OFFICE OF THE ATTORNEY GENERAL

TAXATION DIVISION

COMPTROLLER OF PUBLIC ACCOUNTS CASE LIST AND SUMMARY OF ISSUES

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Franchise Tax

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#03-03-00458-CV
AG Case #991227646

Franchise Tax; Refund	Asst. AAG Assigned:	Christopher Jackson
Filed: 10/18/99		
Period: 1993-1996	Plaintiff's Counsel:	Jan Soifer
Amount: $407,212.91		Susan Kidwell
$107,861.97		Locke, Liddell & Sapp
		Austin

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

Status: Motion for Summary Judgment held 04/10/03; granted in favor of the State 06/24/03. Plaintiff's Notice of Appeal filed 07/31/03. Appellants' brief filed 09/18/03. Appellees' brief filed 10/24/03. Appellants' reply brief filed 11/12/03. Oral Argument completed 01/07/04. Appellees' post-submission brief filed 01/22/04. Appellants' reply brief filed 02/06/04. Opinion issued 08/12/04 in favor of Appellee affirming the district court's judgment. Motion for Rehearing was due 08/27/04. Mandate to Issue 10/22/04.

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	Asst. AAG Assigned:	Christine Monzingo
Filed: 01/15/03	Plaintiff's Counsel:	David Cowling
Period: 1992-1994		Robert Lochridge
Amount: $6,482.90		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: Discovery in progress.

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	Asst. AAG Assigned:	Christine Monzingo
Filed: 04/23/03	Plaintiff's Counsel:	David Cowling
Period: 1992-1995		Robert Lochridge
Amount: $191,167.76		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: Discovery in progress.

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	Asst. AAG Assigned:	Christine Monzingo
Filed: 04/23/03	Plaintiff's Counsel:	David Cowling
Period: 1996		Robert Lochridge
Amount: $48,729.67		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: Discovery in progress.

Centex International, Inc., as Successor in Interest to 2728 Holding Corp., as Successor in Interest to Centex Real Estate Corp. v Strayhorn, et al. Cause #GN400903
AG Case #041941147

Franchise Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 03/17/04	Plaintiff's Counsel:	David Cowling
Period: 1992-1995		Gregg Perry
Amount: $634,494.07		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 attorneys' fees.

Status: Discovery in progress.

Centex Materials, L.P., As Successor in Interest to Centex Materials, Inc. v. Strayhorn, et al. Cause #GN301277
AG Case #031787146

Franchise Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 04/22/03	Plaintiff's Counsel:	David Cowling
Period: 1997-2000		Robert Lochridge
Amount: $96,248.92		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: Discovery in progress.

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

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

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.

Chevron USA, Inc. v. Strayhorn, et al. Cause #GN401579
AG Case #041972456

Franchise Tax; Refund	Asst. AAG Assigned:	Christine Monzingo
Filed: 05/17/04		
Period: 1987-1999	Plaintiff's Counsel:	Mark W. Eidman
Amount: $44,063,913.00		Ray Langenberg
		R. Eric Hagenswold
		Scott, Douglass &
		McConnico
		Austin

Issue: Whether Plaintiff may compute surplus using an alternative GAAP method of calculating impairment. Whether Plaintiff may use business loss carry-forward as a deduction to taxable earned surplus. Whether the Comptroller incorrectly calculated Plaintiff's pushdown adjustments. Whether environmental reserves should be calculated as taxable capital surplus. Whether Plaintiff is entitled to the manufacturing credit.

Status: Answer filed.

DaimlerChrysler Services North American, LLC Cause #GN401380
AG Case #041965591

Franchise Tax; Refund Filed: 04/30/04 Period: 1988 through 1991 Amount: $2,123,382.74	Asst. AAG Assigned: Plaintiff's Counsel:	Christine Monzingo Mark W. Eidman Ray Langenberg Matthew J. Meese Scott, Douglass & McConnico Austin

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

Status: Answer filed.

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

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.

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

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

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.

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

Franchise Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 03/28/03		
Period: 1989-1991	Plaintiff's Counsel:	Mark W. Eidman
Amount: $3,000,000		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. Summary Judgment hearing held 08/24/04; taken under advisement.

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 James F. Martens & Associates 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: Discovery suspended.

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, Supremacy, and Equal Protection Clauses.

Status: Cross-motions for Summary Judgment filed 08/20/04. Responses due 09/13/04. Hearing set 09/21/04.

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

Franchise Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 07/24/03	Plaintiff's Counsel:	Cynthia M. Ohlenforst
Period: 1999		G. James Landon
Amount: $47,775.25		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.

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		Stahl & Bernal
		Austin
Amount: $4,658		

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-jury trial held 07/13/04 and Judgment granted for State. Findings of Fact and Conclusions of Law filed 07/21/04. Notice of Appeal filed 08/04/04.

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: Defendants' Motion for Partial Summary Judgment hearing set 10/05/04. Non-jury trial set 12/13/04.

Reliant Energy Corp. (formerly Houston Industries, Inc.) v. Rylander, et al.
Cause #GN103935
AG Case #011532348

Franchise Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 11/28/01		
Period: 1998	Plaintiff's Counsel:	L.G. Skip Smith
Amount: $2,581,013.52		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.

Reliant Energy Gas Transmission Co., fka Noram Gas Transmission Co. v. Rylander, et al. Cause #99-08127
AG Case #991187675

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.

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

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: Settled.

Southwestern Bell Telephone Co. v. Rylander, et al. Cause #GN204559
AG Case #031730666

Franchise Tax; Protest & Refund Filed: 12/20/02 Period: 1996-1999; 2001 Amount: $25,000,000.00	Asst. AAG Assigned: Plaintiff's Counsel:	Christine Monzingo Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin

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: First Amended Original Petition adding 2001 final report filed.

Strattec Security Corp. v. Strayhorn, et al. Cause #GN401136
AG Case #041954496

Franchise Tax; Refund Filed: 04/08/04 Period: 07/03/95-06/29/99 Amount: $1,165,345	Asst. AAG Assigned: Plaintiff's Counsel:	Christine Monzingo Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico

Issue: Whether gross receipts from the sales of locksets are Texas receipts. Whether the throwback rule was applied to Plaintiff's receipts. Plaintiff claims violation of the commerce clause.

Status: Defendants' Motion for Summary Judgment hearing set 02/15/05. Non-jury trial set 03/07/05.

Texaco Refining & Marketing (East), Inc. v. Rylander, et al. Cause #99-14555
AG Case #991249228

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

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: Discovery in progress.

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

Franchise Tax; Refund	Asst. AAG Assigned:	Unassigned
Filed: 06/27/03		
Period: 1992-1997	Plaintiff's Counsel:	Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin
Amount: $4,462,424.56		

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.

Viacom International, Inc. v. Strayhorn, et al. Cause #GN402433
AG Case #041999269

Franchise Tax; Protest	Asst. AAG Assigned:	Blake Hawthorne
Filed: 07/30/04		
Period: 1997-1999	Plaintiff's Counsel:	David H. Gilliland Clark, Thomas & Winters Austin
Amount: $754,178.16		

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

Status: Answer filed.

Sales Tax

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

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

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

Status: Answer filed.

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		
Period: 11/01/92-12/31/97	Plaintiff's Counsel:	W. Stephen Benesh Deanna E. King Bracewell & Patterson Austin
Amount: $929,964.11		

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.

Alexopolous, Dimitrios P. v. Rylander, et al. Cause #99-08096
AG Case #991187865

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

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.

Alpine Industries, Inc. v. Sharp, et al. Cause #98-12998
#03-03-0643-CV
AG Case #981080526

Sales Tax; Protest Filed: 11/20/98 Period: 1994-1998 Amount: $31,128.62	Asst. AAG Assigned: Plaintiff's Counsel:	Blake Hawthorne Stephen D. Good Gregory A. Harwell 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: 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. Plaintiff's Notice of Appeal filed 10/20/03. Appellant's brief filed 02/02/04. Appellees' brief filed 04/02/04. Oral Argument held 04/14/04. Third COA affirmed District Court's Judgment 07/15/04. Motion for Rehearing was due 08/09/04. Texas Supreme Court granted Motion for Extension to file Petition for Review 09/01/04; due 09/29/04.

