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## Franchise Tax

**Anderson-Clayton Bros. Funeral Home, Inc.; Restland of Dallas, Inc.; Restland Funeral Home; Singing Hills Funeral Homes, Inc.; Laurel Land Funeral Home of Fort Worth, Inc.; Blue Bonnet Hills Funeral Home, Inc.; and Blue Bonnet Hills Memorial Park, Inc. v. Rylander, et al.** Cause #99-12183

#03-03-00458-CV

AG Case #99-1227646

Franchise Tax; Refund  
Filed: 10/18/99  
Period: 1993-1996  
Amount: \$407,212.91  
\$107,861.97

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Christopher Jackson  
  
Jan Soifer  
Susan Kidwell  
Locke, Liddell & Sapp  
Austin

Issue: Whether income earned on Plaintiff's trust accounts for prepaid funeral services gives rise to Texas gross receipts.

Status: Discovery in progress. Motion for Summary Judgment held 04/10/03; granted 06/24/03. Plaintiff's Notice of Appeal filed 07/31/03. Appellants' brief filed 09/18/03. Appellees' brief filed 10/24/03. Oral argument requested. Appellants' reply brief filed 11/12/03.

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**CTX Mortgage Co., LLC, as Successor in Interest to CTX Mortgage Co., Inc. v. Strayhorn, et al.** Cause #GN300145

AG Case #031738131

Franchise Tax; Protest,  
Refund & Declaratory  
Judgment  
Filed: 01/15/03  
Period: 1992-1994  
Amount: \$6,482.90

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Jana Kinkade  
  
David Cowling  
Robert Lochridge  
Jones Day  
Dallas

Issue: Whether application of the requirement of documentation that officers do not participate in significant policy-making aspects of the corporation is retroactive and unconstitutional. Whether different treatment of banks and mortgage companies violates equal protection. Whether Plaintiff's vice presidents and others should not be included in the officer add-back provision of the franchise tax. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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**Centex Materials, L.P., As Successor in Interest to Centex Materials, Inc. v. Strayhorn, et al.** Cause #GN301277

AG Case #031787146

Franchise Tax; Protest,  
Refund & Declaratory  
Judgment  
Filed: 04/22/03  
Period: 1997-2000  
Amount: \$96,248.92

Asst. AAG Assigned:

Christine Monzingo

Plaintiff's Counsel:

David Cowling  
Robert Lochridge  
Jones Day  
Dallas

Issue: Whether the Comptroller's add-back of compensation to certain officers and directors included persons who lacked significant policy-making authority and was unconstitutional. Whether the Comptroller improperly applied changes in Rule 3.558 to earlier periods. Whether the officer add-back is arbitrary and discriminatory. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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**Centex Construction Co., Inc., as Successor in Interest to Centex Bateson Construction Co., Inc. v. Strayhorn, et al.** Cause #GN301292

AG Case #031787153

Franchise Tax; Protest,  
Refund & Declaratory  
Judgment  
Filed: 04/23/03  
Period: 1992-1995  
Amount: \$191,167.76

Asst. AAG Assigned:

Christine Monzingo

Plaintiff's Counsel:

David Cowling  
Robert Lochridge  
Jones Day  
Dallas

Issue: Whether the Comptroller's add-back of compensation to certain officers and directors included persons who lacked significant policy-making authority and was unconstitutional. Whether the Comptroller improperly applied changes in Rule 3.558 to earlier periods. Whether the officer add-back is arbitrary and discriminatory. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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**Centex Construction Co., Inc., as Successor in Interest to Centex Bateson Construction Co., Inc. v. Strayhorn, et al.** Cause #GN301293  
AG Case #031787161

Franchise Tax; Protest, Refund & Declaratory Judgment Filed: 04/23/03 Period: 1996 Amount: \$48,729.67	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  David Cowling Robert Lochridge Jones Day Dallas
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Issue: Whether the Comptroller's add-back of compensation to certain officers and directors included persons who lacked significant policy-making authority and was unconstitutional. Whether the Comptroller improperly applied changes in Rule 3.558 to earlier periods. Whether the officer add-back is arbitrary and discriminatory. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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**Central Telephone Co. of Texas and United Telephone Co. of Texas v. Rylander, et al.** Cause #GN100332  
AG Case #011409646

Franchise Tax; Protest & Refund Filed: 02/01/01 Period: 1988-1994 Amount: \$300,772.95 \$204,616.25	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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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: Answer filed.

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**Dillard Department Stores, Inc. v. Strayhorn, et al.** Cause #GN300878  
AG Case #031770621

Franchise Tax; Refund & Declaratory Judgment Filed: 03/19/03 Period: 1992-1995 Amount: \$1,646,637	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Cynthia M. Ohlenforst Tracy D. Eaton Dallas
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Issue: Whether the franchise tax requirement to add back officer and director compensation to the tax base is an unconstitutional tax on the income of natural persons. Whether the shareholder limit for the add-back is arbitrary, unreasonable and discriminatory. Whether the provision also discriminates unconstitutionally between banks and other corporations and should be limited to officers with significant authority.

Status: Answer filed.

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**El Paso Corp. v. Strayhorn, et al.** Cause #GN304213  
AG Case #031879356

Franchise Tax; Protest & Refund Filed: 10/28/03 Period: 1999 - 2001 Amount: \$2,278,308.75	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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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: Answer filed.

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**El Paso Natural Gas Co. v. Strayhorn, et al.** Cause #GN301003  
AG Case #031778939

Franchise Tax; Refund  
Filed: 03/28/03  
Period: 1989-1991  
Amount: \$3,000,000

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Jim Cloudt  
  
Mark W. Eidman  
Ray Langenberg  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether Plaintiff may use the successful efforts method of accounting. Whether revenue should be recognized when it is billed rather than when it is booked. Whether unamortized loss on reacquired debt may be expensed. Whether certain accounts should be removed from surplus because they had zero balances. Whether Plaintiff's apportionment factor should be reduced for receipts from gas not picked up or delivered in Texas.

Status: Discovery in progress.

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***First Co. v. Rylander, et al.*** Cause #GN200229  
AG Case #021556980

Franchise Tax; Refund &  
Declaratory Judgment  
Filed: 01/24/02  
Period: 1996 through  
1999  
Amount: \$1,919,109

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Christine Monzingo  
  
James F. Martens  
Christina A. Mondrik  
Stahl, Martens & Bernal  
Austin

Issue: Whether the throwback rule is unconstitutional and violates P.L. 86-272. Whether apportionment under the throwback rule, when compared to a separate accounting method, creates such a gross disparity in taxable income as to be unconstitutional. Plaintiff also seeks declaratory judgment and attorneys' fees.

Status: Answer filed.

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***Home Interiors & Gifts, Inc. v. Strayhorn, et al.*** Cause #GN303185  
AG Case #031842420

Franchise Tax; Refund  
Filed: 08/25/03  
Period: 1992-1999  
Amount: \$16,085,391.00

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Christine Monzingo  
  
Daniel L. Butcher  
Strasburger & Price  
Dallas

Farley P. Katz  
Strasburger & Price  
San Antonio

Issue: Whether the Texas throwback provision, Tax Code §171.1032, is unconstitutional in violation of the Due Process, Commerce and Supremacy Clauses.

Status: Discovery in progress.

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***Inland Truck Parts Co. v. Strayhorn, et al.*** Cause #GN302603  
AG Case #031831746

Franchise Tax; Refund &  
Declaratory Judgment  
Filed: 07/24/03  
Period: 1999  
Amount: \$47,775.25

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Christine Monzingo  
  
Cynthia M. Ohlenforst  
G. James Landon  
J. Blake Rice  
Hughes & Luce  
Dallas

Issue: Whether an S corporation owned by an ESOP owes franchise tax when the shareholder has no income reportable to the IRS as taxable.

Status: Answer filed.

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***Inova Diagnostics, Inc. v. Rylander, et al.*** Cause #GN201829  
AG Case #021626213

Franchise Tax; Refund &  
Declaratory Judgment  
Filed: 06/03/02  
Period: 1997 & 1998  
Amount: \$275  
\$347

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Christine Monzingo  
  
Gilbert J. Bernal, Jr.  
Christina A. Mondrik  
Stahl, Martens & Bernal  
Austin

Issue: Whether taxpayer has nexus with Texas. Whether the capital- based franchise tax is measured by net income for purposes of P.L. 86-272. Whether the Comptroller wrongfully forfeited plaintiff's corporate privileges. Plaintiff also seeks attorneys' fees.

Status: Non-suited 03/12/03. Closure pending use of discovery in *Inova Diagnostics, Inc. v. Strayhorn, et al.*, Cause No. GN302862.

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***Inova Diagnostics, Inc. v. Strayhorn, et al.*** Cause #GN302862  
AG Case #031836471

Franchise Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 08/11/03	Plaintiff's Counsel:	Gilbert J. Bernal, Jr.
Period: 1999 through 2003		Christina A. Mondrik
Amount: \$4,658		Stahl, Martens & Bernal Austin

Issue: Whether taxpayer has nexus with Texas. Whether the capital- based franchise tax is measured by net income for purposes of P.L. 86-272. Whether the Comptroller wrongfully forfeited plaintiff's corporate privileges. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Non-jury trial set 05/03/04.

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***Randall's Food & Drugs, Inc. v. Rylander, et al.*** Cause #GN003174  
AG Case #001375450

Franchise Tax; Protest & Refund	Asst. AAG Assigned:	Christine Monzingo
Filed: 10/31/00	Plaintiff's Counsel:	Jasper G. Taylor, III
Period: 1994-1997		Jay M. Chadha
Amount: \$4,006,942.39		Fulbright & Jaworski Houston

Issue: Whether the Comptroller's Rule 3.555(g)(3), which denies a carry forward of business losses of a merged corporation by the surviving corporation, is an unconstitutional retroactive law or a violation of Texas and Delaware statutes on mergers. Whether compensation of officers and directors should have been added back to Plaintiff's income and whether doing so violates constitutional equal taxation requirements. Whether some receipts were incorrectly treated as Texas receipts. Whether surplus calculation by the Comptroller should have excluded increases from push-down accounting. Whether failure to waive penalties and interest was arbitrary. Whether the audit has calculation errors. Whether the Comptroller's determination and decision violate equal protection, due process, and other constitutional provisions.

Status: Discovery in progress.

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***Reliant Energy Corp. (formerly Houston Industries, Inc.) v. Rylander, et al.***

Cause #GN103935

AG Case #011532348

Franchise Tax; Refund

Filed: 11/28/01

Period: 1998

Amount: \$2,581,013.52

Asst. AAG Assigned:

Plaintiff's Counsel:

Jim Cloudt

L.G. Skip Smith

David H. Gilliland

Clark, Thomas & Winters  
Austin

Issue: Whether plaintiff may use business loss carry- forward from non-surviving corporation in merger to reduce its franchise tax.

Status: Discovery in progress.

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***Reliant Energy Gas Transmission Co., fka Noram Gas Transmission Co. v. Rylander, et al.*** Cause #99-08127

AG Case #99-1187675

Franchise Tax; Refund

Filed: 07/15/99

Period: 1996

Amount: \$163,758.10

Asst. AAG Assigned:

Plaintiff's Counsel:

Jim Cloudt

L.G. Skip Smith

David H. Gilliland

Clark, Thomas & Winters  
Austin

Issue: Whether a business loss carry-forward of a merged corporation may be used to reduce the surviving corporation's franchise tax.

Status: Discovery in progress.

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***Southern Union Co. v. Rylander, et al.*** Cause #GN003692

AG Case #011399409

Franchise Tax; Refund Filed: 12/29/00 Period: 1994 Amount: \$549,983	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Ray Langenberg Eric Hagenswold Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff was required to use historical cost as the basis of assets of an acquired corporation. Whether post-retirement benefit obligations are debt. Whether disallowing deduction of post-retirement benefits violates equal protection. Whether Plaintiff may use another method to account for depreciation.

Status: Partial settlement.

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***Southwestern Bell Telephone Co. v. Rylander, et al.*** Cause #GN204559

AG Case #031730666

Franchise Tax; Protest & Refund Filed: 12/20/02 Period: 1996-1999 Amount: \$34,880,360.66	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether interstate access revenues 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 interstate call revenues in border areas are not Texas receipts.

Status: Answer filed.

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**Texaco Refining & Marketing (East), Inc. v. Rylander, et al.** Cause #99-14555  
AG Case #99-1249228

Franchise Tax; Refund Filed: 12/15/99 Period: 1994 Amount: \$1,028,616.15	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff is entitled to a franchise tax credit for sales tax on manufacturing equipment purchased by a joint venture that it co-owned.

Status: Answer filed. On hold pending outcome of *Saudi Refining, Inc. v. Rylander, et al.* *Saudi* decided in Comptroller's favor. Awaiting non-suit to be filed.

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**Texas Instruments, Inc. v. Rylander, et al.** Cause #GN102799  
AG Case #011496635

Franchise Tax; Protest & Declaratory Judgment Filed: 08/27/01 Period: 1987-1990 Amount: \$6,683,563.48	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  David Cowling Todd Wallace Gregory E. Perry Jones, Day, Reavis & Pogue Dallas
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Issue: Whether delivering goods to plaintiff's customers in plaintiff's "bond rooms" for eventual shipment out-of-state were sales that generated Texas receipts. Whether Plaintiff's long-term contracts were properly characterized as service contracts. Whether treatment of Plaintiff's cost-plus contracts as service contracts violated equal protection or equal and uniform taxation. Whether all interest should have been waived. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Discovery in progress.

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**Tyson Foods, Inc. v. Strayhorn, et al.** Cause #GN302279  
AG Case #031818966

Franchise Tax; Refund  
Filed: 06/27/03  
Period: 1992-1997  
Amount: \$4,462,424.56

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

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

Issue: Whether Plaintiff must use accelerated or straight line depreciation. 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.

Status: Answer filed.

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**U.S. Home Corp. v. Rylander, et al.** Cause #GN003082  
AG Case #001372424

Franchise Tax; Refund  
Filed: 10/20/00  
Period: 1992 and 1993  
Amount: \$46,607.88

Asst. AAG Assigned:

Christopher Jackson

Plaintiff's Counsel:

D. Steven Henry  
Gregory A. Harwell  
Robert M. Reed, Jr.  
Gardere & Wynne  
Dallas

Issue: Whether Plaintiff is entitled to write down or write off the value of its investment in bankrupt subsidiaries.

Status: Answer filed.

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**Westcott Communications, Inc., Law Enforcement Television Network, Inc.,  
Westcott ECI, Inc. and TI-IN Acquisition Corp. v. Sharp, et al.** Cause #98-14049  
#03-02-00351-CV  
#03-0480  
AG Case #99-1093113

Franchise Tax; Protest  
Filed: 12/17/98  
Period: 01/01/92-  
12/31/94  
Amount: \$1,182,242.67

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Blake Hawthorne  
  
Mark W. Eidman  
Ray Langenberg  
Steve Wingard  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether apportionment of satellite service gross receipts to Texas violates the commerce, due process or equal protection clauses of the Constitution or the Tax Code and Comptroller rules apportioning receipts to the state where a service is performed. Alternatively, whether interest should be waived.

Status: Court granted Defendants' Motion for Summary Judgment 05/20/02. Notice of Appeal filed 06/11/02. Clerk's Record filed 07/11/02. Appellants' brief filed 08/23/02. Appellees' brief filed 09/23/02. Appellants' reply brief filed 11/08/02. Submitted on oral argument 11/13/02. Appellees' letter brief filed 11/21/02; post-submission brief filed 12/09/02. Third COA affirmed trial court's judgment 03/20/03. Appellants' Motion for Rehearing filed 04/11/03; Third COA overruled Westcott's Motion for Rehearing 04/24/03. Petition for Review filed in the Supreme Court 06/02/03. Response waived 06/17/03. Supreme Court requested a response to the petition; filed by Respondent 08/19/03. Case forwarded to higher court 10/02/03. Supreme Court requested briefs on the merits by 10/31/03 and 11/20/03. Petitioners' brief filed 10/31/03. Respondents' brief filed 11/20/03.

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## Sales Tax

**6S-B, Inc. v. Strayhorn, et al.** Cause #GN304345  
AG Case #031881436

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 11/07/03	Plaintiff's Counsel:	Mark D. Hopkins
Period: 12/01/97-08/31/99		Savrick, Schumann, Johnson & McGarr
Amount: \$84,562.70		Austin

Issue: Whether Plaintiff owes sales tax on vending machine items for those items sold or severed by schools. Whether the sample audit was invalid. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed. Plea to Abate filed.

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**AccuTel of Texas, L.P. v. Rylander, et al.** Cause #GN300091  
AG Case #031735236

Sales Tax; Refund	Asst. AAG Assigned:	Natalie Foerster
Filed: 01/10/03	Plaintiff's Counsel:	Christopher Malish
Period: 06/01/97-11/30/00		Foster & Malish
Amount: \$45,658.15		Austin

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

Status: Answer filed.

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**Advanta Business Services Corp. v. Rylander, et al.** Cause #GN103463  
AG Case #011514544

Sales Tax; Protest	Asst. AAG Assigned:	Blake Hawthorne
Filed: 10/19/01	Plaintiff's Counsel:	W. Stephen Benesh
Period: 11/01/92-12/31/97		Deanna E. King
Amount: \$929,964.11		Bracewell & Patterson
		Austin

Issue: Whether plaintiff's leases were financing leases and not taxable operating leases under Comptroller Rule 3.294(i). Whether the Comptroller's sample was flawed. Alternatively, whether penalty and interest should have been waived.

Status: Discovery in progress.

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**Alexopolous, Dimitrios P. v. Rylander, et al.** Cause #99-08096  
AG Case #99-1187865

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 07/14/99	Plaintiff's Counsel:	Stephen W. Sather
Period: 07/01/88- 03/31/95		Naman, Howell, Smith & Lee
Amount: \$134,455.65		Austin

Issue: Issue is whether the Comptroller incorrectly calculated Plaintiff's gross taxable sales by using too low a factor for Plaintiff's personal consumption, improperly comparing Plaintiff's operations to other fast-food outlets, failing to consider that higher subsequent sales were due to population increases, determining that Plaintiff kept inadequate records when Plaintiff had lost them in a fire, and failing to consider the results of an IRS audit. Whether penalty and interest should be waived.

Status: Bankruptcy stay in effect. Discovery in progress. Trial set 10/15/01. Plaintiff filed bankruptcy petition 09/24/01. Bankruptcy/Collection Division has requested bankruptcy court to abstain. Case to be tried in Bankruptcy Court 11/08/02. Judgment in favor of Comptroller entered by Bankruptcy Court.

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**Alpine Industries, Inc. v. Sharp, et al.** Cause #98-12998  
#03-03-0643-CV  
AG Case #98-1080526

Sales Tax; Protest	Asst. AAG Assigned:	Blake Hawthorne
Filed: 11/20/98	Plaintiff's Counsel:	Stephen D. Good
Period: 1994-1998		Gregory A. Harwell
Amount: \$31,128.62		Gardere & Wynne Dallas

Issue: Whether Alpine may be regarded as a seller for direct sales made in Texas by independent dealers and whether holding Alpine liable for sales tax violates the commerce clause, due process or equal protection.

Status: Discovery in progress. Trial set 07/28/03. Summary Judgment, including counter-claim, granted for Comptroller 07/18/03. Final judgment entered 08/15/03. Motion for new trial filed 08/18/03.

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**American Oil Change Corp. v. Rylander, et al.** Cause #99-06374  
AG Case #99-1175084

Sales Tax; Protest Filed: 06/03/99 Period: 1992-1993 Amount: \$467,142.31	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Gilbert J. Bernal, Jr. Stahl, Martens & Bernal Austin
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Issue: Whether materials are provided by Plaintiff to its customers in the course of its motor vehicle repairs under lump sum contracts, requiring Plaintiff to pay tax on the cost of materials. If Plaintiff's contracts are lump sum, whether Plaintiff is entitled to credit for tax collected from its customers and remitted to the Comptroller. Whether software services are taxable when the seller of the services contributes rather than sells the software itself. Whether software services are exempt under §151.346 as sales between affiliated entities of previously exempt services. Whether interest should have been waived. Whether any of the above issues result in a denial of equal protection, equal and uniform taxation or due process under the federal and state constitutions.

