



**ATTORNEY GENERAL OF TEXAS**

**TAXATION DIVISION**

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

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## Franchise Tax

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

Cause Number: GN501845

AG Case #: 052154382

Filed: 5/23/2005

Franchise Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$203,117.59	1994 - 1996

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether the franchise tax requirement under Tax Code §171.110 to add back officer and director compensation to the tax base without voter approval is unconstitutional. Plaintiff claims disparate tax treatment based on the number of shareholders within a corporation, and violation of equal and uniform taxation and the Equal Protection Clause. Whether the provision also discriminates unconstitutionally between banks and other corporations and should be limited to officers with significant authority.

Status: Discovery in progress.

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

Cause Number: GN501854

AG Case #: 052154390

Filed: 5/23/2005

Franchise Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$169,857.71	1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

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

Issue: Whether the franchise tax requirement under Tax Code §171.110 to add back officer and director compensation to the tax base without voter approval is unconstitutional. Plaintiff claims disparate tax treatment based on the number of shareholders within a corporation, and violation of equal and uniform taxation and the Equal Protection Clause. Whether the provision also discriminates unconstitutionally between banks and other corporations and should be limited to officers with significant authority.

Status: Motion granted 11/07/06 to consolidate into case styled 7-Eleven, Inc. v. Strayhorn, et al., Cause #GN501845.

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

Cause Number: D-1-GN-06-002389 AG Case #: 062380316

Filed: 6/29/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$169,847.71	1997 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether add-back of officer compensation is a personal income tax requiring voter approval. Whether Section §171.110 and Rule 3.558 violate equal protection. Alternatively, whether the amount of add-back is overstated.

Status: Motion granted 11/07/06 to consolidate into case styled 7-Eleven, Inc. v. Strayhorn, et al., Cause #GN501845.

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

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

Filed: 12/14/2006

Franchise Tax; Refund

Claim Amount	Reporting Period
\$91,372.00	2000

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff's gross receipts should include those receipts for services apportioned outside of the State. Plaintiff claims the Comptroller has misapplied the statutes and rules at issue and imposition of tax against Plaintiff is unconstitutional. Plaintiff claims violation of the Commerce Clause.

Status: Answer filed.

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

Cause Number: GN100332

AG Case #: 011409646

Filed: 2/1/2001

Franchise Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Discovery stayed pending outcome of similar case.

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

Cause Number: D-1-GN-06-000789

AG Case #: 062297486

Filed: 3/6/2006

Franchise Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

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

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

Status: Answer filed.

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

Cause Number: GN401579

AG Case #: 041972456

Filed: 5/17/2004

Franchise Tax; Refund

Claim Amount      Reporting Period  
\$44,063,913.00      1987 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Hagenswold, R. Eric

Scott, Douglass & McConnico, L.L.P. / 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: Plaintiff accepted defendants' settlement offer. Compromise and settlement agreement awaiting Comptroller's review.

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

Cause Number: GN500170

AG Case #: 052091378

Filed: 1/18/2005

Franchise Tax; Refund

Claim Amount	Reporting Period
\$5,000,000.00	1988 - 1991, 1995, 1996, 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether abandonment costs of oil and gas properties can be excluded from surplus as contra-asset accounts for depreciation, depletion and amortization under GAAP guidelines. Whether Plaintiff may change its accounting methods used to calculate surplus within a four year period. Plaintiff also claims violation of equal and uniform taxation and equal protection.

Status: Settlement negotiations in progress.

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

Cause Number: GN401380

AG Case #: 041965591

Filed: 4/30/2004

Franchise Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: How should proceeds from the sale of accounts receivables, including retail and wholesale, be calculated for franchise tax apportionment purposes. Whether Plaintiff's accounts receivables are capital assets or investments. Plaintiff claims that the Comptroller's use of the net gain method instead of the gross receipts method in calculating Plaintiff's total

gross receipts for franchise tax apportionment purposes violates the Texas Tax Code, the Comptroller's rules, Comptroller policy, and the constitutional requirements of equal protection and equal and uniform taxation.