Amerada Hess Corp. v. Strayhorn, et al. Cause #GN402614
AG Case #042005314

Sales Tax; Refund Filed: 08/13/04 Period: 01/01/90- 12/31/95 Amount: $44,500.00	Asst. AAG Assigned: Plaintiff's Counsel:	Blake Hawthorne Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin

Issue: Whether submersible pumps, motors, separators, couplings and related down hole equipment are exempt from sales tax under the manufacturing exemption. Whether certain benefits of a membership fee cause the fee to be taxable.

Status: Answer filed.

American Oil Change Corp. v. Rylander, et al. Cause #99-06374
AG Case #991175084

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 & Bernal Austin

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 postponed. Settlement negotiations in progress.

Anderson Merchandisers Holding, Inc. v. Strayhorn, et al. Cause #GN400421
AG Case #041921966

Sales Tax; Refund Filed: 02/11/04 Period: 07/01/94- 03/31/98 Amount: $28,353.00	Asst. AAG Assigned: Plaintiff's Counsel:	Scott Simmons Mark W. Eidman Doug Sigel Scott, Douglass & McConnico Austin

Issue: Whether industrial solid waste removal is exempt as a real property service.

Status: Answer filed.

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

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 03/19/03	Plaintiff's Counsel:	Tom Tourtellotte
Period: 10/01/91-09/30/98		Hance Scarborough
Amount: $285,284.13		Wright Woodward & Weisbart
		Austin

Issue: Whether plaintiff performed its repairs under lump-sum contracts. Plaintiff also challenges the constitutionality of Rider 11.

Status: Discovery in progress. Trial setting of 09/20/04 passed by agreement.

Aramis Services, Inc. v. Sharp, et al. Cause #98-03527
AG Case #98930349

Sales Tax; Protest	Asst. AAG Assigned:	Christopher Jackson
Filed: 04/03/98		
Period: 04/01/90-03/31/94	Plaintiff's Counsel:	David E. Cowling
Amount: $291,196		Jones, Day, Reavis & Pogue
		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 11/22/04.

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

Sales Tax; Protest	Asst. AAG Assigned:	Christopher Jackson
Filed: 02/11/00		
Period: 04/01/94-12/31/97	Plaintiff's Counsel:	David E. Cowling
Amount: $281,676.36		Robert Lochridge
		Jones, Day, Reavis & Pogue
		Dallas

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

Status: Discovery in progress. Non-jury trial to be set prior to 11/22/04.

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

Sales Tax; Administrative Appeal	Asst. AAG Assigned:	Blake Hawthorne
Filed: 07/01/03	Plaintiff's Counsel:	Richard S. Browne
Period:		George D. Gordon
Amount: $		Baggett, Gordon & Deison
		Conroe

Issue: Plaintiff claims that the liability assessed is inconsistent with the ALJ's decision and seeks review under the APA.

Status: Discovery in progress.

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

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Jeff Mullins
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: Discovery in progress. Plaintiff has made a settlement offer.

Baldry, Ann dba Annie's Housekeeping Services v. Sharp, et al. Cause #95-02389
AG Case #95234990

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Jeff Mullins
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 before 11/12/04.

Bell Bottom Foundation Co. v. Rylander, et al. Cause #99-01092
AG Case #991112186

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

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

Status: Case dismissed for want of prosecution 06/17/03. Motion to Reinstate granted. Negotiating an Agreed Scheduling Order.

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 & Bernal
07/01/93-06/30/97		Austin
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.

Bell Helicopter Textron, Inc. v. Strayhorn, et al. Cause #GN204437
AG Case #041927062

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 12/11/02	Plaintiff's Counsel:	Gilbert J. Bernal, Jr.
Period: 07/01/97-05/31/02		Stahl & Bernal
		Austin
Amount: $3,000,000		

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. Plaintiff also seeks recovery of attorneys' fees.

Status: Answer filed.

Blue Cross & Blue Shield of Texas, Inc. v. Strayhorn, et al. Cause #GN401955
AG Case #041988023

Sales Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 06/21/04		
Period: 12/01/88-05/31/95	Plaintiff's Counsel:	Mark W. Eidman
		Ray Langenberg
Amount: $3,750,000.00		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.

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:	Jim Cloudt David H. Gilliland Clark, Thomas & Winters Austin

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

Status: Answer filed.

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

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.

Bonart, Richard C., DVM v. Strayhorn, et al. Cause #GN400552
AG Case #041928532

Sales Tax; Protest Filed: 02/20/04 Period: 01/01/02-12/31/02 Amount: $50.00	Asst. AAG Assigned: Plaintiff's Counsel:	Scott Simmons Richard C. Bonart (Pro Se) El Paso

Issue: Whether microchips implanted in animals are exempt as health care supplies and as a therapeutic appliance or device. Plaintiff also claims a denial of equal and uniform protection.

Status: Answer filed.

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

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.

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

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 03/07/05.

Central Power & Light Co. v. Sharp, et al. Cause #96-11455
AG Case #96602037

Sales Tax; Refund Filed: 09/20/96 Period: 07/01/86-12/31/89 Amount: $32,788	Asst. AAG Assigned: Plaintiff's Counsel:	Jeff Mullins L.G. Skip Smith Clark, Thomas & Winters Austin

Issue: Whether utility pole replacement services are non-taxable maintenance or taxable repair labor.

Status: Discovery in progress. Settlement negotiations in progress.

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

Sales Tax; Protest & Refund Filed: 12/16/02 Period: 01/01/94-12/31/97 Amount: $210,943.91	Asst. AAG Assigned: Plaintiff's Counsel:	Jeff Mullins Mark W. Eidman Ray Langenberg 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: Discovery in progress. Plaintiff to submit Motion for Summary Judgment.

Chevron Pipe Line Co. and West Texas Gulf Pipe Line Co. v. Strayhorn, et al.
Cause #GN304712
AG Case #031899016

Sales Tax; Refund Filed: 12/12/03 Period: 07/01/91-09/30/97 01/01/92-09/30/97 Amount: $683,979.99 $220,773.61	Asst. AAG Assigned: Plaintiff's Counsel:	Jim Cloudt Mark W. Eidman Ray Langenberg Matthew J. Meese Scott, Douglass & McConnico Austin

Issue: Whether installation of cathodic protection devices was new construction or maintenance. Whether excavation and back-filling were non-taxable unrelated services. Whether pipe replacement and recoating was non-taxable maintenance.

Status: Answer filed.

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

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

Clinique Services, Inc. v. Sharp, et al. Cause #98-03533
AG Case #98930330

Sales Tax; Protest Filed: 04/03/98 Period: 04/01/90-03/31/94 Amount: $519,192	Asst. AAG Assigned: Plaintiff's Counsel:	Christopher Jackson David E. Cowling Jones, Day, Reavis & Pogue 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 11/22/04.

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

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 11/22/04.

Coastal Refining & Marketing, Inc. v. Sharp, et al. Cause #98-03540
AG Case #98930321

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

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.

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 Filed: 03/09/01 Period: 01/01/95-03/31/99 Amount: $645,193.40	Asst. AAG Assigned: Plaintiff's Counsel:	Gene Storie Marilyn A. Wethekam Horwood Marcus & Berk Chartered 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: To be resolved with *House of Lloyd*.

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

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

Delta Air Lines, Inc. v. Strayhorn, et al. Cause #GN400439
AG Case #041925868

Sales Tax; Refund Filed: 02/13/04 Period: 02/01/93-12/31/96 Amount: $1,642,267.15	Asst. AAG Assigned: Plaintiff's Counsel:	Unassigned Mark W. Eidman Ray Langenberg Matthew J. Meese Scott, Douglass & McConnico Austin

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

Status: Answer filed.

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.

Dillard's Inc., aka Dillard Department Stores, Inc., and Dillard Texas Operating Limited Partnership v. Strayhorn, et al. Cause #GN304838
AG Case #041904590

Sales Tax; Refund	Asst. AAG Assigned:	Scott Simmons
Filed: 12/23/03		
Period: 07/01/93-01/31/96	Plaintiff's Counsel:	Mark W. Eidman
02/01/96-11/30/96		Ray Langenberg
Amount: $1,172,784.29		Doug Sigel
		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, industrial solid waste disposal, and sale for resale items.

Status: Answer filed.

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 Susan F. Gusky York, Keller & Field Austin
Period: 01/01/96-10/31/97		
Amount: $299,987.35		
		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. Motion for Summary Judgment hearing set 09/23/04.