Status: Discovery in progress. Mediation held 10/15/02. Trial scheduled 03/22/04.

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**Apollo Paint & Body Shop, Inc. v. Strayhorn, et al.** Cause #GN300886  
AG Case #031770605

Sales Tax; Protest & Refund Filed: 03/19/03 Period: 10/01/91- 09/30/98 Amount: \$285,284.13	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  J. Scott Morris J. Scott Morris, P.C. Austin
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Issue: Whether plaintiff performed its repairs under lump-sum contracts. Plaintiff also challenges the constitutionality of Rider 11.

Status: Discovery in progress.

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**Aramis Services, Inc. v. Sharp, et al.** Cause #98-03527  
AG Case #98-930349

Sales Tax; Protest Filed: 04/03/98 Period: 04/01/90- 03/31/94 Amount: \$291,196	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Jones, Day, Reavis & Pogue Dallas
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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: Discovery in progress. Non-jury trial to be set prior to 03/29/04.

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**Aramis Services, Inc. v. Rylander, et al.** Cause #0000384  
AG Case #001273051

Sales Tax; Protest Filed: 02/11/00 Period: 04/01/94- 12/31/97 Amount: \$281,676.36	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Robert Lochridge Jones, Day, Reavis & Pogue Dallas
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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: Discovery in progress. Non-jury trial to be set prior to 03/29/04.

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**B&B Gravel Co. v. Strayhorn, et al.** Cause #GN302323  
AG Case #031831712

Sales Tax; Administrative Appeal Filed: 07/01/03 Period: Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Richard S. Browne George D. Gordon Baggett, Gordon & Deison Conroe
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Issue: Plaintiff claims that the liability assessed is inconsistent with the ALJ's decision and seeks review under the APA.

Status: Discovery in progress.

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**BGK Operating Co., Inc. v. Strayhorn, et al.** Cause #GN301224  
AG Case #031786478

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Jana Kinkade
Filed: 04/17/03	Plaintiff's Counsel:	Kal Malik
Period: 01/01/99- 07/31/02		Robert N. LeMay
Amount: \$28,407.44		Kane, Russell, Coleman & Logan Dallas

Issue: Whether Plaintiff is a lump-sum repairer of motor vehicles who should have paid tax on its purchases of oil and filters. Whether charging tax to the Plaintiff results in unconstitutional double taxation.

Status: Answer filed.

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**Baldry, Ann dba Annie's Housekeeping Services v. Sharp, et al.** Cause #95-02389  
AG Case #95-234990

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Jana Kinkade
Filed: 2/27/95	Plaintiff's Counsel:	Timothy M. Trickey
Period: 04/01/88- 06/30/92		The Trickey Law Firm
Amount: \$63,588		Austin

Issue: Whether sales tax is due on maid services provided by maids placed by Plaintiff's service but acting as independent contractors. Also, whether Plaintiff relied, to her detriment, on advice from the Comptroller's Office.

Status: Discovery in progress. Trial to be set the week of 02/16/04.

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**Bandas, David v. Rylander, et al.** Cause #GN201236  
AG Case #021598024

Sales Tax; Refund Filed: 04/16/02 Period: 05/01/96- 04/30/00 Amount: \$24,178.86	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Tom Tourtellotte Hance Scarborough Wright Ginsberg & Brusilow Austin
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Issue: Whether plaintiff is entitled to a sale for resale exemption on data processing services used in preparing tax returns.

Status: Final Judgment for Plaintiff entered 09/29/03. Case to be closed.

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**Bedrock General Contractors v. Rylander, et al.** Cause #GN101432  
AG Case #011442035

Sales Tax; Declaratory Judgment Filed: 05/10/01 Period: 06/01/92- 01/31/96 Amount: \$64,552.33	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Timothy M. Trickey The Trickey Law Firm Austin
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Issue: Whether successor liability was retroactively imposed. Whether successor liability may be imposed when little or no cash is exchanged in the purchase of the predecessor.

Status: Answer filed.

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**Bell Bottom Foundation Co. v. Rylander, et al.** Cause #99-01092  
AG Case #99-1112186

Sales Tax; Protest Filed: 01/29/99 Period: 01/01/91- 12/31/94 Amount: \$81,571.73	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Timothy M. Trickey The Trickey Law Firm Austin
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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.

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**Bell Helicopter Textron, Inc. v. Rylander, et al.** Cause #GN200525  
AG Case #021567755

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 02/15/02	Plaintiff's Counsel:	Gilbert J. Bernal, Jr.
Period: 01/01/90- 06/30/93		Stahl, Martens & Bernal Austin
07/01/93-06/30/97		
Amount: \$7,280,079		

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 and a declaration that the Comptroller disregarded controlling federal law, violated equal protection or imposed tax on the U.S. government.

Status: Answer filed.

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**Big Tex Air Conditioning, Inc. v. Bullock, et al.** Cause #486,321  
AG Case #90-322672

Sales Tax; Protest	Asst. AAG Assigned:	Christopher Jackson
Filed: 6/26/90	Plaintiff's Counsel:	John W. Berkel
Period: 04/01/85- 07/31/88		Houston
Amount: \$181,397		

Issue: Detrimental reliance and various allegations of unconstitutional enforcement; statute of limitations.

Status: Discovery in progress. Motion for Summary Judgment hearing to be set in 01/2004.

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**Boeing North America, Inc. v. Rylander, et al.** Cause #GN203340  
AG Case #021676804

Sales Tax; Refund Filed: 09/13/02 Period: 01/01/95- 12/31/96 Amount: \$343,487	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  David H. Gilliland Clark, Thomas & Winters Austin
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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 #GN304372  
AG Case #031884471

Sales Tax; Refund Filed: 11/10/03 Period: 01/01/95- 12/31/99 Amount: \$500,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Scott, Douglass & McConnico Austin
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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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**Broadcast Satellite International, Inc. v. Rylander, et al.** Cause #GN103568  
AG Case #011518479

Sales Tax; Declaratory Judgment, Refund & Protest Filed: 10/26/01 Period: 01/01/91- 12/31/97 Amount: \$200,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  William E. Bailey Dallas
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Issue: Whether Plaintiff's broadcast services are non-taxable information services under §151.0038(a). Whether Plaintiff's services are not taxable telecommunications services under §151.0103(l) or data processing under §151.0035. Whether the sale or use of Plaintiff's services occurred out-of-state. Whether Plaintiff's experts demonstrated that Plaintiff is exempt under federal law. Plaintiff asserts limitations as to part of the liability and also seeks attorneys' fees.

Status: Answer filed.

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**C & T Stone Co. v. Rylander, et al.** Cause #GN002428

AG Case #001344233

Sales Tax; Protest Filed: 08/18/00 Period: 04/01/94- 12/31/97 Amount: \$207,454.40	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  William T. Peckham Austin
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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: Discovery in progress. Trial set 01/20/04.

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**Central Power & Light Co. v. Sharp, et al.** Cause #96-11455

AG Case #96-602037

Sales Tax; Refund Filed: 09/20/96 Period: 07/01/86- 12/31/89 Amount: \$32,788	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  L.G. Skip Smith Clark, Thomas & Winters Austin
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Issue: Whether utility pole replacement services are non-taxable maintenance or taxable repair labor.

Status: Discovery in progress.

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**Chapal Zenray, Inc. v. Rylander, et al.** Cause #GN204506  
AG Case #031729197

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Jana Kinkade
Filed: 12/16/02	Plaintiff's Counsel:	Mark W. Eidman
Period: 01/01/94- 12/31/97		Ray Langenberg
Amount: \$210,943.91		Curtis J. Osterloh
		Scott, Douglass & McConnico
		Austin

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)(l)(c) when purchased by a person who uses the items to secure jewelry for shipment out-of-state.

Status: Answer filed.

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**Church & Dwight Co., Inc. v. Rylander, et al.** Cause #GN000525  
AG Case #001258201

Sales Tax; Refund	Asst. AAG Assigned:	Blake Hawthorne
Filed: 01/12/00	Plaintiff's Counsel:	Robert C. Alden
Period: 10/01/90- 12/31/93		Phillip L. Sampson, Jr.
Amount: \$64,868.50		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: Answer filed.

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**Clinique Services, Inc. v. Sharp, et al.** Cause #98-03533  
AG Case #98-930330

Sales Tax; Protest	Asst. AAG Assigned:	Christopher Jackson
Filed: 04/03/98	Plaintiff's Counsel:	David E. Cowling
Period: 04/01/90- 03/31/94		Jones, Day, Reavis & Pogue
Amount: \$519,192		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: Discovery in progress. Non-jury trial to be set prior to 03/29/04.

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***Clinique Services, Inc. v. Rylander, et al.*** Cause #GN000376  
AG Case #001273069

Sales Tax; Protest Filed: 02/11/00 Period: 04/01/94- 03/31/98 Amount: \$650,361.82	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Robert Lochridge Jones, Day, Reavis & Pogue Dallas
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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: Discovery in progress. Non-jury trial to be set prior to 03/29/04.

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***Coastal Refining & Marketing, Inc. v. Sharp, et al.*** Cause #98-03540  
AG Case #98-930321

Sales Tax; Protest Filed: 04/03/98 Period: 01/01/89- 06/30/89 07/01/89-12/31/91 Amount: \$1,635,965	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Jasper G. Taylor, III Fulbright & Jaworski Houston  Joe W. Cox Coastal States Management Corp. Houston
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Issue: Whether certain work performed by Plaintiff is new construction under a lump sum contract and thus not taxable.

Status: Discovery in progress. Plaintiff has submitted settlement offer.

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**Colt, Mach V., Trustee of the Harry T. Lloyd Charitable Trust, Successor in Interest to House of Lloyd, Inc. v. Rylander, et al.** Cause #GN100740  
AG Case #011423951

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jana Kinkade
Filed: 03/09/01	Plaintiff's Counsel:	Marilyn A. Wethekam
Period: 01/01/95-03/31/99		Horwood Marcus & Berk Chartered
Amount: \$645,193.40		Chicago, Illinois
		David E. Cowling
		Charolette Noel
		Gregory E. Perry
		Jones, Day, Reavis & Pogue
		Dallas

Issue: Whether Plaintiff is entitled to refund of sales tax on “hostess free goods,” because Plaintiff paid use tax on the goods. Whether sales tax collected from its hostesses on hostess free goods can be refunded to them by a credit for merchandise. Whether Rule 3.325(b)(2) is invalid. Plaintiff also seeks declaratory relief and attorneys’ fees.

Status: Answer filed.

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**Cosmair, Inc. v. Strayhorn, et al.** Cause #GN302009  
AG Case #031816135

Sales Tax; Protest, Refund & Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 06/09/03	Plaintiff's Counsel:	David Cowling
Period: 07/01/96-12/31/98		Robert Lochridge
Amount: \$1,322,536.67		Gregory E. Perry
		Jones Day
		Dallas

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.

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***Dillard's, Inc., aka Dillard Department Stores, Inc., and Dillard Texas Operating Limited Partnership v. Rylander, et al.*** Cause #GN203937

AG Case #021703947

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Scott Simmons
Filed: 10/30/02	Plaintiff's Counsel:	Mark W. Eidman
Period: 07/01/93-01/31/96		Ray Langenberg
02/01/96-11/30/96		Doug Sigel
Amount: \$1,100,000+		Scott, Douglass & McConnico
		Austin

Issue: Whether Plaintiff's sewing machines and other property used to alter clothing qualify for the manufacturing exemption. Whether Plaintiff is entitled to a refund of tax on packaging supplies, non-taxable services, and industrial solid waste disposal. Whether the Comptroller improperly applied a franchise tax credit to the assessed amount.

Status: Answer filed.

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***DuPont Photomasks, Inc. v. Strayhorn, et al.*** Cause #GN303695

AG Case #031855117

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 09/12/03	Plaintiff's Counsel:	Larry F. York
Period: 01/01/96-10/31/97		Susan F. Gusky
Amount: \$299,987.35		York, Keller & Field
		Austin
		Jennifer K. Patterson
		Austin

Issue: Whether Plaintiff's purchase of a cleanroom should have been an exempt sale for resale. Whether the lease of the cleanroom was incidental to the lease of the building in which it was housed and whether Rule 3.294(k)(1) is invalid. Whether the Comptroller's final decision is arbitrary and violates due process, equal and uniform taxation, and equal protection. Whether Rider 11 is unconstitutional as: (1) an amendment to substantive law; (2) a violation of due process, equal protection and open courts; and (3) an unconstitutional taking. Plaintiff seeks attorney's fees and demands a jury trial.

Status: Discovery in progress.

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***E. de la Garza, Inc. v. Rylander, et al.*** Cause #GN003589  
AG Case #0011395316

Sales Tax; Protest Filed: 12/15/00 Period: 01/01/93- 12/31/96 Amount: \$83,138.14	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Rudy de la Garza Brownsville
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Issue: Whether sales of grocery bags and sacks are not taxable when sold to grocery stores who have provided a blanket sale for resale certificate. Plaintiff also complains of audit calculation errors.

Status: Discovery in progress.

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***EFW, Inc. v. Rylander, et al.*** Cause #GN200906  
AG Case #021579578

Sales Tax; Refund & Declaratory Judgment Filed: 03/19/02 Period: 04/94-03/31/98 Amount: \$123,440.25	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Mark W. Eidman Ray Langenberg Doug Sigel Curtis J. Osterloh Scott, Douglass & McConnico Austin
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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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**ELC Beauty LLC, as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al.** Cause #GN203514  
AG Case #021681226

Sales Tax; Protest & Declaratory Judgment Filed: 09/26/02 Period: 01/01/98-12/31/00 Amount: \$284,508.69	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David Cowling Robert Lochridge Gregory E. Perry Jones, Day, Reavis & Pogue Dallas
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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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**Estee Lauder Services, Inc. v. Sharp, et al.** Cause #98-03525  
AG Case #98-930358

Sales Tax; Protest Filed: 04/03/98 Period: 01/01/89-09/30/92 Amount: \$472,225	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Jones, Day, Reavis & Pogue Dallas
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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 #98-03524  
AG Case #98-930367

Sales Tax; Protest Filed: 04/03/98 Period: 10/01/92-03/31/96 Amount: \$748,773	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Jones, Day, Reavis & Pogue Dallas
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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. Rylander, et al.*** Cause #GN101312  
AG Case #011439874

Sales Tax; Protest Filed: 05/01/01 Period: 04/01/96- 06/30/99 Amount: \$614,814.78	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Robert Lochridge Jones, Day, Reavis & Pogue Dallas
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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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***F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al.***  
Cause #GN002724  
AG Case #001353960

Sales Tax; Injunction Filed: 09/15/00 Period: 12/01/90- 11/30/97 Amount: \$360,671.05	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Percy L. "Wayne" Isgitt Houston
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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. Plaintiffs currently preparing settlement offer.

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**FXI Corp. v. Rylander, et al.** Cause #GN102724  
AG Case #011492857

Sales Tax; Refund Filed: 08/22/01 Period: 10/01/94- 06/30/98 Amount: \$51,832.31	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Mark W. Eidman Ray Langenberg Eric Hagenswold Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff's boxes and packing materials are exempt as items shipped out-of-state. Whether denial of the exemption violates equal protection.

Status: Discovery in progress. Cross-Motions for Summary Judgment hearing postponed.

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**Fiesta Texas Theme Park, Ltd. v. Sharp, et al.** Cause #98-02407  
AG Case #98-914152

Sales Tax; Refund Filed: 03/05/98 Period: 10/01/90- 04/30/93 Amount: \$328,829	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Jasper G. Taylor, III Fulbright & Jaworski Houston
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Issue: Whether prizes awarded by Plaintiff to successful contestants of coin-operated as well as non-coin operated games are purchased for resale. Whether sales tax constitutes double taxation on machines on which occupation tax is paid and on non-coin games, admission to which is taxed. Advertising and sewing services are not taxable.

Status: Plaintiff filed a partial motion for summary judgment. Hearing set for 02/02/04.

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**Fiesta Texas Theme Park, Ltd. and San Antonio Theme Park, L.P. v. Rylander, et al.** Cause #GN200563 (Consolidated with *Fiesta Texas Theme Park, Ltd. v. Sharp, et al.* Cause #98-02407)  
AG Case #021567789

Sales Tax; Refund Filed: 02/20/02 Period: 05/01/93- 03/01/96 03/01/96-02/28/98 Amount: \$592,759.97 \$349,933.08	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Jasper G. Taylor III Jay M. Chadha Fulbright & Jaworski Houston
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Issue: Whether prizes awarded by Plaintiff to successful contestants of coin-operated as well as non-coin operated games are purchased for resale. Whether sales tax constitutes double taxation on machines on which occupation tax is paid and on non-coin games, admission to which is taxed. Advertising and sewing services are not taxable. Whether the assessment against Fiesta was outside limitations.

Status: See *Fiesta Texas Theme Park, Ltd. v. Sharp, et al.* Cause #98-02407.

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**Garza, Lawrence v. Sharp, et al.** Cause #98-07607  
AG Case #98-1001886

Sales Tax; Protest Filed: 07/17/98 Period: 01/01/93- 09/30/95 Amount: \$83,910	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Stephen P. Dillon Lindeman & Dillon Houston
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Issue: Whether the Comptroller used the proper sampling procedure and whether Plaintiff was correctly notified of the procedure to be used.

Status: Discovery in progress. Trial setting passed by agreement.

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**General Dynamics Corp. v. Rylander, et al.** Cause #GN201322  
AG Case #021598057

Sales Tax; Refund Filed: 04/22/02 Period: 09/01/88- 11/30/91 Amount: \$7,000,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Ira A. Lipstet Matthew G. Grimmer Jenkins & Gilchrist Austin
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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 Corp. v. Rylander, et al.** Cause #GN201323  
AG Case #021598073

Sales Tax; Refund Filed: 04/22/02 Period: 12/01/91- 02/28/93 Amount: \$4,500,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Ira A. Lipstet Matthew G. Grimmer Jenkins & Gilchrist Austin
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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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**Gift Box Corp. of America, Inc. v. Rylander, et al.** Cause #GN102934  
AG Case #011492865

Sales Tax; Protest Filed: 09/05/01 Period: 10/91-03/97 Amount: \$359,929.22	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Ira A. Lipstet Matthew G. Grimmer Jenkins & Gilchrist Austin
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Issue: Whether additional resale certificates should have been accepted for Plaintiff's sales of boxes and packaging materials.

Status: Answer filed. Plaintiff to make settlement offer.

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**Graybar Electric Co., Inc. v. Sharp, et al.** Cause #97-01795  
AG Case #97-682966

Sales Tax; Protest Filed: 02/13/97 Period: 01/01/88- 12/31/91 Amount: \$107,667	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether the sample audit resulted in a correct assessment.

Status: Trial set 01/22/04. Settlement negotiations initiated.

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**Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.** Cause #GN300904  
AG Case #031782931

Sales Tax; Refund & Declaratory Judgment Filed: 03/20/03 Period: 06/01/95- 05/31/98 Amount: \$79,688.23	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Judy M. Cunningham Attorney at Law Austin
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Issue: Whether Plaintiff's purchase of electricity used to lower the temperature of food products is exempt as electricity used in processing.

Status: Answer filed.

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**H.J. Wilson Co., Inc. v. Sharp, et al.** Cause #98-11574  
AG Case #98-1063332

Sales Tax; Protest Filed: 10/13/98 Period: 07/01/90- 12/31/93 Amount: \$1,076,019	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Jones, Day, Reavis & Pogue Dallas
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Issue: Whether the purchase of sales catalogs printed out-of-state and shipped to Plaintiff's customers in Texas (at no charge to the customer) incur sales tax.

