered a retailer under Tex. Tax Code §151.024, for fund-raising materials that it provided to school groups, PTA's, and similar organizations. Whether Plaintiff is entitled to injunctive and declaratory relief. Whether the sale for resale exemption applies.

Status: Trial court denied Defendant's Plea to the Jurisdiction and granted a temporary injunction. Comptroller appealed 07/25/08. Joint Motion for Extension of Time to File Appellant's brief filed and granted on 10/10/08. Brief filed 11/12/08; oral argument requested. Appellee's brief filed 12/02/08. Appellant's Reply brief filed 12/22/08. Submitted on oral argument on 03/25/09. Opinion issued 06/12/09, affirming the trial court's judgment. Appellant's Motion for Rehearing filed 06/29/09. Response filed 07/16/09. Appellant's Motion for Rehearing overruled 08/27/09. Mandate issued 12/02/09.

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***Estee Lauder Services, Inc. v. Rylander, et al.***

Cause Number: GN101312 AG Case #: 011439874

Filed: 5/1/2001

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$614,814.78	04/01/96 - 06/30/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Answer filed.

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***Estee Lauder Services, Inc. v. Sharp, et al.***

Cause Number: 98-03525

AG Case #: 98930358

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$472,225.00	01/01/89 - 09/30/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas  
Lyda, Kirk

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 06/15/02; granted 02/03/03. See *Estee Lauder Services, Inc. v. Sharp, et al.*, Cause #98-03524.

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***Estee Lauder Services, Inc. v. Sharp, et al.***

Cause Number: 98-03524

AG Case #: 98930367

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$748,773.00	10/01/92 - 03/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

Issue: Whether written and other promotional materials incurred use tax when delivered into Texas to retailers. Issue of when and where ownership rights existed.

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 02/03/03. Numerous scheduling orders have been entered in this case since 2003; the latest being 11/2006. Discovery in progress.

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***F M Express Food Mart, Inc., and Fouad Hanna Mekkessi v. Rylander, et al.***

Cause Number: GN002724

AG Case #: 001353960

Filed: 9/15/2000

Sales Tax; Injunction

Claim Amount	Reporting Period
\$360,671.05	12/01/90 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Isgitt, Percy L. "Wayne"              Law Offices of Percy L. "Wayne" Isgitt, P.C. /  
Houston

Issue: Whether Comptroller's "estimated audit" is invalid. Whether Plaintiffs are entitled to an injunction of collection and of cancellation of their sales tax permits. Whether Tax Code §§112.051, 112.052, 112.101 and 112.108 are unconstitutional violations of the open courts provision. Plaintiffs seek a re-audit and a refund of money paid under protest in excess of the re-audited amount.

Status: Discovery in progress.

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***First Class Enterprises, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001271      AG Case #: 093120772

Filed: 4/17/2009

Sales and use Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
\$150,000.00	10/01/00 through 04/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin  
*Opposing Counsel*

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Fowler, Gerald Fife                  Houston

Issue: Whether Plaintiff is liable for tax as successor when assessment was made after Plaintiff bought business.

Status: Citation issued.

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***Florida Management, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-004244    AG Case #: 083091280

Filed: 11/21/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$85,965.30	Oct. 1, 2001 - Dec. 31, 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar                      OAG Taxation / Austin  
*Opposing Counsel*

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Stratton, C. Mark                      Austin  
Lyon, Ted B.                              Mesquite

Issue: Whether Plaintiff is a "retailer" or "seller" for the sales tax. Whether sale of an airplane in connection with an unpaid loan is a taxable transaction.

Status: Answer filed.

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***Frito-Lay, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004051    AG Case #: 082539784

Filed: 11/7/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$450,735.13	11/01/1999 thru 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin  
*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff claims the manufacturing exemption for tangible personal property used to develop and test new products and manufacturing processes.

Status: Discovery in progress. Plaintiff's Motion for Summary Judgment filed 10/20/09.

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***Future A's Limited Liability v. Combs, et al.***

Cause Number: D-1-GN-09-003565 AG Case #: 093157964

Filed: 10/15/2009

Sales and use Tax; Redetermination

Claim Amount	Reporting Period
\$134,706.00	12/31/2004 through 03/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Mastrangelo, John Houston

Issue: Whether the audit procedures applied in the audit were appropriate.

Status: Plea to the Jurisdiction and Special Exceptions filed 11/16/09. Discovery in progress.

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***General Dynamics Corporation v. Rylander, et al.***

Cause Number: GN201322

AG Case #: 021598057

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$7,000,000.00	09/01/88 - 11/30/91

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***General Dynamics Corporation v. Rylander, et al.***

Cause Number: GN201323

AG Case #: 021598073

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$4,500,000.00	12/01/91 - 02/28/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*.

Status: Answer filed.

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***GEO Group, Inc., The v. Combs, et al.***

Cause Number: D-1-GN-09-002855    AG Case #: 093146850

Filed: 8/28/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$1,367,377.14	05/01/2001 through 04/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Hagenswold, R. Eric

Issue: Whether electricity and natural gas consumed by a correctional facility is subject to the residential use exemption under §151.317(c).

Status: Answer filed. Disclosures filed.

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***Geoscapes of Texas, Inc. v. State of Texas, et al.***

Cause Number: D-1-GN-08-004185    AG Case #: 083091967

Filed: 11/18/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$364,905.81	07/01/02 through 02/28/06

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Plaintiff seeks a declaration that materials used in landscaping services qualified for the sale for resale exemption. Plaintiff also claims detrimental reliance and that it did not qualify as a contractor. Plaintiff also seeks injunctive relief.

Status: Agreed Judgment entered 06/26/09.

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***Gift Box Corporation of America, Inc. v. Rylander, et al.***

Cause Number: GN102934

AG Case #: 011492865

Filed: 9/5/2001

Sales Tax; Protest

Claim Amount	Reporting Period
\$359,929.22	10/1991 - 03/1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Lipstet, Ira A.	DuBois Bryant Campbell & Schwartz, L.L.P. / Austin
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Issue: Whether additional resale certificates should have been accepted for Plaintiff's sales of boxes and packaging materials.

Status: Case reinstated. Discovery in progress.

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***Glazier Foods Co. v. Combs, et al.***

Cause Number: D-1-GN-09-002137 AG Case #: 093136810

Filed: 7/2/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period  
\$148,709.00      02/01/1999 through 03/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis              OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.              Attorney at Law / Austin

Issue: Plaintiff claims an exemption for electricity used in its food business.

Status: Answer filed.

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***Golf Works, Inc. vs Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-000129      AG Case #: 082491648

Filed: 1/9/2008

Sales Tax; Protest

Claim Amount      Reporting Period  
\$286,683.00      1/1/01 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Osterloh, Curtis J.              Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether construction of golf courses is a taxable real property service.

Status: Agreed Judgment entered 12/10/09.

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***Grocers Supply Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001804      AG Case #: 093131431

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period  
\$208,304.00      11/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.                  Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Answer filed.

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***Grocers Supply-Institutional-Convenience, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001803    AG Case #: 093131415                      Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$55,893.00	08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.                  Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Answer filed.

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***Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.***

Cause Number: GN300904                      AG Case #: 031782931                      Filed: 3/20/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$79,688.23	06/01/95 - 05/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***Grocers Supply-Produce Co., Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001805 AG Case #: 093131423

Filed: 6/6/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,796.00	08/01/1999 through 03/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity, equipment and parts were exempt because of their use in processing by lowering the temperature of food products. Plaintiff also seeks attorney's fees.

Status: Answer filed.

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***GSC Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN501091 AG Case #: 052132271

Filed: 4/7/2005

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$241,656.28	02/01/97 - 04/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the Comptroller violated the rules of statutory

construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.***

Cause Number: GN501921

AG Case #: 052163441

Filed: 5/27/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$130,801.55	10/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff used the proper sampling method to determine the amount of credit/reimbursement due on bad debt deductions. Plaintiff seeks waiver of penalty assessed in the audit. Plaintiff also claims violation of due course of law, due process, equal and uniform taxation, equal rights, equal protection, and other provisions of the Texas Tax Code, Rules, Texas and U.S. Constitutions.

Status: Motion to Retain granted 05/28/08. Discovery abated.

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***GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000649    AG Case #: 062295480

Filed: 2/23/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,193,519.44	10/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                              OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Sigel, Doug

Issue: Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax. Whether electricity is exempt because of use in a manufacturing area.

Status: Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000058 AG Case #: 072433519

Filed: 1/8/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$260,313.96	01/01/96 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether telecommunication signals constitute tangible personal property exempt from tax under the manufacturing and processing exemption. Whether equipment used in or during the processing of telecommunication signals causes a physical change to the signals. Whether the processing of telecommunication signals, which Plaintiff claims are tangible personal property, should be treated as a sale.

Status: Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN501139 AG Case #: 052132818

Filed: 4/11/2005

#03-08-00561-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$22,847,194.00	01/01/95 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Hagenswold, R. Eric  
Osterloh, Curtis J.

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Answer filed. Plaintiff filed Motion for Partial Summary Judgment 01/25/08. Motion set for 07/02/08. Defendants filed Cross-motion for Summary Judgment 06/03/08. Additional Response to Plaintiff's Motion for Partial Summary Judgment filed by Defendant on 06/24/08. Plaintiff's Reply to Defendants' MSJ filed 06/24/08. Summary judgment motions heard 07/02/08. Defendants' motion granted and Plaintiff's motion denied 08/18/08. Plaintiff filed notice of appeal on 09/10/08. Appellant's Motion for Extension of Time to File brief filed and granted 11/05/08. Brief filed 12/08/08. Appellee's Motion for Extension of Time to File Brief filed and granted 12/18/08. Appellee's Brief filed 02/27/09; oral argument requested. Appellant's reply brief filed 04/02/09. Submitted on oral argument on 11/18/09.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN501829                      AG Case #: 052154143                      Filed: 5/19/2005  
Sales Tax; Refund

Claim Amount	Reporting Period
\$14,000,000.00	10/01/93 - 02/28/98
\$72,000,000.00	03/01/98 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Osterloh, Curtis J.

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be

waived because Plaintiff had substantial overpayment during the audit period.

Status: Court order signed 02/03/08, consolidating GTE Southwest, Inc. v. Strayhorn, et al., Cause #GN504191 into GN501829. Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN502330

AG Case #: 052177326

Filed: 7/6/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,615,825.26	05/01/91 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold. Whether penalty should be waived because Plaintiff had substantial overpayment during the audit period.

Status: Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: GN504191

AG Case #: 052252699

Filed: 11/22/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$260,489.27	01/01/96 - 02/28/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Sigel, Doug

Issue: Whether equipment purchased by Plaintiff to provide customers-subscribers telecommunications products is exempt as tangible personal property used in manufacturing and processing or as tangible personal property that was resold.

Status: Case consolidated into case styled GTE Southwest, Inc. v. Strayhorn, et al., Cause #GN501829 per court order signed 02/03/08.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003732 AG Case #: 062412887

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,900,000.00	03/01/98 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether electricity purchased by Plaintiff to perform telecommunications services is exempt as tangible personal property that was resold. Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax. Whether electricity is exempt because of use in a manufacturing area.

Status: Trial set for 12/06/10.

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***GTE Southwest, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002468 AG Case #: 062380522

Filed: 7/6/2006

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$22,847,194.00	01/01/1995 through 02/28/1998

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether tangible personal property used or consumed in providing telecommunications is exempt from sales tax.

Status: Answer filed 07/26/06. DWOP notice sent from the court on 11/12/08. Motion to Retain filed 11/24/08. Trial set for 12/06/10.

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***GTE Southwest, Inc. vs Compt., et al.***

Cause Number: D-1-GN-08-001419 AG Case #: 082507401

Filed: 4/24/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$694,870.88	May-June 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff may recover additional interest and payment discounts on taxes for which it provided a refund assignment.

Status: Discovery in progress.

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***Harsco Corp. vs Combs, et al.***

Cause Number: D-1-GN-07-004512 AG Case #: 082486747

Filed: 12/28/2007

Sales Tax; Protest

Claim Amount	Reporting Period
\$886,138.23	02/01/97-06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Martin, Mark R. Gardere Wynne & Sewell / Dallas

Issue: Whether scaffolding is exempt. Whether interest and penalty should be waived.  
Whether interest was properly calculated.

Status: Hearing on Cross-Motions for Partial Summary Judgment held on 11/10/09. Partial  
Summary Judgment granted for Harsco on scaffolding. Summary Judgment granted for  
Comptroller on interest calculations.

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***Health Care Service Corp., et al. vs. Compt., et al.***

Cause Number: D-1-GN-08-001771 AG Case #: 082512302

Filed: 5/23/2008

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,475,798.29	1-1-1999 through 12-31-2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to the resale exemption pursuant to the Day & Zimmerman  
and Raytheon cases.

Status: Answer filed.

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***Home & Garden Party, Ltd. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001392 AG Case #: 062311402  
#03-09-00673-CV

Filed: 4/21/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$791,634.49	01/01/98 - 05/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Brophy, Jr., Richard E.      Beard Kultgen Brophy Bostwick & Dickson,  
L.L.P. / Waco  
Hobbs, Mark C.

Issue: Whether packaging materials and supplies used in the manufacturing of tangible personal property for sale are exempt under the sale for resale exemption. Plaintiff claims unconstitutional administrative discrimination and violation of due process and equal protection under the U.S. and Texas Constitutions.

Status: Plaintiff's Motion for Summary Judgment held 08/31/09. Plaintiff's Motion for Summary Judgment granted 09/22/09. Judgment signed 11/04/09. Notice of Appeal filed 11/24/09. Clerk's Record due 12/30/09.

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***Home Depot, USA, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002463    AG Case #: 062380324

Filed: 7/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,595,000.00	01/01/95 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether Plaintiff may take bad debt credit under private label credit agreement.

Status: Trial set for 06/28/10.

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***Hoss Equipment Co. v. Combs, et al.***

Cause Number: D-1-GN-09-000614    AG Case #: 093107316

Filed: 2/25/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$29,452.00	(plus interest and penalty) 7/1/00-2/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar                      OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug                              Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff made sales for resale and should not be bound by the limits of the 60-day letter. Whether Plaintiff made exempt sales for export. Plaintiff also seeks penalty and interest waiver.

Status: Answer filed.

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***I-Ball Corp., dba The Gatsby Social Club v. Combs, et al.***

Cause Number: D-1-GN-07-001100    AG Case #: 072449465

Filed: 4/13/2007

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$81,872.57	07/01/00 - 09/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Monshaugen, Ronald A.      Monshaugen & Van Huff, P.C. / Houston  
Van Huff, Albert T.  
Gaunt, Deborah L.

Issue: Whether the Plaintiff is liable for sales tax on admission/cover fees into its facility for promotional events held by a contracted third party.

Status: Plaintiff's First Amended Petition filed 10/18/07, seeking to recover sales tax paid under protest. Defendants' Amended Original Answer filed 10/23/07. Discovery in progress.

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***J.C. Penney Company, Inc. v. Strayhorn, et al.***

Cause Number: GN300883              AG Case #: 031770613

Filed: 3/19/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$951,802.17	01/01/91 - 03/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                Jones Day / Dallas  
Lochridge, Robert

Issue: Whether Plaintiff owes use tax on paper, ink and the printing of catalogs printed out-of-state. Whether local use tax in McAllen, Texas applies to Plaintiff's aircraft. Alternatively, whether the printing service is performed outside Texas. Whether a sales and use tax on the catalogs violates the Commerce Clause, due process or equal protection. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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***J.C. Penney Company, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002496    AG Case #: 062381678

Filed: 7/7/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$4,007,735.00	04/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                Jones Day / Dallas  
Lyda, Kirk  
Schenck, David J.