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

Sales Tax; Protest	Asst. AAG Assigned:	Scott Simmons
Filed: 12/15/00		
Period: 01/01/93-12/31/96	Plaintiff's Counsel:	Rudy de la Garza Brownsville
Amount: $83,138.14		

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: Dismissed for Want of Prosecution 06/25/04. Plaintiff filed Motion to Retain 07/08/04. Motion to Reinstate filed 08/29/04.

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

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 03/19/02	Plaintiff's Counsel:	Mark W. Eidman
Period: 04/94-03/31/98		Ray Langenberg
Amount: $123,440.25		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.

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	Asst. AAG Assigned:	Christopher Jackson
Filed: 09/26/02	Plaintiff's Counsel:	David Cowling
Period: 01/01/98-12/31/00		Robert Lochridge
Amount: $284,508.69		Gregory E. Perry
		Jones, Day, Reavis & Pogue
		Dallas

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

Status: Answer filed.

Estee Lauder Services, Inc. v. Sharp, et al. Cause #98-03525
AG Case #98930358

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

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.

Estee Lauder Services, Inc. v. Sharp, et al. Cause #98-03524
AG Case #98930367

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

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 11/22/04.

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

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.

Ethicon, Inc. v. Strayhorn, et al. Cause #GN304779
AG Case #041904616

Sales Tax; Refund Filed: 12/18/03 Period: 01/01/96-12/31/99 01/01/94-12/31/95 Amount: $52,616.94	Asst. AAG Assigned: Plaintiff's Counsel:	Scott Simmons Mark W. Eidman Doug Sigel Scott, Douglass & McConnico Austin

Issue: Whether Plaintiff leased real property not subject to the sales and use tax.

Status: Plaintiff's Motion for Summary Judgment hearing set 09/21/04.

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

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.

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

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 submitted.

Fiesta Texas Theme Park, Ltd. v. Sharp, et al. Cause #98-02407
AG Case #98914152

Sales Tax; Refund Filed: 03/05/98 Period: 10/01/90-04/30/93 Amount: $328,829	Asst. AAG Assigned: Plaintiff's Counsel:	Christine Monzingo Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin

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: Discovery complete. Hearing on Plaintiff's Motion for Summary Judgment set 10/19/04.

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

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.

Garza, Lawrence v. Sharp, et al. Cause #98-07607
AG Case #981001886

Sales Tax; Protest Filed: 07/17/98 Period: 01/01/93-09/30/95 Amount: $83,910	Asst. AAG Assigned: Plaintiff's Counsel:	Jeff Mullins Stephen P. Dillon Lindeman & Dillon Houston

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.

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 Jenkens & Gilchrist 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.

General Dynamics Corp. v. Rylander, et al. Cause #GN201323
AG Case #021598073

Sales Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 04/22/02		
Period: 12/01/91-02/28/93	Plaintiff's Counsel:	Ira A. Lipstet Matthew G. Grimmer Jenkens & Gilchrist Austin
Amount: $4,500,000		

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.

Gift Box Corp. of America, Inc. v. Rylander, et al. Cause #GN102934
AG Case #011492865

Sales Tax; Protest	Asst. AAG Assigned:	Blake Hawthorne
Filed: 09/05/01		
Period: 10/91-03/97	Plaintiff's Counsel:	Ira A. Lipstet Matthew G. Grimmer Jenkins & Gilchrist Austin
Amount: $359,929.22		

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.

Graybar Electric Co., Inc. v. Sharp, et al. Cause #97-01795
AG Case #97682966

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

Issue: Whether the sample audit resulted in a correct assessment.

Status: Settlement negotiations in progress.

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

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.

H.J. Wilson Co., Inc. v. Sharp, et al. Cause #98-11574
AG Case #981063332

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

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: 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.

Herndon Marine Products, Inc. v. Sharp, et al. Cause #91-14786
AG Case #91164788

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

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.

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. Stahl & Bernal Austin

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.

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

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Gene Storie
Filed: 01/21/00	Plaintiff's Counsel:	Marilyn A. Wethekam Horwood Marcus & Berk Chartered Chicago, Illinois
Period: 06/01/92-12/31/96		
Amount: $597,281.67		
		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. Settlement approved.

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

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

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.

JBS Packing Co., Inc. v. Strayhorn, et al. Cause #GN402498
AG Case #042003590

Sales Tax; Refund Filed: 08/05/04 Period: 12/01/96- 12/31/99 Amount: $1,820.48	Asst. AAG Assigned: Plaintiff's Counsel:	Jeff Mullins Mike Cichowski Port Arthur

Issue: Whether parts and services for an ice machine, a hydro-blasting machine, and for a steam cleaning machine are exempt from sales tax under the manufacturing exemption.

Status: Answer filed.

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

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.

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

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.

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

Sales Tax; Refund	Asst. AAG Assigned:	Blake Hawthorne
Filed: 06/05/00		
Period: 01/01/94-12/31/98	Plaintiff's Counsel:	James D. Blume Jennifer S. Stoddard Blume & Stoddard Dallas
Amount: $345,377.95		

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. Trial set 11/08/04.

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

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 08/22/02	Plaintiff's Counsel:	Gary G. Kennedy Pro Se Austin
Period:		
Amount: $		

Issue: Whether Plaintiff may enjoin fraud audit subpoena and suspension of his sales and mixed beverage permits.

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

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

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 09/13/02	Plaintiff's Counsel:	Alan E. Sherman, Esq.
Period: 06/01/86-08/31/92		Dallas
Amount: $8,576,046		

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.

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

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 08/02/00	Plaintiff's Counsel:	James F. Martens
Period: 1991-1997		James F. Martens & Associates
Amount: $520,983.95		Austin

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.

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

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

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.

Laredo Coca-Cola Bottling Co., and Coca-Cola Enterprises, Inc. v. Strayhorn, et al. Cause #GN401379
AG Case #041964941

Sales Tax; Refund	Asst. AAG Assigned:	Blake Hawthorne
Filed: 04/30/04		
Period: 05/01/93-06/30/96	Plaintiff's Counsel:	Mark W. Eidman
10/01/91-06/30/96		Ray Langenberg
01/01/90-12/31/92		Curtis Osterloh
07/01/91-06/30/96		Scott, Douglass & McConnico
Amount: $18,579.66		Austin
$443,299.77		

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

Status: Answer filed.

Laredo Country Club, Inc., A Texas Corp. v. Sharp, et al. Cause #98-11834
AG Case #981064363

Sales Tax; Protest; Declaratory Judgment	Asst. AAG Assigned:	Scott Simmons
Filed: 10/20/98	Plaintiff's Counsel:	John Christian
Period: 08/1-30/98		Vinson & Elkins
Amount: $2,054		Austin

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.

Laredo Pizza, Inc., and Samuel L. Alford, and L & H Pacific, L.L.C. v. Strayhorn, et al. Cause #GN401507
AG Case #041971482

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Scott Simmons
Filed: 05/12/04	Plaintiff's Counsel:	Richard L. Rothfelder
Period:		Michael C. Falick
Amount: $32,965.35		Rothfelder & Falick, LLP
		Houston

Issue: Whether prizes awarded by Plaintiff to successful contestants of amusement machines were purchased for resale and exempt from sales tax. Whether the sale of food, beverage and party packages is taxable as food and beverage or non-taxable as amusement services. Whether assets transferred from one subsidiary to another are exempt from sales tax as an “occasional sale.”

Status: Answer filed.

Lee Construction and Maintenance Co. v. Rylander, et al. Cause #99-01091
AG Case #991112160

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

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

Status: Settlement negotiations pending.

Levy, Tara, et al. v. OfficeMax, Inc. and Best Buy Stores, L.P. Cause #GN201252
AG Case #041926635

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed:	Plaintiff's Counsel:	Mark L. Perlmutter
Period:		C Brooks Schuelke
Amount: $		Perlmutter & Schuelke, LLP
		Austin

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

Status: Class-action suit. Comptroller named defendant. Comptroller's Plea to the Jurisdiction and Plaintiffs' Motion for Declaratory Judgment set 11/01/04.

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

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Scott Simmons
Filed: 08/14/02	Plaintiff's Counsel:	James F. Martens
Period: 1991-1999		Christina A. Mondrik
Amount: $136,659.08		James F. Martens & Associates
		Austin

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: Negotiations in progress. Trial postponed.