Status: Answer filed. On hold. Plaintiff filed bankruptcy in Tennessee 03/25/99. Motion to dismiss by court set 05/07/01. Plaintiff filed motion to retain 04/25/01.

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**Herndon Marine Products, Inc. v. Sharp, et al.** Cause #91-14786  
AG Case #91-164788

Sales Tax; Refund Filed: 10/18/91 Period: 01/01/87 - 03/31/90 Amount: \$62,465	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  John D. Bell Wood, Boykin & Wolter Corpus Christi
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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.

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**Hines Interests Limited Partnership v. Rylander, et al.** Cause #GN003245  
AG Case #001381680

Sales Tax; Protest & Refund Filed: 11/08/00 Period: 07/01/92- 02/28/94 Amount: \$129,677.60	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Gerard A. Desrochers Houston
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Issue: Whether correction of original construction defects is new construction or real property repair and remodeling. Whether Comptroller Rule 3.357 conflicts with legislative intent. Whether the Comptroller's application of the statute and rule violate due process and equal protection. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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**Hollon Oil Co. v. Strayhorn, et al.** Cause #GN303895  
AG Case #031866668

Sales Tax; Protest & Refund Filed: 09/30/03 Period: 01/01/99- 12/31/02 Amount: \$144,937.05	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Gilbert J. Bernal, Jr. Christina A. Mondrik Stahl, Martens & Bernal, LLP Austin
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Issue: Whether Plaintiff owes sales and use tax on materials which Plaintiff purchased for installation in customers' vehicles. Whether Plaintiff is entitled to a credit for sales tax collected from customers for said materials.

Status: Answer filed.

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**House of Lloyd, Inc. v. Rylander, et al.** Cause #GN000111  
AG Case #001261478

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Jana Kinkade
Filed: 01/21/00	Plaintiff's Counsel:	Marilyn A. Wethekam
Period: 06/01/92- 12/31/96		Horwood Marcus & Berk Chartered
Amount: \$597,281.67		Chicago, Illinois
		L.G. (Skip) Smith Clark, Thomas & Winters Austin

Issue: Whether Plaintiff owes use tax on direct sales items, hostess free goods and demonstrator kits. Whether Plaintiff owes tax for under-collection of local sales tax. Whether the Comptroller's sample was flawed because it failed to consider over-collections of tax. Whether penalty should be waived.

Status: Discovery in progress.

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**JBI, Inc. v. Rylander, et al.** Cause #GN203450  
AG Case #021681218

Sales Tax; Protest	Asst. AAG Assigned:	Christine Monzingo
Filed: 09/20/02	Plaintiff's Counsel:	W. Stephen Benesh
Period: 01/01/93- 08/31/99		James E. Boice
Amount: \$1,046,033.09		Bracewell & Patterson Austin

Issue: Whether the Comptroller assessed tax on transactions that were sales for resale or on which use tax had already been paid.

Status: Discovery in progress.

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**J.C. Penney Co., Inc. v. Strayhorn, et al.** Cause #GN300883  
AG Case #031770613

Sales Tax; Refund & Declaratory Judgment Filed: 03/19/03 Period: 01/01/91- 03/31/93 Amount: \$951,802.17	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  David Cowling Robert Lochridge Jones Day Dallas
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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 attorney's fees.

Status: Answer filed.

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**JHS Enterprises, Inc. v. Rylander, et al.** Cause #GN201357  
AG Case #021613591

Sales Tax; Declaratory Judgment Filed: 04/25/02 Period: 01/01/97- 09/30/99 Amount: \$77,774.37	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Arne M. Ray Ray & Associates Houston
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Issue: Whether Plaintiff owes tax for storage of abandoned vehicles later sold by the City of Houston. Plaintiff also seeks attorneys' fees.

Status: Plaintiff granted declaratory judgment action without pre-payment of tax.

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**Jerman Cookie Co. v. Rylander, et al.** Cause #GN101492  
AG Case #011451598

Sales Tax; Refund and Declaratory Judgment Filed: 05/16/01 Period: 12/01/92 through 03/31/97 Amount: \$43,121.45	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Steve M. Williard L. Don Knight Meyer, Knight & Williams Houston
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Issue: Whether plaintiff's sale of cookies and brownies is taxable under Tax Code §151.314 and Comptroller Rule 3.293. Plaintiff also seeks review under the Administrative Procedures Act and the UDJA, and seeks attorneys' fees.

Status: Amended Petition filed. Discovery in progress.

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**John Hancock Mutual Life Insurance Co., The v. Rylander, et al.** Cause #GN001612  
AG Case #001316520

Sales Tax; Refund Filed: 06/05/00 Period: 01/01/94- 12/31/98 Amount: \$345,377.95	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  James D. Blume Jennifer S. Stoddard Blume & Stoddard Dallas
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Issue: Whether an insurance company is exempt from sales taxes on its use of electricity on the grounds that Tex. Ins. Code Art. 4.11, Section 9 prohibits them.

Status: Motion for Summary Judgment filed. Case stayed pending the outcome of *USAA v. Strayhorn*, Cause No. 03-02-00747-CV in the Third Court of Appeals. Summary Judgment hearing to be rescheduled.

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**Kennedy, Gary G. dba Kennedy's Korner v. Rylander, et al.** Cause #GN202992  
AG Case #021663539

Sales Tax; Declaratory Judgment Filed: 08/22/02 Period: Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Gary G. Kennedy Pro Se Austin
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Issue: Whether Plaintiff may enjoin fraud audit subpoena and suspension of his sales and mixed beverage permits.

Status: Answer filed. Counter-claim filed. Taxpayer filed bankruptcy 10/15/03.

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**LTV Aerospace & Defense Co. v. Rylander, et al.** Cause #GN203321  
AG Case #021676770

Sales Tax; Refund & Declaratory Judgment Filed: 09/13/02 Period: 06/01/86- 08/31/92 Amount: \$8,576,046	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Alan E. Sherman, Esq. Dallas
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Issue: Plaintiff claims a sale for resale exemption on items resold to the federal government. Plaintiff also claims a denial of equal protection and that the incidence of the tax falls on the federal government. Plaintiff claims that the Comptroller violated the commerce clause by failing to follow title-passing regulations and also seeks a declaratory judgment and attorneys' fees.

Status: Answer filed.

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**LabOne, Inc. v. Rylander, et al.** Cause #GN002190  
AG Case #001335645

Sales Tax; Protest & Declaratory Judgment Filed: 08/02/00 Period: 1991-1997 Amount: \$520,983.95	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  James F. Martens Stahl, Martens & Bernal Austin
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Issue: Whether Plaintiff has nexus in Texas for tax on performance of lab tests in Kansas. Whether Plaintiff's activities are taxable insurance services in Texas. Whether Plaintiff's services and sales of supplies are exempt by rule and statute. Whether tax on Plaintiff violates due process and equal taxation. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Plaintiff's motion for summary judgment hearing held 06/24/02. District Court denied parties' cross-motions for summary judgment. Trial postponed. Settlement negotiations in progress.

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**Laredo Coca-Cola Bottling Co, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.** Cause #GN300575  
AG Case #031759657

Sales Tax; Refund Filed: 02/21/03 Period: 05/01/93- 06/30/96 10/01/91-06/30/96 01/01/90-12/31/92 07/01/91-06/30/96 Amount: \$6,726 \$591,086	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Mark W. Eidman Ray Langenberg Curtis Osterloh Scott, Douglass & McConnico Austin
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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: Answer filed.

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**Laredo Country Club, Inc., A Texas Corp. v. Sharp, et al.** Cause #98-11834  
AG Case #98-1064363

Sales Tax; Protest; Declaratory Judgment Filed: 10/20/98 Period: 08/1-30/98 Amount: \$2,054	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  John Christian Vinson & Elkins Austin
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Issue: Whether sales tax is due on the portion of country club membership fees designated as "capital improvement fees" and "gratuities."

Status: Dismissed for Want of Prosecution 07/25/02. Reopened, as plaintiff has filed a Motion for Reinstatement in 10/02.

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**Lebaron Hotel Corp., dba The Lebaron Hotel v. Sharp, et al.** Cause #91-17399  
AG Case #92-10477

Sales Tax; Protest Filed: 12/13/91 Period: 10/01/87 - 06/30/90 Amount: \$22,326	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Robert C. Cox Dallas
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Issue: Whether Comptroller could tax an arbitrary percentage of ingredients in complimentary mixed drinks and whether ingredients are exempt because they are taxed elsewhere. Is tax due on repairs to parking lot. Whether purchase of items from Ramada Inn is exempt as entire operating assets of a business or identifiable segment.

Status: Non-suited. Case to be closed.

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**Lee Construction and Maintenance Co. v. Rylander, et al.** Cause #99-01091  
AG Case #99-1112160

Sales Tax; Protest Filed: 01/29/99 Period: 01/01/92- 12/31/95 Amount: \$31,830.47	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Timothy M. Trickey The Trickey Law Firm Austin
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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: Settlement negotiations pending.

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**Liaison Resources, L.P., and David S. Claunch v. Rylander, et al.** Cause  
#GN202795  
AG Case #021663307

Sales Tax; Protest & Declaratory Judgment Filed: 08/14/02 Period: 1991-1999 Amount: \$136,659.08	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  James F. Martens Christina A. Mondrik Stahl, Martens & Bernal Austin
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Issue: Whether Plaintiffs owe tax on computer-related temporary services. Whether the Comptroller improperly assessed tax on items sold out of state or on sales for resale. Plaintiffs also claim a violation of equal protection and seek attorneys' fees.

Status: Second meeting on settlement held. Plaintiff is producing additional documentation.

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**Local Neon Co., Inc. v. Rylander, et al.** Cause #99-15042  
AG Case #001254036

Sales Tax; Protest &  
Declaratory Judgment  
Filed: 12/31/99  
Period:  
Amount: \$34,390.24

Asst. AAG Assigned:  
Plaintiff's Counsel:

Blake Hawthorne  
James D. Blume  
Jennifer S. Stoddard  
Blume & Stoddard  
Dallas  
Judy M. Cunningham  
Austin

Issue: Whether Plaintiff was doing business in Texas by delivering and installing its signs that were sold under contract negotiated outside of Texas. Whether Plaintiff is entitled to declaratory judgment and attorneys' fees.

Status: Discovery in progress. Trial set 03/22/04.

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**Lockheed Martin Corp., as Successor to Lockheed Martin Vought Systems Corp. and Loral Vought Systems Corp. v. Rylander, et al.** Cause #GN103525  
AG Case #011523446

Sales Tax; Refund &  
Declaratory Judgment  
Filed: 10/24/01  
Period: 09/01/92-  
11/30/95  
Amount: \$2,680,000

Asst. AAG Assigned:  
Plaintiff's Counsel:

Jim Cloudt  
Mark W. Eidman  
Ray Langenberg  
Doug Sigel  
Curtis J. Osterloh  
Scott, Douglass &  
McConnico  
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 also seeks attorneys' fees.

Status: Answer filed.

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**Lockheed Corp. v. Rylander, et al.** Cause #GN201000  
AG Case #021583745

Sales Tax; Refund Filed: 03/26/02 Period: 03/01/93- 01/31/96 Amount: \$7,000,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Ira A. Lipstet Matthew G. Grimmer Jenkins & Gilchrist Austin
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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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**Lockheed Martin Corp. v. Rylander, et al.** Cause #GN200999  
AG Case #021583737

Sales Tax; Refund Filed: 03/26/02 Period: 01/01/96- 09/30/97 Amount: \$3,500,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Ira A. Lipstet Matthew G. Grimmer Jenkins & Gilchrist Austin
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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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**Lockheed Martin Corp., Successor to Lockheed Martin Vought Systems Corp. v. Rylander, et al.** Cause #GN201725  
AG Case #021620414

Sales Tax; Refund & Declaratory Judgment Filed: 05/23/02 Period: 12/01/95- 06/30/97 Amount: \$1,857,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Curtis J. Osterloh Scott, Douglass & McConnico Austin
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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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**Lockheed Martin Corp. v. Strayhorn, et al.** Cause #GN300420

AG Case #031751118

Sales Tax; Refund & Declaratory Judgment Filed: 02/10/03 Period: 07/01/97- 07/31/01 Amount: \$2,837,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Scott, Douglass & McConnico Austin
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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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**MG Building Materials, Ltd. v. Strayhorn, et al.** Cause #GN301686

AG Case #031802978

Sales Tax; Protest Filed: 05/23/03 Period: 01/01/96- 04/30/99 Amount: \$2,015,426.24	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Douglas W. Sanders Elizabeth A. Copeland Jeffrey T. Cullinane Oppenheimer, Blend, Harrison & Tate San Antonio
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Issue: Whether Plaintiff's audit was flawed because the Comptroller improperly failed to consider late resale or other exemptions in the sample. Whether the sample methodology and 60-day letter made it impossible for Plaintiff to show that the assessment was wrong. Plaintiff also requests a jury trial.

Status: Discovery in progress.

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**May Department Stores Co., The v. Strayhorn, et al.** Cause #GN300583  
AG Case #031759525

Sales Tax; Refund Filed: 02/21/03 Period: 04/01/96- 03/31/99 Amount: \$930,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Scott, Douglass & McConnico Austin
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Issue: Whether printing on bulk paper purchased out-of-state and made into catalogs and circulars is subject to use tax. Whether the essence of the transaction in producing the catalogs is non-taxable labor. Whether "distribution" is included in the use tax.

Status: Discovery in progress. Summary Judgment hearing held 10/01/03. Summary Judgment granted to Comptroller 10/30/03.

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**Medaphis Physicians Services Corp. v. Sharp, et al.** Cause #94-11610  
AG Case #94-149390

Sales Tax; Protest and Declaratory Judgment Filed: 09/16/94 Period: 05/01/94- 06/30/94 Amount: \$17,063	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Garry M. Miles Vinson & Elkins Austin
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Issue: Whether Plaintiff's services are taxable (1) insurance services, (2) debt collection services, or (3) data processing services, and whether Rules 3.330, 3.354, and 3.355 exceed the Comptroller's rule making authority.

Status: Inactive.

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**Mitchell, Christia Parr v. Rylander, et al.** Cause #GN201330  
AG Case #021604541

Sales Tax; Refund Filed: 04/22/02 Period: 01/01/95- 12/31/98 Amount: \$160,870.48	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Christia Parr Mitchell, Pro Se San Antonio
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Issue: Whether plaintiff may recover a sales tax refund for taxes paid by a corporation controlled by her ex-husband when the liability was paid pursuant to orders of the court in which the divorce was granted.

Status: Answer filed. Petition on related appeal in 4<sup>th</sup> Court of Appeals.

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***Nachhattar Tejpal Legha Enterprises, Inc. v. Rylander, et al.*** Cause #GN203398  
AG Case #021676812

Sales Tax; Refund & Declaratory Judgment Filed: 09/18/02 Period: 04/01/97- 07/31/99 Amount: \$15,841	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  James F. Martens Jessica Scott Stahl, Martens & Bernal Austin
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Issue: Plaintiff claims that the Comptroller wrongfully assessed additional sales tax by misstating Plaintiff's gross taxable receipts and wrongfully failed to entertain Plaintiff's refund claim. Plaintiff also seeks a declaratory judgment and attorneys' fees.

Status: Answer filed.

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***National Business Furniture, Inc. v. Sharp, et al.*** Cause #98-03927  
AG Case #98-932766

Sales Tax; Protest & Declaratory Judgment Filed: 04/15/98 Period: 01/01/93- 07/31/95 Amount: \$68,398	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Gilbert J. Bernal, Jr. Stahl, Martens & Bernal Austin
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Issue: Whether promotional materials printed out-of-state and delivered into Texas are subject to use tax.

Status: Discovery in progress. Trial to be set 05/2004.

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**Neiman Marcus Group, Inc. v. Sharp, et al.** Cause #93-10279-A  
AG Case #93-340549

Sales Tax; Protest, Refund & Declaratory Judgment Filed: 08/26/93 Period: 01/01/87- 03/31/90 Amount: \$1,046,465	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Gregg Perry Jones, Day, Reavis & Pogue Dallas
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Issue: Plaintiff's customers buy gifts from Plaintiff outside Texas and have the gifts delivered by common carrier to Texas "donees." Should the Comptroller have assessed use tax on these "gift sends." Second Issue: whether tax is due on certain remodeling services. Plaintiff asks for attorneys fees under 42 USC §§1983 and 1988.

Status: Agreed judgment signed 03/11/96 on the gift send issue. An agreed order for severance was signed on 03/11/96 on the remodeling issues and the attorneys' fees. Cause renumbered 93-10279-A. State filed a plea to jurisdiction on attorneys' fees on 10/06/93.

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**Neiman Marcus Group, Inc., The v. Rylander, et al.** Cause #GN102403  
AG Case #011478294

Sales Tax; Protest Filed: 08/01/01 Period: 04/01/90- 12/31/93 Amount: \$1,908,969.01	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether printing charges for catalogs are not subject to use tax because: (a) the printing services were not used in Texas, (b) the printed catalogs were gifts for which title transferred outside Texas, (c) plaintiff did not have sufficient control to be a Texas user, (d) the statute does not include distribution in the definition of use, (e) no use tax is due under the doctrine of *Morton Bldgs.*, (f) Rule 3.346(b)(3)(A) does not apply or is invalid, and/or (g) Tax Code 151.3111(a) exempts the printing service. Whether photograph retouching is (a) a sale of tangible personal property, or (b) repair, remodeling, maintenance or restoration of tangible personal property, or (c) exempt under Tax Code 151.330(e). Also, whether remodeling contracts were tax included and whether sampling was improper. Plaintiff seeks attorneys fees.

Status: Answer filed.

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**North American Intelcom, Inc., et al. v. Sharp, et al.** Cause #97-05318  
AG Case #97-733563

Sales Tax; Refund Filed: 05/02/97 Period: 04/01/91- 05/31/95 Amount: \$2,029,180	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Jasper G. Taylor, III Fulbright & Jaworski Houston
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Issue: Whether care, custody, and control of Plaintiff's public telephone equipment passed to their customers, so that Plaintiff could buy the equipment tax free for resale.

Status: Inactive.

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**North Texas Asset Management, Inc. v. Sharp, et al.** Cause #94-08603  
AG Case #94-113766

Sales Tax; Declaratory Judgment Filed: 7/14/94 Period: 05/02/91- 12/31/91 Amount: \$24,307	Asst. AAG Assigned:  Plaintiff's Counsel:	James Parsons  Judy M. Cunningham Attorney at Law Austin
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Issue: Whether a sale of a business approved by the SBA (which held a lien and received the proceeds) is tantamount to a foreclosure sale so that no successor liability should attach.

Status: Answer filed; inactive. Parties are involved in informal discussions to resolve or eliminate issues currently in controversy.

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**Northrop Grumman Systems Corp. (Successor to Northrop Grumman Corp. and Vought Aircraft Co.) v. Rylander, et al.** Cause #GN201344  
AG Case #021607155

Sales Tax; Refund & Declaratory Judgment Filed: 05/01/02 Period: 09/01/92- 11/30/95 Amount: \$1,600,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Gilbert J. Bernal, Jr. Stahl, Martens & Bernal Austin
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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: Answer filed.

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**Norwood Homes, Inc. v. Sharp, et al.** Cause #98-05637

AG Case #98-970135

Sales Tax; Refund Filed: 05/28/98 Period: 10/01/92- 06/30/96 Amount: \$77,887.44	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  John W. Mahoney Williams, Birnberg & Andersen Houston
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Issue: Whether certain cleaning services are taxable as real property services or are part of new construction of real property.

Status: Discovery in progress. Court granted Comptroller's Motion for Summary Judgment 11/07/03.

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**Petrolite Corp. v. Sharp, et al.** Cause #91-13885

AG Case #91-149840

Sales Tax; Protest and Refund Filed: 09/27/91 Period: 04/01/84 - 03/31/88 Amount: \$432,105	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  David H. Gilliland Clark, Thomas & Winters Austin
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Issue: Resale certificates; taxable maintenance services; taxability of various chemicals and other tangible personal property used in oil well services.

Status: Inactive.