Issue: Whether Plaintiff owes sales or use tax on paper, ink and printing labor of catalogs printed out-of-state; on unidentified transactions used in the CAMS sample; on duplicated software licenses distributed to users outside of Texas; on catalogs and promotional materials mailed and distributed into Texas; and wrapping and packaging supplies used to package goods for delivery to customers. Plaintiff claims violation of the Commerce Clause and the Due Process Clause, and equal and uniform protection. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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***Jerman Cookie Company v. Rylander, et al.***

Cause Number: GN101492

AG Case #: 011451598

Filed: 5/16/2001

#03-08-00562-CV

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$43,121.45	12/01/92 - 03/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Williard, Steve M.                      Meyer, Knight & Williams / Houston  
Knight, L. Don

Issue: Whether Plaintiff's sales of cookies and brownies are taxable under Tax Code 151.314(c)(3) and Comptroller Rule 3.293 as food products served, prepared, or sold ready for immediate consumption.

Status: Amended Petition filed. Discovery in progress. Plaintiff's Motion to Retain filed 07/13/05; granted 10/03/05. Hearing on Cross-Motions for Summary Judgment held 06/09/08. Trial Court's Judgment granting Defendants' Cross-Motions for Summary Judgment entered 06/25/08. Notice of Appeal filed 09/11/08. Clerk's Record filed 09/25/08. Appellant's brief filed 11/24/08. Appellees' Motion for Extension of Time to File Brief filed and granted 12/19/08. Appellees' brief filed 01/12/09. Appellant's Reply Brief filed 01/29/09. Set for submission on oral argument on 02/25/09. Appellees' Motion to Postpone Oral Argument filed 02/09/09. Submitted on oral argument on 04/24/09. Memorandum Opinion issued 07/23/09, reversing the judgment of the district court and remanding for further proceedings consistent with the opinion. Mandate issued 10/05/09. Jury trial has been requested by Appellant.

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***Kenneth O. Lester Co., et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003762

AG Case #: 082534553

Filed: 10/17/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$180,000.00	Sept. 1, 1999 through Feb. 29, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether Plaintiff's purchase of electricity is exempt as electricity used in processing when Plaintiff lowers the temperature of food products. Whether packing supplies, replacement parts, and repairs are exempt.

Status: Answer filed.

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***Kroger Company, The v. Combs, et al.***

Cause Number: D-1-GN-07-000175 AG Case #: 072435787

Filed: 1/22/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,049,056.93	01/01/94 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether paper and plastic bags, refrigeration units, refrigerant, freezers and other various supplies and equipment purchased by Plaintiff are exempt from sales tax under the manufacturing exemption. Whether Plaintiff is entitled to a refund of tax on industrial solid waste removal services. Whether purchases of services to restore and repair real property damaged in natural disasters, services to construct new improvements, and non-enumerated services are exempt from sales and use tax. Whether leased property donated for use by a charitable organization is exempt from sales and use tax.

Status: Answer filed. Settlement discussions in progress.

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***Kroger Texas, LP v. Combs, et al.***

Cause Number: D-1-GN-09-002428 AG Case #: 093142644

Filed: 7/29/2009

Sales and use Tax; Refund

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Plaintiff seeks a bill of review for its earlier suit that was dismissed without notice.  
Same as Kroger, AG #042058032, Cause No. GN403582.

Status: Discovery in progress.

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***Kroger Texas, LP v. Compt., et al.***

Cause Number: D-1-GN-08-004103 AG Case #: 083091355

Filed: 11/12/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$298,318.00	Jan. 01, 2001 through June 30, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether wrapping and packaging materials used in Plaintiff's supermarkets qualify for the manufacturing exemption. Whether Plaintiff's refrigeration and freezer units are exempt for manufacturing or health purposes. Whether waste removal services are for removal of industrial solid waste. Whether certain repair services were non-taxable repairs of property damaged in natural disasters.

Status: Answer filed.

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***La Frontera Lodging Partners, L.P., Tex-Air Investment Company, John Q. Hammons Hotels Two, L.P. and John Q. Hammons Hotels, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004633 AG Case #: 062430566

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,958.18	07/01/00 - 06/30/04
\$5,591.87	07/01/00 - 06/30/04
\$31,330.82	07/01/00 - 06/30/04

\$21,811.57 07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed.

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***Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-03-000575 AG Case #: 031759657  
#03-09-00157-CV

Filed: 2/21/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,726.00	05/01/93 - 06/30/96
	10/01/91 - 06/30/96
\$591,086.00	01/01/90 - 12/31/92
	07/01/91 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Osterloh, Curtis J.

Issue: Whether post-mix machines qualify for manufacturing tax exemption. Whether some of the machines also qualify for the sale for resale exemption, because Plaintiff received consideration even if not valued in money.

Status: Plaintiffs filed a Motion for Summary Judgment 04/23/05. Discovery in progress. Court ruled in favor of Defendants Motion for Summary Judgment. Plaintiffs filed Notice of

Appeal on 03/26/09. Appellant's brief filed 06/05/09. Appellee's Motion for Extension of Time to File Brief filed 06/26/09; granted 06/29/09. Second Motion for Extension of Time to File Appellee's brief filed 08/05/09; granted 08/10/09. Brief filed 08/06/09. Appellant's Motion for Extension of Time to File Brief filed 08/25/09; granted 08/27/09. Appellant's Reply Brief filed 09/15/09. State's Reply Brief filed 10/06/09. Appellee's Reply Brief filed 10/19/09.

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***Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.***

Cause Number: GN401379

AG Case #: 041964941

Filed: 4/30/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$18,579.66	05/01/93 - 06/30/96
	10/01/91 - 06/30/96
\$443,299.77	01/01/90 - 12/31/92
	07/01/91 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Osterloh, Curtis J.

Issue: Whether Plaintiff owes sales tax on the purchase of money validators due to the integration of the validators into the final product, the vending machine.

Status: Discovery in progress. Defendants' Motion to Strike Deemed Admissions granted 02/20/09. Defendants' Amended Responses to Plaintiff's Second Requests for Admissions signed 02/23/09. Discovery in progress.

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***Lee Construction and Maintenance Company v. Rylander, et al.***

Cause Number: 99-01091

AG Case #: 991112160

Filed: 1/29/1999

Sales Tax; Protest

Claim Amount	Reporting Period
\$31,830.47	01/01/92 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Trickey, Timothy M.                  The Trickey Law Firm / Austin

Issue: Various issues, including credits for bad debts, tax paid, tax on new construction and tax paid in Louisiana, resale exemptions and waiver of penalty and interest.

Status: Trial to be reset. Motion to Retain filed by Plaintiff 11/29/06. Order granting Motion to Retain signed 03/27/07.

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***Levy, Tara, et al. v. OfficeMax, Inc. and Best Buy Stores, L.P.***

Cause Number: GN201252

AG Case #: 041926635

Filed: 1/1/1901

#03-06-00391-CV

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$0.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                              OAG Taxation / Austin

*Opposing Counsel*

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Perlmutter, Mark L.                  Perlmutter & Schuelke, L.L.P. / Austin  
Schuelke, C. Brooks

Issue: Plaintiff claims a refund for the class of persons who paid sales tax on rebates. Plaintiff seeks declaratory judgment interpreting Texas Tax Code Sections pertaining to cash discounts and exemption from sales tax.

Status: Class-action suit. Comptroller named defendant. Comptroller's Plea to the Jurisdiction and Plaintiffs' Motion for Declaratory Judgment heard 10/19/04. Plea granted. Court requested briefs to address whether any part of case survives the Amended Order dismissing all claims against the Comptroller. Court signed order of severance and Notice of Appeal filed by Plaintiffs 07/06/06 to include all parties. Clerk's Record filed 08/07/06. Appellants' brief due 10/30/06. Appellees' brief due 11/29/06. Appellant filed amended docketing statement 10/20/06 excluding Comptroller from appeal. Oral argument held 03/07/07. Affirmed in part, reversed in part. Settlement class approved by preliminary order. Plaintiffs have filed a refund claim.

***Lewis & Lambert, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001963 AG Case #: 093134492

Filed: 6/18/2009

Sales and use Tax; Protest

Issue:

Status:

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***Lewis & Lambert, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-001963 AG Case #: 093134492

Filed: 6/18/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$113,401.71	11/01/02-04/30/06

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens & Associates / Austin

Issue: Whether Plaintiff's construction contracts are separated rather than lump-sum, such that the sales tax obligation passes to the property owners. Plaintiff also seeks a declaration that the Comptroller misapplied §151.056.

Status: Answer filed.

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***Liberty Vending Services, Inc. v. Strayhorn, et al.***

Cause Number: GN502836 AG Case #: 052198108

Filed: 8/11/2005

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$9,000.00	10/01/98 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens & Associates / Austin

Mondrik, Christina A.      Mondrik & Associates / Austin

Issue: Whether Plaintiff is liable for sales and use tax on sales of food items, soft drinks and candy sold through contracted vending machines located at exempt locations. Whether the Comptroller improperly categorized certain food item purchases as taxable. Plaintiff seeks injunctive relief and release of all state tax liens. Plaintiff claims violation of constitutional rights and equal protection and equal taxation. Plaintiff also claims violation of the Commerce Clause and the Supremacy Clause.

Status: Answer filed.

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***Lockheed Corporation v. Rylander, et al.***

Cause Number: GN201000      AG Case #: 021583745      Filed: 3/26/2002  
D-1-GN-02-001000

Sales Tax; Refund

Claim Amount	Reporting Period
\$7,000,000.00	03/01/93 - 01/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Plaintiff filed Motion to Retain; granted 05/23/07.

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***Lockheed Martin Corporation v. Rylander, et al.***

Cause Number: GN200999      AG Case #: 021583737      Filed: 3/26/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,500,000.00	01/01/96 - 09/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Motion and Order consolidating with Cause #GN400625 entered 01/30/08. Amended Notice of Trial Setting filed 01/30/09. Amended Agreed Scheduling Order filed 11/17/09.

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***Lockheed Martin Kelly Aviation Center, Inc. v. Strayhorn, et al.***

Cause Number: GN400625

AG Case #: 041928870

Filed: 2/26/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,025,000.00	01/01/99 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Motion and Order consolidating with Cause #GN200999 entered 01/30/08. Amended Notice of Trial Setting filed 01/30/09. Amended Agreed Scheduling Order filed 11/17/09.

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***Lone Star Steel Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000500 AG Case #: 062286174

Filed: 2/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$350,000.00	12/01/97 - 11/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.                      Clark, Thomas & Winters / Austin  
Smith, L. G. (Skip)

Issue: Whether Plaintiff's horizontal rollers used to alter steel strips qualify for the manufacturing exemption. Whether the horizontal rollers are consumed and become an ingredient or component part of the steel strip during the production process and exempt under the sale for resale exemption. Whether the Comptroller used the proper calculation method for interest applied to tax overpayments.

Status: Court sent Notice of Setting for DWOP on 02/29/08. Motion to Retain filed and granted 12/23/08. Scheduling order filed 01/22/09. Exemption claim dropped. Hearing on Cross-Motions for Summary Judgment set for 03/09/10.

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***Lubrizol Corp., The v. Combs, et al.***

Cause Number: D-1-GN-09-003193    AG Case #: 093151769                      Filed: 9/18/2009  
Sales and use Tax; Refund

Claim Amount	Reporting Period
\$300,000.00	01/01/1998 through 12/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H.                      Clark, Thomas & Winters / Austin

Issue: Whether the Comptroller used the proper calculation method for interest on tax overpayments applied to tax underpayments.

Status: Answer filed.

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***Lyondell Chemical Co. v. Combs, et al.***

Cause Number: D-1-GN-09-003194    AG Case #: 093151751                      Filed: 9/18/2009  
Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,600,000.00	01/01/1998 through 12/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Gilliland, David H. Clark, Thomas & Winters / Austin

Issue: Whether the Comptroller used the proper calculation method for interest on tax overpayments applied to tax underpayments. Whether charges of contractors for erecting, maintaining and dismantling scaffolding are exempt as a non-taxable service, or taxable as rental of tangible personal property.

Status: Answer filed.

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***Macy's TX I, LP, Successor in Interest to the May Department Stores Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003122 AG Case #: 062403712 Filed: 8/24/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$275,000.00	04/01/96 - 03/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether Plaintiff is entitled to a refund of tax on industrial solid waste removal services, purchases of wrapping and packaging supplies, installation labor, purchases for sale for resale, and temporary storage of tangible personal property.

Status: Answer filed.

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***Marco A. Mascorro v. Compt., et al.***

Cause Number: CL-09-0255-B AG Case #: 093103745 Filed: 1/30/2009

Sales Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
\$88,708.86	08/01/2004 through 12/31/2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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McKinnis, Kelly                      McAllen

Issue: Plaintiff seeks declaratory and injunctive relief regarding the suspension of his sales tax permit. Plaintiff claims he should have received a redetermination hearing on an audit liability for export transactions.

Status: Original Answer, Plea to the Jurisdiction, and Motion to Transfer of Defendant signed 02/12/09. Tentative agreement reached.

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***Mars, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004471    AG Case #: 093096741

Filed: 12/12/2008

Sales and use Tax; Protest & Refund

Claim Amount	Reporting Period
\$804,889.00	10/1/1997 through 12/31/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff's purchases of certain equipment and related items are exempt from sales tax under the manufacturing exemption. Whether Plaintiff's purchases of magazine subscriptions are exempt from sales tax. Whether Plaintiff's purchases of waste removal services are exempt from sales tax.

Status: Discovery in progress.

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***Mars, Inc. v. Strayhorn, et al.***

Cause Number: GN401349

AG Case #: 041965336

Filed: 4/29/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$726,024.00	01/01/94 - 09/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether Plaintiff's purchases of certain equipment and related items are exempt from sales tax under the manufacturing exemption. Whether Plaintiff's purchases of installation labor are exempt as purchases of non-taxable stand-alone installation services.

Status: Discovery in progress. Trial passed by agreement.

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***Matoka, Inc. vs. Compt., et al.***

Cause Number: D-1-GN-08-001217    AG Case #: 082505595                      Filed: 4/10/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$171,963.00	04/01/2001 through 11/30/2004

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Mondrik, Christina A.                      Mondrik & Associates / Austin

Issue: Whether Plaintiff is engaged in non-taxable erosion control services. Whether the essence of Plaintiff's transactions is services. Whether Plaintiff's services are exempt as environmental services. Whether Rule 3.291 is invalid. Whether the Comptroller violated equal protection and the Commerce Clause. Plaintiff also seeks penalty and interest abatement and declaratory relief.

Status: Answer filed.

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***Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.***

Cause Number: GN404187                      AG Case #: 052082260                      Filed: 12/27/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period  
\$1,794,780.29      09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.                      Jones Day / Dallas  
Lochridge, Robert

Issue: Whether items purchased by Plaintiff to be exported outside of the U.S. by a freight consolidator and not invoiced individually are exempt from sales and use tax. Whether the Comptroller's auditing techniques can assess tax on transactions previously audited and non-assessed. Whether Plaintiff "purchased" or "rented" software, and whether services provided to implement the software are taxable. Whether services performed on tangible personal property provided by a third party are exempt from sales and use tax. Plaintiff claims violation of equal and uniform taxation, and due process. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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***Olarnpunsagoon, Suchon v. Combs, et al.***

Cause Number: D-1-GN-07-000134      AG Case #: 072436124

Filed: 1/18/2007

Sales Tax; Declaratory Judgment

Claim Amount      Reporting Period  
\$57,808.30      10/01/00 - 03/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Plaintiff claims the estimating method used by the Comptroller's office resulted in a significantly large amount of tax due to the State. Plaintiff claims if actual records were used for the audit little, if any, tax would be owed. Plaintiff also claims the methodology used did not allow credits.

Status: Agreed Judgment entered 11/12/09.

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***Olmos Abatement, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004361 AG Case #: 083092882

Filed: 12/3/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$9,739.97	10/01/01 through 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Trickey, Timothy M. The Trickey Law Firm / Austin

Issue: Whether expense items used in the asbestos abatement process are exempt. Whether the items were resold to the exempt entities for whom the services were performed.

Status: Citation issued.