Local Neon Co., Inc. v. Rylander, et al. Cause #99-15042
#03-04-00261-CV
AG Case #001254036

Sales Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 12/31/99	Plaintiff's Counsel:	James D. Blume Jennifer S. Stoddard Blume & Stoddard Dallas
Period:		
Amount: $34,390.24		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: Plea to the Jurisdiction granted to State 04/07/04. Notice of Appeal filed 04/29/04. Clerk's Record filed 06/04/04. Appellant's brief filed 07/01/04; Oral Argument requested. Appellees' brief filed 08/02/04; Oral Argument requested.

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	Asst. AAG Assigned:	Jim Cloudt
Filed: 10/24/01	Plaintiff's Counsel:	Mark W. Eidman Ray Langenberg Doug Sigel Curtis J. Osterloh Scott, Douglass & McConnico Austin
Period: 09/01/92-11/30/95		
Amount: $2,680,000		

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.

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 Jenkens & Gilchrist 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.

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 Jenkens & Gilchrist 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.

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

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.

Lockheed Martin Corp. v. Strayhorn, et al. Cause #GN300420
AG Case #031751118

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 02/10/03	Plaintiff's Counsel:	Mark W. Eidman
Period: 07/01/97-07/31/01		Ray Langenberg
Amount: $2,837,000		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*. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

Lockheed Martin Kelly Aviation Center, Inc. v. Strayhorn, et al. Cause #GN400625
AG Case #041928870

Sales Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 02/26/04		
Period: 01/01/99-12/31/00	Plaintiff's Counsel:	Mark W. Eidman
Amount: $1,025,000		Ray Langenberg
		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.

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

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. Hearing on Cross-Motion for Partial Summary Judgment set 08/12/04. Trial set 01/24/05. Settlement offer submitted. Court denied both cross-motions for partial summary judgment 08/26/04.

Mars, Inc. v. Strayhorn, et al. Cause #GN401349
AG Case #041965336

Sales Tax; Refund Filed: 04/29/04 Period: 01/01/94-09/30/97 Amount: $726,024	Asst. AAG Assigned: Plaintiff's Counsel:	Christopher Jackson Mark W. Eidman Ray Langenberg R. Eric Hagenswold Scott, Douglass & McConnico Austin

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

Status: Answer filed.

May Department Stores Co., The v. Strayhorn, et al. Cause #GN300583
#03-03-00729-CV
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

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: Summary Judgment granted to Comptroller 10/30/03. Plaintiff filed Notice of Appeal 12/02/03. Appellant's brief filed 01/12/04. Appellees' brief filed 02/17/04. Appellant's reply brief filed 03/08/04. Oral Argument held 04/28/04. Third COA affirmed District Court's judgment 07/15/04. Motion for Rehearing filed 07/30/04; denied. Substituted Opinion issued 08/26/04; still affirming judgment for Comptroller.

Medaphis Physicians Services Corp. v. Sharp, et al. Cause #94-11610
AG Case #94149390

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

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.

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

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: Inactive.

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 James F. Martens & Associates Austin

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.

Neiman Marcus Group, Inc. v. Sharp, et al. Cause #93-10279-A
AG Case #93340549

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

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.

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

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.

North American Intelecom, Inc., et al. v. Sharp, et al. Cause #97-05318
AG Case #97733563

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

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.

North Texas Asset Management, Inc. v. Sharp, et al. Cause #94-08603
AG Case #94113766

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	James Parsons
Filed: 7/14/94	Plaintiff's Counsel:	Judy M. Cunningham
Period: 05/02/91-12/31/91		Attorney at Law
Amount: $24,307		Austin

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.

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	Asst. AAG Assigned:	Jim Cloudt
Filed: 05/01/02	Plaintiff's Counsel:	Gilbert J. Bernal, Jr.
Period: 09/01/92-11/30/95		Stahl & Bernal
Amount: $1,600,000		Austin

Issue: Whether title passed to the federal government according to Plaintiff’s contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff claims that collection of the tax violates the supremacy clause as a tax on the U.S. government and that the Comptroller violated the constitutional requirements of equal protection and equal taxation by denying the refund claim. Plaintiff also seeks attorneys’ fees.

Status: Answer filed.

Petrolite Corp. v. Sharp, et al. Cause #91-13885
AG Case #91149840

Sales Tax; Protest and Refund	Asst. AAG Assigned:	Blake Hawthorne
Filed: 09/27/91	Plaintiff's Counsel:	David H. Gilliland
Period: 04/01/84 - 03/31/88		Clark, Thomas & Winters
Amount: $432,105		Austin

Issue: Resale certificates; taxable maintenance services; taxability of various chemicals and other tangible personal property used in oil well services.

Status: Inactive.

Praxair, Inc. v. Sharp, et al. Cause #97-03919 (consolidated with Cause No. 95-00690, *Praxair, Inc. v. Sharp, et al.*)
AG Case #97706272

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 04/01/97	Plaintiff's Counsel:	Gerard A. Desrochers
Period: 01/01/90-12/31/90		Houston
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.*

Praxair, Inc. v. Sharp, et al. Cause #95-00690
AG Case #95214921

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 01/18/95	Plaintiff's Counsel:	Gerard A. Desrochers
Period: 1990		Houston
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.

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. Summary Judgment hearing to be set the week of 10/04/04.

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	Asst. AAG Assigned:	Jim Cloudt
Filed: 05/17/01	Plaintiff's Counsel:	Mark W. Eidman
Period: 06/01/89 - 12/31/96		Ray Langenberg
Amount: $6,000,000		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: Summary Judgment hearing held 03/05/02. Partial summary judgment for plaintiff signed 03/29/02. Judgment for Raytheon granted 05/15/02. State's Notice of Appeal filed 06/04/02. Appellants' brief filed 09/20/02. Appellee's brief filed 10/18/02. Appellants' reply brief filed 11/07/02. Oral argument completed 12/04/02. 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 by State 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 State 05/30/03. Petition for Review denied 08/28/03. Motion for Rehearing filed by State 09/12/03; denied 10/24/03. Final order of the Supreme Court sent to Court of Appeals 12/09/03. Case is in discovery on remand. State's Motion for Summary Judgment granted 06/03/04. Raytheon's Motion for Summary Judgment denied 06/08/04. Order ruling that case is not final setting deadline for status report signed 06/28/04. State's Report filed 07/16/04. Hearing set 10/04/04.

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

Sales Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 03/28/02	Plaintiff's Counsel:	Mark W. Eidman
Period: 08/01/88 - 05/31/97		Scott, Douglass & McConnico
Amount: $2,500,000.00		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.

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

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.

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

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.

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

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.

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

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.

Raytheon Co., as Successor to Raytheon E-Systems, Inc. v. Strayhorn, et al.
Cause #GN304089
AG Case #031873441

Sales Tax; Protest, Refund & Declaratory Judgment Filed: 10/16/03 Period: 10/01/91-12/31/96 Amount: $389,408.28	Asst. AAG Assigned: Plaintiff's Counsel:	Jim Cloudt Mark W. Eidman Ray Langenberg 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.

Reynolds Metals Co. v. Strayhorn, et al. Cause #GN401468
AG Case #041970799

Sales Tax; Refund Filed: 05/07/04 Period: 03/01/94-12/31/00 Amount: $828,614.08	Asst. AAG Assigned: Plaintiff's Counsel:	Christopher Jackson Mark W. Eidman Ray Langenberg Eric Hagenswold Scott, Douglass & McConnico Austin

Issue: Whether conveyors and weigh-ometers are exempt as manufacturing equipment or taxable as intraplant transportation. Whether repair and replacement parts for the conveyors are exempt from sales tax as purchases of pollution control equipment used in manufacturing and purchases of environmental repairs. Whether ship unloaders qualify as rolling stock and exempt from sales tax. Plaintiff also claims violation of equal and uniform taxation and equal protection.

Status: Answer filed.

Roadway Express, Inc. v. Rylander, et al. Cause #GN002831
AG Case #001357631

Sales Tax; Protest & Declaratory Judgment Filed: 09/25/00 Period: 04/01/88-05/31/92 Amount: $713,686.05 $206,053.87	Asst. AAG Assigned: Plaintiff's Counsel:	Jim Cloudt David Cowling Robert Lochridge Jones, Day, Reavis & Pogue 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: Trial to be set prior to 02/28/05.

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

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Jeff Mullins
Filed: 04/11/03	Plaintiff's Counsel:	Henry Binder
Period: 06/01/95-07/31/98		Porter & Hedges
Amount: $23,492.41		Houston

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.

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

Sales Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
Filed: 09/13/02		
Period: 01/01/97-12/31/98	Plaintiff's Counsel:	David H. Gilliland
		Clark, Thomas & Winters
Amount: $591,028.39		Austin

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

Status: Answer filed.