Status: Answer filed.

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***Dillard Department Stores, Inc. v. Strayhorn, et al.***

Cause Number: GN300878

AG Case #: 031770621

Filed: 3/19/2003

Franchise Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,646,637.00	1992 - 1995

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Ohlenforst, Cynthia M.      Hughes & Luce / Dallas  
Eaton, Tracy D.

Issue: Whether the franchise tax requirement to add back officer and director compensation to the tax base is an unconstitutional tax on the income of natural persons. Whether the shareholder limit for the add-back is arbitrary, unreasonable and discriminatory. Whether the provision also discriminates unconstitutionally between banks and other corporations and should be limited to officers with significant authority.

Status: Answer filed.

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***El Paso Corporation v. Strayhorn, et al.***

Cause Number: GN304213

AG Case #: 031879356

Filed: 10/28/2003

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,278,308.75	1999 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether severance pay and merger expenses were improperly included in Plaintiff's apportionment factor. Whether other income was improperly sourced or included. Whether certain deductions were erroneously disallowed. Plaintiff also seeks waiver of all penalty and interest.

Status: Answer filed.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN301003

AG Case #: 031778939

Filed: 3/28/2003

#03-05-00144-CV

#06-05-00059-CV

Franchise Tax; Refund

Claim Amount      Reporting Period

\$3,000,000.00      1989 - 1991

Counsel Associated With This Case:

*Assistant Attorney General*

Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

Eidman, Mark W.

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

Langenberg, Ray

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. Whether Plaintiff's refund claims were timely filed and whether some claims were precluded by an earlier hearings decision.

Status: Summary Judgment hearing held 08/24/04. Judgment entered 02/24/05; both motions granted in part and denied in part. Cross-notice of appeal filed 03/08/05. Appeals transferred from Third Court of Appeals to Sixth Court of Appeals in Texarkana, Texas by Texas Supreme Court on 04/04/05. Cross-appellants' briefs filed 05/09/05 and 05/10/05. Cross-appellees' briefs filed 06/20/05. Cross-appellants' reply briefs filed 07/08/05 and 07/11/05. Submitted on Oral Argument 04/18/06. Opinion issued 10/18/06. Partial summary judgment in favor of El Paso reversed; partial summary judgment in favor of Comptroller affirmed; one issued remanded. Motion for Rehearing filed 11/06/06. Order entered 11/28/06. Comptroller's response filed 12/08/06. Appellant's reply filed 12/12/06. Motion for Rehearing overruled 12/19/06. Mandate to Issue 02/12/07.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN500963

AG Case #: 052132248

Filed: 3/30/2005

Franchise Tax; Refund

Claim Amount      Reporting Period

\$446,836.60      1988

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

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

Langenberg, Ray

Sigel, Doug

Issue: Whether unamortized loss on reacquired debt may be expensed. Whether Plaintiff's apportionment factor should be reduced for receipts from gas not picked up or delivered in Texas.

Status: Discovery in progress.

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

Cause Number: GN503289

AG Case #: 052214558

Filed: 9/13/2005

Franchise Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$1,107,256.04      2002 - 2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.

OAG Taxation / Austin

*Opposing Counsel*

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White, John D.

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

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

Status: Discovery in progress.

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

Cause Number: D-1-GN-06-000797 AG Case #: 062296884

Filed: 3/7/2006

Franchise Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$769,839.19	1999 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J. OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Discovery in progress.

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***First Company v. Rylander, et al.***

Cause Number: GN200229

AG Case #: 021556980

Filed: 1/24/2002

Franchise Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,919,109.00	1996 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J. OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F. Martens & Associates / Austin  
Mondrik, Christina A.

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.