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***Reynolds Metals Co. vs. Combs, et al.***

Cause Number: D-1-GN07003574 AG Case #: 072477284

Filed: 10/18/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$486,159.70	Feb. 1, 1990 through Feb. 28, 1994

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Hagenswold, R. Eric

Issue: Whether ship unloaders qualify as rolling stock and exempt from sales tax. Whether replacement parts and services for the unloaders are exempt. Whether denying the exemption violates equal protection.

Status: Answer filed.

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***Richard's Heating & Air Conditioning, Inc. v. State of Texas, et al.***

Cause Number: C-1-CV-08-006490 AG Case #: 082517020

Filed: 6/30/2008

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$325,245.13	Apr. 1, 2003 - Aug. 31, 2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Leeper, David P.	El Paso
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Issue: Whether sales tax was correctly calculated. Whether Plaintiff qualifies for insolvency relief. Plaintiff seeks injunctive relief, damages, and attorney's fees.

Status: Answer filed.

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***Roadway Express, Inc. v. Rylander, et al.***

Cause Number: GN002831                      AG Case #: 001357631                      Filed: 9/25/2000

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$713,686.05	04/01/88 - 05/31/92
\$206,053.87	04/01/88 - 05/31/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Cowling, David E.	Jones Day / Dallas
Lochridge, Robert	

Issue: Whether various equipment used by the Plaintiff with its trucks is exempt from use tax as tangible personal property sold to a common carrier for use outside the state. Alternatively, whether the equipment had been taxed as vehicle components under the interstate motor carrier tax and could not be taxed as "accessories." Alternatively, whether taxing 100% of the value of the equipment violates the Commerce Clause because of a lack of substantial nexus and of fair apportionment. Whether all tax was paid on Plaintiff's repair and remodeling contracts and capital assets. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Trial setting passed. Discovery in progress.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004726 AG Case #: 072431166

Filed: 12/22/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,027,105.00	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens & Associates / Austin  
Seay, Michael B.

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Answer filed. Case to be consolidated with Cause #D-1-GN-06-004725 and set for MSJ hearing on 12/02/09. Motion to Retain filed 06/01/09. MSJ hearing reset by agreement for 02/17/09.

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***Roark Amusement & Vending, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004725 AG Case #: 072431158

Filed: 12/22/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$443,221.70	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens & Associates / Austin

Seay, Michael B.

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the unsuccessful operation of a crane machine can include possession of a toy by the operator and constitute a legal rental. Whether operation of a crane machine results in the care, custody and control of the machine being transferred to the operator. Whether Plaintiff owes tax on rental payments of equipment located out-of-state. Plaintiff claims the Comptroller has erroneously applied statutes and rules, unconstitutionality of Comptroller Rule 3.301 and Tex. Tax Code §151.151, double taxation, violation of equal protection, due process, equal and uniform taxation, and seeks declaratory relief.

Status: Answer filed. Case to be consolidated with D-1-GN-06-004726 and set for MSJ hearing on 12/02/09. Motion to Retain filed 06/01/09. MSJ hearing reset by agreement for 02/17/09.

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***Salim Abbas Merchant v. Combs, et al.***

Cause Number: D-1-GN-09-000511 AG Case #: 093107688

Filed: 2/17/2009

Sales and use Tax; Protest

Counsel Associated With This Case:

*Assistant Attorney General*

Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

Canfield, George W. San Antonio

Issue: Plaintiff seeks review under the APA of a sales tax deficiency. Plaintiff claims that the Comptroller used unreliable data and incorrect mark-up percentages.

Status: Answer filed.

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***San Antonio Spurs, L.L.C. v. Strayhorn, et al.***

Cause Number: GN403429

AG Case #: 042050401

Filed: 10/15/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$913,435.03	06/01/97 - 06/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Osterloh, Curtis J.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether suite rental fees are exempt from sales tax as non-taxable rentals or licenses for the use of real property.

Status: Motion to Retain filed 08/20/07; granted 01/08/08.

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***Shanks Surveyors, L.L.P. v. Compt., et al.***

Cause Number: 2008-42440

AG Case #: 082519802

Filed: 7/16/2008

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$36,869.68	Jan. 1, 2004 - Sep. 30, 2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Milledge, Samuel L.

Houston

Issue: Whether Plaintiff is liable for use tax on purchases where vendor records were not produced. Whether Plaintiff may get injunctive relief.

Status: Following Comptroller freeze of bank Plaintiff's bank account, the Plaintiff filed for a TRO which was granted. Plaintiff filed for a temporary injunction, a permanent injunction and pleaded on the merits. Plea to the Jurisdiction to be filed 7/23/2008, together with Comptroller's response to the requested injunctions. Hearing on the injunctive relief on 7/24/2008 in Harris County found in favor of Comptroller. No order signed. Enforcement in progress.

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***Southern Union Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004637

AG Case #: 062430574

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$747,733.01	07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Hagenswold, R. Eric

Issue: Whether Plaintiff's purchases of gas pipes, valves and meters are exempt from sales and use tax as tangible personal property under the sale for resale exemption.

Status: Answer filed.

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***Southern Union Gas v. Combs, et al.***

Cause Number: D-1-GN-09-001536 AG Case #: 093127603

Filed: 5/14/2009

Sales and use Tax; Refund

Claim Amount Reporting Period

\$2,910,000.00 07/01/1997 through 06/30/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Hagenswold, R. Eric

Issue: Whether property used in gas processing and distribution is exempt under the manufacturing exemption. Whether the property is exempt as property used to comply with public health laws. Whether services performed on that property were exempt under §151.3111. Whether pipes, valves, and meters installed on customers' premises are exempt as sales for resale.

Status: Answer filed.

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***Southwestern Bell Telephone, L.P. v. Strayhorn, et al.***

Cause Number: GN402300

AG Case #: 041998360

Filed: 7/22/2004

Sales Tax; Refund

Claim Amount Reporting Period

\$291,516,385.00 06/01/05 - 12/31/98



Issue: Whether Plaintiff owes use tax on printing charges for directories printed out-of-state but ultimately distributed within Texas. Plaintiff claims the directories were "manufactured" rather than "purchased" outside of Texas, resulting in the printing operations occurring outside of Texas and used and consumed outside of Texas.

Status: Defendant's Motion for Summary Judgment and Notice of Hearing filed 09/10/07. Plaintiff's reply filed 09/20/07. Motion for Summary Judgment hearing held 10/02/07. Defendant's Judgment granted 10/17/07. Plaintiff's Notice of Appeal filed 11/13/07. Clerk's record filed 12/13/07. Appellant's brief filed 01/11/08; Oral Argument requested. Appellee filed Motion for Extension of Time to File Brief 02/05/08; granted 02/06/08. Appellee's brief filed 02/25/08; Oral Argument requested. Appellant's Reply filed 03/17/08. Appellee's Motion to Postpone Oral argument filed and granted 05/20/08. Oral argument held 10/22/08. Opinion issued on 01/30/09, affirming the judgment. Appellant's Motion for Extension of Time to File Motion for Rehearing filed and granted 02/09/09. Motion for Rehearing filed 03/09/09; overruled 03/27/09. Petitioner's Motion for Extension of Time to File Petition for Review filed 05/05/09; granted 05/07/09. Petition filed 06/09/09. Conditional Waiver of Response filed 07/13/09. Supreme Court of Texas requested response on 08/13/09. Respondent's Response to Petition for Review filed 09/25/09. Petition for Review denied 11/20/09.

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***Spacenet Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002437 AG Case #: 062380332

Filed: 7/3/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$650,940.41	09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff owes no tax because it accepted resale certificates in good faith. Whether all penalty and interest should be waived.

Status: Discovery in progress.

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***Spirit Drilling Fluids, GP, LLC v. Combs, et al.***

Cause Number: D-1-GN-09-002542 AG Case #: 093144038

Filed: 8/7/2009

Sales and use Tax; Protest

Claim Amount      Reporting Period  
\$378,328.05      08/01/2002 through 09/30/2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene                      OAG Taxation / Austin

*Opposing Counsel*

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Morris, Joe Scott                      J. Scott Morris, P.C. / Austin

Issue: Whether sales of drilling mud are consummated at the well sites, making them not subject to local tax at Plaintiff's headquarters in Houston.

Status: Discovery in progress.

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***Sysco Food Services of Austin, Inc. v. Strayhorn, et al.***

Cause Number: GN400465

AG Case #: 041925850

Filed: 2/17/2004

Sales Tax; Protest

Claim Amount      Reporting Period  
\$92,357.48      05/01/98 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Osterloh, Curtis J.

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Inactive.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.***

Cause Number: GN100633

AG Case #: 011420734

Filed: 3/1/2001

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period  
\$196,492.74      01/01/94 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.              Attorney at Law / Austin

Blume, James                          Blume & Studdard / Dallas

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.***

Cause Number: GN302075              AG Case #: 031816119              Filed: 6/13/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$270,401.80	07/01/94 - 06/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.              Attorney at Law / Austin

Blume, James                          Blume & Studdard / Dallas

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether equipment is exempt for the same reason.

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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***Sysco Food Services of San Antonio, LP, et al. v. Combs***

Cause Number: D-1-GN-09001026      AG Case #: 093116531              Filed: 3/31/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$239,634.20	01/01/02 through 09/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Osterloh, Curtis J.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Citation issued.

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***Target Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-004052    AG Case #: 093165934

Filed: 11/30/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$443,218.66	08/01/1999 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether charges for assembly & installation of display items in taxpayer's stores are non-taxable third party installation services.

Status: Citation issued.

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***Target Corporation v. Combs, et al.***

Cause Number: D-1-GN-09-002395    AG Case #: 093141778

Filed: 7/27/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,367,689.00	08/01/1999 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether parts for refrigeration and freezing equipment qualify for the manufacturing exemption. Whether services performed on that equipment are exempt. Whether security systems in new stores are non-taxable new construction. Whether display racks and shelving were assembled and installed by non-taxable third party installation services.

Status: Answer filed.

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***Target Corporation v. Strayhorn, et al.***

Cause Number: GN502440 AG Case #: 052184538 Filed: 7/14/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$591,242.98	02/01/96 - 07/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether charges for labor under separated contracts and charges under lump sum contracts constitute non-taxable new construction. Whether charges for assembly and installation of display items in retail stores are non-taxable third party installation services. Whether components purchased outside the state and used outside the state to construct other items, including assembly labor charges, are taxable. Whether installation charges for purchases of tangible personal property are non-taxable as separable charges.

Status: Summary Judgment hearing postponed.

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***TDI-Halter, Inc. v. Rylander, et al.***

Cause Number: GN100339 AG Case #: 011409653 Filed: 2/1/2001

Sales Tax; Refund

Claim Amount	Reporting Period
\$475,000.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                  Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Hagenswold, R. Eric

Issue: Whether conversion of drilling rigs to self-propelled, deep water rigs is manufacturing under the statute and Comptroller rules. Whether dredging is non-taxable maintenance of real property. Alternatively, whether interest should be waived.

Status: DWOP notice sent by court 03/29/05. Order retaining case entered 08/04/05. Discovery in progress. Scheduling order entered.

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***Texas and Kansas City Cable Partners LP v. Combs, et al.***

Cause Number: D-1-GN-09-001257    AG Case #: 093127587

Filed: 4/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$18,434,607.00	01/01/2003 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                  Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff's equipment is exempt as property used in manufacturing. Whether equipment used to insert commercials and other programming into television signals is exempt as equipment used in the production of motion picture, video or audio programming or as the production of broadcasts and television programming. Whether electricity and various services are exempt purchases by Plaintiff. Whether interest and penalty should be waived.

Status: Citation issued.

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***Texas Gulf, Inc. v. Bullock, et al.***

Cause Number: 485,228

AG Case #: 90311185

Filed: 6/5/1990

Sales Tax; Refund

Claim Amount      Reporting Period  
\$294,000.00      01/01/85 - 06/30/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Lipstet, Ira A.                              DuBois Bryant Campbell & Schwartz, L.L.P. /  
Austin

Issue: Are pipes exempt as manufacturing equipment or taxable as intra-plant transportation.

Status: Inactive.

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***Time Warner Entertainment & Advance Newhouse v. Combs, et al.***

Cause Number: D-1-GN-09-001982      AG Case #: 093136828                      Filed: 6/19/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period  
\$5,413,530.44      01/01/2000 through 12/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                              OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                              Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff qualifies for the exemption on manufacturing and processing in sections 151.318 and 151.317. Whether services were exempt under §151.3111. Whether Plaintiff resold electricity as part of a taxable service. Whether some equipment is exempt under §151.3185 and various service issues. Plaintiff also seeks penalty and interest waiver.

Status: Answer filed.

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***Time Warner Telecom of Texas, L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-001223      AG Case #: 093121176                      Filed: 4/15/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period  
\$3,625,383.95      08/01/00 through 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff qualifies for the exemption on manufacturing and processing in sections 151.318 and 151.317. Whether services were exempt under §151.3111. Whether Plaintiff resold electricity as part of a taxable service.

Status: Answer filed.

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***Time Warner Telecom of Texas, L.P. v. Combs, et al.***

Cause Number: D-1-GN-09-003588      AG Case #: 093158319

Filed: 10/16/2009

Sales and use Tax; Refund

Claim Amount      Reporting Period  
\$1,777,836.99      (plus statutory interest) 02/31/04 thru 10/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether Plaintiff qualifies for the manufacturing exemption under §151.318 ( c ) (2). Whether services were exempt under §151.3111.

Status: Answer filed.

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***T-Mobile West Corp. v. Combs, et al.***

Cause Number: D-1-GN-09-000270      AG Case #: 093104230

Filed: 1/27/2009

Sales and use Tax; Protest & Refund

Claim Amount      Reporting Period  
\$3,964,604.84      06/01/1999 through 12/31/2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                  Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff's purchases of electricity were exempt as electricity used in manufacturing. Whether purchases of tangible personal property were exempt as property used in manufacturing. Whether services performed on that property were exempt under Tex. Tax Code § 151.3111. Whether penalty should be waived.

Status: Answer filed.

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***Tyler Holding Company, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004608      AG Case #: 062430350

Filed: 12/13/2006

Sales Tax; Refund

Claim Amount      Reporting Period  
\$47,129.21      10/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                  Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether purchases of tangible personal property by Plaintiff's predecessor were exempt from sales and use tax under the manufacturing exemption. Whether charges of contractors for erecting, dismantling and moving scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property.

Status: Answer filed.

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***U.S. Foodservice, Inc., et al. v. Combs, et al.***

Cause Number: D-1-GN-09-003215      AG Case #: 093153260

Filed: 9/18/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$48,908.29	07/01/1998 through 07/31/2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Tourtellotte, Tom	Hance Scarborough Wright Woodward & Weisbart, L.L.P. / Austin
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Issue: Whether electricity used to lower temperature of food products is exempt as electricity used in processing.

Status: Citation issued.

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***United Scaffolding, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002270 AG Case #: 062375514

Filed: 6/21/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$897,633.51	10/01/97 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.	OAG Taxation / Austin
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*Opposing Counsel*

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Ohlenforst, Cynthia M.	Hughes & Luce / Dallas
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Villa, Richard D.	Hughes & Luce / Austin
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Issue: Whether scaffolding services provided by Plaintiff are taxable rentals of tangible personal property in regard to certain lump sum contracts, or exempt as non-taxable services. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN401174

AG Case #: 041954488

Filed: 4/14/2004

Sales Tax; Refund

Claim Amount      Reporting Period  
\$975,000.00      07/01/99 - 07/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN501793

AG Case #: 052151891

Filed: 5/17/2005

Sales Tax; Protest

Claim Amount      Reporting Period  
\$881,264.71      03/01/00 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in Day & Zimmerman v. Calvert.

Status: Answer filed.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504467

AG Case #: 062267356

Filed: 12/16/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$297,739.30	04/01/03 - 08/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether security services provided to Plaintiff in connection with services to the federal government qualify for the sale for resale exemption. Whether tax on tangible personal property should be refunded pursuant to the Raytheon case. Whether electricity used to produce software qualifies for the manufacturing and processing exemption. Whether certain software maintenance is a non-taxable service.