Rollins & Rollins Enterprises, Inc. , dba Country Kwik Stop v. Rylander, et al.
Cause #GN202097
AG Case #021640651

Sales Tax; Protest	Asst. AAG Assigned:	Scott Simmons
Filed: 06/28/02		
Period: 08/01/97-07/31/00	Plaintiff's Counsel:	William T. Peckham
		Austin
Amount: $45,059.74		

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.

Sabine Mining Co., The v. Strayhorn, et al. Cause #GN401382
AG Case #041964867

Sales Tax; Refund Filed: 04/30/04 Period: 10/01/97-09/30/01 Amount: $905,468.12	Asst. AAG Assigned: Plaintiff's Counsel:	Christine Monzingo Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin

Issue: Whether replacement parts and repair services for draglines qualify as manufacturing equipment and exempt from sales tax. Plaintiff claims that the draglines directly make or cause a chemical or physical change to formations, falling within the exempt manufacturing process. Plaintiff also claims violation of equal and uniform taxation, equal rights, equal protection, due course of law and due process.

Status: Answer filed.

Schoenborn & Doll Enterprises, Inc. v. Rylander, et al. Cause #99-07605
AG Case #991187592

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

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.

Service Merchandise Co., Inc. v. Sharp, et al. Cause #98-11572
AG Case #981063308

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

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: 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.

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 & 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 reset.

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 & 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 reset.

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 & Bernal Austin

Issue: Whether items used in vessel repair, such as paint-gun parts, are exempt materials. Whether denial of the exemption violates equal protection. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress. Trial set 02/14/05.

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

Issue: Whether plaintiff owes tax on electricity used to freeze food items.

Status: Inactive.

Southwestern Bell Telephone, L.P. v. Strayhorn, et al. Cause #GN402300
AG Case #041998360

Sales Tax; Refund Filed: 07/22/04 Period: 06/01/05-12/31/98 Amount: $291,516,385.00	Asst. AAG Assigned: Plaintiff's Counsel:	Gene Storie Mark W. Eidman Ray Langenberg Curtis J. Osterloh Eric Hagenswold Scott, Douglass & McConnico Austin

Issue: Whether equipment used to process tangible personal property for ultimate sale is exempt from sales tax under the manufacturing and processing exemption. Whether payphones purchased by Plaintiff to perform taxable telecommunications services qualify for the sale for resale exemption. Whether electricity purchased and resold as an integral part of other tangible personal property and used to perform taxable telecommunications services is exempt from sales tax. Whether stand-alone installation labor provided directly to a customer by a vendor or by a third-party installer is taxable.

Status: Answer filed.

Sprint International Communications, Inc. v. Sharp, et al. Cause #96-14298
AG Case #96637296

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

Issue: Whether networking services are taxable as telecommunications services.

Status: Discussions in progress.

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

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: Motion for Summary Judgment filed. Response to be filed. Partial Summary Judgment on limitations granted for Plaintiff 04/07/04.

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

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.

Sysco Food Services of Austin, Inc. v. Strayhorn, et al. Cause #GN400465
AG Case #041925850

Sales Tax; Refund & Protest Filed: 02/17/04 Period: 05/01/98-04/30/01 Amount: $92,357.48	Asst. AAG Assigned: Plaintiff's Counsel:	Christopher Jackson Mark W. Eidman Curtis Osterloh Matthew J. Meese Scott, Douglass & McConnico Austin

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

Status: Answer filed.

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 Period: 01/01/94-12/31/96 Amount: $196,492.74	Plaintiff's Counsel:	Judy M. Cunningham Austin

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.

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 Period: 07/01/94-06/30/98 Amount: $270,401.80	Plaintiff's Counsel:	Judy M. Cunningham Austin

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.

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

Sales Tax; Protest Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 10/06/99 Period: 10/01/91-03/31/93 Amount: $146,484.05	Plaintiff's Counsel:	David Cowling Robert Lochridge Jones, Day, Reavis & Pogue Dallas

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 11/11/04. Settlement offer submitted.

TCCT Real Estate, Inc. as Successor to TCC Austin Industrial Overhead v. Rylander, et al. Cause #99-11648
AG Case #991219221

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

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 11/11/04. Settlement offer submitted.

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: Plaintiff's Counsel:	Blake Hawthorne 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.

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: Plaintiff's Counsel:	Scott Simmons 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.

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

Issue: Plaintiff claims that interest should be offset or waived for a period before a refund was made to a subsidiary.

Status: Answer filed.

Texas Gulf, Inc. v. Bullock, et al. Cause #485,228
AG Case #90311185

Sales Tax; Refund Filed: 06/05/90 Period: 01/01/85 - 06/30/88 Amount: $294,000	Asst. AAG Assigned: Plaintiff's Counsel:	Jeff Mullins Ira A. Lipstet Jenkins & Gilchrist Austin

Issue: Are pipes exempt as manufacturing equipment or taxable as intra plant transportation.

Status: Nothing pending.

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

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.

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

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.

USA Waste Services of Houston, Inc. v. Rylander, et al. Cause #GN003453
#03-03-00515-CV
#04-0419
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

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 08/25/03. Appellant's brief filed 10/13/03. Appellees' brief filed 11/13/03. Appellant's reply brief filed 12/03/03. Appellees' amended brief filed 12/12/03. Submitted on Oral Argument 02/04/04. Third Court of Appeals affirmed trial court's Judgment in favor of Comptroller 03/18/04. Petition for Review filed 05/03/04. Respondent waived response 05/20/04. Case forwarded to Court 05/25/04. Petitioner's response was due 07/21/04. Response to Petition for Review filed by Respondent 07/21/04. Motion for Rehearing denied 09/03/04.

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

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.

United Services Automobile Association & USAA Life Insurance Co. v. Rylander, et al. Cause #GN103414
#03-02-00747-CV
#03-1172
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

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 by Plaintiff 11/27/02. 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 affirming trial court's Summary Judgment in favor of Comptroller. Petition for Review filed 12/19/03. Respondents filed Waiver of Response 01/12/04. Court requested response, filed 02/12/04. Petitioner's reply filed 02/27/04. Briefing on the merits requested 03/25/04. Petitioners' brief filed 04/26/04. Respondents' brief filed 05/28/04. Petitioners' reply brief filed 06/14/04. Petition for Review denied 09/10/04 by Supreme Court.

United Space Alliance, LLC v. Strayhorn, et al. Cause #GN401174
AG Case #041954488

Sales Tax; Refund Filed: 04/14/04 Period: 07/01/99-07/31/03 Amount: $975,000	Asst. AAG Assigned: Plaintiff's Counsel:	Jim Cloudt Mark W. Eidman Ray Langenberg 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.

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:	Gene Storie James A. Hemphill Graves, Dougherty, Hearon & Moody 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.

West Texas Pizza, Limited Partnership v. Sharp, et al. Cause #96-11751
AG Case #96611633

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: Inactive.

White Swan, Inc. v. Strayhorn, et al. Cause #GN304767
AG Case #041904608

Sales Tax; Refund Filed: 12/18/03 Period: 10/01/93-12/31/97 Amount: $415,185.61	Asst. AAG Assigned: Plaintiff's Counsel:	Christopher Jackson Judy M. Cunningham Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the decision of the Comptroller violated the statute and long-standing Comptroller policy.

Status: Discovery in progress.

Williams, Duane Everett v. Comptroller Cause #GN304667
AG Case #031899222

Sales Tax; Refund & Declaratory Judgment Filed: 12/10/03 Period: 2002 Amount: $50,000	Asst. AAG Assigned: Plaintiff's Counsel:	Jim Cloudt Michael R. Cooper Salado

Issue: Whether Plaintiff’s civil rights were violated by the Comptroller’s audit and whether the audit assessment should be set aside for lack of substantial evidence.

Status: Answer filed.

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

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.

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: $$333,602.57	Asst. AAG Assigned: Plaintiff's Counsel:	Blake Hawthorne Mark W. Eidman Ray Langenberg Scott, Douglass & McConnico Austin

Issue: Whether Plaintiff is liable for tax on items temporarily stored in Texas. Whether tax on services purchased by Plaintiff should be reduced to reflect the out-of-state benefit of those services. Whether Plaintiff should get a refund or credit for tax paid on inventory. Whether the Comptroller should be barred from off-setting debts in the period between the filing of Plaintiff’s bankruptcy petition and the confirmation of its reorganization plan.