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

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

Filed: 4/21/2006

Franchise Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K. OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

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

Filed: 12/15/2006

Franchise Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J. OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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***Home Interiors & Gifts, Inc. v. Strayhorn, et al.***

Cause Number: GN303185  
#03-04-00660-CV  
#05-0939

AG Case #: 031842420

Filed: 8/25/2003

Franchise Tax; Refund

Claim Amount	Reporting Period
\$16,085,391.00	1992 - 1999

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Butcher, Daniel L.      Strasburger & Price / Dallas

Katz, Farley P.      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: Hearing on Cross-Motions for Summary Judgment held 09/21/04. Defendants' Motion granted 09/30/04. Notice of Appeal filed 10/20/04. Appellant's brief filed 01/24/05. Appellees' brief filed 03/25/05. Appellants' reply brief filed 04/28/05. Appellee's response to reply brief filed 05/23/05. Submitted on Oral Argument 05/25/05. Appellant filed post-submission brief 06/03/05. Motion granted 06/14/05 for Appellant to file post-submission brief. Appellees filed letter of authority 06/21/05. Appellant filed letter of authority 06/23/05. Opinion issued 07/28/05 reversing and rendering judgment for Appellants. Motion for Rehearing filed by Appellant 08/09/05. Motion for Rehearing filed by Appellee 08/15/05; denied 09/22/05. Petition for Review filed by State in Tx. Supreme Court 01/06/06. Response from Home Interiors filed 03/03/06. Briefing on the merits requested 04/26/06. Petitioners' brief on the merits filed 06/26/06. Respondent's brief on the merits filed 07/28/06. Petitioners' reply brief filed 08/14/06. Appeal being handled by Solicitor General's Office, OAG.

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

Cause Number: GN500508

AG Case #: 052102654

Filed: 2/16/2005

Franchise Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.      OAG Taxation / Austin

*Opposing Counsel*

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Flaherty, Jason

Jenkins & Gilchrist / Austin

Issue: How should pension reversion gain be allocated for franchise tax apportionment purposes. Is the pension reversion gain non-unitary or unitary earned surplus income. Whether Plaintiff's pension reversion gain should be calculated with Plaintiff's Texas gross receipts. What methodology the Comptroller should apply to not distort the amount of taxable earned surplus apportionable to Texas. Plaintiff also claims violation of the Due Process and Commerce Clauses of the US Constitution and the Due Course of Law provision of the Texas Constitution.

Status: Answer filed.

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

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

Filed: 2/23/2006

Franchise Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

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

Langenberg, Ray

Hagenswold, R. Eric

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

Status: Discovery in progress.

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***Owens Corning v. Strayhorn, et al.***

Cause Number: GN503923

AG Case #: 052240819

Filed: 10/28/2005

Franchise Tax; Refund

Claim Amount	Reporting Period
\$90,980.34	1992 - 1993

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff is entitled to a franchise tax credit. Whether deferred tax liabilities can be offset by deferred tax assets.

Status: Answer filed.

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

Cause Number: GN103935

AG Case #: 011532348

Filed: 11/28/2001

Franchise Tax; Refund

Claim Amount	Reporting Period
\$2,581,013.52	1998

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Discovery in progress.

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

Cause Number: GN204559

AG Case #: 031730666

Filed: 12/20/2002

Franchise Tax; Protest

Claim Amount	Reporting Period
\$25,163,579.92	1996 - 1999; 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: First Amended Original Petition adding 2001 final report filed. Discovery in progress.  
MSJ hearing set 02/14/07. Trial set 03/05/07.

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***TGS-NOPEC Geophysical Company v. Strayhorn, et al.***

Cause Number: GN500637

AG Case #: 052114220

Filed: 3/1/2005

Franchise Tax; Protest

Claim Amount	Reporting Period
\$390,471.26	1997 - 2000
\$1,422,008.76	2001 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Wolfrom, R. Scott      Jones, Walker, Waechter, Poitevent, Carrère &  
Denégre, L.L.P. / The Woodlands

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

Status: Hearing on Cross-Motions for Summary Judgment set 05/01/07.