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**Praxair, Inc. v. Sharp, et al.** Cause #97-03919 (consolidated with Cause No. 95-00690, *Praxair, Inc. v. Sharp, et al.*)  
AG Case #97-706272

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jana Kinkade
Filed: 04/01/97	Plaintiff's Counsel:	Gerard A. Desrochers Houston
Period: 01/01/90- 12/31/90		
Amount: \$57,815		

Issue: Whether the Comptroller erroneously denied Plaintiff's claim for refund of tax paid on manufacturing equipment, alleging that Plaintiff was not engaged in actual manufacturing.

Status: See Cause No. 95-00690, *Praxair, Inc. v. Sharp, et al.*

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**Praxair, Inc. v. Sharp, et al.** Cause #95-00690  
AG Case #95-214921

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jana Kinkade
Filed: 01/18/95	Plaintiff's Counsel:	Gerard A. Desrochers Houston
Period: 1990		
Amount: \$74,608		

Issue: Whether the Comptroller erroneously denied Plaintiff's claim for refund of tax paid on manufacturing equipment, alleging that Plaintiff was not engaged in actual manufacturing.

Status: Nothing pending.

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**R Communications, Inc. fka RN Communications, Inc. v. Sharp, et al.** Cause  
#91-4893  
#03-91-00390CV  
AG Case #91-62355

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 04/08/91	Plaintiff's Counsel:	Mark How Short, How, Frels & Tredoux Dallas
Period: 10/01/80 - 11/02/84		
Amount: \$None (Plaintiff was assessed \$67,836 tax but did not pay)		

Issue: Whether a taxpayer can be required to pay the disputed tax before filing suit in district court. Constitutionality of §112.108 under Texas Constitution Open Courts provision.

Status: District Court granted State's plea to the jurisdiction. State won appeal. Supreme Court reversed and remanded on 04/27/94. State's motion for rehearing denied. Inactive.

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**RAI Credit Corp. v. Rylander, et al.** Cause #GN003556  
AG Case #011395266

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 12/12/00	Plaintiff's Counsel:	David Cowling
Period: 01/01/89- 12/31/93		Gregory E. Perry
Amount: \$297,616.32		Jones, Day, Reavis & Pogue Dallas

Issue: Whether Plaintiff lacks nexus for collection of use tax on accounts receivable that were factored to it. Whether Plaintiff is a "seller" or "retailer" engaged in business in Texas. Whether Plaintiff is liable under §111.016 as a person who received tax. Whether imposition of tax denies equal protection. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Discovery in progress.

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**R.G.V. Vending, Inc. v. Strayhorn, et al.** Cause #GN304344  
AG Case #031881428

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 11/07/03	Plaintiff's Counsel:	Mark D. Hopkins
Period: 09/01/99- 12/31/01		Savrick, Schumann, Johnson & McGarr
Amount: \$233,847.27		Austin

Issue: Whether Plaintiff owes sales tax on vending machine items for those items sold or severed by schools. Whether the sample audit was invalid. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Answer filed.

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**Raytheon E-Systems, Inc. v. Rylander, et al.** Cause #GN101511  
#03-02-00346-CV  
#03-0416  
AG Case #011451606

Sales Tax; Declaratory Judgment and Refund Filed: 05/17/01 Period: 06/01/89 - 12/31/96 Amount: \$6,000,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Curtis J. Osterloh Scott, Douglass & McConnico Austin
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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: Discovery in progress. Summary Judgment hearing held 03/05/02. Partial summary judgment for plaintiff signed 03/29/02. Trial scheduled for 05/16/02. Judgment for Raytheon granted 05/15/02. Defendants' notice of appeal filed 06/04/02. Plaintiff's notice of appeal filed 06/14/02. Appellants' brief filed 09/20/02. Brief on cross-appeal filed 09/30/02. Appellants' brief filed 10/18/02. Appellants' reply brief filed 11/07/02. Oral argument completed 12/04/02. Appellee's post-submission brief filed 12/10/02. Comptroller's post-submission brief filed 12/15/02. Trial court affirmed, in part, remanded, in part, 01/30/03. Motion for Rehearing and Motion for En Banc Reconsideration filed 03/17/03; denied 03/27/03. Petition for Review filed by State 05/12/03. Response filed 05/20/03 by Raytheon. Reply filed by Comptroller 05/30/03. Petition for Review denied 08/28/03. Motion for Rehearing filed 09/12/03; denied 10/24/03.

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**Raytheon Co., as Successor in Interest to Raytheon Training, Inc. v. Rylander, et al.** Cause #GN201022  
AG Case #021588694

Sales Tax; Refund & Declaratory Judgment Filed: 03/28/02 Period: 08/01/88 - 05/31/97 Amount: \$2,500,000.00	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Scott, Douglass & McConnico Austin
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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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**Raytheon Co. and Daimlerchrysler Corp. as Successors to Central Texas Airborne Systems, Inc., fka Chrysler Technologies Airborne Systems, Inc. v. Strayhorn, et al.** Cause #GN302082  
AG Case #031816143

Sales Tax; Refund Filed: 06/13/03 Period: 04/01/89- 12/31/96 Amount: \$228,368	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Scott, Douglass & McConnico Austin
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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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**Raytheon Co., as Successor to Raytheon TI Systems, Inc. v. Strayhorn, et al.**  
Cause #GN303643  
AG Case #031853625

Sales Tax; Refund Filed: 09/09/03 Period: 07/01/97- 12/31/98 Amount: \$3,500,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Scott, Douglass & McConnico Austin
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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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**Raytheon Co. v. Strayhorn, et al.** Cause #GN303644

AG Case #031853633

Sales Tax; Refund Filed: 09/09/03 Period: 01/01/99- 12/31/02 Amount: \$7,400,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Scott, Douglass & McConnico Austin
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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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**Raytheon Co., as Successor to Raytheon E-Systems, Inc. v. Strayhorn, et al.**

Cause #GN303645

AG Case #031853641

Sales Tax; Refund Filed: 09/09/03 Period: 01/01/97- 12/31/98 Amount: \$4,000,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Scott, Douglass & McConnico Austin
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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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**Raytheon Co., as Successor to Raytheon E-Systems, Inc. v. Strayhorn, et al.**

Cause #GN304089

AG Case #031873441

Sales Tax; Protest, Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 10/16/03	Plaintiff's Counsel:	Mark W. Eidman
Period: 10/01/91- 12/31/96		Ray Langenberg
Amount: \$389,408.28		Doug Sigel
		Scott, Douglass & McConnico
		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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**Roadway Express, Inc. v. Rylander, et al.** Cause #GN002831

AG Case #001357631

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 09/25/00	Plaintiff's Counsel:	David Cowling
Period: 04/01/88- 05/31/92		Robert Lochridge
Amount: \$713,686.05		Jones, Day, Reavis & Pogue
\$206,053.87		Dallas

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: Answer filed.

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**Robbins & Myers, Inc. v. Strayhorn, et al.** Cause #GN301171  
AG Case #031786551

Sales Tax; Declaratory Judgment Filed: 04/11/03 Period: 06/01/95- 07/31/98 Amount: \$23,492.41	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Henry Binder Porter & Hedges Houston
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Issue: Whether Plaintiff is required to pay additional tax after the Comptroller's administrative order became final. Whether Plaintiff is entitled to the manufacturing exemption for down-hole drilling equipment and whether completion of Plaintiff's facility was new construction

Status: Answer filed.

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**Rockwell Collins, Inc. v. Rylander, et al.** Cause #GN203339  
AG Case #021676788

Sales Tax; Refund Filed: 09/13/02 Period: 01/01/97- 12/31/98 Amount: \$591,028.39	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  David H. Gilliland Clark, Thomas & Winters Austin
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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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**Rollins & Rollins Enterprises, Inc. , dba Country Kwik Stop v. Rylander, et al.**  
Cause #GN202097  
AG Case #021640651

Sales Tax; Protest Filed: 06/28/02 Period: 08/01/97- 07/31/00 Amount: \$45,059.74	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  William T. Peckham Austin
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Issue: Whether Plaintiff is liable for tax on food sold from its convenience store area.  
Whether the Comptroller applied proper percentages for loss and waste.

Status: Answer filed.

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**Sanchez, Hector and Sidney Fernald, et al. v. Southwestern Bell Telephone Co.** Cause #M-00-146  
AG Case #011527892

Sales Tax; Class Action Filed: 11/13/01	Asst. AAG Assigned:	Gene Storie
Period: Amount: \$	Plaintiff's Counsel:	William J. Tinning Portland
		Phil John Michael Levine Baker Botts Houston (Co-Defendants' Counsel)

Issue: Whether SWBT is liable to class action plaintiffs for over-collection of tax.  
Comptroller to provide testimony on tax.

Status: Comptroller to provide testimony on tax.

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**Schoenborn & Doll Enterprises, Inc. v. Rylander, et al.** Cause #99-07605  
AG Case #99-1187592

Sales Tax; Protest & Declaratory Judgment Filed: 07/01/99	Asst. AAG Assigned:	Blake Hawthorne
Period: 07/01/95- 05/31/97	Plaintiff's Counsel:	Kevin W. Morse Blazier, Christensen & Bigelow Austin
Amount: \$140,936.92		

Issue: Whether the portion of Plaintiff's gym membership fee allocated to aerobic training is included in Plaintiff's taxable amusement services. Whether the Comptroller improperly disregarded the rule addressing non-taxable aerobic and tanning services under the amusement services tax. Whether the Comptroller should have applied its detrimental reliance policy.

Status: Inactive. Plaintiff paid tax under pay-out agreement.

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**Sears Roebuck & Co. v. Rylander, et al.** Cause #99-04138  
AG Case #99-1152398

Sales Tax; Refund Filed: 04/08/99 Period: 10/01/88- 12/31/91 Amount: \$1,792,421.59	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  David E. Cowling Jones, Day, Reavis & Pogue Dallas
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Issue: Whether use tax is owed on catalogs printed and shipped from out-of-state. Whether any taxable use was made or any consideration received by plaintiff. Whether "distribution" is a taxable use and whether the Comptroller's rule identifying it as such is valid. Whether imposition of the tax violates the due process, commerce, or equal protection clauses. Alternatively, whether calculation of the tax as on the correct cost basis, whether tax should not be collected because the catalogs are "books," and whether penalty should be waived.

Status: Discovery in progress.

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**Service Merchandise Co., Inc. v. Sharp, et al.** Cause #98-11572  
AG Case #98-1063308

Sales Tax; Protest Filed: 10/13/98 Period: 01/01/92- 12/31/93 Amount: \$413,569	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  David E. Cowling Jones, Day, Reavis & Pogue Dallas
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Issue: Whether the purchase of sales catalogs printed out-of-state and shipped to Plaintiff's customers in Texas (at no charge to the customer) incur sales tax.

Status: Answer filed. On hold. Plaintiff filed bankruptcy in Tennessee on 03/25/99. Motion to dismiss set 05/07/01. Plaintiff filed motion to retain 04/25/01.

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**Sharper Image Corp. v. Rylander, et al.** Cause #GN203645  
AG Case #021686779

Sales Tax; Protest,  
Refund & Declaratory  
Judgment  
Filed: 10/09/02  
Period: 07/01/94-  
11/30/97  
Amount: \$264,355.46

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Jim Cloudt  
  
Gilbert J. Bernal, Jr.  
Stahl, Martens & Bernal  
Austin  
  
Martin I. Eisenstein  
Kevin J. Beal  
Brann & Isaacson  
Lewiston, ME

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: Discovery in progress. Trial to be set 04/2004.

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***Sharper Image Corp. v. Rylander, et al.*** Cause #GN203821  
AG Case #021696851

Sales Tax; Protest,  
Refund & Declaratory  
Judgment  
Filed: 10/22/02  
Period: 12/01/97-  
03/31/01  
Amount: \$258,205.20

Asst. AAG Assigned:  
  
Plaintiff's Counsel:

Jim Cloudt  
  
Gilbert J. Bernal, Jr.  
Stahl, Martens & Bernal  
Austin  
  
Martin I. Eisenstein  
Kevin J. Beal  
Brann & Isaacson  
Lewiston, ME

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: Discovery in progress. Trial to be set 04/2004.

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***Southern Sandblasting and Coatings, Inc. v. Rylander, et al.*** Cause #GN103910  
AG Case #011532355

Sales Tax; Protest & Declaratory Judgment Filed: 11/27/01 Period: 01/01/95- 12/31/98 Amount: \$219,219.35 \$47.15	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Gilbert J. Bernal, Jr. Stahl, Martens & Bernal Austin
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Issue: Whether plaintiff's grit, used in sandblasting vessels, and materials such as paint-gun parts, are exempt as materials used in repairing vessels. Whether denial of the exemption violates equal protection. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Trial set 04/19/04.

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***Southwest Food Processing & Refrigerated Services, aka Southwest Refrigerated Warehousing Services v. Rylander, et al.*** Cause #GN103390  
AG Case #011509668

Sales Tax; Protest Filed: 10/15/01 Period: 01/01/96- 12/31/99 Amount: \$188,477.57	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  H. Christopher Mott Krafsur Gordon Mott El Paso
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Issue: Whether plaintiff owes tax on electricity used to freeze food items.

Status: Answer filed.

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***Sprint International Communications, Inc. v. Sharp, et al.*** Cause #96-14298  
AG Case #96-637296

Sales Tax; Refund Filed: 11/22/96 Period: 02/01/86- 01/31/90 Amount: \$1,269,474	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Wallace M. Smith Donald L. Stuart R. Kemp Kasling Drenner & Stuart Austin
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Issue: Whether networking services are taxable as telecommunications services.

Status: Discussions in progress.

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***Steamatic of Austin, Inc., et al. v. Rylander, et al.*** Cause #GN200631

AG Case #021567771

Sales Tax; Refund Filed: 02/25/02 Period: 04/01/91- 04/30/94 Amount: \$103,335.27	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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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 Rule 3.357 and 3.310. Whether the claim is barred by limitations. Whether the Comptroller improperly changed the rule on casualty losses.

Status: Answer filed.

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***Summit Photographix, Inc. v. Rylander, et al.*** Cause #GN001808

AG Case #001323633

Sales Tax; Declaratory Judgment Filed: 06/23/00 Period: 01/01/94- 12/31/96 Amount: \$6,532,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Mark D. Hopkins Fields & Hopkins Austin  Hilary Thomas Kondos & Kondos Law Offices Richardson
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Issue: Whether Plaintiff is a direct sales company and may be regarded as a retailer for sales made by independent retailers of business start-up kits. Whether the Comptroller's rule defining direct sales organizations violates due process. Whether §151.024 was applied retroactively. Whether the items at issue are not taxable tangible personal property. Whether the Comptroller erred in basing the assessment on the suggested retail price of all issued items. Whether penalty and interest should be waived. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.*** Cause #GN100633

AG Case #011420734

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 03/01/01	Plaintiff's Counsel:	Judy M. Cunningham Austin
Period: 01/01/94- 12/31/96		
Amount: \$196,492.74		

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: Answer filed.

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***Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.*** Cause #GN302075

AG Case #031816119

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 06/13/03	Plaintiff's Counsel:	Judy M. Cunningham Austin
Period: 07/01/94- 06/30/98		
Amount: \$270,401.80		

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: Answer filed.

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**TCCT Real Estate, Inc. v. Rylander, et al.** Cause #99-11647  
AG Case #991219239

Sales Tax; Protest Declaratory Judgment Filed: 10/06/99 Period: 10/01/91- 03/31/93 Amount: \$146,484.05	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  David Cowling Robert Lochridge Jones, Day, Reavis & Pogue Dallas
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Issue: Whether Plaintiff sold electricity for commercial use when it obtained electrical service under a management agreement for another company which used the electricity in manufacturing or processing. Whether the exemption for electricity used in manufacturing requires the purchaser of electricity to be the user. Whether Plaintiff can be held as a seller of electricity in violation of the TPURA. Whether Plaintiff's right to equal and uniform taxation has been violated. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Trial set 05/17/04.

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**TCCT Real Estate, Inc. as Successor to TCC Austin Industrial Overhead v. Rylander, et al.** Cause #99-11648  
AG Case #99-1219221

Sales Tax; Protest Declaratory Judgment Filed: 10/05/99 Period: 07/01/89- 12/31/91 Amount: \$479,719.44	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  David Cowling Robert Lochridge Jones, Day, Reavis & Pogue Dallas
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Issue: Whether Plaintiff sold electricity for commercial use when it obtained electrical service under a management agreement for another company which used the electricity in manufacturing or processing. Whether the exemption for electricity used in manufacturing requires the purchaser of electricity to be the user. Whether Plaintiff can be held as a seller of electricity in violation of the TPURA. Whether Plaintiff's right to equal and uniform taxation has been violated. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Trial set 05/17/04.

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**TDI-Halter, Inc. v. Rylander, et al.** Cause #GN100339  
AG Case #011409653

Sales Tax; Refund  
Filed: 02/01/01  
Period: 01/01/93-  
06/30/96  
Amount: \$475,000

Asst. AAG Assigned:

Blake Hawthorne

Plaintiff's Counsel:

Mark W. Eidman  
Ray Langenberg  
Eric Hagenswold  
Scott, Douglass &  
McConnico  
Austin

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: Answer filed.

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**Telecable Associates, Inc.; Teleservice Corp. of America; Texas Telecable, Inc.; TCA Cable of Amarillo, Inc.; and Texas Community Antennas, Inc. v. Rylander, et al.** Cause #GN100705  
AG Case #011422482

Sales Tax; Refund  
Filed: 03/07/01  
Period: 03/01/93-  
12/31/96  
Amount: \$400,000

Asst. AAG Assigned:

Scott Simmons

Plaintiff's Counsel:

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

Issue: Whether cable equipment on the customer's premises qualifies for the sale for resale exemption for property used to provide a taxable service.

Status: Discovery in progress.

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**Texaco, Inc. v. Rylander, et al.** Cause #GN201543  
AG Case #021613625

Sales Tax; Refund Filed: 05/10/02 Period: 05/01/87- 12/31/90 Amount: \$157,090.20	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Mark W. Eidman Ray Langenberg Doug Sigel Scott, Douglass & McConnico Austin
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Issue: Plaintiff claims that interest should be offset or waived for a period before a refund was made to a subsidiary.

Status: Answer filed.

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**Texas Gulf, Inc. v. Bullock, et al.** Cause #485,228  
AG Case #90-311185

Sales Tax; Refund Filed: 06/05/90 Period: 01/01/85 - 06/30/88 Amount: \$294,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ira A. Lipstet Jenkins & Gilchrist Austin
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Issue: Are pipes exempt as manufacturing equipment or taxable as intra plant transportation.

Status: Nothing pending.

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**Texas Instruments, Inc. v. Rylander, et al.** Cause #GN103526  
AG Case #011523420

Sales Tax; Refund & Declaratory Judgment Filed: 10/24/01 Period: 07/01/87- 12/31/90 Amount: \$27,000,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Curtis J. Osterloh Scott, Douglass & McConnico Austin
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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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***Texas Instruments, Inc. v. Rylander, et al.*** Cause #GN103527

AG Case #011523438

Sales Tax; Refund & Declaratory Judgment Filed: 10/24/01 Period: 01/01/91- 07/31/97 Amount: \$102,000,000	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Doug Sigel Curtis J. Osterloh Scott, Douglass & McConnico Austin
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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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***USA Waste Services of Houston, Inc. v. Rylander, et al.*** Cause #GN003453

#03-03-00515-CV

AG Case #001388065

Sales Tax; Protest Filed: 12/01/00 Period: 01/01/94- 03/31/97 Amount: \$14,016.28	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Mark W. Eidman Ray Langenberg Eric Hagenswold Scott, Douglass & McConnico Austin
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Issue: Whether steam cleaning done for Plaintiff's customers by a third party is a sale for resale as an integral part of Plaintiff's taxable waste removal services.