Status: Answer filed.

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

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.

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	Asst. AAG Assigned:	Scott Simmons
Filed: 03/26/03	Plaintiff's Counsel:	Steven D. Moore
Period: 1995-1998		Fred B. Werkenthin
Amount: $174,386.15		Jackson Walker
$10,529.48		Austin
$4,013.24		
$11,858.40		
$7,306.09		
(Total: $208,093.27)		

Issue: Whether Plaintiffs owe gross premiums tax on defaulted auto insurance premiums that are not received.

Status: Answer filed.

American Bankers Insurance Co. of Florida, et al. v. Ann Richards, et al. Cause #396,975
AG Case #861483

Gross Premium Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 05/08/86	Plaintiff's Counsel:	Fred B. Werkenthin
Period: 1985-1988		Steve Moore
Amount: $1,745,569.00		Jackson & Walker
		Austin

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. To be dismissed.

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 investments in Texas mortgages. Whether Rule 3.809 (c) is invalid.

Status: Answer filed.

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:	Cynthia Hollingsworth
Period: 1995		Gardere Wynne & Sewell
Amount: $362,975.97		Dallas

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.

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

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. Plaintiff's Motion granted. Defendants' Motion denied. Judgment signed 07/29/04. Defendants have filed a motion for new trial.

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

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.

First American Title Insurance Co. v. Strayhorn, et al. Cause #GN301692
#03-04-00342-CV
AG Case #031806011

Retaliatory Tax; Protest, Refund & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 05/23/03	Plaintiff's Counsel:	Ron K. Eudy
Period: 1998 through 2002		Sneed, Vine & Perry
Amount: $1,432,580.76		Austin

Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA. Plaintiff also seeks attorneys' fees.

Status: The State's motion for summary judgment was granted 05/18/04 and Plaintiff's was denied. Notice of Appeal filed 06/17/04. Clerk's Record filed 07/06/04. Supplement Clerk's Records filed 07/22/04 and 07/29/04. Motion to Consolidate cases granted 07/29/04 (*Old Republic National Title Insurance Co. v. Strayhorn, et al.*, Cause #GN401630). Appellants' brief due 08/30/04. Appellees' brief due 09/30/04.

First American Title Insurance Co. v. Strayhorn, et al. Cause #GN401631
AG Case #041976440

Retaliatory Tax; Refund & Protest	Asst. AAG Assigned:	Christine Monzingo
Filed: 05/21/04	Plaintiff's Counsel:	Ron K. Eudy
Period: 2003		Sneed, Vine & Perry
Amount: $1,490,029.00		Austin

Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA.

Status: Answer filed.

Lexington Insurance Co., Landmark Insurance Co. v. Rylander, et al. Cause #GN100569
#03-03-00169-CV
#04-0429
AG Case #011417896

Insurance Premium Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 02/22/01	Plaintiff's Counsel:	Curtis L. Frisbie, Jr.
Period: 1992-1995		Cynthia C. Hollingsworth
Amount: $1,596,196.63		Jeremy Martin
$36,174.92		Gardere Wynne Sewell LLP
		Dallas

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: Summary Judgment motions held 08/01/02; Summary Judgment granted for insurers. 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 held 01/07/04. Third Court of Appeals reversed and remanded trial court's judgment 02/20/04. Appellees filed Motion for Consideration En Banc and Motion for Rehearing 03/08/04; overruled 03/25/04. Petition for Review filed 06/24/04. Waiver of Response filed 07/06/04. Case forwarded to Court 07/13/04. Response was due 08/27/04.

Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al. Cause #484,745
AG Case #90304512

Gross Premium Tax; Protest	Asst. AAG Assigned:	Gene Storie
Filed: 05/24/90	Plaintiff's Counsel:	Fred B. Werkenthin
Period: 1985-1986		Steve Moore
1989-1992		Breck Harrison
Amount: $1,848,606		Jackson & Walker
		Austin

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.

Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al. Cause #484,796
AG Case #90304503

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

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.

Old Republic Title Insurance Co. v. Strayhorn, et al. Cause #GN301693
#03-04-003472-CV
(Consolidated with *First American Title Insurance Co. v. Strayhorn, et al.*, Cause #GN301692,
#03-04-00342-CV)
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

Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA. Plaintiff also seeks attorneys' fees.

Status: The State's motion for summary judgment was granted 05/17/04 and Plaintiff's was denied. Notice of Appeal filed 06/17/04; dismissed 07/29/04 due to Motion for Consolidation. See *First American Title Insurance Co. v. Strayhorn, et al.*, Cause #GN301692, #03-04-00342-CV.

Old Republic National Title Insurance Co. v. Strayhorn, et al. Cause #GN401630
AG Case #041976416

Retaliatory Tax; Refund	Asst. AAG Assigned:	Christine Monzingo
Filed: 05/21/04		
Period: 2003	Plaintiff's Counsel:	Ron K. Eudy
Amount: $289,403.85		Sneed, Vine & Perry
		Austin

Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

STP Nuclear Operating Co. v. Strayhorn, et al. Cause #GN301053
AG Case #031808371

Insurance Premium Tax;	Asst. AAG Assigned:	Gene Storie
Protest		
Filed: 06/11/03	Plaintiff's Counsel:	Howard P. Newton
Period: 2002		Rene D. Ruiz
Amount: $115,287.80		Cox Smith Matthews Inc.
		San Antonio

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in *Todd Shipyards* and *Dow Chemical*. Whether imposition of the tax violates equal protection or is pre-empted by federal law governing the operation of nuclear plants.

Status: Discovery in progress.

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:	Gene Storie Jay A. Thompson Thompson, Coe, Cousins & Irons Austin Barry K. Bishop Clark, Thomas & Winters Austin

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. Cross-motion for summary judgment filed. MSJ hearing to be determined.

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

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.

Universe Life Insurance Co. v. State of Texas Cause #97-05106
#03-98-00110-CV
AG Case #97727302

Insurance Tax; Protest	Asst. AAG Assigned:	Gene Storie
Filed: 04/29/97		
Period: 1993	Plaintiff's Counsel:	Larry Parks
Amount: $56,958		Long, Burner, Parks & Sealey 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: Cross-motions for summary judgment heard 11/12/97. Summary judgment granted for Plaintiff. State 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. To be consolidated with Cause #GN002605, *Universe Life Insurance Co., The v. Strayhorn, et al.*

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. Discovery in progress. Trial set 01/18/05. Plaintiff has made a settlement offer.

Warranty Underwriters Insurance Co. v. Rylander, et al. Cause #99-12271
AG Case #991226739

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

Other Taxes

Akin, Ted M. v. State of Texas, Dallas County Appraisal District, et al. Cause #04-08191-H
AG Case #042015149

Property Tax; Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 08/20/04	Plaintiff's Counsel:	M.M. Halpern Attorney and Counselor at Law Dallas
Period: 2004		
Amount: $		

Issue: Plaintiff claims that defendants overvalued and unequally appraised his various properties in Dallas County. Plaintiff claims that Defendants failed to recognize the character and condition of his properties and also seeks declaratory judgment and attorney's fees.

Status: Answer filed.

Alpine ISD v. Strayhorn Cause #GV402237
AG Case #041999202

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/27/04	Plaintiff's Counsel:	Ray Bonilla Ray, Wood & Bonilla Austin
Period: 2003		
Amount: $		

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's order on the value study is arbitrary and unreasonable.

Status: Discovery in progress.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/31/03	Plaintiff's Counsel:	Ray Bonilla Ray, Wood, Fine & Bonilla Austin
Period: 2002		
Amount: $		

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.

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 James F. Martens & Associates Austin

Issue: Whether the IRS erred in increasing the value of the estate's assets and disallowing expenses and gifts.

Status: Answer filed.

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 Filed: 10/10/02 Period: 2002 Amount: $	Asst. AAG Assigned: Plaintiff's Counsel:	Gene Storie Christopher J. Weber Christopher J. Weber, 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.

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: Settlement negotiations in progress.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 08/01/03	Plaintiff's Counsel:	Robert Mott
Period: 2002		Joseph Longoria
Amount: $		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: Settlement negotiations in progress.