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

Cause Number: GN302279

AG Case #: 031818966

Filed: 6/27/2003

Franchise Tax; Refund

Claim Amount      Reporting Period  
\$4,462,424.56      1992 - 1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Hearing on Cross-Motions for Partial Summary Judgment held 07/19/06. On 07/26/06 the district court granted Defendants' Motion for Partial Summary Judgment and denied Plaintiff's on the depreciation/basis issue.

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

Cause Number: GN402433

AG Case #: 041999269

Filed: 7/30/2004

Franchise Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Discovery in progress. Settlement negotiations in progress.

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

Cause Number: GN600153

AG Case #: 062275193

Filed: 1/13/2006

Franchise Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Eidman, Mark W.

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

Sigel, Doug

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

Status: Discovery in progress.

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## Sales Tax

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

Cause Number: GN403369

AG Case #: 042046367

Filed: 10/8/2004

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Discovery in progress. Settlement negotiations in progress. Hearing on cross-motions for summary judgment and defendants' plea to the jurisdiction set 06/26/07.

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

Cause Number: D-1-GN-06-002424    AG Case #: 062380290

Filed: 6/30/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Settlement negotiations in progress.

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

Cause Number: GN300091

AG Case #: 031735236

Filed: 1/10/2003

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Malish, Christopher                      Foster & Malish / Austin

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

Status: Answer filed.

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***Advanta Business Services Corporation v. Rylander, et al.***

Cause Number: GN103463

AG Case #: 011514544

Filed: 10/19/2001

Sales Tax; Protest

Claim Amount	Reporting Period
\$929,964.11	11/01/92 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                          OAG Taxation / Austin

*Opposing Counsel*

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King, Deanna E.                          Bracewell & Patterson / Austin

Benesh, W. Stephen

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. Settlement negotiations in progress. Trial postponed.

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***Alcatel Network Systems, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000104

AG Case #: 062271143

Filed: 1/10/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$908,670.54	05/01/93 - 10/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether purchases of software licenses qualify as tangible personal property with a useful life in excess of six months and used or consumed in or during the manufacturing, processing, or fabrication of tangible personal property for ultimate sale so as to be exempt from sales tax. Whether display items and/or the materials used to make them are exempt from sales tax.

Status: Settlement negotiations in progress.

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***Alcatel Network Systems, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003731    AG Case #: 062412861

Filed: 9/29/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$908,670.54	05/01/93 - 10/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether purchases of tangible personal property with a useful life in excess of six months and used or consumed in or during the manufacturing, processing, or fabrication of tangible personal property for ultimate sale are exempt from sales tax. Whether display items and/or the materials used to make them are exempt from sales tax.

Status: Answer filed.

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

Cause Number: D-1-GN-06-004268 AG Case #: 062426663

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$767,652.06	04/01/91 - 12/31/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether parts, equipment and repair services that Plaintiff purchased for draglines used in its coal mining operations are exempt from sales tax under the manufacturing exemption.

Status: Answer filed.

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

Cause Number: D-1-GN-06-000056 AG Case #: 062269030

Filed: 1/6/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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***Amerada Hess Corporation v. Strayhorn, et al.***

Cause Number: GN402614

AG Case #: 042005314

Filed: 8/13/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$44,500.00	01/01/90 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

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.

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***Anderson Merchandisers Holding, Inc. v. Strayhorn, et al.***

Cause Number: GN400421

AG Case #: 041921966

Filed: 2/11/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$28,353.00	07/01/94 - 03/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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***Apollo Paint & Body Shop, Inc. v. Strayhorn, et al.***

Cause Number: GN300886

AG Case #: 031770605

Filed: 3/19/2003

Sales Tax; Protest

Claim Amount	Reporting Period
\$285,284.13	10/01/91 - 09/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom                      Hance Scarborough Wright Woodward &  
Weisbart, L.L.P. / 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. Trial began 01/30/06; trial continued.