Status: Answer filed.

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***V.H. Salas & Associates, Inc. v. Comptroller***

Cause Number: GN403975                      AG Case #: 042071365                      Filed: 12/6/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$66,543.64	08/01/98 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Lopez, Diego A.                      The Law Offices of Diego A. Lopez / San Antonio

Issue: Whether Plaintiff owes sales tax on purchased equipment used in the manufacturing of wood and metal products. Whether Plaintiff owes sales tax on electricity used to operate the equipment. Whether Plaintiff was denied due process of law and the right to equal protection of the law. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Inactive.

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***Verizon Business Network Services, Inc. v. Compt. Et. Al.***

Cause Number: D-1-GN-07-004221 AG Case #: 072484389

Filed: 12/7/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$20,179,336.77	01/01/96 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether programming services were taxable. If the services are taxable, whether their sale or use occurred in Texas.

Status: Discovery in progress.

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***Verizon North, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001295 AG Case #: 062309349

Filed: 4/13/2006

#03-08-00151-CV

#09-0538

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,116,225.00	06/01/96 - 02/29/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether purchases of software licenses qualify as tangible personal property. Whether some portion of the software license not stored, used or consumed in or during the

manufacturing, processing, or fabrication of tangible personal property for ultimate sale is exempt from sales tax.

Status: Trial court rendered judgment for the state on 12/13/07. Plaintiff filed Notice of Appeal 03/06/08. Appellant's brief filed 05/27/08. Appellee's Motion for Extension of Time to File Brief filed 06/12/08; granted 06/13/08. Supplemental Clerks' record filed 06/23/08. Appellees' brief filed 08/11/08. Appellant's Reply Brief filed 09/09/08. Submitted on oral argument on 02/11/09. Opinion issued 05/22/09, affirming the district court's judgment. Petition for Review filed in the Supreme Court on 07/02/09. Respondent's Response filed 09/28/09. Petition for Review denied 11/20/09.

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***Watson Sysco Food Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002879 AG Case #: 062397849

Filed: 8/10/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$63,720.38	04/01/01 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Hagenswold, R. Eric Scott, Douglass & McConnico, L.L.P. / Austin  
Osterloh, Curtis J.

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: GN304767

AG Case #: 041904608

Filed: 12/18/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$415,185.61	10/01/93 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the decision of the Comptroller violated the statute and long-standing Comptroller policy.

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002987 AG Case #: 062398086

Filed: 8/17/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$219,297.54	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the purchases of packing supplies and repairs to and replacement parts of processing are exempt from sales tax. Whether the decision of the Comptroller violated the rules of statutory construction and long-standing Comptroller policy. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***Wireless Now, L.P. v. Combs, et al.***

Cause Number: D-1-GN-07001038 AG Case #: 072447469

Filed: 4/6/2007

Sales Tax; Refund

Claim Amount	Reporting Period
\$29,431.70	09/01/01 - 08/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether telephones purchased by Plaintiff, and subsequently sold to customers who contract for telephone service with a carrier associated with the Plaintiff, are exempt from sales tax under the sale for resale exemption. Index: Sale for Resale; Sub-Index: telecommunications equipment.

Status: Answer filed.

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***Wyndham International Operating Partnership, LP v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004260    AG Case #: 062425574                      Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$31,283.31	01/01/99 - 09/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray                              Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether certain amenity and consumable items such as shampoo, stationery and similar items resold to hotel guests are exempt from sales tax as sales for resale.

Status: Answer filed.

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***Zale Delaware, Inc. v. Rylander, et al.***

Cause Number: GN202030                      AG Case #: 021640669                      Filed: 6/24/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$333,602.57	08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is liable for tax on items temporarily stored in Texas. Whether tax on services purchased by Plaintiff should be reduced to reflect the out-of-state benefit of those services. Whether Plaintiff should get a refund or credit for tax paid on inventory. Whether the Comptroller should be barred from off-setting debts in the period between the filing of Plaintiff's bankruptcy petition and the confirmation of its reorganization plan.

Status: Case consolidated with Zale Delaware, Inc. v. Strayhorn, et al., Cause #GN301725, per court order signed 12/12/07. Discovery in progress.

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***Zale Delaware, Inc. v. Strayhorn, et al.***

Cause Number: GN301725

AG Case #: 031806045

Filed: 5/27/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,170,404.64	08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to exemption on items of inventory temporarily stored in-state. Whether tax was improperly assessed on services performed outside the state. Whether installation services on counters and software were readily separable from taxable tangible property. Whether the Comptroller should be enjoined from taking offsets pursuant to Plaintiff's bankruptcy plea.

Status: Case consolidated into Zale Delaware, Inc. v. Rylander, et al., Cause #GN202030. Order to consolidate signed 12/12/07.

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***Zimmer US, Inc. v. Combs, et al.***

Cause Number: D-1-GN-09-002096 AG Case #: 093136620

Filed: 6/30/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$947,827.00	09/01/03 through 02/28/07

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Plaintiff claims that surgical instrument kits used to install prosthetic devices are "supplies" under §151.313 (a)(5). Alternatively, Plaintiff claims that the kits are either purchased for resale or are donated to an exempt organization.

Status: Citation issued.

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## Insurance Tax

### ***AXA Equitable Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501095

AG Case #: 052135712

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$57,166.00	2004
\$28,583.00	2005
\$849.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.                Jackson Walker, L.L.P. / Austin

Small, Edward C.

Moore, Steven D.

Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums should be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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### ***Fireman's Fund Insurance Company of Ohio v. Rylander, et al.***

Cause Number: GN101899

AG Case #: 011464476

Filed: 6/20/2001

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$439,074.12	1992 - 1998

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade                      OAG Taxation / Austin

*Opposing Counsel*

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Alexander, Richard

Richard W. Alexander / Austin

Issue: Whether Plaintiff, an authorized surplus lines insurer, is liable for unauthorized insurance premiums tax. Whether the Comptroller lacks authority to determine that Plaintiff is an unauthorized insurer, and whether the Texas Department of Insurance is required to make that determination. Whether the Comptroller engaged in selective and improper enforcement. Whether the assessment violates Due Process and the McCarran-Ferguson Act. Alternatively, whether penalty should be waived. Plaintiff also seeks injunctive relief and attorneys' fees.

Status: Case was to be dismissed by court unless retained. Plaintiff filed unopposed motion to retain; granted. Inactive until Lexington Insurance is decided. Trial set for the week of 12/14/09. Plaintiff will provide documents to seek agreed judgment. Revised Scheduling Order filed 10/22/09.

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***Metropolitan Life Insurance Company, et al. v. Combs, et al.***

Cause Number: 484,745

AG Case #: 90304512

Filed: 5/24/1990

#03-06-00446-CV

Gross Premium Tax; Protest

Claim Amount      Reporting Period

\$10,817,043.00      1989 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Moore, Steven D.

Harrison, Breck

Rogers, Tom

Issue: Whether insurance taxes are owed by insurance companies on dividends applied to paid-up additions and renewal premiums.

Status: Ninth Amended Petition filed. Settlement discussed, and partial settlement agreed to. Final Judgment entered on paid-up additions issue. Renewal premium issue severed and retained on docket. Plaintiffs made settlement offer on remainder of case. Motion for Summary Judgment hearing held 02/14/06. Judgment granted for Plaintiffs 06/29/06. State filed Notice of Appeal 07/26/06; docketing statement filed 08/01/06. Clerk's Record filed 08/24/06. Appellants' brief filed 09/25/06. Appellees' brief filed 10/25/06. Appellants' reply brief filed 11/14/06. Submitted on Oral Argument 02/14/07. Opinion issued 10/09/09, reversing the trial

court's judgment and rendering summary judgment in favor of the Comptroller. Appellee's Motion for Rehearing filed 10/26/09; overruled 12/03/09.

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***New York Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501094

AG Case #: 052130697

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$105,822.00	2004
\$52,911.00	2005
\$1,572.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Small, Edward C.

Moore, Steven D.

Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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***Prudential Insurance Company, The v. Strayhorn, et al.***

Cause Number: GN501093

AG Case #: 052137189

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$230,578.00	2004
\$115,289.00	2005
\$3,426.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.                      Jackson Walker, L.L.P. / Austin  
Small, Edward C.  
Moore, Steven D.  
Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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***Warranty Underwriters Insurance Company v. Rylander, et al.***

Cause Number: 99-12271                      AG Case #: 991226739                      Filed: 10/20/1999

Insurance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$416,462.73	1993 - 1997
\$214,893.74	1993 - 1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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White, Raymond E.                      Akin, Gump, Strauss, Hauer & Feld / Austin  
Micciche, Daniel

Issue: Whether the Comptroller improperly included amounts not received by Plaintiff in Plaintiff's gross premiums tax base. Whether any maintenance tax is payable on Plaintiff's business of home warranty insurance. Whether the Comptroller is bound by the prior actions and determinations of the Texas Department of Insurance. Whether the assessments of tax violate due process and equal taxation. Whether penalty and interest should have been waived.

Status: Discovery in progress.

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## Other Taxes

### ***35 Bar & Grill, LLC, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002535 AG Case #: 082520511

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$1,913,112.25	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Deegear III, James O.  
Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also claims due process violations, and seeks declaratory and injunctive relief.

Status: Answer filed.

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### ***A & D Interests, Inc., dba Heartbreakers v. Compt., et al.***

Cause Number: D-1-GN-08-002410 AG Case #: 082519083

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,785.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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### ***Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003794 AG Case #: 082534447

Filed: 10/20/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$21,065.00	Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Bassam Jaber Hantouli v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003547 AG Case #: 082531468

Filed: 9/26/2008

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$352,819.92	Jan. 1, 2003 - Aug. 31, 2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether the Comptroller correctly estimated Plaintiff's tax on beer sales. Whether penalty and interest should be waived. Plaintiff seeks declaratory and injunctive relief.

Status: Answer filed.

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***Benelux Corp., dba The Palazzo & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003385 AG Case #: 082529652

Filed: 9/16/2008

Other Tax; Protest

Claim Amount      Reporting Period  
\$70,620.00      Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                  Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Benelux Corp., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002489    AG Case #: 082520487

Filed: 7/14/2008

Other Tax; Protest

Claim Amount      Reporting Period  
\$91,240.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                  Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.***

Cause Number: D-1-GN-07-004179    AG Case #: 072480643

Filed: 12/7/2007

#03-08-00213-CV

#09-0481

S.O.B. Fee Tax; Declaratory Judgment & Injunction

Claim Amount      Reporting Period  
2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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Whitehead, G. Stewart        Winstead P.C. / Austin

Issue: Whether collection of a fee on sexually oriented businesses where alcohol is consumed violates the First Amendment as an illegal restriction on free speech. Whether the fee is an occupation tax that violates equal protection and fails to allocate revenue to public.

Status: Plaintiffs' application for temporary injunction was denied on 12/18/07. Plaintiffs filed a Motion for Partial Summary Judgment on 12/21/07, and set it for a hearing on 01/22/08. Defendants filed a Conditional Motion for Partial Summary Judgment and Motion for Leave to Supplement the Motion or for Continuance on 12/28/07. The parties agreed to continue the hearing until 02/05/08 at 2 p.m. The parties' responses are due 01/29/08. Hearing on Plaintiff's Motion for Partial Summary Judgment held on 02/05/08. Plaintiff's Motion for Partial Summary Judgment was denied 03/04/08. Court signed judgment for Plaintiffs on 03/28/08. Findings of Fact and Conclusions of Law signed 05/07/08. Additional Findings of Fact and Conclusions of Law signed 06/10/08. Motion to Supersede & Petition for Mandamus proceedings. Appellants' brief filed 08/11/08. Argued by Solicitor General on 02/11/09. Opinion issued 06/05/09, affirming district court's judgment. The Comptroller filed a Petition for Review with the Texas Supreme Court on 06/11/09. Response filed 07/10/09. Briefing on the merits requested 08/26/09. Petitioner's Brief filed 09/25/09. Respondent's Brief filed 10/15/09. Petitioner's Reply Brief filed 10/30/09.

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***D. Houston, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002483    AG Case #: 082519117

Filed: 7/14/2008

Other Tax; Protest

Claim Amount        Reporting Period

\$482,440.00        Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.              OAG Taxation / Austin

*Opposing Counsel*

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Monshaugen, Ronald A.        Monshaugen & Van Huff, P.C. / Houston  
Van Huff, Albert T.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector***

Cause Number: 30861

AG Case #: 072457880

Filed: 6/1/2007

Motor Vehicle Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$180.00	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene                      OAG Taxation / Austin

*Opposing Counsel*

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Clevenger, Ty                              Attorney at Law / Bryan

Issue: Plaintiffs claim Section 152.023 of the Tax Code violates the Privileges and Immunities Clause of Article IV, Section 2 of the United States Constitution; the Commerce Clause of Article I, Section 8 of the United States Constitution; and the Privileges and Immunities Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek attorneys' fees.

Status: Answer filed. Plaintiff transferred to Travis County.

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***El Paso Entertainment, Inc. dba v. Compt., et al.***

Cause Number: D-1-GN-08-002548    AG Case #: 082520578

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$64,767.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                              OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                              Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

***El Paso Natural Gas Company v. Sharp***

Cause Number: 91-6309

AG Case #: 9178237

Filed: 5/6/1991

Gas Production Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$3,054,480.60	01/01/87 - 12/31/87

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W. Langenberg, Ray	Scott, Douglass & McConnico, L.L.P. / Austin
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Issue: Whether Comptroller should have granted Plaintiff a hearing on penalty waiver and related issues.

Status: State's Plea in Abatement granted pending outcome of administrative hearing on audit liability. Negotiations pending.

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***Enterprise Operating Co., Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002575

AG Case #: 082520545

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$76,780.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Serper, Lauren M.	Houston
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Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery suspended by Rule 11 Agreement. Pending final disposition of Texas Entertainment case.

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***Eustace ISD v. Compt., et al.***

Cause Number: D-1-GN-08-001573

AG Case #: 082520941

Filed: 7/18/2008

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade	OAG Taxation / Austin
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*Opposing Counsel*

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Swinney, Kirk	McCreary, Veselka, Bragg & Allen, P.C. / Austin
Tepper, Matthew	

Issue: Whether the Comptroller overvalued property by using non-market transactions.

Status: Answer filed.

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***FW, Inc. and S & S Bros., Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002617 AG Case #: 082526575

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$23,685.00	FW, Inc.
\$15,881.25	S&S Bros, Inc.

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Deegear III, James O.	
Matthews-Kasson, Michell	

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002522 AG Case #: 082519992

Filed: 7/16/2008

Other Tax; Protest

Claim Amount      Reporting Period  
\$11,055.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.                  Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***I Gotcha, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002546    AG Case #: 082520503

Filed: 7/17/2008

Other Tax; Protest

Claim Amount      Reporting Period  
\$79,195.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L.                      Gamboa & White / Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Isis Partners, L.P., et al. vs. Combs, et al.***

Cause Number: D-1-GN-07-002828    AG Case #: 072470107

Filed: 9/4/2007

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount      Reporting Period  
\$20,409.70      09/01/02 through 11/30/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Plaintiff claims that the Comptroller did not properly compute liability for mixed beverage gross receipts tax under Tax Code 111.008 and did not send notice of liability in compliance with federal and state due process requirements.

Status: Answer filed.

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***Jim Hogg County ISD v. Compt., et al.***

Cause Number: D-1-GV-08001610 AG Case #: 082526112

Filed: 7/31/2008

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether the Comptroller used improper sampling and statistical techniques regarding agricultural and ranch properties in the district.

Status: Agreed Judgment entered 08/19/09.

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***John P. Bellam, dba Showgirl v. Compt., et al.***

Cause Number: D-1-GN-08-002491 AG Case #: 082519125

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$8,430.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H.

Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

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***Karpod, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002521 AG Case #: 082520479

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,580.25	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-003280 AG Case #: 082530288

Filed: 9/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$14,115.00	Apr. - June 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***MC/VC, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-003092 AG Case #: 082526187

Filed: 8/26/2008

Other Tax; Protest

Claim Amount Reporting Period

\$9,516.55 Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Deegear III, James O.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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***Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.***

Cause Number: 92-16485

AG Case #: 92190294

Filed: 12/3/1992

Alcoholic Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount Reporting Period

\$0.00 N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Mattox, Jim Attorney at Law / Paris

Lasley, Lowell

Mosher, Michael D.

Issue: Whether the TABC and Comptroller were allowed to use inventory depletions analysis to determine amount of gross receipts tax owed. Plaintiffs seek class certification.

Status: Inactive.

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***Mulligan's North Bar & Grill, LLC vs. Compt., et al.***

Cause Number: D-1-GN-08-001093 AG Case #: 082503913

Filed: 4/2/2008

Mixed Beverage Gross Receipts Tax; Administrative Appeal

Claim Amount      Reporting Period  
\$51,847.61      July 2001 - March 31, 2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Davis, Mark T.                      El Paso

Issue: Whether price and volume should be adjusted. Whether inventory should be removed from audit schedules. Whether credit for spills should be allowed. Plaintiff seeks de novo review under the APA.

Status: Answer filed.

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***Nextel of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN501852                      AG Case #: 052154796                      Filed: 5/23/2005

Telecommunications Infrastructure Fund (TIF) Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period  
\$2,113,301.35      01/01/99 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Aterno, Tony                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Issue: Whether receipts for equipment sold to customers and listed separately on invoices are subject to an additional TIF assessment as taxable telecommunications receipts. Whether TIF charges which Plaintiff passed on and collected from its customers are allowable reimbursements as TIF assessment. Plaintiff also seeks attorneys' fees.

Status: Final Judgment entered on 09/10/09.

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***North By East, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002624      AG Case #: 082520495                      Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$37,710.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Hopkins, Mark D.	Savrick, Schumann, Johnson, McGarr, Kaminski & Shirley / Austin
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Point Isabel ISD v. Texas Comptroller of Public Accounts***

Cause Number: D-1-GN-06-002641 AG Case #: 062384979

Filed: 7/21/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Hargrove, Judith A.	Hargrove & Evans / Austin
Evans, Jr., James R.	

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Category A. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Case Dismissed for Want of Prosecution on 12/05/08.

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***Price & Company v. Combs, et al.***

Cause Number: D-1-GN-09-002439 AG Case #: 093144020

Filed: 7/30/2009

Cigarette and Tobacco Tax; Protest

Claim Amount      Reporting Period  
\$150,687.46      01/01/2003 through 08/31/2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Brugnoli, Darlene                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Whether the Comptroller improperly assessed tax on cigarettes that were taxed and sold in Louisiana.

Status: Answer filed. Disclosures filed.

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***Ranger Fuels & Maintenance, L.L.C. v. Rylander, et al.***

Cause Number: GN204124                      AG Case #: 021705900                      Filed: 11/14/2002

Fuels Tax; Declaratory Judgment & Injunction

Claim Amount      Reporting Period  
\$115,000.00      N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Grissom, Donald H.                      Grissom & Thompson / Austin

Issue: Whether fuels tax is actually owed by an unrelated company. Whether the Comptroller abused its discretion and violated Plaintiff's constitutional rights. Plaintiff seeks injunctive and declaratory relief.

Status: Inactive.

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***Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504104                      AG Case #: 052245941                      Filed: 11/15/2005

Fuels Tax; Refund

Claim Amount      Reporting Period  
\$208,428.70      05/01/02 - 05/31/02 (Diesel)

01/01/02 - 04/30/02 (Gasoline)

03/01/02 - 04/30/02 (Diesel)

05/01/02 - 05/31/02 (Gasoline)

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Grissom, Donald H.                      Grissom & Thompson / Austin  
Thompson, III, William W.

Issue: Whether Plaintiff acquired a business and its assets by filing a sales tax application with the Comptroller. Whether such acquisition was a fraudulent transfer. Whether Plaintiff owes fuel taxes under successor liability.

Status: Discovery in progress.

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***RPM Entertainment, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002622    AG Case #: 082520552

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$69,909.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.                      Martens & Associates / Austin  
Seay, Michael B.

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief.

Status: Answer filed.

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***Savvy, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-002520    AG Case #: 082520016

Filed: 7/16/2008

Other Tax; Protest



Canfield, Gregory W.

San Antonio

Issue:

Status: Answer filed.

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***SSD Enterprises, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-002301 AG Case #: 082518697

Filed: 7/1/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$64,485.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Pianelli, James V.

Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***Stuart, Robert T. Jr., Estate of v. Strayhorn, et al.***

Cause Number: GN503318

AG Case #: 052216702

Filed: 9/14/2005

Inheritance Tax; Protest

Claim Amount	Reporting Period
\$1,293,469.96	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis

OAG Taxation / Austin

*Opposing Counsel*

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Wheat, David

Thompson & Knight, L.L.P. / Dallas

Hill, Frank

Thompson & Knight, L.L.P. / Austin

Issue: Whether Plaintiff's partnership interest located out-of-state is intangible personal property taxable in Texas. Plaintiff claims double taxation.

Status: Discovery in progress.

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***Texas Cabaret, Inc., dba, et al. v. Compt., et al.***

Cause Number: D-1-GN-08-002490 AG Case #: 082520032

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$49,795.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***Texas Richmond Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002438 AG Case #: 082519075

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$102,535.00	Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***The King Lounge, Inc., dba v. Compt., et al.***

Cause Number: D-1-GN-08-003793 AG Case #: 082536822

Filed: 10/20/2008

Other Tax; Protest

Claim Amount      Reporting Period  
\$138,875.00      Apr. - Sept. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.              OAG Taxation / Austin

*Opposing Counsel*

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Shells, T. Craig                  Richardson

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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***The Men's Club Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002439      AG Case #: 082519091

Filed: 7/10/2008

Other Tax; Protest

Claim Amount      Reporting Period  
\$60,890.00      Jan. - Apr. 2008

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.              OAG Taxation / Austin

*Opposing Counsel*

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Pianelli, James V.              Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

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***TPI Petroleum, Inc. v. Strayhorn, et al.***

Cause Number: GN502629

AG Case #: 052186657

Filed: 7/28/2005

Fuels Tax; Refund

Claim Amount      Reporting Period  
\$528,639.00      12/01/97 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether Plaintiff is entitled to a refund of diesel fuel tax paid on diesel fuel lost by drive-offs, a refund of gasoline tax and diesel fuel tax based on bad debt deductions, and a credit for motor fuel tax paid on sales of reefer fuel.

Status: Trial set for 03/01/10.

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***Travis Co., Texas, Nelda Wells Spears, et al. v. Susan Combs, Compt., et al.***

Cause Number: D-1-GN-08-002211 AG Case #: 082531500 Filed: 9/16/2008

Motor Vehicle Tax; Refund

Claim Amount	Reporting Period
\$26,105.98	Jan. 1, 2001 through Mar. 31, 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Phillips, Wade OAG Taxation / Austin

*Opposing Counsel*

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Martin, Gary Duncan Austin

Issue: Whether the Comptroller may refuse to credit the county for checks used to pay motor vehicle taxes that were returned for insufficient funds more than four years ago.

Status: Answer filed.

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***Valero Retail Holdings, Inc. & MRP Properties Co., LLC v. Compt., et al.***

Cause Number: D-1-GN-08-004672 AG Case #: 093097376 Filed: 12/24/2008

Motor fuel tax Tax; Refund

Claim Amount	Reporting Period
\$3,224,831.00	08/1/1999 through 07/31/2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to: a refund of motor fuel tax paid on fuel lost due to drive-offs; a refund of motor fuel tax based on bad debt deductions; and a credit for motor fuel tax paid on reefer fuel and fuel used for other off-road uses.

Status: Trial set for 03/01/10.

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***Vinson Oil Distribution v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003262 AG Case #: 062405956

Filed: 8/31/2006

Fuels Tax; Protest

Claim Amount	Reporting Period
\$40,711.92	(Diesel)
\$1,861.38	(Gasoline)
	12/01-31/01
	12/01-31/02
	12/01-31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Whether Plaintiff is entitled to a refund of gasoline tax and diesel fuel tax based on bad debt deductions resulting from proprietary card usage. Plaintiff claims violation of due process, equal protection and equal and uniform taxation.

Status: Inactive.

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## Closed Cases

### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-05-01845 AG Case #: 052154382

Filed: 5/23/2005

Franchise Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$203,117.59	1994 - 1996

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether the franchise tax requirement under Tax Code §171.110 to add back officer and director compensation to the tax base without voter approval is unconstitutional. Plaintiff claims disparate tax treatment based on the number of shareholders within a corporation, and violation of equal and uniform taxation and the Equal Protection Clause. Whether the provision also discriminates unconstitutionally between banks and other corporations and should be limited to officers with significant authority.

Status: Plaintiff's Unopposed Motion to Consolidate Cause Nos. GN-501854 and D-1-GN-06-002389 into Cause No. GN-501845 filed 11/07/06. Plaintiff's Motion for Partial Summary Judgment filed 02/04/08. Defendants filed a Cross-Motion for Partial Summary Judgment on 04/15/08 and an Amended Motion for Partial Summary Judgment on 04/28/08. Cross-Motions for Summary Judgment heard on 05/15/08. Defendants' Amended Motion for Partial Summary Judgment granted on 06/05/08 and Plaintiff's Motion was denied. Plaintiff filed non-suit on 02/23/09.

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### ***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: GN501854 AG Case #: 052154390

Filed: 5/23/2005

Franchise Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$169,857.71	1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether the franchise tax requirement under Tax Code §171.110 to add back officer and director compensation to the tax base without voter approval is unconstitutional. Plaintiff claims disparate tax treatment based on the number of shareholders within a corporation, and violation of equal and uniform taxation and the Equal Protection Clause. Whether the provision also discriminates unconstitutionally between banks and other corporations and should be limited to officers with significant authority.

Status: Motion granted 11/07/06 to consolidate into case styled 7-Eleven, Inc. v. Strayhorn, et al., Cause #D-1-GN-05-001845. Case non-suited on 02/23/09.

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***7-Eleven, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002389    AG Case #: 062380316

Filed: 6/29/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$169,847.71	1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether add-back of officer compensation is a personal income tax requiring voter approval. Whether Section §171.110 and Rule 3.558 violate equal protection. Alternatively, whether the amount of add-back is overstated.

Status: Motion granted 11/07/06 to consolidate into case styled 7-Eleven, Inc. v. Strayhorn, et al., Cause #D-1-GN-05-001845. Case non-suited on 02/23/09.

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***7-Eleven, Inc. vs. Compt., et al.***

Cause Number: D-1-GN-08-002122 AG Case #: 082516196

Filed: 6/18/2008

Franchise Tax; Refund

Claim Amount	Reporting Period
\$247,921.30	2000 through 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Whether the officer compensation add-back provision is unconstitutional under the limitation on personal income taxes or equal protection.

Status: Plaintiff filed non-suit on 02/23/09.

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***Alcatel Network Systems, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000104 AG Case #: 062271143

Filed: 1/10/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$908,670.54	05/01/93 - 10/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether purchases of software licenses qualify as tangible personal property with a useful life in excess of six months and used or consumed in or during the manufacturing, processing, or fabrication of tangible personal property for ultimate sale so as to be exempt from sales tax. Whether display items and/or the materials used to make them are exempt from sales tax.

Status: Motion granted 11/14/06 to consolidate with case styled Alcatel Network Systems, Inc.

v. Strayhorn, et al. Cause #D-1-GN-06-003731. Partial MSJ hearing held 12/17/07. Judgment granted for the State 01/11/08. Hearing on Cross-Motions for Summary Judgment held on 07/14/09 and pending decision by the district court; Final Judgment for Comptroller on 07/17/09.

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***Alcatel Network Systems, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003731 AG Case #: 062412861

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$908,670.54	05/01/93 - 10/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether purchases of tangible personal property with a useful life in excess of six months and used or consumed in or during the manufacturing, processing, or fabrication of tangible personal property for ultimate sale are exempt from sales tax. Whether display items and/or the materials used to make them are exempt from sales tax.

Status: Motion granted 11/14/06 to consolidate with case styled Alcatel Network Systems, Inc. v. Strayhorn, et al., Cause #D-1-GN-06-000104. Final Judgment for the Comptroller on 07/17/09.

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***Allstate County Mutual Insurance Company; Allstate Insurance Company; Allstate Indemnity Company; Allstate Texas Lloyds; and Allstate Property and Casualty Insurance Company v. Strayhorn, et al.***

Cause Number: GN300968 AG Case #: 031778947

Filed: 3/26/2003

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,544,443.60	1995-2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.                      Jackson Walker, L.L.P. / Austin  
Moore, Steven D.

Issue: Whether Plaintiffs owe gross premiums tax on defaulted auto insurance premiums that are not received.

Status: Discovery in progress. Plaintiffs' Third Amended Petition filed 10/03/07. Encompass Home and Auto Insurance Company's Plea in Intervention filed 10/03/07. Allstate Fire and Casualty Insurance Company's Plea in Intervention filed 10/03/07. Plaintiffs' Motion for Summary Judgment filed 01/28/08. Hearing on Cross-Motions for Summary Judgment held 10/16/08. Trial court granted Defendants' Cross-Motions for Summary Judgment and denied Plaintiffs' Motions for Summary Judgment. Final Judgment signed by court on 11/24/08.

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***Arnold, Jessamine J., Estate of, Deceased, and Jim Arnold, Jr., Independent Executor v. Rylander, et al.***

Cause Number: GN203255                      AG Case #: 021670484                      Filed: 9/9/2002

Inheritance Tax; Protest

Claim Amount	Reporting Period
\$161,956.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan                      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.                      Martens & Associates / Austin

Mondrik, Christina A.                      Mondrik & Associates / Austin

Issue: Whether the IRS erred in increasing the value of the estate's assets and disallowing expenses and gifts.

Status: Plaintiff filed unopposed motion to retain 03/23/07; granted 07/10/07. Agreed Judgment signed 03/25/09.

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***Barney Holland Oil Co. vs Compt., et al.***

Cause Number: D-1-GN-08-000250                      AG Case #: 082492216                      Filed: 1/22/2008

Fuels Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$104,000.00	01/01/04-02/28/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Hudman, Douglas R.

Issue: Whether fuel access cards may be treated as credit cards for purposes of the bad debt deduction for fuels taxes.

Status: Summary Judgment hearing set for 06/26/08. Plea to the Jurisdiction filed 06/06/08. Plea to the Jurisdiction and Order of Dismissal granted 06/26/08.

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***BASF Corp. v. Compt., et al.***

Cause Number: D-1-GN-08-002140    AG Case #: 082514696

Filed: 6/19/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$537,372.00	10/01/97 thru 12/31/01 and 01/01/02 thru 12/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Bishop, II, Daniel W.

Goolsby, Christin E.

Issue: Whether contract labor services were taxable. Whether penalty and interest relating to settlement amounts on the services issue should also be refunded.

Status: Discovery in progress. Defendants' Trial Brief filed 04/21/09. Plaintiff's Trial Brief filed 04/24/09. Final Judgment granted for Plaintiffs.

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***Beadles, Joe Haven v. Strayhorn***

Cause Number: D-1-GN-06-002682    AG Case #: 062385901

Filed: 7/24/2006

Diesel Fuel Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$697,793.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Seaquist, Gunnar                      OAG Taxation / Austin

*Opposing Counsel*

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Pro Se

Issue: Plaintiff claims that the State issued a diesel fuel bonded suppliers' permit to Plaintiff without Plaintiff's knowledge, allowing diesel fuel taxes to be assessed against Plaintiff. Plaintiff claims he never purchased or sold diesel fuel. Plaintiff claims the State previously collected the taxes in question from subsidiaries who sold diesel fuel through truck stops. Plaintiff claims these subsidiaries bought the diesel fuel from an oil company which the State, through an "agreement with the oil company," exempted from paying taxes. Plaintiff requests that all diesel fuel taxes assessed be dismissed.