Status: Motion for Summary Judgment hearing held 07/14/03; Summary Judgment granted for Comptroller. Notice of Appeal filed by plaintiff in Third Court of Appeals 08/25/03. Appellant's brief filed 10/13/03. Appellees' brief filed 11/13/03. Oral argument requested.

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**Union Carbide Corp. v. Rylander, et al.** Cause #GN000580  
AG Case #001261452

Sales Tax; Protest Filed: 01/13/00 Period: 01/01/89- 12/31/92 Amount: \$575,857.40	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Mark W. Eidman Ray Langenberg Curtis Osterloh Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff is entitled to an exemption on labor charges for installing floating roofs on tanks at its chemical plant because: (1) the roofs are exempt pollution control equipment, (2) the labor was for non-taxable new construction, or (3) the labor was for remodeling of tangible personal property.

Status: Settlement negotiations pending.

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**United Services Automobile Association & USAA Life Insurance Co. v. Rylander, et al.** Cause #GN103414  
#03-02-00747-CV  
AG Case #011509643

Sales Tax; Refund Filed: 10/16/01 Period: 02/01/91- 12/31/99 Amount: \$200,000,000+	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether plaintiffs are exempt from sales taxes because of Tex. Ins. Code arts. 4.10 and 4.11.

Status: Defendants' plea to the jurisdiction set 05/01/02. Summary Judgment for Defendants granted 05/13/02. Plaintiffs filed motion for new trial to extend deadline for appeal. Notice of Appeal filed. USAA's brief filed 04/07/03. Comptroller's brief filed 06/13/03. Oral argument completed 09/10/03. Appellee's post-submission brief filed 09/16/03. Opinion issued 11/06/03 by Third Court of Appeal affirming trial court's Summary Judgment in favor of Comptroller.

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***Val-Pak Franchise Operations, Inc. dba Valpak of Houston v. Strayhorn, et al.***

Cause #GN300267

AG Case #031746142

Sales Tax; Protest &  
Refund

Filed: 01/28/03

Period: 04/01/95-  
12/31/98

Amount: \$734,112.10

Asst. AAG Assigned:

Plaintiff's Counsel:

Jana Kinkade

R. James George, Jr.  
James A. Hemphill  
George & Donaldson,  
LLP  
Austin

Issue: Whether Plaintiff sells non-taxable advertising services. Whether Plaintiff purchases non-taxable proprietary information services. Whether marketing fees are non-taxable membership dues.

Status: Discovery in progress. Settlement negotiations in progress.

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***West Texas Pizza, Limited Partnership v. Sharp, et al.*** Cause #96-11751

AG Case #96-611633

Sales Tax; Protest

Filed: 09/27/96

Period: 06/01/88-  
06/30/92

Amount: \$35,247

Asst. AAG Assigned:

Plaintiff's Counsel:

Scott Simmons

Richard L. Rothfelder  
Milissa M. Magee  
Kirkendall, Isgur &  
Rothfelder  
Houston

Issue: Whether prizes obtained by collecting tickets from amusement machines in a restaurant are "purchased" by the customer as part of the price of the food.

Status: Discovery in progress. Inactive.

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**World Fitness Centers, Inc. v. Rylander, et al.** Cause #GN201795  
AG Case #021626239

Sales Tax; Refund Filed: 05/30/02 Period: 09/01/94- 05/31/98 Amount: \$273,005.56	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether plaintiff owes sales tax on the discount and reserve amounts of its factored contracts when plaintiff is a cash-basis taxpayer.

Status: Answer filed.

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**Zale Delaware, Inc. v. Rylander, et al.** Cause #GN202030  
AG Case #021640669

Sales Tax; Refund Filed: 06/24/02 Period: 08/01/92- 02/28/97 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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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: Answer filed.

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**Zale Delaware, Inc. v. Strayhorn, et al.** Cause #GN301725  
AG Case #031806045

Sales Tax; Refund & Declaratory Judgment Filed: 05/27/03 Period: 08/01/92- 02/28/97 Amount: \$1,170,404.64	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Mark W. Eidman Ray Langenberg Doug Sigel Scott, Douglass & McConnico Austin
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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: Answer filed.

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## Insurance Tax

***Allstate County Mutual Insurance Co.; Allstate Insurance Co.; Allstate Indemnity Co.; Allstate Texas Lloyds; and Allstate Property and Casualty Insurance Co. v. Strayhorn, et al.*** Cause #GN300968

AG Case #031778947

Insurance Premium Tax; Protest, Refund & Declaratory Judgment Filed: 03/26/03 Period: 1995-1998 Amount: \$174,386.15 \$10,529.48 \$4,013.24 \$11,858.40 \$7,306.09 (Total: \$208,093.27)	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Steven D. Moore Fred B. Werkenthin Jackson Walker Austin
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Issue: Whether Plaintiffs owe gross premiums tax on defaulted auto insurance premiums that are not received.

Status: Answer filed.

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***American Bankers Insurance Co. of Florida, et al. v. Ann Richards, et al.*** Cause #396,975

AG Case #86-1483

Gross Premium Tax; Protest & Declaratory Judgment Filed: 05/08/86 Period: 1985-1988 Amount: \$1,745,569	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Fred B. Werkenthin Jackson & Walker Austin
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Issue: Whether Tex. Ins. Code art. 4.10 unconstitutionally discriminates against foreign property and casualty companies by basing the premium tax rate on their percentage of Texas investments (equal protection). (Pleadings refer to art. 4.10, but protest letters refer to arts. 4.11 and 21.46.) Also seeks recovery and attorneys' fees pursuant to 42 U.S.C. §1983.

Status: Inactive.

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**American Fidelity Assurance Co. v. Strayhorn, et al.** Cause #GN302070  
AG Case #031816564

Insurance Premium Tax; Refund	Asst. AAG Assigned:	Christine Monzingo
Filed: 06/12/03	Plaintiff's Counsel:	Michael W. Jones
Period: 1992		Kevin F. Lee
Amount: \$241,625,20		Thompson, Coe, Cousins & Irons Austin

Issue: Whether investments in “Fannie Mae” and “Freddie Mac” mortgage pools qualify as Texas investments. Whether Rule 3.809 (c) is invalid.

Status: Answer filed.

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**American International Specialty Lines Insurance Co. v. Rylander, et al.** Cause #GN002666 (Consolidated with *Lexington Insurance Co. and Landmark Insurance Co. v. Rylander, et al.*, Cause #GN100569)  
AG Case #001351998

Insurance Premium Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 09/08/00	Plaintiff's Counsel:	Anthony Icenogle
Period: 1995		Joseph C. Boggins
Amount: \$362,975.97		DeLeon & Boggins Austin

Issue: Whether an authorized surplus lines insurer is required to pay unauthorized insurance tax when the Comptroller is unable to verify payment of tax by the agent. Whether the Comptroller wrongfully relied on another hearings decision as precedent. Plaintiff also seeks injunctive and declaratory relief and attorneys' fees.

Status: See *Lexington Insurance Co. and Landmark Insurance Co. v. Rylander, et al.*, Cause #GN100569.

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**Dorinco Insurance Co. v. Rylander, et al.** Cause #GN203924  
AG Case #021700380

Gross Premium Insurance and Maintenance Tax; Protest Filed: 10/29/02 Period: 1991-1997 Amount: \$1,411,505.77	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether tax was improperly assessed because Texas has no nexus with plaintiff or with the transactions in issue. Whether tax was also improperly assessed on premiums that did not cover Texas risks.

Status: Motion for Summary Judgment hearing held 11/18/03.

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**Fireman's Fund Insurance Co. of Ohio v. Rylander, et al.** Cause #GN101899  
AG Case #011464476

Insurance Premium Tax; Protest & Declaratory Judgment Filed: 06/20/01 Period: 1992-1998 Amount: \$439,074.12	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Stephen L. Phillips Brian C. Newby Julie K. Lane Cantey & Hanger, Roan & Autry Austin
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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: Answer filed.

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**First American Title Insurance Co. v. Strayhorn, et al.** Cause #GN301692  
AG Case #031806011

Retaliatory Tax; Protest, Refund & Declaratory Judgment Filed: 05/23/03 Period: 1998 through 2002 Amount: \$1,432,580.76	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Ron K. Eudy 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. Plaintiff also seeks attorneys’ fees.

Status: Discovery in progress. Motion for Summary Judgment hearing set 05/18/04. Non-jury trial scheduled 05/27/04.

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**Lexington Insurance Co., Landmark Insurance Co. v. Rylander, et al.** Cause  
#GN100569  
#03-03-00169-CV  
AG Case #011417896

Insurance Premium Tax; Protest & Declaratory Judgment Filed: 02/22/01 Period: 1992-1995 Amount: \$1,596,196.63 \$36,174.92	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Anthony Icenogle Joseph C. Boggins De Leon & Boggins Austin
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Issue: Whether an authorized surplus lines insurer is required to pay unauthorized insurance tax when the Comptroller is unable to verify payment of tax by the agent. Whether the Comptroller wrongfully relied on another hearings decision as precedent. Plaintiff also seeks injunctive and declaratory relief and attorneys’ fees.

Status: Discovery in progress. Summary Judgment motions held 08/01/02. Notice of Appeal filed 03/21/03. Appellants’ brief filed 08/15/03. Appellee’s brief filed 11/10/03. Appellants’ reply brief filed 12/05/03. Oral argument set 01/07/04.

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**Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al.** Cause #484,745  
AG Case #90-304512

Gross Premium Tax; Protest Filed: 05/24/90 Period: 1985-1986 1989-1992 Amount: \$1,848,606	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Fred B. Werkenthin Steve Moore Breck Harrison Jackson & Walker Austin
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Issue: Whether insurance taxes are owed by insurance companies on dividends applied to paid-up additions and renewal premiums.

Status: 9th Amended Petition filed. Settlement discussed, and partial settlement agreed to. Final judgment signed on paid-up additions issue. Renewal premium issue severed and retained on docket. Plaintiffs have made settlement offer on remainder of case.

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**Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al.** Cause #484,796  
AG Case #90-304503

Maintenance Tax; Protest Filed: 05-23-90 Period: 1989-1991 Amount: \$1,616,497	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Fred B. Werkenthin Jackson & Walker Austin
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Issue: Whether Tex. Ins. Code art. 21.07-6 is preempted by ERISA.

Status: One Plaintiff has submitted documentation supporting a refund. Case will be concluded in accordance with *NGS v. Barnes*, 998 F.2d 296 (5th Cir. 1993). Severance and final judgment entered for Metropolitan. Awaiting documentation for other Plaintiffs.

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**Old Republic Title Insurance Co. v. Strayhorn, et al.** Cause #GN301693  
AG Case #031806029

Retaliatory Tax; Protest, Refund & Declaratory Judgment Filed: 05/23/03 Period: 2002 Amount: \$219,626.40	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Ron K. Eudy 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. Plaintiff also seeks attorneys’ fees.

Status: Discovery in progress. Summary Judgment hearing set 05/18/04.

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**STP Nuclear Operating Co. v. Strayhorn, et al.** Cause #GN301053

AG Case #031808371

Insurance Premium Tax; Protest Filed: 06/11/03 Period: 2002 Amount: \$115,287.80	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Howard P. Newton Matthews & Branscomb San Antonio
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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 is pre-empted by federal law governing the operation of nuclear plants.

Status: Discovery in progress.

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**Security National Insurance Co. v. Rylander, et al.** Cause #GN001503

AG Case #001310820

Insurance Premium Tax; Protest Filed: 05/23/00 Period: 1995-1998 Amount: \$1,226,220.50	Asst. AAG Assigned:  Plaintiff's Counsel:	Natalie Foerster  Jay A. Thompson Thompson, Coe, Cousins & Irons Austin  Barry K. Bishop Clark, Thomas & Winters Austin
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Issue: Whether daily negative bank account balances should be adjusted to \$0 to compute the proper percentage of Texas investments for gross premiums tax.

Status: Discovery in progress. Motion for Summary Judgment filed by Plaintiff. Settlement discussions in progress. Cross-Motion for Summary Judgment due 12/30/03. Summary Judgment hearing set 01/20/04.

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**St. Paul Surplus Lines Co. v. Rylander, et al.** Cause #GN102788  
AG Case #011490877

Insurance Premium Tax; Refund, Protest & Declaratory Judgment Filed: 08/24/01 Period: 01/01/95- 12/31/98 Amount: \$163,021.27	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Michael W. Jones Kevin F. Lee Austin  Richard S. Geiger Dallas  Thompson, Coe, Cousins & Irons
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Issue: Whether Plaintiff, an eligible surplus lines insurer, is liable for unauthorized insurance tax. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

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**Universe Life Insurance Co. v. State of Texas** Cause #97-05106  
AG Case #97-727302

Insurance Tax; Protest Filed: 04/29/97 Period: 1993 Amount: \$56,958	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Larry Parks Long, Burner, Parks & Sealey Austin
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Issue: Whether plaintiff should be given credit against tax due for examination fees paid to the state in connection with a market conduct examination report ordered by the Texas Department of Insurance. Plaintiff also asks for penalty and interest waiver.

Status: Cross-motions for summary judgment heard 11/12/97. Summary judgment granted for Plaintiff. State has appealed. Case submitted without oral argument 07/06/98. Affirmed in part, reversed and remanded in part 03/11/99. State's motion for rehearing denied. Petition for review filed 06/01/99. Briefs on merits requested by Court. State's brief filed 10/18/99. Petition denied. Case remanded to trial court.

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**Universe Life Insurance Co., The v. Cornyn, et al.** Cause #GN002605  
AG Case #001348580

Insurance Premium Tax; Refund	Asst. AAG Assigned:	Gene Storie
Filed: 09/01/00	Plaintiff's Counsel:	Larry Parks
Period: 1993 1994		Long, Burner, Parks, McClellan & Delargy
Amount: \$87,288.51 \$426,620.38		Austin

Issue: Whether plaintiff should be given credit against tax due for examination fees paid to the state in connection with a market conduct examination report ordered by the Texas Department of Insurance. Plaintiff also asks for penalty and interest waiver.

Status: Comptroller to make partial refund awarded in administrative hearing. Court issued a dismissal notice. Plaintiff filed Motion to Retain.

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**Warranty Underwriters Insurance Co. v. Rylander, et al.** Cause #99-12271  
AG Case #99-1226739

Insurance Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 10/20/99	Plaintiff's Counsel:	Raymond E. White
Period: 1993-1997 1993-1997		Daniel Micciche
Amount: \$416,462.73 \$214,893.74		Akin, Gump, Strauss, Hauer & Feld Austin

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. Trial set 03/01/04.

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## Other Taxes

**Alvarado ISD v. Comptroller** Cause #GV303208  
AG Case #031833056

Property Tax; Administrative Appeal Filed: 07/31/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing and by misapplying burden of proof.

Status: Answer filed.

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**Arnold, Jessamine J., Estate of, Deceased, and Jim Arnold, Jr., Independent  
Executor v. Rylander, et al.** Cause #GN203255  
AG Case #021670484

Inheritance Tax; Protest Filed: 09/09/02 Period: Amount: \$161,956	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  James F. Martens Christina A. Mondrik Stahl, Martens & Bernal Austin
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Issue: Whether the IRS erred in increasing the value of the estate's assets and disallowing expenses and gifts.

Status: Answer filed.

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**Avery ISD v. Comptroller** Cause #GV303141  
AG Case #031833155

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Susan Feller Heiligenthal Linebarger, Goggan, Blair & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process.

Status: Answer filed.

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***Bailiff, Michael W. and Sylvia S. Bailiff v. Bexar County Appraisal District, et al.***  
Cause #2002-CI-147689  
AG Case #021691704

Property Tax; Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 10/10/02	Plaintiff's Counsel:	Christopher J. Weber
Period: 2002		Christopher J. Weber,
Amount: \$		L.L.C.
		San Antonio

Issue: Plaintiff claims that defendants overvalued and unequally appraised his various properties in Bexar County. Plaintiff claims that Defendants failed to meet their burden of proof and also seeks declaratory judgment and attorneys' fees.

Status: Answer filed. Plaintiff will dismiss.

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***Barbers Hill ISD v. Comptroller*** Cause #GV303127  
AG Case #031831688

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/28/03	Plaintiff's Counsel:	Robert Mott
Period: 2002		Joseph Longoria
Amount: \$		Sandra Griffin
		Karen Evertson
		Perdue, Brandon, Fielder,
		Collins & Mott
		Houston

Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties.

Status: Answer filed.

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**Bay City ISD v. Comptroller** Cause #GV303229  
AG Case #031835200

Property Tax; Administrative Appeal Filed: 08/01/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Robert Mott Joseph Longoria Perdue, Brandon, Fielder, Collins & Mott Houston
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties.

Status: Answer filed.

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**Broadus ISD v. Comptroller** Cause #GV303142  
AG Case #31833080

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  James R. Evans Susan Feller Heiligenthal Linebarger, Goggan, Blair, & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process.

Status: Answer filed.

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**Caddo Mills ISD v. Comptroller** Cause #GV303143  
AG Case #031833114

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Susan Feller Heiligenthal Linebarger, Goggan, Blair & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process. Whether sale prices for residential property were not properly adjusted.

Status: Answer filed.

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**Castleberry ISD; Ennis ISD; Canyon ISD; La Porte ISD v. Comptroller** Cause #96-08010  
AG Case #96-599817

Property Tax; Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 07/11/96	Plaintiff's Counsel:	Robert Mott
Period: 1994		Joseph Longoria
Amount: \$		Perdue, Brandon, Fielder, Collins & Mott
		Houston

Issue: Various issues concerning the validity of the Comptroller's property value study.

Status: Answer and Special Exception filed. Inactive. Settlement reached with Canyon ISD. Only La Porte ISD is now pending. LaPorte ISD has made a settlement offer. Discovery in progress.

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**Chevron USA, Inc. v. Strayhorn, et al.** Cause #GN304320  
AG Case #031880487

Natural Gas Production Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 11/05/03	Plaintiff's Counsel:	Mark W. Eidman
Period: 07/01/88-12/31/90		Ray Langenberg
Amount: \$225,194.00		Doug Sigel
		Scott, Douglass & McConnico
		Austin

Issue: Whether Plaintiff owes gas production tax on "Order 94 Payments." Plaintiff also seeks declaratory judgment and attorneys' fees.

Status: Answer filed.

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**Cockrill, Charles T. v. Comptroller of Public Accounts, et al.** Cause #CJ-00-308  
AG Case #001368513

Property Tax; Declaratory Judgment Filed: 10/12/00 Period: Amount: \$99,425.50	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Douglas L. Jackson Vance T. Nye Gungoll, Jackson, Collins, Box & Devoll Enid, Oklahoma
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Issue: Whether the Comptroller asserts any interest in art works that were sold by a taxpayer subject to a tax lien.

Status: Comptroller disclaims interest.

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**Columbia-Brazoria ISD v. Comptroller** Cause #GV303144  
AG Case #031833106

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Susan Feller Heilighenthal Linebarger, Goggan, Blair & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process. Whether sale prices for residential property were not properly adjusted.

Status: Answer filed.

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**Comstock ISD v. Comptroller** Cause #GN302662  
AG Case #031831670

Property Tax; Administrative Appeal Filed: 07/28/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Kirk Swinney Javier B. Gutierrez McCreary, Veselka, Bragg & Allen Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties and whether the Comptroller failed to consider local modifiers, sales and market information.

Status: Settled. Case to be closed.

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***El Paso Natural Gas Co. v. Sharp*** Cause #91-6309  
AG Case #91-78237

Gas Production Tax; Declaratory Judgment Filed: 05/06/91 Period: 01/01/87 - 12/31/87 Amount: \$3,054,480.60	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Alfred H. Ebert, Jr. Andrews & Kurth Houston
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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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***Forney ISD v. Comptroller*** Cause #GV303155  
AG Case #031833049

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing and by misapplying burden of proof.

Status: Settlement negotiations in progress.