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

Cause Number: 0000384

AG Case #: 001273051

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

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

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

for attorneys' fees 11/17/06.

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

Cause Number: 98-03527

AG Case #: 98930349

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

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

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

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

Cause Number: D-1-GN-06-004768 AG Case #: 072431349

Filed: 12/28/2006

Sales Tax; Declaratory Judgment & Injunction

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

Counsel Associated With This Case:

*Assistant Attorney General*

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

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

Issue: Whether Plaintiff should be assessed sales tax on door receipts collected by bands.

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

Status: Answer filed.

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

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

Filed: 6/7/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

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

Langenberg, Ray

Sigel, Doug

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

Status: Answer filed.

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

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

Filed: 10/6/2006

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: 99-01092

AG Case #: 991112186

Filed: 1/29/1999

Sales Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.      OAG Taxation / Austin

*Opposing Counsel*

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Trickey, Timothy M.      The Trickey Law Firm / Austin

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

Status: Case dismissed for want of prosecution 06/17/03. Motion to Reinstate granted.

Negotiating an agreed scheduling order. Motion to Retain filed 11/29/06.

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

Cause Number: GN200525

AG Case #: 021567755

Filed: 2/15/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$7,280,079.00	01/01/90 - 06/30/93
	07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether title passed to the federal government according to Plaintiff's contracts at the time Plaintiff took possession of the items, thus establishing the sale for resale exemption recognized in *Day & Zimmerman v. Calvert*. Plaintiff also seeks attorneys' fees and a declaration that the Comptroller disregarded controlling federal law, violated equal protection or imposed tax on the U.S. government.

Status: Answer filed.

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

Cause Number: GN204437

AG Case #: 041927062

Filed: 12/11/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$3,000,000.00	07/01/97 - 05/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

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

Cause Number: GN401955

AG Case #: 041988023

Filed: 6/21/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$3,750,000.00	12/01/88 - 05/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

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

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN203340

AG Case #: 021676804

Filed: 9/13/2002

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN304372

AG Case #: 031884471

Filed: 11/10/2003

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray

Sigel, Doug

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

Status: Answer filed.

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***Bonart, Richard C., DVM v. Strayhorn, et al.***

Cause Number: GN400552

AG Case #: 041928532

Filed: 2/20/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$50.00	01/01/02 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Pro Se

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.

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

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

Filed: 9/29/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

Osterloh, Curtis J.

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

Status: Discovery in progress.

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

Cause Number: GN504208                      AG Case #: 052253457

Filed: 11/28/2005

Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.                Attorney at Law / Austin

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

Status: Discovery in progress.

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

Cause Number: GN002428

AG Case #: 001344233

Filed: 8/18/2000

Sales Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Peckham, William T.                Attorney at Law / Austin

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

Status: Discovery now current and in progress.

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

Cause Number: D-1-GN-06-004594

AG Case #: 062430368

Filed: 12/12/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

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

Filed: 11/21/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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***Central Power & Light Company v. Sharp, et al.***

Cause Number: 96-11455

AG Case #: 96602037

Filed: 9/20/1996

Sales Tax; Refund

Claim Amount	Reporting Period
\$32,788.00	07/01/86 - 12/31/89

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Inactive.

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

Cause Number: GN204506

AG Case #: 031729197

Filed: 12/16/2002

Sales Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Discovery in progress. Motion for Summary Judgment to be submitted.