Status: Case DWOP'd on 12/05/08.

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***CallSource, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004597    AG Case #: 083095554

Filed: 12/19/2008

Sales Tax; Protest

Claim Amount	Reporting Period
\$244,033.70	10/01/03 through 05/31/07

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Wahby, Peter S.                      Greenberg Traurig, LLP / Dallas

Issue: Whether customer information tracking services (associated w/marketing campaigns) are taxable as information services or exempt as proprietary information. Whether other, non-taxable, information services were included in lump-sum customer invoices. Preemption under the Internet Tax Freedom Act. Plaintiff also asserts multi-state benefit & lack of nexus.

Status: Case non-suited on 01/09/09. Refiled under cause # D-1-GN-09-000188. Answer & Request for Disclosure filed 02/12/09.

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***Carlos Manrique De Lara, M.D., P.A., v. State of Texas***

Cause Number: C-450-09

AG Case #: 093105153

Filed: 2/17/2009

Sales and use Tax; Injunction

Claim Amount      Reporting Period  
\$161,786.39

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Calvillo, David N.                      Calvillo Law Firm / McAllen

Issue: Whether Plaintiff was improperly denied a redetermination hearing because he did not receive proper notice of the deficiency determination.

Status: Order granting Agreed Motion to Dismiss entered on 04/30/09.

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***Charles Dawson, et al. vs. Comptroller, et al.***

Cause Number: CV12,011

AG Case #: 072463946

Filed: 8/7/2007

Property Tax; Protest

Claim Amount      Reporting Period  
\$849,870.00      2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Perkins-Mouton, Trina                      Attorney at Law / Houston

Issue: Whether Plaintiff's property tax assessment was excessive

Status: The matters in dispute were settled by the parties. Agreed Final Judgment signed 01/02/08.

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***Chevron USA, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-000292      AG Case #: 072453475

Filed: 12/6/2004

Sales Tax; Refund

Claim Amount      Reporting Period  
\$223,967.73      01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether tax paid on discounted portions of Plaintiff's purchases should be refunded. Whether tax paid at an incorrect tax rate should be refunded.

Status: Case severed from original case styled Chevron USA, Inc. v. Strayhorn, et al., Cause #GN403978. Motion for Partial Summary Judgment set for 04/02/08. Comptroller's Plea to the Jurisdiction granted. Motion for new trial granted 06/25/08. Court issued an Order on 09/22/08, granting Plaintiff's Motion for Partial Summary Judgment. This order was interlocutory pending resolution of the remainder of Plaintiff's claims. Those remaining claims were severed from this case on 02/02/09 and placed in cause #D-1-GN-09-000333. On 09/22/08, the Court issued an Order Granting Plaintiff's Motion for Partial Summary Judgment. The 09/22/08 Order was interlocutory pending resolution of the remainder of Plaintiff's claims. The remaining claims were severed and placed in Cause # D-1-GN-09-000333. Final Judgment signed 02/18/09.

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***Coastal Industries, Inc. v. Compt., et al.***

Cause Number: D-1-GN-08-004213    AG Case #: 083091561

Filed: 11/20/2008

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$73,411.29	Oct. 1, 2000 - June 30, 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Bencowitz, Lynn M.                      Beaumont

Issue: Whether mold remediation services are taxable. Whether Plaintiff is entitled to detrimental reliance on Comptroller advice. Whether tax is not owed or interest should be required because of work done after a natural disaster.

Status: Case non-suited without prejudice 12/12/08.

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***Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-001967 AG Case #: 072458896

Filed: 6/29/2007

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$2,122,997.61	01/01/97 - 09/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Lyda, Kirk	Jones Day / Dallas
Gall, Maryann B.	Jones Day / Columbus, OH
Mansfield, Douglas M.	
Shambaugh, Phyllis J.	

Issue: Whether Plaintiff's out-of-state mail order business meets the "substantial nexus" requirement to justify sales tax liability. Plaintiff claims violation of the Commerce Clause of the U.S. Constitution, Due Process Clause, Equal Protection Clause, and Tax Code Section 171.001(c). Plaintiff also requests waiver of penalty and attorneys' fees.

Status: Answer filed. Discovery in progress. Motion to Consolidate with case styled Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al., Cause # D-1-GN-07-001968 granted 09/21/07. Agreed Judgment signed 02/27/09. Case settled.

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***Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-001968 AG Case #: 072458797

Filed: 6/29/2007

Franchise Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$122,419.77	1997 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Lyda, Kirk  
Gall, Maryann B.  
Mansfield, Douglas M.  
Shambaugh, Phyllis J.

Jones Day / Dallas  
Jones Day / Columbus, OH

Issue: Whether Plaintiff's out-of-state mail order business meets the "substantial nexus" requirement to justify franchise tax liability. Whether Plaintiff's activities at tradeshows in Texas exceeded the limitations set forth in Tax Code Section 171.084. Plaintiff claims violation of the Commerce Clause of the U.S. Constitution, Due Process Clause, Equal Protection Clause, and Tax Code Section 171.001(c). Plaintiff also requests waiver of penalty and attorneys' fees.

Status: Case consolidated into Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al. Cause #D-1-GN-07-001967. Agreed Judgment signed 02/27/09. Case settled.

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***Culberson County-Allamoore ISD v. Strayhorn***

Cause Number: D-1-GV-06-001443 AG Case #: 062390018 Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Wolfe, Susan OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Categories A, C and D3 property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A, C and D3 property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Court sent notice of DWOP scheduled for 12/05/08. Notice of non-suit filed 12/10/08.

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***Daingerfield-Lone Star ISD v. Strayhorn***

Cause Number: D-1-GV-06-001444 AG Case #: 062390034 Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray                                      Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Categories A and F1 property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A and F1 property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Notice of nonsuit filed 09/11/08.

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***Design Masterpiece Landscaping, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001691    AG Case #: 062337985

Filed: 5/12/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$68,630.03	06/01/99 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                              Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / Austin

Issue: Whether landscaping services sold under lump-sum contracts by Plaintiff to homeowners are exempt as real property services. Whether a homeowner can contract with a homebuilder and still act as a contractor. Plaintiff requests that interest be waived. Plaintiff also claims violation of due process, equal protection, and equal and uniform taxation.

Status: Case settled.

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***E.A. Enterprises v. Texas State Comptroller***

Cause Number: C-2277-09-I                      AG Case #: 093144111

Filed: 8/13/2009

Mixed beverage Tax; Injunction

Claim Amount	Reporting Period
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Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Roerig, David M.                      Roerig, Oliveira & Fisher, L.L.P. / McAllen

Issue: Plaintiff seeks injunctive relief against the Comptroller's enforcement of mixed beverage taxes. In particular, seeks time to file an original security board so that it will not lose its liquor license and be closed.

Status: Joint Motion to Dismiss filed 08/25/09.

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***El Paso Corporation v. Strayhorn, et al.***

Cause Number: GN304213

AG Case #: 031879356

Filed: 10/28/2003

Franchise Tax; Protest

Claim Amount      Reporting Period

\$2,278,308.75      1999 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether severance pay and merger expenses were improperly included in Plaintiff's apportionment factor. Whether other income was improperly sourced or included. Whether certain deductions were erroneously disallowed. Plaintiff also seeks waiver of all penalty and interest.

Status: Case settled. Agreed Judgment entered 01/15/09.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN501395

AG Case #: 052141975

Filed: 4/25/2005

Gas Production Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$10,517.30      01/01/87 - 12/31/87

01/01/88 - 12/31/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug  
Dashiell, Doug

Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for tax on gas purchases as a producer or exempt as a purchaser. Whether Plaintiff is exempt from paying severance taxes as an interstate natural gas pipeline company. Plaintiff claims violation of the Due Process, Commerce, and Supremacy Clauses, and equal and uniform taxation. Plaintiff requests that the assessed penalty and interest be waived, and seeks attorneys' fees.

Status: Order granting Motion to Consolidated Cause Nos.GN502628, GN502815, GN503965 into this case, Cause #GN501395 signed 12/16/05. Case Dismissed With Prejudice. Agreed Judgment signed 10/07/08.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN502628

AG Case #: 052186640

Filed: 7/28/2005

Gas Production Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$41,492.78	01/01/87 - 12/31/87
\$31,595.18	01/01/87 - 12/31/87 (penalty)
\$87,955.50	01/01/87 - 12/31/87 (interest)
\$25,231.65	01/01/88 - 12/31/88
\$44,138.50	01/01/88 - 12/31/88 (interest)

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Sigel, Doug  
Dashiell, Doug

Issue: Whether Order 94 payments are exempt from tax. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether imposition of the gas production tax on Plaintiff violates the Commerce Clause and Supremacy Clause. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States. Plaintiff also claims violation of equal and uniform taxation. Plaintiff seeks attorneys' fees, and waiver of penalties and interest assessed.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause #GN501395. Case Dismissed With Prejudice. Agreed Judgment in Cause #GN501395 signed 10/07/08.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN502815

AG Case #: 052195583

Filed: 8/10/2005

Gas Production Tax; Protest

Claim Amount	Reporting Period
\$2,217,939.19	12/01/82 - 12/31/86
	01/01/89 - 12/31/90

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Sigel, Doug

Dashiell, Doug

Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims that taxes assessed by the defendant is "double-dipping," and time limitations bar the assessments. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States, and violation of the Commerce Clause and Supremacy Clause. Plaintiff also claims violation of equal and uniform taxation. Plaintiff seeks attorneys' fees and waiver of interest assessed. Plaintiff also requests disclosure of certain information and material.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause

#GN501395. Case Dismissed With Prejudice. Agreed Judgment in Cause #GN501395 signed 10/07/08.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN503965

AG Case #: 052243847

Filed: 11/2/2005

Gas Production Tax; Refund

Claim Amount	Reporting Period
\$1,814,098.80	12/01/82 - 12/31/86
\$1,958,296.59	12/01/82 - 12/31/86 (interest)
\$32,615.00	01/01/89 - 12/31/90
\$37,401.27	01/01/89 - 12/31/90 (interest)

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug  
Dashiell, Doug

Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether imposition of the gas production tax on Plaintiff violates the Commerce Clause and Supremacy Clause. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims violation of equal and uniform taxation. Plaintiff claims that taxes assessed by the defendant is "double-dipping," and time limitations bar the assessments. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States. Plaintiff seeks attorneys' fees and waiver of interest assessed.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause #GN501395. Case Dismissed With Prejudice. Agreed Judgment in Cause #GN501395 signed 10/07/08.

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***ExxonMobil Oil Corporation v. Combs, et al.***

Cause Number: D-1-GN-07-001398

AG Case #: 072452881

Filed: 5/11/2007

Sales Tax; Protest

Claim Amount	Reporting Period
\$2,615,400.64	01/01/92 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Taylor, III, Jasper G.                      Fulbright & Jaworski / Houston  
Chadha, Jayash M.

Issue: Whether tangible personal property with an operator is non-taxable as leased equipment. Whether shipping and freight charges paid directly by Plaintiff are non-taxable. Whether charges to maintain real property during a "turnaround" are taxable. Plaintiff requests that penalty be waived.

Status: Case settled. Agreed Judgment filed 09/22/09.

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***First American Title Ins. Co. vs Compt., et al.***

Cause Number: D-1-GN-08-001740    AG Case #: 082511932

Filed: 5/21/2008

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$1,575,269.35	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                              OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.                                  Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller improperly calculated retaliatory tax based on the split premium between insurer and agent. Whether the Comptroller's policy is invalid for failure to follow APA rule adoption procedures.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on companion First American case, Cause # 05-0541.

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***First American Title Insurance Company v. Combs, et al.***

Cause Number: GN301692

AG Case #: 031806011

Filed: 5/23/2003

#03-04-00342-CV

#05-0541

#08-721

Retaliatory Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,432,580.76	1998 - 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Phillips, Thomas R.	Baker Botts L.L.P. / Austin
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Kry, Robert K.	Baker Botts, L.L.P. / Washington, DC
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Eudy, Ron K.	Sneed, Vine & Perry / Austin
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Zim, Matthew J.	Steptoe & Johnson, L.L.P. / Washington, DC
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Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA. Plaintiff also seeks attorneys’ fees.

Status: State's Motion for Summary Judgment granted 05/18/04; Plaintiff's denied. Notice of Appeal filed 06/17/04. Motion to consolidate cases granted 07/29/04 (Old Republic National Title Insurance Co. v. Strayhorn, et al., Cause #GN401630). Appellants' brief filed 08/30/04. Appellees' brief filed 10/26/04. Appellants' reply brief filed 11/15/04. Submitted on Oral Argument 01/19/05. Appellees' supplemental brief filed 02/01/05. Appellants' supplemental brief filed 02/15/05. Opinion issued 06/03/05 affirming trial court's judgment in favor of Comptroller. Petition for Review filed in the Tx. Supreme Court 07/14/05. Respondent filed Waiver to Respond 07/28/05. Case forwarded to Court 08/02/05. Court requested response 08/29/05; response filed 09/28/05. Petitioner's reply filed 10/13/05. Briefing on the merits requested 12/19/05. Petitioners' brief filed 02/17/06. Respondents' brief filed 03/09/06. Petitioners' reply brief filed 03/24/06. Amicus Curiae brief received by Court 04/11/06. Petition for Review denied 09/01/06. Motion for Rehearing filed 10/16/06. Amicus Curiae brief received by Court 10/16/06. Response to Motion for Rehearing filed by Respondent 12/08/06. Petitioner's reply filed 12/22/06. Motion for Rehearing granted 03/09/07. Motion to participate pro hac vice filed by Petitioner 03/29/07; granted 04/04/07. Submitted on Oral Argument 04/11/07. Post-submission brief filed by Respondent 04/19/07. Response to Petition for Review filed by Petitioner 04/27/07. Response to Amicus Curiae brief filed by Petitioner 04/27/07. Post-submission brief filed by Respondent 05/02/07. Response filed by Petitioner 05/07/07. Motion for Leave to file brief filed 05/07/07; granted 05/10/07. Opinion 5-4 issued by the Supreme Court 05/16/08. The Court sustained the title insurance retaliatory tax against Petitioners’ claim that it violated Equal Protection and equal and uniform taxation guarantees. The Court affirmed summary judgment in the State’s favor. Justice Hecht and 3 justices dissented in a written opinion. Petitioner filed and was granted an extension of time to file a

motion for rehearing on 07/02/08. Petitioners' Motion for Rehearing of Cause filed 07/02/08; denied 08/28/08. Mandate issued 08/29/08. Corrected Opinion issued by the Supreme Court 08/29/08. Motion for Rehearing denied. Petition for Writ of Certiorari to the U.S. Supreme Court filed 11/26/08. Waiver of right of Respondents to respond filed 12/11/08. Response requested 01/06/09. Amicus brief filed by Alamo Title Insurance, et al. on 02/05/09. Respondent's response filed 03/30/09. Petitioner's Reply filed 04/15/09. Cert denied 05/04/09.

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***First American Title Insurance Company v. Combs, et al.***

Cause Number: D-1-GN-07-001503    AG Case #: 072452949    Filed: 5/22/2007  
#03-04-00342-CV  
#05-0541

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$1,219,341.64	2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.                          Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on companion First American case, Cause # 05-0541.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN401631                      AG Case #: 041976440                      Filed: 5/21/2004

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$1,490,029.00	2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on companion First American case, Cause # 05-0541.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: D-1-GN-05-001795 AG Case #: 052153855

Filed: 5/17/2005

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$2,140,952.88	2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on companion First American case, Cause # 05-0541.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001853 AG Case #: 062359823

Filed: 5/24/2006

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$1,020,476.26	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on companion First American case, Cause # 05-0541.