Broaddus ISD v. Comptroller Cause #GV303142
AG Case #31833080

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/30/03	Plaintiff's Counsel:	James R. Evans
Period: 2002		Susan Feller Heiligenthal
Amount: $		Linebarger, Goggan, Blair, & Sampson
		Austin

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: Discovery in progress. Settlement negotiations in progress.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/30/03	Plaintiff's Counsel:	Susan Feller Heiligenthal
Period: 2002		Linebarger, Goggan, Blair & Sampson
Amount: $		Austin

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: Discovery in progress. Settlement negotiations in progress.

CarMax Auto Superstores, Inc. v. Strayhorn, et al. Cause #GN400433
AG Case #041921990

Motor Vehicle Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Jim Cloudt
Filed: 02/12/04	Plaintiff's Counsel:	Lara L. Reenan
Period:		Henry Oddo Austin & Fletcher
Amount: $0.00		Dallas

Issue: Whether Plaintiff's tax collection and financing activities are legal under the Tax Code, Finance Code and Constitution.

Status: Co-defendant's motion to dismiss granted 06/21/04.

Castleberry ISD; Ennis ISD; Canyon ISD; La Porte ISD v. Comptroller Cause #96-08010
AG Case #96599817

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. Inactive.

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: Discovery in progress. Summary Judgment hearing set 10/21/04.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/30/03	Plaintiff's Counsel:	Susan Feller Heiligenthal
Period: 2002		Linebarger, Goggan, Blair & Sampson
Amount: $		Austin

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: Discovery in progress. Settlement negotiations in progress.

Comfort ISD v. Comptroller Cause #GV402302
AG Case #042000315

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 08/02/04	Plaintiff's Counsel:	Robert Mott
Period: 2003		Joseph Longoria
Amount: $		Perdue, Brandon, Fielder, Collins & Mott

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

Status: Answer filed.

Commerce ISD v. Comptroller Cause #GV402275
AG Case #042000299

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/29/04	Plaintiff's Counsel:	Robert Mott
Period: 2003		Joseph Longoria
Amount: $		Perdue, Brandon, Fielder, Collins & Mott

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

Status: Answer filed.

El Paso Natural Gas Co. v. Sharp Cause #91-6309
AG Case #9178237

Gas Production Tax; Declaratory Judgment	Asst. AAG Assigned:	Blake Hawthorne
Filed: 05/06/91	Plaintiff's Counsel:	Alfred H. Ebert, Jr.
Period: 01/01/87 - 12/31/87		Andrews & Kurth
Amount: $3,054,480.60		Houston

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.

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

Mixed Beverage Gross Receipts Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Jeff Mullins
Filed: 03/04/02	Plaintiff's Counsel:	John L. Gamboa
Period: 03/01/99-06/30/99		Acuff, Gamboa & White
Amount: $36,177.36		Fort Worth

Issue: Whether the Comptroller used a non-representative sample to determine plaintiff's tax liability. Whether depletion and error rates were calculated correctly.

Status: Discovery extended until 05/15/05.

Gilani, Fred v. Progressive Amusement, Inc., Craig Byler and Comptroller
Cause #2004-10090-16
AG Case #041948720

Property Tax; Injunction & Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 03/30/04	Plaintiff's Counsel:	Stephen D. Stephens
Period:		Lewisville
Amount: $		

Issue: Whether Plaintiff's claim of complying with contract terms results in ownership of personal property. Whether the defendants' enforcement actions are arbitrary. Plaintiff seeks injunctive relief and a temporary restraining order.

Status: Answer filed. Will be dismissed due to bankruptcy filing.

Glen Rose ISD v. Comptroller Cause #GV402292
AG Case #042000307

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/30/04	Plaintiff's Counsel:	Robert Mott
Period: 2003		Joseph Longoria
Amount: $		Perdue, Brandon, Fielder, Collins & Mott

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

Status: Answer filed.

Greenville ISD v. Comptroller Cause #GV402276
AG Case #041999350

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/29/04	Plaintiff's Counsel:	Robert Mott
Period: 2003		Joseph Longoria
Amount: $		Perdue, Brandon, Fielder, Collins & Mott Austin

Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties. Whether the Comptroller's order on the value study is arbitrary and unreasonable.

Status: Answer filed.

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

Property Tax;	Asst. AAG Assigned:	Christopher Jackson
Administrative Appeal		
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: Settlement negotiations in progress.

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

Hotel Occupancy Tax;	Asst. AAG Assigned:	Scott Simmons
Protest, Injunction &		
Declaratory Judgment	Plaintiff's Counsel:	Kirk R. Manning
Filed: 10/28/02		Stephen L. Phillips
Period: 03/01/97-		Julie K. Lane
11/30/00		Cantey & Hanger
12/01/00-03/31/02		Austin
Amount: $193,629.45		
$59,232.72		

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.

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

Motor Vehicle Sales Tax; Refund	Asst. AAG Assigned:	Jim Cloudt
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: Trial set 12/15/04.

Marathon ISD v. Strayhorn Cause #GV402238
AG Case #041999236

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/27/04	Plaintiff's Counsel:	Ray Bonilla
Period: 2003		Ray, Wood & Bonilla
Amount: $		Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's order on the value study is arbitrary and unreasonable.

Status: Discovery in progress.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/30/03	Plaintiff's Counsel:	James R. Evans
Period: 2002		Susan Feller Heiligenthal
Amount: $		Linebarger, Goggan, Blair, & Sampson
		Austin

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: Discovery in progress. Settlement negotiations in progress.

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	Asst. AAG Assigned:	Gene Storie
Filed:	Plaintiff's Counsel:	Gilbert J. Bernal, Jr.
Period:		David J. Sewell
Amount: $1,173.83 & $3,690.00		Stahl & 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: 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. Appellants' brief filed 01/15/04. Appellees' brief filed 03/16/04. Oral Argument held 04/07/04.

Mineral Wells ISD v. Comptroller Cause #GV303209
AG Case #031833031

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/31/03	Plaintiff's Counsel:	Ray Bonilla
Period: 2002		Ray, Wood, Fine & Bonilla
Amount: $		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: Settlement negotiations in progress.

Mirage Real Estate, Inc., et al. v. Richard Durbin, et al. Cause #92-16485
AG Case #92190294

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.

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.

Presidio ISD v. Comptroller Cause #GV303152
AG Case #031835192

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/30/03	Plaintiff's Counsel:	Ray Bonilla
Period: 2002		Ray, Wood & Bonilla
Amount: $		Austin

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

Status: Answer filed.

Preston Motors by George L. Preston, Owner v. Sharp, et al. Cause #91-11987
AG Case #91133170

Motor Vehicle Tax; Protest	Asst. AAG Assigned:	Jim Cloudt
Filed: 08/26/91	Plaintiff's Counsel:	George L. Preston
Period: 12/01/86 - 09/30/89		Paris
Amount: $21,796		

Issue: Whether motor vehicle tax should fall on dealer/seller rather than the purchaser under §152.044. Related constitutional issues.

Status: Inactive.

Quinlan ISD v. Strayhorn Cause #GV402239
AG Case #041999251

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/27/04	Plaintiff's Counsel:	Ray Bonilla
Period: 2003		Ray, Wood & Bonilla
Amount: $		Austin

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. Whether the Comptroller's order on the value study is arbitrary and unreasonable.

Status: Discovery in progress.

Rahmes, Todd W., Individually and on Behalf of All Similarly Situated Consumers v. Louis Shanks of Texas, Inc., Strayhorn, et al. Cause #GN201766
#03-04-00298-CV
AG Case #031851256

MTA Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Gene Storie
Filed: 08/29/03	Plaintiff's Counsel:	George Y. Nino
Period: 05/30/00		The Nino Law Firm
Amount: $101.86		Houston
		Ray Bonilla
		Buck Wood
		Ray, Wood & Bonilla
		Austin

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 heard 01/21/04. All Defendants' pleas granted 02/12/04. Plaintiff filed motion to amend judgment. Comptroller dismissed by amended petition. Trial court granted Defendant's Pleas to the Jurisdiction 04/22/04. Notice of Appeal filed 05/10/04. Appellant's brief filed 07/13/04; Oral Argument requested. Motion for Dismissal filed 07/09/04; denied 08/05/04 as moot. Comptroller will not be a party on the appeal.

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

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

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.

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

Issue: Whether the Comptroller's lien should be nullified as expired or invalid on its face.

Status: Cross-Motions for Summary Judgment and Defendant's Plea to the Jurisdiction filed 02/13/04.