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***Chevron Pipe Line Company and West Texas Gulf Pipe Line Company v. Strayhorn, et al.***

Cause Number: GN304712

AG Case #: 031899016

Filed: 12/12/2003

#03-05-00449-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$683,979.99	07/01/91 - 09/30/97
\$220,773.61	01/01/92 - 09/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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: Trial held 03/23/05. Judgment for the Comptroller. Findings and Conclusions filed 06/17/05. Notice of Appeal filed by Chevron 07/12/05. Appellant's brief filed 10/26/05. Appellees' brief filed 12/07/05. Oral Argument denied. Set on briefs 12/13/05. Appellants' reply brief filed 01/27/06. Submitted on briefs 01/30/06. Opinion issued 08/04/06 affirming district court's judgment. Motion for Rehearing filed 08/21/06. Response from Appellee filed 09/21/06. Motion for Rehearing denied 10/26/06. Substituted Opinion issued 10/26/06 affirming trial court's judgment. Motion for Rehearing filed 11/09/06; overruled 12/08/06. Mandate to Issue 01/05/07.

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

Cause Number: GN403978                      AG Case #: 042071324                      Filed: 12/6/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$10,000,000.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Discovery in progress. Hearing on cross-motions for summary judgment held 06/28/06. Chevron's motion for partial summary judgment granted; Comptroller's motion denied. Hearing for judgment set 01/31/07.

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

Cause Number: GN000525

AG Case #: 001258201

Filed: 1/12/2000

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

Benesh, W. Stephen                  Bracewell & Patterson / Austin  
Sampson, Jr., Phillip L.

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

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

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

Cause Number: GN502649

AG Case #: 052186616

Filed: 7/29/2005

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

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

Langenberg, Ray

Sigel, Doug

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

Status: Answer filed.

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

Cause Number: D-1-GV-06-001823 AG Case #: 062409446

Filed: 9/15/2006

Sales Tax; Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Feldman, David M.

Feldman & Rogers, L.L.P. / Houston

Cowan, Robert W.

Gregg, Jr., Dick H.

Gregg & Gregg, P.C. / Houston

Issue: Whether the Comptroller's repayment request violates the procedural and substantive due course of law provisions of the Texas Constitution. Whether the Comptroller should have granted Plaintiffs notice or a hearing prior to making the repayment request. Whether the Comptroller's interpretation of Tax Code §321.002(a)(3) is constitutional. Plaintiffs also request attorneys' fees.

Status: Discovery in progress.

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

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

Filed: 11/13/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.      OAG Taxation / Austin

*Opposing Counsel*

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Knobelsdorf II, John C.      Attorney at Law / Houston

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

Status: Answer filed.

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

Cause Number: GN000376

AG Case #: 001273069

Filed: 2/11/2000

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cowling, David E.      Jones Day / Dallas

Lyda, Kirk

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

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

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

Cause Number: 98-03533

AG Case #: 98930330

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

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

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 01/16/03.

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

Cause Number: GN500049

AG Case #: 052085933

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

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

uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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

Cause Number: GN504213

AG Case #: 052253473

Filed: 11/28/2005

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN302009

AG Case #: 031816135

Filed: 6/9/2003

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

Issue: Whether Plaintiff owes use tax on items transferred free of charge that are subsequently brought into Texas. Plaintiff specifically challenges whether: 1) "use" includes distribution; 2)

use was only out-of-state where control transferred; 3) longstanding policy may be changed; 4) Rule 3.346 does not support tax on promotional materials; 5) use tax applies without title or possession; 6) no consideration for transfer; 7) Rule 3.346(b)(3)(A) is invalid; 8) tax is bared by Commerce, Due Process and Equal Protection Clauses; and 9) resale exemption applies. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Creative Closets, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000172 AG Case #: 062275755

Filed: 1/17/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$115,276.86	08/01/99 - 03/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Finley, W. Thomas Bell Nunnally & Martin, L.L.P. / Dallas  
Sosolik, M. Seth

Issue: Whether Plaintiff owes sales and use tax as a franchisee doing retail business in the State of Texas. Plaintiff requests that penalty and interest be waived, and seeks attorneys' fees.

Status: Plaintiff intends to non-suit.