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**Fort Worth's PR's, Inc. v. Rylander, et al.** Cause #GN200711  
AG Case #021573480

Mixed Beverage Gross Receipts Tax; Protest & Declaratory Judgment Filed: 03/04/02 Period: 03/01/99-06/30/99 Amount: \$36,177.36	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  John L. Gamboa Acuff, Gamboa & White Fort Worth
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Issue: Whether the Comptroller used a non-representative sample to determine plaintiff's tax liability. Whether depletion and error rates were calculated correctly.

Status: Answer filed.

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**Greenville ISD v. Comptroller** Cause #GV303126  
AG Case #031831704

Property Tax; Administrative Appeal Filed: 07/28/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Robert Mott Joseph Longoria Sandra Griffin Karen Evertson Perdue, Brandon, Fielder, Collins & Mott Houston
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties.

Status: Settlement negotiations in progress.

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**Huntsville ISD v. Comptroller** Cause #GV303124  
AG Case #031831696

Property Tax; Administrative Appeal Filed: 07/28/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Robert Mott Joseph Longoria Sandra Griffin Karen Evertson Perdue, Brandon, Fielder, Collins & Mott Houston
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties.

Status: Answer filed.

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**Killeen ISD v. Comptroller** Cause #GV302875  
AG Case #031825672

Property Tax; Administrative Appeal Filed: 07/11/03 Period: Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing and by misapplying burden of proof.

Status: Settled. Case to be closed.

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**Lake Austin Spa Investors, Ltd. v. Rylander, et al.** Cause #GN203899  
AG Case #021703913

Hotel Occupancy Tax; Protest, Injunction & Declaratory Judgment Filed: 10/28/02 Period: 03/01/97- 11/30/00 12/01/00-03/31/02 Amount: \$193,629.45 \$59,232.72	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Kirk R. Manning Stephen L. Phillips Julie K. Lane Cantey & Hanger Austin
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Issue: Whether Plaintiff's service charges are subject to the hotel tax. Whether the charges are gratuities under the Comptroller's rule. Plaintiff also seeks injunctive relief and attorneys' fees.

Status: Discovery in progress. Discussions in progress with opposing counsel.

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**Lone Oak ISD v. Comptroller** Cause #GV303145

AG Case #031833288

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Susan Feller Heiligenthal Linebarger, Goggan, Blair & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process.

Status: Settled. Case to be closed.

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**Lubbock-Cooper ISD v. Comptroller** Cause #GV303125

AG Case #031831654

Property Tax; Administrative Appeal Filed: 07/28/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Robert Mott Joseph Longoria Sandra Griffin Karen Evertson Perdue, Brandon, Fielder, Collins & Mott Houston
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties.

Status: Settlement negotiations in progress.

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**Lynch, Michael J. II, Assignee of Estrella Sola, Inc. v. Strayhorn** Cause #2003755  
AG Case #031771124

Mixed Beverage Gross Receipts Tax; Protest, Refund & Declaratory Judgment Filed: 02/26/03 Period: 1996-2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Michael J. Lynch II Pro Se El Paso
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Issue: Whether separate classification of mixed beverage and wine and beer permit holders is unreasonable and in violation of equal taxation. Plaintiff also seeks declaratory relief.

Status: Answer filed.

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**MFC Finance Co. of Texas v. Rylander, et al.** Cause #GN002653  
AG Case #001352632

Motor Vehicle Sales Tax; Refund Filed: 09/07/00 Period: 01/01/96-12/31/98 Amount: \$5,533,079.80	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff is entitled to tax credit and refund as provided under the sales tax bad debt statute for motor vehicle taxes on installment sales where the purchaser defaulted. Whether the refusal to allow a refund violates equal taxation because there is no rational basis to treat installment sellers of vehicles differently than vehicle renters and other retailers.

Status: Answer filed.

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**Marfa ISD v. Comptroller** Cause #GV303146  
AG Case #031833163

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  James R. Evans Susan Feller Heiligenthal Linebarger, Goggan, Blair, & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process. Whether the Comptroller failed to properly use local modifiers and sampling techniques.

Status: Answer filed.

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***McLane Co., Inc. and McLane Foodservice-Lubbock, Inc. v. Rylander, et al.***

Cause #GN104253 #03-03-00502-CV

AG Case #021547393

Protest Tax; Protest,  
Injunction & Declaratory  
Judgment  
Filed:  
Period:  
Amount: \$1,173.83 &  
\$3,690.00

Asst. AAG Assigned:

Gene Storie

Plaintiff's Counsel:

Gilbert J. Bernal, Jr.  
David J. Sewell  
Stahl, Martens & Bernal  
Austin

Issue: Whether the Comptroller must accept a letter of credit as security for Plaintiff's participation in the cigarette tax trust fund.

Status: Discovery in progress. Summary Judgment hearing held 07/30/03. Pleas to the jurisdiction granted in part and Summary Judgment granted for the Comptroller. McLane filed notice of appeal 08/19/03. Appellant's brief due 12/29/03.

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***Mineral Wells ISD v. Comptroller*** Cause #GV303209

AG Case #031833031

Property Tax;  
Administrative Appeal  
Filed: 07/31/03  
Period: 2002  
Amount: \$

Asst. AAG Assigned:

Christopher Jackson

Plaintiff's Counsel:

Ray Bonilla  
Ray, Wood, Fine &  
Bonilla  
Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing and by misapplying burden of proof.

Status: Answer filed.

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**Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.** Cause #92-16485  
AG Case #92-190294

Alcoholic Beverage Gross Receipts Tax; Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 12/03/92	Plaintiff's Counsel:	Jim Mattox
Period:		Lowell Lasley
Amount: \$		Michael D. Mosher

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: Answer filed. Inactive.

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**Petro Express Management, L.L.C. v. Rylander, et al.** Cause #GN204123  
AG Case #021705918

Fuels Tax; Injunction and Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 11/14/02	Plaintiff's Counsel:	Percy L. "Wayne" Isgitt
Period: 2002		C. Zan Turcotte
Amount: \$450,000		Law Offices of Perry L. "Wayne" Isgitt, P.C.
		Houston

Issue: Whether the Comptroller's collection actions are arbitrary, contrary to statute, and unconstitutional. Plaintiff seeks injunctive relief and a return of seized property.

Status: Temporary Restraining Order denied. Inactive.

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**Point Isabel ISD v. Comptroller** Cause #GV303014  
AG Case #031829617

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Jana Kinkade
Filed: 07/21/03	Plaintiff's Counsel:	C. Richard Fine
Period:		Kevin O'Hanlon
Amount: \$		O'Hanlon & Associates
		Austin

Issue: Whether the Comptroller incorrectly estimated the market value of single family residences.

Status: Settlement negotiations in progress.

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**Port Arthur ISD v. Comptroller** Cause #GV303150  
AG Case #031833262

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Susan Feller Heiligenthal Linebarger, Goggan, Blair & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process. Whether sale prices for residential property were not properly adjusted.

Status: Settled. Case to be closed.

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**Presidio ISD v. Comptroller** Cause #GV303152  
AG Case #

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties.

Status: Answer filed.

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**Preston Motors by George L. Preston, Owner v. Sharp, et al.** Cause #91-11987  
AG Case #91-133170

Motor Vehicle Tax; Protest Filed: 08/26/91 Period: 12/01/86 - 09/30/89 Amount: \$21,796	Asst. AAG Assigned:  Plaintiff's Counsel:	Jim Cloudt  George L. Preston Paris
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Issue: Whether motor vehicle tax should fall on dealer/seller rather than the purchaser under §152.044. Related constitutional issues.

Status: Inactive.

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**Rahmes, Todd W., Individually and on Behalf of All Similarly Situated Consumers v. Louis Shanks of Texas, Inc., Strayhorn, et al.** Cause #GN201766  
AG Case #031851256

MTA Tax; Refund & Declaratory Judgment Filed: 08/29/03 Period: 05/30/00 Amount: \$101.86	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  George Y. Nino The Nino Law Firm Houston
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Issue: Plaintiff claims a refund and injunctive relief for the class of persons who overpaid local MTA tax. Plaintiff also claims DTPA and fraud violations against the retailer, and seeks attorneys' fees.

Status: Pleas to jurisdiction set 01/21/04.

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**Ranger Fuels & Maintenance, L.L.C. v. Rylander, et al.** Cause #GN204124  
AG Case #021705900

Fuels Tax; Declaratory Judgment & Injunction Filed: 11/14/02 Period: Amount: \$115,000.00	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Percy L. "Wayne" Isgitt C. Zan Turcotte Law Offices of Perry L. "Wayne" Isgitt, P.C. Houston
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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: Temporary Restraining Order denied. Inactive.

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**Robinson, Barbara Cooke, Estate of v. Strayhorn, et al.** Cause #GN300338  
AG Case #031758915

Declaratory Judgment Tax; Declaratory Judgment Filed: 02/03/03 Period: 1990 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Arne M. Ray Houston
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Issue: Whether the Comptroller's lien should be nullified as expired or invalid on its face.

Status: Answer filed.

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**Shelton, James M., Estate of, Deceased, and Carroll A. Maxon, Independent Co-Executor v. Rylander, et al.** Cause #GN104094  
AG Case #021542261

Inheritance Tax; Protest & Refund Filed: 12/14/01 Period: Amount: \$1,616,018	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  James F. Martens Jessica Scott Stahl, Martens & Bernal Austin
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Issue: Whether the IRS and Comptroller failed to give proper credit against the estate value for a pending lawsuit and administrative expenses.

Status: Answer filed.

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**Stephenville ISD v. Comptroller** Cause #271703  
AG Case #031818958

Property Tax; Administrative Appeal Filed: 06/30/03 Period: Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Robert Mott Joseph Longoria Perdue, Brandon, Fielder, Collins & Mott Houston
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties.

Status: Settlement negotiations in progress.

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**Stephenville ISD v. Comptroller** Cause #GN302542  
AG Case #031829542

Property Tax; Administrative Appeal Filed: 07/21/03 Period: Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Robert Mott Joseph Longoria Perdue, Brandon, Fielder, Collins & Mott Houston
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties.

Status: Settlement negotiations in progress.

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**Tarkington ISD v. Comptroller** Cause #GV303148  
AG Case #031833098

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Susan Feller Heiligenthal Linebarger, Goggan, Blair & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process. Whether sale prices for residential property were not properly adjusted.

Status: Answer filed.

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**Tenaha ISD v. Comptroller** Cause #GV303149  
AG Case #031833122

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Susan Feller Heiligenthal Linebarger, Goggan, Blair & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process. Whether valuations of Category D, E and J properties are not supported by substantial evidence.

Status: Settled. Case to be closed.

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**Terlingua Common ISD v. Comptroller** Cause #GV302967  
AG Case #031833064

Property Tax; Administrative Appeal Filed: 07/17/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing and by misapplying burden of proof.

Status: Answer filed.

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**Willow Creek Resources, Inc. v. Strayhorn, et al.** Cause #GN303805  
AG Case #031859812

Gas Production Tax; Refund	Asst. AAG Assigned:	Blake Hawthorne
Filed: 09/23/03	Plaintiff's Counsel:	Mark W. Eidman
Period: 01/01/97- 12/31/99		Ray Langenberg
Amount: \$1,160,682.81		Doug J. Dashiell
		Scott, Douglass & McConnico
		Austin

Issue: Whether plaintiff is entitled to a natural gas production tax refund on gas which plaintiff claims qualifies for the exemption for high cost gas under §201.057.

Status: Answer filed.

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## Closed Cases

**3 Beall Brothers 3, Inc. v. Rylander, et al.** Cause #GN002755

AG Case #001354026

Franchise Tax; Refund Filed: 09/15/00 Period: 1993 Amount: \$265,995	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether the franchise tax was applied retroactively to deny Plaintiff a business loss carry forward. Whether the officer and director compensation add-back is unconstitutional.

Status: Non-suited 05/14/03.

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**Academy ISD v. Rylander, et al.** Cause #GV202340

AG Case #021647615

Property Tax; Administrative Appeal, Injunction & Declaratory Judgment Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Kirk Swinney Harvey M. Allen Javier B. Gutierrez McCreary, Veselka, Bragg & Allen Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 02/11/03.

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**Alba-Golden ISD v. Comptroller** Cause #GV303104  
AG Case #031833130

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  James R. Evans Susan Feller Heiligenthal Linebarger, Goggan, Blair, & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process.

Status: Agreed Judgment granted 10/22/03.

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**Allianz Underwriters Insurance Co. v. Rylander, et al.** Cause #GN000663  
AG Case #001280114

Insurance Premium Tax; Protest, Injunction & Declaratory Judgment Filed: 03/02/00 Period: 01/01/90- 12/31/95 Amount: \$365,506.54	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Stephen L. Phillips Brian C. Newby Julie K. Lane Cantey & Hanger, Roan & Autrey Austin
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Issue: Whether Plaintiff, an eligible surplus lines insurer, owes tax for unauthorized insurance. Whether tax should have been collected from the surplus lines agent or from the insured. Whether the Comptroller's assessment is contrary to the McCarran-Ferguson Act and constitutional due process. Whether the Comptroller has authority to assess taxes due before 09/01/93. Whether the Comptroller's rule on penalty and interest is arbitrary and capricious. Plaintiff also seeks attorneys' fees.

Status: Agreed Judgment granted 09/10/03.

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**Alvarado ISD v. Rylander** Cause #GN202439  
AG Case #021647623

Property Tax; Administrative Appeal Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Randall B. Wood Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly valuing sample properties that involved creative financing.

Status: Agreed Judgment signed 02/19/03.

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**America Online, Inc. v. Rylander, et al.** Cause #GN203015  
AG Case #021663323

Sales Tax; Protest & Declaratory Judgment Filed: 08/26/02 Period: 01/01/90- 03/31/97 Amount: \$15,271,936.64	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico
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Issue: Whether Plaintiff was a retailer engaged in business and with a physical presence in Texas during the audit period. Whether tax on Plaintiff violates Tex. Tax Code §151.307(c) and the Texas and United States Constitutions. Alternatively, whether penalty and interest should be waived.

Status: Agreed Judgment granted 06/13/03 in Comptroller's favor.

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**American General Corp. v. Rylander, et al.** Cause #GN003178  
AG Case #001375419

Franchise Tax; Protest Filed: 10/31/00 Period: 1994-1998 Amount: \$2,131,754.78	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Ray Langenberg Eric Hagenswold Scott, Douglass & McConnico Austin
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Issue: Whether intercorporate receipts should be excluded from gross receipts. Whether certain obligations were debts. Whether the Comptroller's application of the debt deduction statute violates equal protection. Whether an indirect tax on post-retirement benefits violates ERISA and the supremacy doctrine. Whether interest should be waived. Whether the assessment violates equal taxation, equal protection, due process, commerce clause, the Tax Code, the Administrative Code, was in excess of statutory authority, was made through unlawful procedure, and was arbitrary and capricious.

Status: Non-suited 02/18/03.

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***Bank of Texas, National Association (Formerly Swiss Avenue State Bank) v. Comptroller of Public Accounts*** Cause #GN103976  
AG Case #01535283

Franchise Tax; Protest &  
Declaratory Judgment  
Filed: 12/03/01  
Period: 2001  
Amount: \$218,056.52

Asst. AAG Assigned:

Blake Hawthorne

Plaintiff's Counsel:

J. Lawrence Temple  
Temple & Temple  
Austin

Frederic Dorwart  
Tulsa, Oklahoma

Issue: Whether conversion from a state bank to a national bank is a merger for franchise tax purposes. Whether the national bank must file an initial return. Whether treatment of the conversion as a merger is preempted by federal law.

Status: Motion for Summary Judgment hearing on hold. Agreed Judgment entered 12/19/02.

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***Belton ISD v. Comptroller of Public Accounts*** Cause #GV202349  
AG Case #021651898

Property Tax;  
Administrative Appeal  
Filed: 07/26/02  
Period: 2001  
Amount: \$

Asst. AAG Assigned:

Jana Kinkade

Plaintiff's Counsel:

R. Lawrence Macon  
Donna K. Schneider  
Akin, Gump, Strauss,  
Hauer & Feld  
San Antonio

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller failed to consider local modifiers, sales and market information. Whether utility property appraisal includes intangible value. Whether Belton ISD should be treated like McLennan County districts.

Status: Agreed Judgment signed 02/13/03.

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***Border Steel Rolling Mills, Inc. and Border Steel, Inc., as Successor in Interest to Border Steel Rollings Mills, Inc. v. Rylander, et al.*** Cause #GN002671  
AG Case #001352137

Sales Tax; Refund Filed: 09/08/00 Period: 06/01/91- 08/31/95 Amount: \$76,281.34	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether Plaintiff's rail-mounted cranes, related repair parts and labor are exempt from sales and use tax as rolling stock. Whether the Comptroller fully implemented an administrative agreement on taxation of other equipment and parts qualifying for the manufacturing exemption.

Status: Discovery in progress. Case set for DWOP; Motion to Retain filed. Case non-suited 10/15/03.

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***Brighton Builders, Inc. v. Sharp, et al.*** Cause #97-11830  
AG Case #97-837489

Sales Tax; Protest Filed: 10/15/97 Period: 10/01/92- 09/30/95 Amount: \$195,368	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ray Langenberg Scott Douglass & McConnico Austin
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Issue: Whether certain real property services, such as landscaping and construction site cleanup, are taxable.

Status: Case dismissed 06/24/03.

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**Briscoe, Billy R. v. Rylander, et al.** Cause #GN103316  
AG Case #011509502

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 10/09/01	Plaintiff's Counsel:	James F. Martens
Period: 1975-1979		Stahl, Martens & Bernal
Amount: \$140,000		Austin

Issue: Whether plaintiff owes motor vehicle sales tax on trailers affixed to real property. Whether plaintiff may recover damages for harm to his credit rating caused by the Comptroller. Plaintiff seeks release of liens, economic damages and attorneys' fees.

Status: Settled. Agreed Judgment signed 02/24/03.

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**Broadcast Satellite International, Inc. v. Rylander, et al.** Cause #GN002895  
AG Case #001365014

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 10/02/00	Plaintiff's Counsel:	William E. Bailey
Period: 01/01/91-12/31/97		Dallas
Amount: \$250,840.25		

Issue: Whether Plaintiff's broadcast services are non-taxable information services under §151.0038(a). Whether Plaintiff's services are not taxable telecommunications services under §151.0103(l) or data processing under §151.0035. Whether the sale or use of Plaintiff's services occurred out-of-state. Whether Plaintiff's experts demonstrated that Plaintiff is exempt under federal law. Plaintiff also asserts limitations as to part of the liability and seeks declaratory and injunctive relief.

Status: Temporary injunction hearing held 11/29/00. Temporary injunction denied 02/08/01. Dismissed without Prejudice 10/03/03.

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**Buffalo ISD v. Rylander, et al.** Cause #GV202348  
AG Case #021647854

Property Tax; Injunction  
& Declaratory Judgment  
Filed: 07/26/02  
Period: 2001  
Amount: \$

Asst. AAG Assigned:  
Plaintiff's Counsel:

Jana Kinkade  
Kirk Swinney  
Harvey M. Allen  
Javier B. Gutierrez  
McCreary, Veselka,  
Bragg & Allen  
Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties.

Status: Agreed Judgment signed 02/19/03.

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***Burgess, Connie, Individually and on Behalf of all Similarly Situated Consumers v. Gallery Model Homes, Inc., dba Gallery Furniture and all Similarly Situated Retailers*** Cause #01-01-01014-CV  
AG Case #021641543

Sales Tax; Refund &  
Class Action  
Filed: 06/99  
Period:  
Amount: \$

Asst. AAG Assigned:  
Plaintiff's Counsel:

Gene Storie  
Ronald J. Kormanik  
Michael D. Sydow  
Sydow, Kormanik,  
Carrigan & Eckerson  
Houston  
Donald Self  
The Law Offices of Don  
Self  
Houston  
George Y. Nino  
The Nino Law Firm  
Houston

Issue: Whether Plaintiffs may sue their vendors directly in a class action suit for alleged overcharges of sales tax without first getting a determination on the merits from the Comptroller.

Status: Comptroller's amicus brief filed. Oral argument held 11/04/02. Judgment affirmed.