San Vicente ISD v. Strayhorn Cause #GV402240
AG Case #041999194

Property Tax; Administrative Appeal Filed: 07/27/04 Period: 2003 Amount: $	Asst. AAG Assigned: Plaintiff's Counsel:	Christopher Jackson Ray Bonilla Ray, Wood & Bonilla Austin

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties. Whether the Comptroller's order on the value study is arbitrary and unreasonable.

Status: Discovery in progress.

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:	Gene Storie James F. Martens James F. Martens & Associates Austin

Issue: Whether the IRS and Comptroller failed to give proper credit against the estate value for a pending lawsuit and administrative expenses.

Status: Agreed Judgment signed..

State Farm Fire and Casualty Co. and State Farm Mutual Automobile Insurance Co. v. Strayhorn, et al. Cause #GN401383
AG Case #041964826

Hotel Occupancy Motor Vehicle Tax; Refund Filed: 04/30/04 Period: 12/01/97- 08/31/01 Amount: $2,000,000.00	Asst. AAG Assigned: Plaintiff's Counsel:	Gene Storie Mark W. Eidman Ray Langenberg R. Eric Hagenswold Scott, Douglass & McConnico Austin

Issue: Whether plaintiffs are exempt from hotel occupancy and motor vehicle sales taxes because of Tex. Ins. Code arts. 4.10 and 4.11. Plaintiff also claims violation of equal and uniform taxation, equal rights and protection, due course of law and process.

Status: Answer filed.

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:	Christopher Jackson Susan Feller Heiligenthal Linebarger, Goggan, Blair & Sampson Austin

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: Discovery in progress. Settlement negotiations in progress. Agreed Judgment entered 08/24/04.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/17/03	Plaintiff's Counsel:	Ray Bonilla Ray, Wood, Fine & Bonilla Austin
Period: 2002		
Amount: $		

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.

Texaco Exploration & Production, Inc. Cause #GN400440
AG Case #041925843

Gas Production Tax; Refund	Asst. AAG Assigned:	Unassigned
Filed: 02/13/04	Plaintiff's Counsel:	Mark W. Eidman Ray Langenberg Matthew J. Meese Scott, Douglass & McConnico Austin
Period: 01/01/97-05/31/02		
Amount: $456,608.80		

Issue: Whether Plaintiff's initial refund claim, still pending administrative review at the time of filing a second claim, fell within the statute of limitations deadline.

Status: Answer filed.

That's Entertainment - San Antonio, LLC dba Park Place v. Strayhorn, et al.
Cause #GN400781
AG Case #041937228

Mixed Beverage Gross Receipts Tax; Protest	Asst. AAG Assigned:	Blake Hawthorne
Filed: 03/09/04	Plaintiff's Counsel:	Curtis J. Osterloh Matthew J. Meese Scott, Douglass & McConnico Austin
Period: 05/01/96-09/30/98		
Amount: $211,145.65		

Issue: Whether door charges should be taxed by both the mixed beverage gross receipts tax and sales tax. Plaintiff claims that the application of both taxes is in violation of equal and uniform taxation, and equal protection under the law. Plaintiff also claims violation of due process and the commerce clause.

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

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: Summary Judgment hearing held 06/15/04. Court held in favor of plaintiff.

Yantis ISD v. Comptroller Cause #GV402274
AG Case #041999244

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/29/04	Plaintiff's Counsel:	Robert Mott
Period: 2003		Joseph Longoria
Amount: $		Perdue, Brandon, Fielder, Collins & Mott

Issue: Whether the Comptroller erred by misapplying burden of proof and not properly selecting and valuing sample properties. Whether the Comptroller's order on the value study is arbitrary and unreasonable.

Status: Answer filed.

Closed Cases

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: Plea to Abate filed. Motion to Dismiss filed; granted 02/17/04.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Christopher Jackson
Filed: 07/30/03	Plaintiff's Counsel:	Susan Feller Heiligenthal
Period: 2002		Linebarger, Goggan, Blair & Sampson
Amount: $		Austin

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: Settlement approved. Agreed Judgment signed 03/30/04.

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 Woodward & Weisbart Austin

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 09/25/03.

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

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: Case dismissed 06/04/04.

Big Tex Air Conditioning, Inc. v. Bullock, et al. Cause #486,321
AG Case #90322672

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

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

Status: Case dismissed 05/18/04.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Jana Kinkade
Filed: 07/28/03	Plaintiff's Counsel:	Kirk Swinney
Period: 2002		Javier B. Gutierrez
Amount: $		McCreary, Veselka, Bragg & Allen
		Austin

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: Agreed Judgment signed 12/05/03.

Forney ISD v. Comptroller Cause #GV303155
AG Case #031833049

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Jana Kinkade
Filed: 07/30/03	Plaintiff's Counsel:	Ray Bonilla
Period: 2002		Ray, Wood, Fine & Bonilla
Amount: $		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: Agreed Judgment signed 12/04/03.

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

Sales Tax; Protest & Refund	Asst. AAG Assigned:	Christopher Jackson
Filed: 11/08/00	Plaintiff's Counsel:	Gerard A. Desrochers
Period: 07/01/92-02/28/94		Houston
Amount: $129,677.60		

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: Dismissed for Want of Prosecution 02/12/04.

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

Franchise Tax; Refund & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 06/03/02	Plaintiff's Counsel:	Gilbert J. Bernal, Jr.
Period: 1997 & 1998		Stahl & Bernal
Amount: $275		Austin
$347		

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*.

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

Sales Tax; Declaratory Judgment	Asst. AAG Assigned:	Christopher Jackson
Filed: 04/25/02	Plaintiff's Counsel:	Arne M. Ray
Period: 01/01/97-09/30/99		Ray & Associates
Amount: $77,774.37		Houston

Issue: Whether Plaintiff owes tax for storage of abandoned vehicles later sold by the City of Houston. Plaintiff also seeks attorneys' fees.

Status: Dismissal with Prejudice granted 04/06/04.

Lebaron Hotel Corp., dba The Lebaron Hotel v. Sharp, et al. Cause #91-17399
AG Case #9210477

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

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 11/25/03.

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

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

Status: Agreed Judgment granted 01/28/04.

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

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: Non-suited 12/22/03.

National Business Furniture, Inc. v. Sharp, et al. Cause #98-03927
AG Case #98932766

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 & Bernal Austin

Issue: Whether promotional materials printed out-of-state and delivered into Texas are subject to use tax.

Status: Stipulation of Dismissal signed 03/05/04.

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

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

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

Status: Agreed Judgment signed 12/04/03.

R Communications, Inc. fka RN Communications, Inc. v. Sharp, et al. Cause #91-4893
#03-91-00390CV
AG Case #9162355

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

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 the appeal. Supreme Court reversed and remanded on 04/27/94. State's motion for rehearing denied. Hearing on Motion to Dismiss held 07/14/04; granted.

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: Plaintiff filed Application for Temporary Restraining Order 01/22/04. Defendant filed Response to Plaintiff's TRO application 01/22/04. TRO application denied 01/22/04. Tax case transferred to Bankruptcy/Collections Division. Received notice of Final Summary Judgment signed 07/08/04.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Jana Kinkade
Filed: 06/30/03	Plaintiff's Counsel:	Robert Mott Joseph Longoria Perdue, Brandon, Fielder, Collins & Mott Houston
Period:		
Amount: $		

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

Status: Non-suited 11/26/03.

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

Property Tax; Administrative Appeal	Asst. AAG Assigned:	Jana Kinkade
Filed: 07/21/03	Plaintiff's Counsel:	Robert Mott Joseph Longoria Perdue, Brandon, Fielder, Collins & Mott Houston
Period:		
Amount: $		

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

Status: Agreed Judgment granted 12/05/03.

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

Franchise Tax; Protest & Declaratory Judgment	Asst. AAG Assigned:	Christine Monzingo
Filed: 08/27/01	Plaintiff's Counsel:	David Cowling
Period: 1987-1990		Todd Wallace
Amount: $6,683,563.48		Gregory E. Perry
		Jones, Day, Reavis & Pogue
		Dallas

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: Agreed Judgment signed 03/24/04.

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

Franchise Tax; Refund	Asst. AAG Assigned:	Christopher Jackson
Filed: 10/20/00		
Period: 1992 and 1993	Plaintiff's Counsel:	D. Steven Henry
Amount: $46,607.88		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: Dismissed for Want of Prosecution 12/12/03.

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 #991093113

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 by State 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. Petitioners' brief filed 10/31/03. Respondents' brief filed 11/20/03. Petitioners' reply brief filed 12/22/03. Petition for Review denied 01/30/04.

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