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***Graybar Electric Company, Inc. v. Sharp, et al.***

Cause Number: 97-01795

AG Case #: 97682966

Filed: 2/13/1997

Sales Tax; Protest

Claim Amount	Reporting Period
\$107,667.00	01/01/88 - 12/31/91

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

Scott, Douglass & McConnico, L.L.P. / Austin

Langenberg, Ray

Issue: Whether the sample audit resulted in a correct assessment.

Status: Settlement negotiations in progress. Unopposed Motion to Retain filed 09/25/06 by Plaintiff; granted 02/26/07. All issues in dispute were resolved by the parties. Agreed judgment signed 04/06/09.

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***Herndon Marine Products, Inc. v. Sharp, et al.***

Cause Number: 91-14786

AG Case #: 91164788

Filed: 10/18/1991

Sales Tax; Refund

Claim Amount	Reporting Period
\$62,465.00	01/01/87 - 03/31/90

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

Opposing Counsel

Bell, John D.

Wood, Boykin & Wolter / Corpus Christi

Issue: Whether predominant use of electricity from Plaintiff's meter is exempt. Whether burden of proof in administrative hearing should be clear and convincing evidence or preponderance of the evidence.

Status: Special exceptions and answer filed. Defendants' filed a Motion to Dismiss for Want of Prosecution. Order of Dismissal signed 03/04/09.

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***Kendrick Oil Company v. Combs, et al.***

Cause Number: D-1-GN-07-001031 AG Case #: 072445638

Filed: 4/5/2007

Fuels Tax; Refund

Claim Amount	Reporting Period
	01/01/99 - 07/31/02

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H.

OAG Taxation / Austin

Opposing Counsel

Grissom, Donald H.

Grissom & Thompson / Austin

Thompson, III, William W.

Issue: Whether motor fuel taxes should be assessed on all tax-free diesel fuel sold by Plaintiff during the audit period or just those gallons exceeding the gallonage limits prescribed in Section 153.205(f) of the Tax Code. Plaintiff also claims the Comptroller improperly assessed diesel fuel taxes for sales allegedly not made in conformance with Sections 153.205 and 162.206 of the Tax Code.

Status: Order granting Defendants' Cross-Motion for Summary Judgment signed 03/04/09.

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***Mabank ISD v. Comptroller***

Cause Number: GV503360

AG Case #: 052185741

Filed: 7/19/2005

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2004

Counsel Associated With This Case:

Assistant Attorney General

Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Swinney, Kirk McCreary, Veselka, Bragg & Allen, P.C. / Austin  
Armstrong, Roy L.

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties and whether the Comptroller failed to properly account for the inflationary trend.

Status: Henderson County Appraisal District filed a Petition of Intervention and for Injunctive Relief on 12/20/07. Agreed Order of Dismissal signed 06/22/09.

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***Malakoff ISD v. Comptroller***

Cause Number: GV503359 AG Case #: 052185758 Filed: 7/19/2005

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Swinney, Kirk McCreary, Veselka, Bragg & Allen, P.C. / Austin  
Armstrong, Roy L.

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties and whether the Comptroller failed to properly account for the inflationary trend.

Status: Henderson County Appraisal District filed a Petition of Intervention and for Injunctive Relief on 12/20/07. Agreed Order of Dismissal signed 06/04/09.

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***Minyard Food Stores, Inc. vs Compt., et al.***

Cause Number: D-1-GN-07-003882 AG Case #: 072481211 Filed: 11/8/2007

Sales Tax; Protest

Claim Amount	Reporting Period
\$1,221,250.86	08/01/95 - 10/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether sample was defective because of missing records and credit items. Whether assessments were made on non-taxable services. Whether utility and manufacturing exemptions applied to some items. Whether the statute of limitations was properly extended.

Status: Case settled. Agreed Judgment signed 01/20/09.

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***Northrop Grumman Systems Corporation (Successor to Northrop Grumman Corporation and Vought Aircraft Company) v. Rylander, et al.***

Cause Number: GN201344 AG Case #: 021607155 Filed: 5/1/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,600,000.00	09/01/92 - 11/30/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Bernal, Jr., Gilbert J. Stahl, Bernal & Davies / Austin

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff claims that collection of the tax violates the Supremacy Clause as a tax on the U.S. government and that the Comptroller violated the constitutional requirements of equal protection and equal taxation by denying the refund claim. Plaintiff also seeks attorneys' fees.

Status: Both parties resolved the disputed issues in this lawsuit. The Agreed Judgment was signed on 05/13/09.

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***Office Depot, Inc. and Viking Office Products, Inc. v. Combs, et al.***

Cause Number: D-1-GN-07-004220 AG Case #: 072484710 Filed: 12/7/2007

Sales Tax; Protest & Refund

Claim Amount	Reporting Period
\$1,827,565.08	11/01/98 - 07/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether sales to unidentified customers were treated correctly. Whether tax was improperly assessed or paid on various transactions. Whether out of state items were treated correctly.

Status: Case settled. Agreed Judgment filed 10/22/09.

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***Office Depot, Inc., et al. v. Compt., et al.***

Cause Number: D-1-GN-08-004031    AG Case #: 083091207

Filed: 11/6/2008

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$3,430,000.00	Aug. 1, 1998 - July 31, 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin

Issue: Plaintiff brings about twenty different sales and use tax claims including transactions for which customer identities are unavailable, exemption certificates, out of state use, packaging, and various service issues.

Status: Case settled. Agreed Judgment filed 10/22/09.

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***Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN503442

AG Case #: 052217601

Filed: 9/22/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$1,552,785.55	01/01/94 - 07/31/98
	01/01/94 - 12/31/95
	07/01/92 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
Langenberg, Ray	
Sigel, Doug	

Issue: Whether transactions for which customer identities are unavailable are taxable. Whether the Comptroller used the proper sampling procedure. Whether the proper error rate for assessed sales transactions with missing customer information was used. Plaintiff also claims violation of equal and uniform taxation, the Equal Rights Clause, the Equal Protection Clause, due course of law and Due Process Clause.

Status: Case settled. Agreed Judgment filed 10/22/09.

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***Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000041 AG Case #: 062269014

Filed: 1/5/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,552,785.55	01/01/94 - 07/31/98
	01/01/94 - 12/31/95
	07/01/92 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.	OAG Taxation / Austin
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*Opposing Counsel*

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Eidman, Mark W.	Scott, Douglass & McConnico, L.L.P. / Austin
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Langenberg, Ray  
Sigel, Doug

Issue: Whether transactions for which customer identities are unavailable are taxable. Whether the Comptroller improperly extrapolated the error rate associated with tax-exempt copier lease payments over an under-valued population base.

Status: Case settled. Agreed Judgment filed 10/22/09.

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***Old Republic National Title Ins. Co. vs. Compt.***

Cause Number: D-1-GN-08-001741 AG Case #: 082510926

Filed: 5/21/2008

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$283,522.56	2007

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K. Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on First American Title Insurance Company v. Combs, et al., Cause # 05-0541.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN401630

AG Case #: 041976416

Filed: 5/21/2004

Retaliatory Tax; Refund

Claim Amount	Reporting Period
\$289,403.85	2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA. Plaintiff also seeks attorneys’ fees.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on First American Title Insurance Company v. Combs, et al., Cause # 05-0541.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN501794

AG Case #: 052151883

Filed: 5/17/2005

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$234,970.95	2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on First American Title Insurance Company v. Combs, et al., Cause # 05-0541.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN503918

AG Case #: 052240827

Filed: 10/28/2005

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$247,928.29	01/01/01 - 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.                              Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on First American Title Insurance Company v. Combs, et al., Cause # 05-0541.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001854    AG Case #: 062359831                      Filed: 5/24/2006

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$255,144.50	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.                              Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on First American Title Insurance Company v. Combs, et al., Cause # 05-0541.

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***Old Republic Title Insurance Company v. Combs, et al.***

Cause Number: D-1-GN-07-001502    AG Case #: 072452923                      Filed: 5/22/2007

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$268,130.28	2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eudy, Ron K.	Sneed, Vine & Perry / Austin
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Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA.

Status: Case non-suited on 08/04/09. On 05/04/09, U. S. Supreme Court denied petition for writ of certiorari on First American Title Insurance Company v. Combs, et al., Cause # 05-0541.

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***Old Republic Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN301693

AG Case #: 031806029

Filed: 5/23/2003

#03-04-00347-CV

Retaliatory Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$219,626.40	2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin	OAG Taxation / Austin
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*Opposing Counsel*

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Eudy, Ron K.	Sneed, Vine & Perry / Austin
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Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA. Plaintiff also seeks attorneys' fees.

Status: The State's Motion for Summary Judgment granted 05/17/04 and Plaintiff's Motion denied. Notice of Appeal filed 06/17/04; dismissed 07/29/04 due to Motion for Consolidation. Case consolidated into First American Title Insurance Co. v. Strayhorn, et al., Cause



***Preston Motors by George L. Preston, Owner v. Sharp, et al.***

Cause Number: 91-11987

AG Case #: 91133170

Filed: 8/26/1991

Motor Vehicle Tax; Protest

Claim Amount	Reporting Period
\$21,796.00	12/01/86 - 09/30/89

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Pro Se

Issue: Whether motor vehicle tax should fall on dealer/seller rather than the purchaser under §152.044. Related constitutional issues.

Status: Hearing on State's motion to dismiss held 03/31/09. Case Dismissed for Want of Prosecution 04/15/09.

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***Reynolds Metals Company v. Strayhorn, et al.***

Cause Number: GN401468

AG Case #: 041970799

Filed: 5/7/2004

#03-07-00709-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$227,094.25	03/01/94 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Sigel, Doug

Issue: Whether conveyors and weigh-ometers are exempt as manufacturing equipment or taxable as intraplant transportation. Whether repair and replacement parts for the conveyors are exempt from sales tax as purchases of pollution control equipment used in manufacturing and purchases of environmental repairs. Whether ship unloaders qualify as rolling stock and exempt from sales tax. Plaintiff also claims violation of equal and uniform taxation and equal protection.

Status: Partial Summary Judgment granted for Comptroller on the rolling stock issue. Taxpayer dropped all other issues. Appeal filed by Plaintiff on 12/14/07. Appellant's brief filed 02/04/08; Oral Argument requested. Appellees' brief filed 03/19/08; Oral Argument requested. Appellant's Reply brief filed 04/08/08. Submitted on briefs 08/21/08. Opinion issued 02/04/09, affirming district court's judgment. Appellant's Motion for Extension of Time to File Motion for Rehearing filed and granted 02/17/09. Motion for Rehearing filed 03/12/09. Memorandum Opinion reissued 04/08/09 overruling the motion and concluding that the district court did not err in granting summary judgment that Reynolds' purchases do not qualify under the exemption. Appellant's Motion for Rehearing denied 04/08/09. Petition for Review filed in the Supreme Court on 05/21/09. Petition denied 07/10/09. Mandate issued 08/27/09.

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***Rockwell Collins, Inc. v. Rylander, et al.***

Cause Number: GN203339

AG Case #: 021676788

Filed: 9/13/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$591,028.39	01/01/97 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

Gilliland, David H.              Clark, Thomas & Winters / Austin

Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Plaintiff also claims a denial of equal protection and an exemption under §151.3111.

Status: Case settled. Agreed Judgment signed 09/22/09.

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***Sharper Image Corporation v. Rylander, et al.***

Cause Number: GN203645

AG Case #: 021686779

Filed: 10/9/2002

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$264,355.46	07/01/94 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

Eisenstein, Martin I.                      Brann & Isaacson / Lewiston, ME  
Beal, Kevin J.

Bernal, Jr., Gilbert J.                      Stahl, Bernal & Davies / Austin

Issue: Whether use tax imposed on catalogs shipped from out-of-state is unlawful because: (1) Plaintiff never used the catalogs in Texas; (2) the tax violates the Commerce Clause; and, (3) Rule 3.346 is unconstitutional. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: The parties settled all disputed claims. Agreed Judgment signed 12/05/08, settling this cause and Cause No. GN203821.

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***Sharper Image Corporation v. Rylander, et al.***

Cause Number: GN203821                      AG Case #: 021696851                      Filed: 10/22/2002

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$258,205.20	12/01/97 - 03/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Eisenstein, Martin I.                      Brann & Isaacson / Lewiston, ME  
Beal, Kevin J.

Bernal, Jr., Gilbert J.                      Stahl, Bernal & Davies / Austin

Issue: Whether use tax imposed on catalogs shipped from out-of-state is unlawful because: (1) Plaintiff never used the catalogs in Texas; (2) the tax violates the Commerce Clause; and, (3) Rule 3.346 is unconstitutional. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Case consolidated into Sharper Image Corporation v. Rylander, et al., Cause # GN203645 per court order signed 04/09/03. The parties settled all disputed claims. Agreed Judgment signed 12/05/08, settling this cause and Cause No. GN203645.

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***Southern Plastics, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000047                      AG Case #: 062270459                      Filed: 1/6/2006  
#03-08-00149-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$4,872.78	11/01/99 - 10/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Van Oort, Kevin                      OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray                              Ray, Wood & Bonilla, L.L.P. / Austin

Issue: Whether Petitioner's waste from its manufacturing plant qualifies as industrial solid waste and thus exempt from sales tax when removed as industrial solid waste.

Status: Discovery in progress. Plaintiff's Motion for Summary Judgment filed 08/23/07. Defendants' Special Exceptions filed 09/26/07. Plaintiff's Second Amended Original Petition filed 09/26/07. Defendants' Cross Motion for Summary Judgment filed 09/27/07. Summary Judgment hearing scheduled for 10/18/07. Defendant's Motion for Summary Judgment granted 10/18/07. Plaintiff's Motion for Summary Judgment denied 10/18/07. Plaintiff's Motion for Reconsideration and Rehearing on Motions for Summary Judgment filed 12/10/07. Rehearing on Motions for Summary Judgment held 01/09/08. Final Judgment granted for Defendants 01/30/08. Plaintiffs' Notice of Appeal filed 02/29/08. Appellant's Motion for Extension of Time to File Brief filed and granted 04/14/08. Appellant's brief filed 05/21/08. Appellee's brief filed 07/03/08; Oral Argument requested. Appellant's Reply Brief filed 08/29/08. Set for submission on oral argument. Appellees' Motion to Postpone Oral Argument filed 01/28/09. Submission cancelled 02/02/09. Submitted on oral argument 04/08/09. Memorandum Opinion issued 07/01/09, affirming the district court's judgment for the State. Mandate issued 10/01/09.

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***Southwest Food Processing & Refrigerated Services, aka Southwest Refrigerated Warehousing Services v. Rylander, et al.***

Cause Number: GN103390

AG Case #: 011509668

Filed: 10/15/2001

Sales Tax; Protest

Claim Amount	Reporting Period
\$188,477.57	01/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Mott, H. Christopher                      Krafzur Gordon Mott / El Paso

Issue: Whether Plaintiff owes tax on electricity used to freeze food items.

Status: Agreed Judgment signed 09/22/09.

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***Stantrans Partners, L.P. v. Strayhorn, et al.***

Cause Number: GN502648

AG Case #: 052186624

Filed: 7/29/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$326,813.49	07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether purchases of tangible personal property for ultimate sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption. Whether gas and electricity purchased and used to process tangible personal property for sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption.

Status: Settlement negotiations in progress. Case consolidated with Stantrans Partners, L.P. v. Strayhorn, et al., Cause #D-1-GN-06-004583. Agreed Judgment filed 11/05/09.

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***Stantrans Partners, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004583    AG Case #: 062430343

Filed: 12/11/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$273,088.45	07/01/99 - 03/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Barenblat, Marc A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether purchases of tangible personal property for ultimate sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption. Whether gas and electricity purchased and used to process tangible personal property for sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption.

Status: Settlement negotiations in progress. Case consolidated into Stantrans Partners, L.P. v. Strayhorn, et al., Cause #D-1-GN-05-002648. Agreed Judgment filed 11/05/09.