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**Cafeteria Operators, L.P. v. Rylander, et al.** Cause #99-14363  
#03-01-00447-CV  
AG Case #99-1243411

Sales Tax; Refund Filed: 12/09/99 Period: 04/01/91- 10/31/94 Amount: \$117,868.69	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff's use of gas and electricity is exempt as processing. Whether Plaintiff's food products are prepared or stored for immediate consumption, thus eliminating the exemption. Whether taxation of Plaintiff's purchases of gas and electricity violates equal protection and lacks a rational basis.

Status: Summary judgment granted for defendants 07/05/01. Notice of appeal and request to clerk to prepare clerk's record filed 08/02/01. Docketing statement filed with Court of Appeals 08/15/01. Clerk's Record filed 09/13/01. Appellants' brief filed 10/10/01. Appellants' request for oral argument overruled on 11/27/01. Case set for submission on the briefs only on 01/14/02. Appellees' brief filed 12/18/01. Appellants' motion for oral argument filed 12/27/01; denied 01/09/02. Appellants' reply brief filed 01/11/02. Court of Appeals affirmed Summary Judgment for defendants 07/26/02; withdrawn 10/10/02. Motion for Rehearing filed 08/09/02; granted 10/10/02. Petition for Review filed in Supreme Court 11/22/02. Response to Petition for Review filed 02/03/03; denied 03/27/03.

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**Caldwell, Marcie v. Rylander** Cause #99-13088  
AG Case #99-1234329

Declaratory Judgment Tax; Declaratory Judgment Filed: 11/08/99 Period: 1992-Present Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Joe K. Crews Ivy, Crews & Elliott Austin
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Issue: Whether county court fees collected from persons who are convicted of any criminal offense are constitutional. Plaintiff seeks class action declaratory and injunctive relief to prevent Comptroller from collecting fees. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Plea to Jurisdiction denied 01/06/00. Trial court decision on jurisdiction affirmed by Third Court of Appeals. Plaintiff waived all rights to refund of court costs. Summary Judgment filed. Comptroller's Motion for Summary Judgment granted 05/08/03. Motions for Severance and Judgment hearings granted 06/30/03. Counties' Writ of Mandamus dismissed as moot by the Supreme Court.

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**Campbell ISD, et al. v. Comptroller** Cause #GV2-02447  
AG Case #021657903

Property Tax; Administrative Appeal Filed: 07/31/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Robert Mott Joseph Longoria Perdue, Brandon, Fielder, Collins & Mott Houston
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties by following the same methodology.

Status: Agreed Judgment signed 03/05/03.

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**Cervantes, Elsa v. Rylander** Cause #GN202413  
AG Case #021649827

Sales Tax; Declaratory Judgment Filed: 07/25/02 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Mark N. Osborn Andrew S. Miller Kemp Smith, P.C. El Paso
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Issue: Plaintiff contests the suspension of its Texas Customs Broker License and disagrees with the Comptroller's policy on goods being exported.

Status: Agreed Judgment granted 10/23/03.

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**Chrysler Financial Co., L.L.C. v. Rylander, et al.** Cause #99-13243  
AG Case #99-1238189

Motor Vehicle Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 11/12/99 Period: 10/01/90- 11/30/96 Amount: \$3,405,494.49	Plaintiff's Counsel:	Mark W. Eidman Scott, Douglass & McConnico Austin  David E .Otero Akerman, Senterfitt & Eidson Florida

Issue: Whether Plaintiff, as assignee of installment contracts with Chrysler dealers, is entitled to a refund under the bad debt credit provision in the sales tax for taxes on motor vehicles that were not paid by defaulting vehicle purchasers. Whether there is any rational basis to distinguish between vehicle sales and other sales or between vehicle rental receipts and vehicle sales receipts for purposes of bad debt relief.

Status: Motion to Retain filed by Plaintiff. Non-suited by Plaintiff 03/05/03.

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**Cisco ISD v. Rylander, et al.** Cause #GV202346  
AG Case #021647870

Property Tax; Administrative Appeal, Injunction & Declaratory Judgment	Asst. AAG Assigned:	Jana Kinkade
Filed: 07/26/02 Period: 2001 Amount: \$	Plaintiff's Counsel:	Kirk Swinney Harvey M. Allen Javier B. Gutierrez McCreary, Veselka, Bragg & Allen Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 02/04/03.

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**Cleburne ISD v. Rylander** Cause #GN202440  
AG Case #021647672

Property Tax; Administrative Appeal Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Randall B. Wood Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly valuing sample properties that involved creative financing.

Status: Agreed Judgment signed 11/07/02.

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**Cooper ISD v. Comptroller** Cause #GV202460  
AG Case #021652045

Property Tax; Administrative Appeal Filed: 08/01/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Randall B. Wood Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly valuing sample properties that involved creative financing.

Status: Agreed Judgment signed 02/19/03.

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**Cruz, Eduardo v. Rylander** Cause #GN203600  
AG Case #021684410

Sales Tax; Declaratory Judgment Filed: 10/03/02 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Mark N. Osborn Andrew S. Miller Kemp Smith, P.C. El Paso
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Issue: Plaintiff contests the suspension of its Texas Custom Broker License and disagrees with the Comptroller's policy on goods being exported. Plaintiff also claims that the rules and statutes relied on by the Comptroller to enforce Plaintiff's suspension are unconstitutional. Plaintiff seeks a declaratory judgment and attorneys' fees along with the appeal of the administrative suspension.

Status: Agreed Judgment granted 02/06/03.

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***Delco Electronics Corp. v. Sharp, et al.*** Cause #97-12045  
AG Case #97-843052

Franchise Tax; Refund Filed: 10/22/97 Period: 1992-1995 Amount: \$536,478	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  L.G. Skip Smith Clark, Thomas & Winters Austin
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Issue: Whether interest, rental and royalty income earned by Plaintiff should not be included in income because it was derived from discrete business enterprises that served an investment, rather than an operational function, and the activities producing the income were not part of the unitary business conducted by Plaintiff in Texas.

Status: Agreed Judgment signed 03/28/03.

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***DeSoto ISD v. Comptroller of Public Accounts*** Cause #GV102073  
AG Case #011474624

Property Tax; Administrative Appeal Filed: 07/27/01 Period: 2000 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and inspecting sample properties.

Status: Agreed Judgment signed 05/08/03.

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**Deweyville ISD v. Rylander** Cause #GV001637  
AG Case #001335355

Property Tax; Declaratory Judgment	Asst. AAG Assigned:	Jana Kinkade
Filed: 07/14/00	Plaintiff's Counsel:	John H. Wofford
Period: 1999		Law Office of John H. Wofford
Amount: \$		Austin

Issue: Whether the Comptroller erred by not properly selecting and inspecting sample properties. Whether the Comptroller failed to acknowledge local economic conditions, to timely provide a "clerical errors" report, and to accept additional information.

Status: Agreed Judgment signed 03/06/03.

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**Eastland ISD v. Rylander, et al.** Cause #GV202347  
AG Case #021647888

Property Tax; Administrative Appeal, Injunction & Declaratory Judgment	Asst. AAG Assigned:	Jana Kinkade
Filed: 07/26/02	Plaintiff's Counsel:	Kirk Swinney
Period: 2001		Harvey M. Allen
Amount: \$		Javier B. Gutierrez
		McCreary, Veselka, Bragg & Allen
		Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 02/14/03.

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**El Paso Natural Gas Co. v. Rylander, et al.** Cause #GN103408  
AG Case #011509676

Sales Tax; Refund	Asst. AAG Assigned:	Christopher Jackson
Filed: 10/16/01	Plaintiff's Counsel:	Ron Patterson
Period: 01/01/96-01/31/96		Kliwer, Breen, Garatoni, Patterson & Malone, Inc.
Amount: \$288,750		San Antonio

Issue: Whether plaintiff, a common carrier pipeline owner, owes use tax on an aircraft used in its business.

Status: Case non-suited 06/12/03.

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***El Paso Natural Gas Co. v. Rylander, et al.*** Cause #GN103409

AG Case #011509650

Sales Tax; Refund Filed: 10/16/01 Period: 10/01/93- 07/31/96 Amount: \$16,290.85	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ron Patterson Kliwer, Breen, Garatoni, Patterson & Malone, Inc. San Antonio
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Issue: Plaintiff contends that because it operates a common-carrier pipeline and is a certificated or licensed carrier of property it may avoid sales tax on repair, remodeling, and maintenance services purchased in connection with the maintenance and repair of aircraft Plaintiff owns and uses in operating its common-carrier pipeline.

Status: Case non-suited 06/12/03.

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***Fort Davis ISD v. Comptroller*** Cause #GV001764

AG Case #001339852

Property Tax; Declaratory Judgment Filed: 07/28/00 Period: 1999 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  James R. Evans, Jr. Linebarger Heard Goggan Blair Graham Pena & Sampson Austin
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Issue: Whether the Comptroller erred by not properly selecting and inspecting sample properties. Whether the Comptroller failed to acknowledge local economic conditions, to timely provide a "clerical errors" report, and to accept additional information.

Status: Settled. Agreed Judgment signed 04/01/03.

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**Gainesville ISD v. Comptroller of Public Accounts** Cause #GV102071  
AG Case #011474574

Property Tax; Administrative Appeal Filed: 07/27/01 Period: 2000 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing.

Status: Agreed Judgment signed 02/19/03.

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**Gainesville ISD v. Comptroller** Cause #GV202463  
AG Case #021652003

Property Tax; Administrative Appeal Filed: 08/01/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Randall B. Wood Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing.

Status: Agreed Judgment signed 03/05/03.

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**Gard, L.V. v. Bandera County Appraisal District; Bandera County Chief Appraiser, R. Elaine Chaney; Bandera County Appraisal Review Board, Paul Goodnight, Chairman; Rylander; and Bandera County Assessor-Collector, Mae Vion Meyer** Cause #8494-02  
AG Case #021684444

Property Tax; Declaratory Judgment Filed: 08/29/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Christopher J. Weber Christopher J. Weber, L.L.C. San Antonio
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Issue: Plaintiff claims that defendants overvalued and unequally appraised his various properties in Bandera County. Plaintiff claims that Defendants failed to meet their burden of proof and also seeks declaratory judgment and attorneys' fees.

Status: Answer filed. Plaintiff has dismissed suit against Comptroller.

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**Gateway Homes, Inc. v. Sharp, et al.** Cause #98-14225  
AG Case #99-1093188

Sales Tax; Protest Filed: 12/22/98 Period: 01/01/91- 09/30/95 Amount: \$133,146.26	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Mark W. Eidman Ray Langenberg Paige Arnette Scott, Douglass & McConnico Austin
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Issue: Whether various service activities such as landscaping, cleaning and waste removal are taxable real property services. Whether any tax due is owed by independent contractor service providers under a tax-included contract. Whether tax was assessed on non-taxable new construction. Whether the assessment violates equal protection and whether interest should be waived.

Status: Answer filed. Outcome pending *Perry Homes v. Rylander, et al.* *Perry Homes* decided in Comptroller's favor. Case non-suited 10/2003.

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**Gorman ISD v. Rylander, et al.** Cause #GV202344  
AG Case #021647896

Property Tax; Administrative Appeal, Injunction & Declaratory Judgment Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Kirk Swinney Harvey M. Allen Javier B. Gutierrez McCreary, Veselka, Bragg & Allen Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 01/23/03.

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***Harcourt Brace Jovanovich Legal & Professional, HBJ Farm Publications, Psychological Corp., Drake Beam Morin, Inc. and Holt Rinehart & Winston, Inc. v. Sharp, et al.*** Cause #97-03795

AG Case #97-706290

Franchise Tax; Protest and Declaratory Judgment Filed: 03/28/97 Period: 1987-1990 1989-1991 1988-1991 Amount: \$243,469 (total of all)	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Jess M. Irwin, III Steven D. Moore Jackson & Walker Austin
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Issue: Whether inter-company payable account obligations should have been excluded from debt for purposes of calculating franchise tax. Attorneys fees.

Status: Plaintiffs presented written settlement offer. Agreed Judgment granted 06/30/03.

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***Hawa, Hunter Travis on behalf of all others similarly situated v. Red Lobster of Texas, Inc., et al.*** Cause #A-0166552

AG Case #021621339

Sales Tax; Refund Filed: 05/14/02 Period: Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  Peter Tropoli Houston
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Issue: Whether the State is liable to a retailer who is sued in a class action to recover overpaid sales taxes.

Status: Mediation held 01/10/03. Claims against Comptroller dismissed.

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**Holt Rinehart & Winston, Inc., Drake Beam Morin, Inc., Harcourt Professional Education Group, Inc., The Psychological Corp. v. Rylander, et al.** Cause #GN100985  
AG Case #011433455

Franchise Tax; Protest & Declaratory Judgment Filed: 04/03/01 Period: 1992-1994 Amount: \$512,387.46	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Steven D. Moore Jackson Walker LLP Austin
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Issue: Whether intercompany payable account obligations should have been excluded from debt for purposes of calculating franchise tax. Attorneys fees.

Status: Answer filed. Comptroller considering settlement offer. Agreed Judgment granted 06/30/03.

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**Interpak Terminals, Inc. v. Sharp, et al.** Cause #95-15213  
AG Case #95-428718

Sales Tax; Protest Filed: 12/07/95 Period: 04/01/89-06/19/95 Amount: \$14,125	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  Paul Price Tom Wheat Pearson & Price Corpus Christi
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Issue: Whether Plaintiff is entitled to the exemption for wrapping and packaging materials it uses to package plastic pellets sent to it by the manufacturer of the pellets.

Status: Dismissed for Want of Prosecution 04/02/03.

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**Lake Charles Yamaha, Inc. v. Morales, et al.** Cause #95-3802  
AG Case #95-325883

Sales Tax; Declaratory Judgment Filed: 07/11/95 Period: 04/01/91-03/31/95 Amount: \$150,214	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Russell J. Stutes, Jr. Scofield, Gerard, Veron, Singletary & Pohorelsky Lake Charles, Louisiana
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Issue: Plaintiff asserts that it has no nexus with Texas and cannot be assessed sales tax, although it concedes that it delivers merchandise into Texas in its own trucks. Plaintiff asks for a declaratory judgment and damages/attorneys fees under 42 USC §§1983 and 1988.

Status: Will be dismissed or non-suited pursuant to Lake Charles Music suit, Louisiana Appeals Court. Dismissed with prejudice 07/09/96.

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**Liu, Anne Lee v. Rylander** Cause #GN202414  
AG Case #021649835

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/25/02	Plaintiff's Counsel:	Mark. N. Osborn
Period: 2002		Andrew S. Miller
Amount: \$		Kemp Smith, P.C.
		El Paso

Issue: Plaintiff contests the suspension of its Texas Custom Broker License and disagrees with the Comptroller's policy on goods being exported.

Status: Agreed Judgment granted 10/08/03.

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**MFN Financial Corp. v. Rylander, et al.** Cause #GN002650  
AG Case #001352129

Motor Vehicle Sales Tax; Refund	Asst. AAG Assigned:	Jim Cloutd
Filed: 09/07/00	Plaintiff's Counsel:	Mark W. Eidman
Period: 01/01/96-12/31/98		Ray Langenberg
Amount: \$5,533,079.80		Scott, Douglass & McConnico
		Austin

Issue: Whether Plaintiff is entitled to tax credit and refund as provided under the sales tax bad debt statute for motor vehicle taxes on installment sales where the purchaser defaulted. Whether the refusal to allow a refund violates equal taxation because there is no rational basis to treat installment sellers of vehicles differently than vehicle renters and other retailers.

Status: Non-suited 10/01/03.

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**May Department Stores Co., The v. Sharp, et al.** Cause #98-06899  
AG Case #98-983559

Franchise Tax; Refund Filed: 06/26/98 Period: 1991-1995 Amount: \$207,375	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  L.G. Skip Smith Clark, Thomas & Winters Austin
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Issue: Whether Plaintiff's officer and director compensation should be added to taxable surplus for franchise tax purposes.

Status: Non-suited 08/28/03.

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**Melek Corp. v. Rylander** Cause #GN100441  
AG Case #011410511

Sales Tax; Declaratory Judgment Filed: 02/12/01 Period: 2000 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Mark N. Osborn Shelly Rivas Kemp Smith, P.C. El Paso
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Issue: Plaintiff contests the suspension of its Texas Customs Broker License and disagrees with the Comptroller's policy on goods being exported.

Status: Agreed Judgment granted 09/12/03.

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**Melek Corp. v. Rylander, et al.** Cause #2002-5377  
AG Case #021709928

Sales Tax; Injunction & Declaratory Judgment Filed: 11/22/02 Period: 2000 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Mark N. Osborn Shelly Rivas Kemp Smith, P.C. El Paso
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Issue: Plaintiff seeks permanent injunction and declaratory relief from the suspension of its Texas Customs Broker License after its appeal to the district court was dismissed for want of prosecution.

Status: Temporary Injunction granted 12/02/02. Motion to Change Venue and Plea to the Jurisdiction filed. Agreed Order of Transfer signed 01/14/03. Agreed Judgment granted 09/12/03.

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***Mineola ISD v. Comptroller of Public Accounts*** Cause #GV102070  
AG Case #011474616

Property Tax; Administrative Appeal Filed: 07/27/01 Period: 2000 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly valuing commercial personal properties.

Status: Agreed Judgment signed 03/05/03.

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***Mineral Wells ISD v. Comptroller*** Cause #GV202461  
AG Case #021652052

Property Tax; Administrative Appeal Filed: 08/01/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and inspecting sample properties. Whether the Comptroller considered the effect of personal property in sales transactions.

Status: Agreed Judgment signed 01/27/03.

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**Moody ISD v. Rylander, et al.** Cause #GV202342  
AG Case #021647912

Property Tax; Administrative Appeal, Injunction & Declaratory Judgment Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Kirk Swinney Harvey M. Allen Javier B. Gutierrez McCreary, Veselka, Bragg & Allen Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 02/04/03.

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**Nacogdoches ISD v. Rylander** Cause #GN202442  
AG Case #021647664

Property Tax; Administrative Appeal Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ray Bonilla Randall B. Wood Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by misapplying burden of proof and not properly valuing sample properties that involved creative financing.

Status: Agreed Judgment signed 01/27/03.

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**Network Security Acceptance Corp., as Successor in Interest to Network Security Corp. v. Sharp, et al.** Cause #95-15698  
AG Case #96-437029

Franchise Tax; Protest Filed: 12/21/95 Period: 1986-1987 Amount: \$355,619	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  David E. Cowling Jones, Day, Reavis & Pogue Dallas
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Issue: Whether acquisition debt incurred by an acquiring corporation may be pushed down to the acquired corporation to reduce taxable capital.

Status: Agreed Judgment signed 03/13/03.

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***New Crew Quarters 2, Inc. v. Rylander, et al.*** Cause #GN002606  
AG Case #001352111

Mixed Beverage Gross Receipts Tax; Declaratory Judgment Filed: 09/01/00 Period: 09/01/93-02/28/97 Amount: \$216,325.07	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  Mark W. Eidman Ray Langenberg Curtis J. Osterloh Scott, Douglass & McConnico
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Issue: Whether audit incorrectly assessed mixed beverage tax by failing to consider changes in inventory and periods of business closures. Whether 50% fraud penalty was incorrectly assessed where some of the Plaintiff's books and records were destroyed by fire. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Plaintiff has submitted several settlement offers. Collection action to be taken by Comptroller. Plaintiff filed Chapter 7 bankruptcy. Bankruptcy stay in effect. Dismissed 09/03/03.

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***North Star Steel Texas, Inc. v. Sharp, et al.*** Cause #98-12019  
AG Case #98-1071152

Franchise Tax; Refund Filed: 10/23/98 Period: 1992-1995 Amount: \$725,830	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  James F. Martens Gilbert J. Bernal, Jr. Stahl, Martens & Bernal Austin
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Issue: Whether Comptroller properly interpreted the throw-back rule for purposes of apportioning gross receipts.

Status: Settled. Judgment entered 09/03/03.