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***Steamatic of Austin, Inc., et al. v. Rylander, et al.***

Cause Number: GN200631

AG Case #: 021567771

Filed: 2/25/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$103,335.27	04/01/91 - 04/30/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.                      Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray

Issue: Whether Plaintiff is entitled to a tax refund for repairs to tangible personal property on the grounds that such repairs were for casualty losses exempt under the Comptroller's Rules 3.357 and 3.310. Whether the claim is barred by limitations. Whether the Comptroller improperly changed the rule on casualty losses.

Status: Motion for summary judgment filed. Response filed. Partial summary judgment on limitations granted for Plaintiff 04/07/04. Case dismissed for want of prosecution 02/28/07.

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***STP Nuclear Operating Co. v. Combs***

Cause Number: D-1-GN-07-002357    AG Case #: 072462294

Filed: 7/30/2007

Insurance Premium Tax; Protest

Claim Amount	Reporting Period
\$172,397.04	2006

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                              OAG Taxation / Austin

*Opposing Counsel*

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Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the violates equal protection or is pre-empted by federal law governing the operation of nuclear plants.

Status: Answer filed 08/09/07. Inactive. Pending resolution of companion STP case. Case non-suited 03/05/09.

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***STP Nuclear Operating Company v. Combs, et al.***

Cause Number: GN302053

AG Case #: 031808371

Filed: 6/11/2003

#03-06-00428-CV

#07-0482

Insurance Premium Tax; Protest

Claim Amount	Reporting Period
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\$115,287.80	2002
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\$125,848.14	2003
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Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the tax violates equal protection or equal taxation.

Status: Due to order consolidating cases entered 06/27/05, STP Nuclear Operating Co. v. Strayhorn, et al., Cause No. GN501910, consolidated into this case. Hearing on cross-motions for summary judgment held 04/17/06. Judgment granted for Plaintiff on grounds of McCarran-Ferguson Act and for Defendants on issue of pre-emption. Judgment signed 06/20/06. State filed Notice of Appeal 07/18/06; docketing statement filed 07/21/06. Clerk's Record filed 08/30/06. Appellants' brief filed 10/20/06. Appellee's brief filed 12/04/06. Submitted on Oral Argument 01/10/07. Letter brief filed by State 02/06/07. Letter brief filed by Appellee 02/15/07. Letter brief filed by State 02/27/06. Opinion issued 05/01/07 reversing the trial court's judgment and rendering judgment in favor of the Comptroller. Petition for Review filed

in the Texas Supreme Court 06/15/07. Waiver of Response filed 07/06/07. Court requested response; filed 09/07/07. Briefing on the Merits requested 12/17/07. Case record filed 12/20/07. Petitioner's Briefing on the Merits due 01/16/08. Respondents' Briefing on the Merits due 02/05/08. Petitioner's Motion for Extension of Time to File Brief filed 01/15/08; granted 01/16/08. Petitioner's Brief filed 01/30/08. Respondents' Brief on the Merits filed 03/11/08. Petitioners' Reply Brief filed 03/26/08; denied 08/29/08. Petitioner's Motion for Rehearing filed 09/29/08. Response requested by the Supreme Court 11/04/08. Response to Motion for Rehearing filed 11/19/08. Motion for Rehearing denied by the Texas Supreme Court on 12/19/08.

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***STP Nuclear Operating Company v. Strayhorn, et al.***

Cause Number: GN501910

AG Case #: 052155728

Filed: 5/27/2005

Insurance Premium Tax; Protest

Claim Amount      Reporting Period

\$154,235.67      2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the tax violates equal and uniform protection or is pre-empted by federal law governing the operation of nuclear plants.

Status: Order to consolidate cases entered 06/27/05. This case consolidated into STP Nuclear Operating Co. v. Strayhorn, et al., Cause No. GN302053. Motion for Rehearing denied by the Texas Supreme Court on 12/19/08.

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***STP Nuclear Operating Company v. Strayhorn, et al.***

Cause Number: GN503375

AG Case #: 052214509

Filed: 9/19/2005

Insurance Premium Tax; Refund

Claim Amount      Reporting Period

\$529,071.60      1998 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the tax violates equal and uniform protection or is pre-empted by federal law governing the operation of nuclear plants.

Status: Inactive. Pending resolution of companion STP case. Case non-suited on 03/05/09.

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***STP Nuclear Operating Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002569 AG Case #: 062382932

Filed: 7/14/2006

Insurance Premium Tax; Protest

Claim Amount Reporting Period

\$166,950.77 2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

Figueroa, Rodrigo J.

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the tax violates equal and uniform protection or is pre-empted by federal law governing the operation of nuclear plants.

Status: Answer filed. Inactive. Pending resolution of companion STP case, Cause#03-06-00428-CV. Case non-suited 03/05/09.

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***Tree of Life, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002103 AG Case #: 062367701

Filed: 6/9/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount Reporting Period

\$200,000.00 01/01/97 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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McKinney, Dennis                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.                  Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the process causes a physical change to the products. Whether packing supplies and replacement parts of processing equipment qualify as manufacturing equipment and exempt from sales tax. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Case DWOP'd on 10/31/08. Order signed 04/23/09.

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***Uretek U.S.A., Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003268    AG Case #: 062405964

Filed: 8/31/2006

Sales Tax; Protest & Refund

Claim Amount	Reporting Period
\$35,436.95	07/01/02 - 10/31/05
\$21,939.96	01/01/99 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Smith, L. G. (Skip)                      Clark, Thomas & Winters / Austin

Wethekam, Marilyn A.                  Horwood Marcus & Berk Chartered / Chicago, IL

Issue: Whether Plaintiff is entitled to an exemption on drill bits because the bits are incorporated into realty for exempt organizations. Whether consumable supplies and equipment qualify as tangible personal property used in the performance of a contract to improve real property and, therefore, tax exempt. Whether tangible personal property purchased outside of Texas, temporarily stored in Texas, and then used in the performance of contracts located outside of Texas are tax exempt. Plaintiff seeks waiver of all penalty and interest.

Status: Plaintiff's Notice of Nonsuit filed 09/24/09.

---

***USCOC of Texahoma, Inc., Successor to USCOC of Corpus Christi, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002388 AG Case #: 062380266

Filed: 6/29/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$110,668.91	01/01/97 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W. Scott, Douglass & McConnico, L.L.P. / Austin  
Langenberg, Ray  
Sigel, Doug

Issue: Whether Plaintiff owes use tax on telecommunications equipment components shipped out-of-state by a vendor and manufactured into site base stations which are then shipped back into Texas.

Status: Cross-Motions for Summary Judgment filed by each party. Hearing held 07/16/08. Judgment for Comptroller.

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***Williams, Duane Everett v. Comptroller***

Cause Number: GN304667

AG Case #: 031899222

Filed: 12/10/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$50,000.00	2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Cooper, Michael R. Attorney at Law / Salado

Issue: Whether Plaintiff's civil rights were violated by the Comptroller's audit and whether the audit assessment should be set aside for lack of substantial evidence.

Status: Case Dismissed for Want of Prosecution 08/31/07.

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# Index

## *aircraft*

out of state registration 51, 51

## *Amusement Tax*

real property services 89

## *Apportionment of Interstate Security Service*

-- 120  
nexus, taxable use 92  
use tax--printed out of state 92  
waiver 120

## *Assessment*

authority of Comptroller 44  
cigarette stamps 127  
conspiracy 142  
convenience store 20  
convenience store/deli 85  
double taxation 24, 33, 84, 88, 88  
estimated audit 56, 85  
export items 84  
insolvency relief 86  
interest on overpayments 80, 81  
liability for tax 22, 33, 70  
notice 143  
sales tax 22  
sample audit 157  
successor liability for tax 33  
tax-free fuel 158

## *Audit*

double taxation 84  
procedure 89, 90, 178  
software services 84

## *Bad Debt Credit*

fuel access cards 141  
private label agreement 69  
proprietary card usage 135

## *Business Loss Carry Forward*

limitations 4  
tax credits 4

## *Cash Infusion*

cash infusion 3

## *Catalogs*

nexus 71  
nexus, taxable use 169, 170  
use tax--printed out of state 70, 71

## *Class Action*

sales tax 77

## *Computer Software*

services 105  
software services 17

## *Construction Contract*

exempt entities 31  
lump sum or separated contract 25, 42, 78, 97, 148

## *Credit for Overpaid Tax*

inventory or bankruptcy 108, 109

## *Data Processing*

allocation 18

## *Depreciation*

net pension liabilities 2  
straight line or accelerated 14

## *Domestic Insured*

constitutional limits on tax 173, 174, 175, 175, 176

## *Electricity*

manufacturing exemption 23, 66, 172, 172, 176  
processing 60, 61, 94, 94, 95, 95, 104, 106, 106, 107, 171  
refrigeration 101

residential use	57	interstate telephone charges	4, 11
<i>Environmental Services</i>		inventory depletion	125
essence of the transaction	84	merger expenses	149
new construction or maintenance	24	severance pay	149
<i>Estate Values</i>		<i>Inaccurate Certification</i>	
liability for tax	131	commercial real property	130
partnership interest	131	sampling method	123, 127, 147, 147, 158, 159
taxable gifts	141	valuation methods	120, 127, 147, 147
<i>Financing Lease</i>		<i>Information services</i>	
liability for tax	30	Internet Tax Freedom Act	32
<i>Food Products</i>		lump-sum billing; multi-state benefit; nexus	32, 143
mall vendor	72	<i>insolvency relief</i>	
<i>Fuels</i>			#Error
bad debt credit	133, 135	final estimated audit liability	25
bad debt credits; drive-offs; reefer; off-road use	134	<i>Installation Labor</i>	
drive-offs	133	retail	82, 96
reefer	133	telecommunications equipment	91
<i>Gas</i>		<i>Inter-Company Debt</i>	
manufacturing exemption	172, 172	collateral	3
sale for resale	90	<i>Interest waiver</i>	
<i>Gross Premiums</i>			#Error
defaulted auto policies	140	refund assignment	67
paid-up additions	112	<i>Interest waiver/Scaffolding</i>	
premium reduction	111, 113, 113	--	67
renewal premiums	112	<i>Intracorporeal Transportation</i>	
split premium to agent	153, 153, 155, 155, 156, 156, 163, 163, 164, 164, 165, 165, 166	manufacturing exemption	98
<i>Gross Receipts</i>		<i>Labor</i>	
apportionment of accounts receivables receipts	5, 6	labor	48, 97
apportionment of intangible receipts	6, 7, 13	sales tax	35, 36, 42, 43, 101
Apportionment of Interstate Security Service	3	<i>Leased Property</i>	
apportionment of pension reversion gain	9	authority of Comptroller	43
earned surplus	9	contractor	152
		location of use	43
		ships	43

## *Limitations*

subsequent refund claim 173

## *Local Sales Tax*

consummation of sale 37, 93

## *Maintenance*

real property services 48

sale for resale 45

## *Managed audit*

credit interest 19, 26

## *Manufacturing Exemption*

-- 101

alteration property 80

burden of proof 104

candy manufacturing 83

candy manufacturing;  
intraplant transportation 83

coal mill 32

electricity 23, 37, 47, 61, 66,  
72, 73, 98, 99, 99,  
101, 172, 172, 176

food products 44, 55, 58, 59, 60,  
61, 96

gas 172, 172

gas distribution 91

industrial solid waste 48, 170

intraplant transportation 98, 168

oil field operations 21, 29

packaging 68, 73, 74, 82

pipe 98

pollution control 48, 168

post-mix machines 75

rolling stock 168

sale for resale 41, 68, 80, 82, 91,  
172, 172

software licenses 105

software services 139

telecommunications 100, 100

telecommunications  
equipment 19, 37, 62, 63, 63,  
64, 65, 65, 66, 66

useful life period 140

## *Medical instruments*

supplies 109

## *Mixed Drinks*

audit adjustments 125

sampling method 116, 167

security bond 148

## *Motor Vehicle Property*

#Error

nexus 87

## *Motor Vehicle Seller*

liability for tax 168

## *New Construction*

drilling rigs 97

environmental services 24

finish-out work 30

labor 36, 42, 101

lump sum or separated  
contract 42, 102

real property services 48

sales tax 144

tax credits 76

## *Nexus*

earned surplus 7

Franchisees 12

promotional materials 22, 40, 40, 48, 49,  
52, 53, 53

seminar vendor 146, 146

taxable capital 7

## *NSF checks*

county collector 134

## *Officer and Director Compensation*

add-back to surplus 8, 9, 11, 14, 137, 137

constitutionality 10

income tax 138, 139

significant policy-making  
authority 137, 137

## *Packaging*

sale for resale 58

shipment out-of-state 35

## *Penalty*

effect of settlement 142

waiver	18, 120
<i>penalty waiver</i>	
	#Error
<i>Pipe</i>	
manufacturing exemption	98
<i>Post Production Costs</i>	
natural gas company	149, 150, 151, 152
order 94 payments	149, 150, 151, 152
<i>Pre-acquisition Earnings</i>	
write-down	10
<i>Predominant Use</i>	
electricity	157
<i>Premiums</i>	
home warranty insurance	114
<i>Prizes</i>	
sale for resale	88, 88
<i>Promotional Materials</i>	
nexus	22, 36, 40, 48, 49, 52, 53, 53
ownership of	21, 39, 40, 42, 48, 49, 49
use tax--printed out of state	71
<i>Proof</i>	
burden in administrative hearing	157
<i>Push-down Accounting</i>	
merger	15
<i>real property repair</i>	
mold remediation	41
<i>Real Property Repair and Remodeling</i>	
finish-out work	30
mold remediation	145
refrigeration	73
vs. maintenance	152

## *Real Property Service*

asbestos abatement	86
exempt entities	177
golf courses	59
landscaping services	57, 148
rolling stock	20
temporary storage	82, 177

## *Repair and replacement parts*

#Error

## *Resale Certificates*

good faith	93
------------	----

## *Sale for Resale*

60-day letter	69
blanket resale certificates	24
contractor	17
detrimental reliance	31
double taxation	33
electricity	172, 172
federal contractor	27, 28, 28, 29, 46, 46, 56, 57, 68, 79, 79, 80, 102, 103, 103, 160, 169
fund-raising materials	52
gas	90, 172, 172
hotel amenities	26, 34, 50, 74, 108
manufacturing exemption	172, 172
prizes	88, 88
telecommunications equipment	34, 91, 107
transfer of care, custody, and control of equipment	88, 88

## *sales tax*

repair and remodeling	45
-----------------------	----

## *sales tax permit*

redetermination	82
-----------------	----

## *Sample Audits*

compliance with procedures	54
non-taxable items	159
sample audit	157

### *Sampling Technique*

bad debt credit	62
exemption certificates	160
missing records	161
sales tax	161, 162, 167
validity	157

### *Scaffolding/Assessment*

interest on overpayments	81
--------------------------	----

### *sexually oriented business fee*

constitutionality	115, 115, 115, 116, 117, 117, 118, 119, 120, 121, 121, 122, 123, 124, 124, 124, 126, 129, 129, 131, 132, 132, 132, 133
-------------------	---

### *Ship unloaders*

#Error

### *Subsidiary*

valuation of	10
--------------	----

### *Successor Liability*

assessment after sale	54
business interference	128, 128
disputed ownership of assets	27

### *Surplus Lines Insurer*

unauthorized insurance tax	111
----------------------------	-----

### *Tax Credits*

deferred tax liability	167
------------------------	-----

### *Taxable Surplus*

impairment	5
impairment calculation	1, 1, 2
merger	15
oil and gas properties	12

### *Telecommunication Services*

accounts receivable	15
networking services	15
TIF assessment	126

### *Telecommunications Equipment*

components	178
------------	-----

### *Third Party Lender*

inter-company debt	3
sale of collateral	55

### *Valuation Methods*

impairment calculation	2
valuation methods	2

### *Vending Machine Sales*

exempt entities	78
money validators	76

### *Waste Removal*

homeowners' associations	39
industrial solid waste	83
real property services	20, 48, 73, 82

### *Write-down*

investment in subsidiaries	10
----------------------------	----