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**Northside ISD v. Rylander, et al.** Cause #GV202341  
AG Case #021647920

Property Tax; Administrative Appeal, Injunction & Declaratory Judgment Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Kirk Swinney Harvey M. Allen Javier B. Gutierrez McCreary, Veselka, Bragg & Allen Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 02/2003.

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**Onalaska ISD v. Comptroller** Cause #GV202464  
AG Case #021652029

Property Tax; Administrative Appeal Filed: 08/01/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller misapplied a local modifier in its valuation techniques of local property.

Status: Agreed Judgment signed 03/05/03.

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**P.W. Jones Oil Co., Inc. v. Sharp, et al.** Cause #96-02941  
AG Case #96-485280

Diesel Fuel Tax; Injunction Filed: 03/12/96 Period: 1989-1993 Amount: \$176,959	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  John A. Leonard Russell & Leonard Wichita Falls
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Issue: Whether Plaintiff can rebut the presumption that the sale of diesel fuel is taxable. Plaintiff also asks for an injunction to stop collection action.

Status: Notice of Removal filed 09/2003. Debtor bankrupt.

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**Palais Royal, Inc. and 3 Beall Brothers 3, Inc. v. Sharp, et al.** Cause #96-03719  
#03-01-00224-CV  
AG Case #96-495867

Franchise Tax; Protest Filed: 04/01/96 Period: 1992-1993 (3 Beall) 1992-1995 (Palais) Amount: \$700,974	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether the 1991 Franchise Tax Statute is unconstitutionally retroactive as applied to the 1992 report year of a fiscal year taxpayer. Whether the officer-director add-back statute is unconstitutional under equal taxation provisions. Whether the implementation of the earned surplus tax component violated due process.

Status: Trial court granted Plaintiffs' motion for summary judgment on the due process, retroactivity, and equal tax issues, and granted the State's Motion for Summary Judgment on the officer-director compensation add-back issue. Judgment signed 01/29/01. Appellants' brief filed 06/22/01. Appellees' brief filed 10/05/01. Oral argument held 10/17/01. Appellees' post-submission brief filed 10/29/01. Appellants' post-submission brief filed. Appellees' post-submission letter brief filed. Third Court of Appeals reversed and rendered judgment for Comptroller on all issues. Petition for Review filed 08/13/02. Respondents' brief filed 09/12/02. Petition denied. Motion for Rehearing filed 11/14/02; denied 12/19/02. Petition for Writ of Certiorari filed 03/12/03; denied 05/05/03.

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**Perry Homes, A Joint Venture v. Sharp, et al.** Cause #98-14226  
#03-02-00476-CV  
AG Case #99-1093170

Sales Tax; Protest Filed: 12/22/98 Period: 10/01/91- 09/30/93 Amount: \$550,978.17	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Mark W. Eidman Ray Langenberg Paige Arnette Scott, Douglass & McConnico Austin
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Issue: Whether various service activities such as landscaping, cleaning and waste removal are taxable real property services. Whether any tax due is owed by independent contractor service providers under a tax- included contract. Whether tax was assessed on non-taxable new construction. Whether the assessment violates equal protection and whether interest should be waived.

Status: Defendants' Motion for Summary Judgment filed. Summary Judgment Hearing held 06/13/02. Judgment granted in Comptroller's favor 07/15/02. Plaintiff filed Notice of Appeal 07/24/02. Clerk's Record filed 09/06/02. Supplemental Clerk's Record filed 09/17/02. Plaintiff's brief filed 10/07/02. Appellant filed appeal 07/24/02. Appellees' brief filed 10/25/02. Appellant filed Motion 11/15/02 to postpone oral argument. Oral argument completed 01/08/03. Appellees' post-submission brief filed 01/21/03. Opinion issued 05/22/03 affirming trial court's judgment in favor of Comptroller. Motion for Rehearing due 06/06/03. Third Court of Appeals affirmed district court's decision 06/18/03.

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**Pfizer, Inc. v. Rylander, et al.** Cause #GN001781  
AG Case #001323641

Franchise Tax; Protest Filed: 06/20/00	Asst. AAG Assigned:	Christine Monzingo
Period: 1994-1996 Amount: \$309,078	Plaintiff's Counsel:	Mark W. Eidman Scott, Douglass & McConnico Austin

Issue: Whether franchise tax is due on gain from sale of an operating division that was capitalized, incorporated and sold. Whether receipts from sales of drugs shipped from outside Texas should be included in Texas' earned surplus gross receipts. Whether the throw-back rule applies to Michigan sales. Whether tax on income earned before the effective date of the earned surplus component is unconstitutional. Whether all penalty and interest should be waived.

Status: Non-jury trial held 06/09/03. Final Judgment for Pfizer granted 07/07/03.

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**Philadelphia Life Insurance Co. v. Rylander, et al.** Cause #GN101330  
AG Case #011439866

Insurance Premium & Gross Premium Tax; Protest Filed: 05/02/01	Asst. AAG Assigned:	Scott Simmons
Period: 1992-1996 Amount: \$466,381.65	Plaintiff's Counsel:	Kevin F. Lee Michael W. Jones Thompson, Coe, Cousins & Irons Austin

Issue: Whether certain transactions called "internal rollover" by Plaintiffs, consisting of substituting one insurance policy for a prior policy and transferring funds, result in gross premiums subject to tax.

Status: Agreed final judgment granted 06/30/03.

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**Pleasant Grove ISD v. Comptroller** Cause #GV302968  
AG Case #031833023

Property Tax; Administrative Appeal Filed: 07/17/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller failed to make a proper adjustment for the inflation rate of residential property prices.

Status: Agreed judgment granted 10/21/03.

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**Port Neches Groves ISD v. Comptroller** Cause #GV302967  
AG Case #031833072

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller misapplied the local modifier in valuing residential property.

Status: Agreed Judgment granted 10/21/03.

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**Presidio ISD v. Comptroller** Cause #GV202465  
AG Case #021652011

Property Tax; Administrative Appeal Filed: 08/01/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly valuing commercial personal properties.

Status: Agreed Judgment signed 02/19/03.

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**Ranger ISD v. Rylander, et al.** Cause #GV202343  
AG Case #021647938

Property Tax; Administrative Appeal, Injunction & Declaratory Judgment Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Kirk Swinney Harvey M. Allen Javier B. Gutierrez McCreary, Veselka, Bragg & Allen Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 01/29/03.

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**Rosebud-Lott ISD v. Comptroller** Cause #GV202462  
AG Case #021651997

Property Tax; Administrative Appeal Filed: 08/01/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ray Bonilla Ray, Wood & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly valuing sample properties.

Status: Agreed Judgment signed 03/20/03.

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**San Augustine ISD v. Comptroller** Cause #GV303147  
AG Case #031833148

Property Tax; Administrative Appeal Filed: 07/30/03 Period: 2002 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  James R. Evans Susan Feller Heiligenthal Linebarger, Goggan, Blair, & Sampson Austin
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Issue: Whether the Comptroller's order on the value study is arbitrary and unreasonable. Whether the Comptroller violated equal protection and due process, and exceeded the rule-making authority granted by the Legislature. Plaintiff also seeks a declaration regarding the validity of the Comptroller's rules and hearings process.

Status: Agreed Judgment granted 10/24/03.

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**Saudi Refining, Inc. v. Rylander, et al.** Cause #99-04227  
AG Case #99-1155755

Franchise Tax; Refund & Protest Filed: 04/09/99 Period: 1994-1995 Amount: \$502,834.84 & \$190,000.58	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ira A. Lipstet Therese L. Surprenant Jenkins & Gilchrist Austin
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Issue: Whether Plaintiff may take franchise tax credit as a joint venture partner for equipment sales taxes paid by the joint venture.

Status: Motion to retain granted. Order waiving mediation granted 05/29/01. Discovery in progress. Motion for Summary Judgment hearing held 12/16/02. Judgment granted in favor of Comptroller 01/23/03.

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**Sergeant Enterprises, Inc. v. Sharp, et al.** Cause #96-15475  
#03-03-00047-CV  
AG Case #97-652613

Franchise Tax; Refund  
Filed: 12/31/96  
Period: 1995  
Amount: \$42,968

Asst. AAG Assigned:  
Plaintiff's Counsel:

Christine Monzingo  
Mark W. Eidman  
Ray Langenberg  
Scott, Douglass &  
McConnico  
Austin

Issue: Whether a business loss carry-forward can be transferred to another corporation by way of merger and whether Rule 3.555 prohibiting such a transfer is applicable to audit periods before the effective date of the rule.

Status: Cross-motions for summary judgment held 12/11/02. Judgment for the Comptroller signed 12/19/02. Judgment appealed 01/17/03. Appellant's brief filed 03/12/03. Appellees' brief filed 04/17/03. Appellants' reply brief filed 05/07/03. Appellee's supplemental brief filed 05/27/03. Oral argument held 06/04/03. Amicus Curiae brief filed 06/04/03. Appellant's supplemental brief filed 06/12/03. Appellees' Objection to Amicus Curiae brief filed 06/06/03. Appellees' Response to Amicus Curiae brief filed 06/06/03. Court overruled Appellees' Objection to Amicus Curiae brief. Judgment affirmed 07/11/03. No Petition for Review filed.

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***Southside ISD v. Comptroller of Public Accounts*** Cause #GV202350  
AG Case #021651906

Property Tax;  
Administrative Appeal  
Filed: 07/26/02  
Period: 2001  
Amount: \$

Asst. AAG Assigned:  
Plaintiff's Counsel:

Jana Kinkade  
R. Lawrence Macon  
Donna K. Schneider  
Akin, Gump, Strauss,  
Hauer & Feld  
San Antonio

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller failed to consider local modifiers, sales and market information. Whether utility property appraisal includes intangible value. Whether Southside ISD should be treated like McLennan County districts.

Status: Agreed Judgment signed 03/05/03.

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**Southwestern Life Insurance Co. v. Sharp, et al.** Cause #98-11945  
AG Case #98-1065840

Gross Premium Maintenance Tax; Protest Filed: 10/22/98 Period: 01/01/92- 12/31/95 Amount: \$392,737	Asst. AAG Assigned:  Plaintiff's Counsel:	Gene Storie  L.G. Skip Smith Clark, Thomas & Winters Austin
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Issue: Whether certain transactions called "internal rollover" by Plaintiffs, consisting of substituting one insurance policy for a prior policy and transferring funds, result in gross premiums subject to tax.

Status: Answer filed. Will be determined as for *All American Life Insurance Co, et al. v. Sharp, et al.* Agreed Judgment signed 05/30/03.

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**Southwestern Life Insurance Co. v. Rylander, et al.** Cause #GN000875  
AG Case #001288869

Gross Premium Maintenance Tax; Protest & Refund Filed: 03/24/00 Period: 01/01/96- 12/31/98 Amount: \$384,446.75	Asst. AAG Assigned:  Plaintiff's Counsel:	Blake Hawthorne  L.G. Skip Smith David H. Gilliland Clark, Thomas & Winters Austin
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Issue: Whether certain transactions called "internal rollover" by Plaintiffs, consisting of substituting one insurance policy for a prior policy and transferring funds, result in gross premiums subject to tax.

Status: To be settled in accordance with *All American Life Insurance v. Rylander, et al.* Agreed Judgment granted 05/20/03.

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**Specialty Retailers, Inc. v. Rylander, et al.** Cause #GN100415  
AG Case #011410529

Franchise Tax; Refund Filed: 02/08/01 Period: 1992-1996 Amount: \$34,167	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
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Issue: Whether Plaintiff is entitled to a refund for a business loss carryforward.

Status: Non-suited 05/14/03.

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***Specialty Retailers, Inc. v. Rylander, et al.*** Cause #GN102549

AG Case #011479979

Franchise Tax; Refund  
Filed: 08/13/01  
Period: 1997  
Amount: \$99,182

Asst. AAG Assigned:

Scott Simmons

Plaintiff's Counsel:

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

Issue: Whether the officer add-back provision violates equal and uniform taxation, equal protection, or due process.

Status: Non-suited 05/14/03.

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***Specialty Retailers, Inc. and 3 Beall Brothers 3, Inc. v. Sharp, et al.*** Cause #98-01348

AG Case #98-893255

Franchise Tax; Refund  
Filed: 02/06/98  
Period: 1993  
Amount: \$250,488

Asst. AAG Assigned:

Christine Monzingo

Plaintiff's Counsel:

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

Issue: Whether the 1993 franchise tax on earned surplus is a retroactive tax as applied to fiscal year taxpayers.

Status: Bankruptcy stay in effect. See *General Dynamics v. Sharp and 3 Beall Brothers 3, Inc. v. Comptroller, et al.* Non-suited 05/14/03.

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**State Farm Life Insurance Co. v. Cornyn, et al.** Cause #99-07980  
AG Case #99-1187642

Gross Premium Tax; Protest, Refund & Declaratory Judgment Filed: 07/13/99 Period: 1990 1992 1994 Amount: \$1,027,067.59 \$395,949.71 \$294,607.28	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Michael W. Jones Thompson, Coe, Cousins & Irons Austin
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Issue: Whether Plaintiff's debt instruments are mortgage loans or corporate bonds or other obligations for purposes of its Texas investments allocation. Whether Plaintiff's interests in limited partnerships qualified as real estate investments. Whether allocation of quarterly U.S. bond holdings was proper. Whether calculation of bank balances was proper. Alternatively, whether penalty should be waived. Plaintiff seeks attorneys' fees.

Status: Agreed Judgment signed 02/21/03.

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**Tennessee Gas Pipeline Co. v. Sharp, et al.** Cause #98-09521  
#03-02-00029-CV  
AG Case #98-1022296

Sales Tax; Refund Filed: 08/25/98 Period: 01/01/94- 04/03/96 Amount: \$85,430	Asst. AAG Assigned:  Plaintiff's Counsel:	Christopher Jackson  Ron Patterson Kliwer, Breen, Garaton, Patterson & Malone, Inc. San Antonio
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Issue: Plaintiff contends that because it operates a common-carrier pipeline and is a certificated or licensed carrier of property it may avoid sales tax on repair, remodeling, and maintenance services purchased in connection with the maintenance and repair of aircraft Plaintiff owns and uses in operating its common-carrier pipeline.

Status: Summary Judgment granted in Comptroller's favor 10/04/01. Plaintiff filed Motion for New Trial 11/05/01. Plaintiff appealed. Third Court of Appeals affirmed District Court's decision on 06/13/02. Appellant filed Motion for Rehearing 06/28/02. Motion for Rehearing denied 07/26/02. Tennessee Gas Petition for Review to Tex. Supreme Court filed 09/10/02. Response filed 12/11/02. Petition for Review denied 02/13/03.

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**Transcontinental Gas Pipeline Corp. v. Rylander, et al.** Cause #99-06997  
AG Case #99-1178526

Sales Tax; Protest Filed: 06/17/99 Period: 03/93-05/95 Amount: \$112,684.43	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ron Patterson Kliewer, Breen, Garatoni, Patterson & Malone Austin  Michael R. Garatoni Kliewer, Breen, Garatoni, Patterson & Malone San Antonio
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Issue: Whether Plaintiff, a common carrier gas pipeline operator, may claim a sales and use tax exemption on its purchase of an airplane. Whether airplane repair and replacement parts are exempt.

Status: Non-suited 03/12/03.

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**Troy ISD v. Rylander, et al.** Cause #GV202345  
AG Case #021648480

Property Tax; Administrative Appeal, Injunction & Declaratory Judgment Filed: 07/26/02 Period: 2001 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Kirk Swinney Harvey M. Allen Javier B. Gutierrez McCreary, Veselka, Bragg & Allen Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's certification of inaccurate values for some districts violates constitutional guarantees of efficient education and equal protection. Plaintiff also seeks attorney's fees.

Status: Agreed Judgment signed 02/19/03.

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**Unit 82 Joint Venture v. Rylander, et al.** Cause #GN001888  
AG Case #001327964

Sales Tax; Protest Filed: 07/03/00 Period: 07/01/93- 12/31/96 Amount: \$44,519.03	Asst. AAG Assigned:  Plaintiff's Counsel:	Scott Simmons  H. Christopher Mott Krafsur Gordon Mott Davis & Woody El Paso
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Issue: Whether Plaintiff's initial finish-out work is non-taxable new construction.

Status: Agreed Judgment signed 01/16/03.

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**United American Insurance Co. v. Rylander, et al.** Cause #99-06836  
#03-02-00722-CV  
AG Case #99-1176355

Gross Premium Tax; Protest & Declaratory Judgment Filed: 06/15/99 Period: 1990-1996 Amount: \$1,262,878.98 \$7,487.00	Asst. AAG Assigned:  Plaintiff's Counsel:	Christine Monzingo  Sam R. Perry Sneed, Vine & Perry Austin
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Issue: Whether Plaintiff's investment in a limited partnership which held Texas mineral interests qualifies as a Texas investment for purposes of reducing Plaintiff's gross premiums tax rate. Whether investments in limited partnerships should be treated the same as investments in corporations. Whether Plaintiff was denied equal protection under the federal or state constitutions. Plaintiff also asks for attorneys' fees.

Status: District court granted Defendants' Motion for Summary Judgment and denied Plaintiff's judgment 10/09/02. Appellant's brief filed 01/22/03. Appellees' brief filed 02/26/03. Appellant's reply brief filed 03/18/03. Submitted on oral argument 04/16/03. Supplemental briefs filed 04/29/03. Opinion issued 05/22/03 affirming trial court's judgment in favor of Comptroller. Appellant's Motion to Correct Factual Error in Opinion granted 06/19/03; page 2 substituted. No Petition for Review filed.

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**Uvalde ISD v. Comptroller of Public Accounts** Cause #GV102072  
AG Case #011474582

Property Tax; Administrative Appeal Filed: 07/27/01 Period: 2000 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  Ray Bonilla Ray, Wood, Fine & Bonilla Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties that involved creative financing.

Status: Agreed Judgment signed 02/19/03.

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**Valentine ISD v. Comptroller** Cause #GV001763  
AG Case #001339860

Property Tax; Administrative Appeal Filed: 07/28/00 Period: 1999 Amount: \$	Asst. AAG Assigned:  Plaintiff's Counsel:	Jana Kinkade  James R. Evans, Jr. Linebarger Heard Goggan Blair Graham Pena & Sampson Austin
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Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller failed to consider local modifiers, sales, and market information.

Status: Agreed Judgment signed 03/25/03..

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**West Orange-Cove CISD, Coppell ISD, La Porte ISD, Port Neches-Groves ISD  
v. Rylander, et al.** Cause #GV-100528  
AG Case #011433026

Property Tax; Declaratory  
Judgment  
Filed: 04/09/01  
Period:  
Amount: \$

Asst. AAG Assigned:  
Plaintiff's Counsel:

Gene Storie  
George W. Bramblett, Jr.  
Carrie L. Huff  
Haynes and Boone  
Dallas  
W. Wade Porter  
Haynes and Boone  
Austin

Issue: Whether the \$1.50 cap on the school districts' maintenance and operations taxes creates an unconstitutional state property tax. Plaintiffs also seek attorneys' fees.

Status: Plea to the jurisdiction set 06/28/01. Plea granted. Case dismissed. Court of Appeals affirmed dismissal. Plaintiff filed Petition for Review to Texas Supreme Court. Response filed 08/21/02. Briefs on Merits requested by Court. Petitioner's brief filed 11/04/02. Respondent's brief filed 11/25/02. Supreme Court heard argument 03/27/03. Reversed and remanded. Case is being handled by the General Litigation Division.

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***Westar Hotels, Inc. v. Sharp, et al.*** Cause #97-06182  
AG Case #97-743945

Sales Tax; Refund  
Filed: 05/23/97  
Period: 11/01/90-  
07/31/94  
Amount: \$73,827

Asst. AAG Assigned:  
Plaintiff's Counsel:

Steve Rodriguez  
Christopher J. Tome  
Austin

Issue: Whether Plaintiff owes tax on electricity used in its hotels.

Status: Dismissed for Want of Prosecution 04/15/03.

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