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

Cause Number: GN504190

AG Case #: 052260197

Filed: 11/22/2005

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K. OAG Taxation / Austin

*Opposing Counsel*

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

Sigel, Doug

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

Status: Answer filed.

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

Cause Number: D-1-GN-063567

AG Case #: 062410139

Filed: 9/21/2006

Sales Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.                      Attorney at Law / Aransas Pass

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

Status: Answer filed.

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

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

Filed: 12/27/2006

Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Beam, Patrick L.                      Attorney at Law / Aransas Pass

Issue: Plaintiff filed suit 09/21/06 under protest questioning the assessed tax based on whether

Plaintiff's charter of a vessel is leased property subject to sales and use tax, and whether the vessel was used or received within the State. Plaintiff now seeks judgment that the tax in question is unconstitutional and may not be legally demanded or collected by the Comptroller. Plaintiff requests jury trial.

Status: Answer filed.

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

Cause Number: GN400439

AG Case #: 041925868

Filed: 2/13/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,642,267.15	02/01/93 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

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

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***Design Masterpiece Landscaping, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001691

AG Case #: 062337985

Filed: 5/12/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$68,630.03	06/01/99 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.

OAG Taxation / Austin

*Opposing Counsel*

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Tourtellotte, Tom

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

Issue: Whether landscaping services sold under lump-sum contracts by Plaintiff to homeowners are exempt as real property services. Whether a homeowner can contract with a homebuilder and still act as a contractor. Plaintiff requests that interest be waived. Plaintiff also claims violation of due process, equal protection, and equal and uniform taxation.

Status: Answer filed.

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

Cause Number: GN203937

AG Case #: 021703947

Filed: 10/30/2002

Sales Tax; Protest

Claim Amount	Reporting Period
\$1,100,000.00	07/01/93 - 01/31/96
	02/01/96 - 11/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

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: Plaintiff's Motion for Partial Summary Judgment filed 06/20/05. Hearing passed. Hearing on Partial Motion for Summary Judgment set 11/20/06 passed. Case settled.

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***Dillard's, Inc., aka Dillard Department Stores, Inc., and Dillard Texas Operating Limited Partnership v. Strayhorn, et al.***

Cause Number: GN304838

AG Case #: 041904590

Filed: 12/23/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,172,784.29	07/01/93 - 01/31/96
	02/01/96 - 11/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

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: Motion to consolidate cases granted 11/23/04; case consolidated into Dillard's Inc., aka Dillard Department Stores, Inc., and Dillard Texas Operating Limited Partnership v. Rylander, et al., Cause No. GN203937.

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***Dupont Photomasks, Inc. v. Strayhorn, et al.***

Cause Number: GN303695

AG Case #: 031855117

Filed: 9/12/2003

#03-04-00822-CV

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$299,987.35	01/01/96 - 10/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Patterson, Jennifer K.                      Attorney at Law / Austin  
York, Larry F.                      York, Keller & Field / Austin  
Gusky, Susan F.

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: Motion for Summary Judgment hearing held 09/23/04. Rule upheld. Both Motions denied. Trial Judgment entered 11/29/04. Notice of Appeal filed by Plaintiff 12/17/04. Appellant's brief filed 03/07/05. Appellees' brief filed 04/13/05. Appellant's reply brief filed 05/03/05. Oral Argument held 09/14/05. Letter brief filed by Appellant 09/15/05. Post-submission brief filed by Appellee 09/16/05. Response from District Clerk requested by 10/26/06; received by Court 11/08/06. Opinion issued 12/20/06 affirming trial court's judgment. Motion for Rehearing filed 01/19/07.

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***Ebrahim, Suleiman S. v. Strayhorn, et al.***

Cause Number: GN500567                      AG Case #: 052113388                      Filed: 2/22/2005

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$43,847.15	01/01/96 - 02/25/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Butler, Lynn Hamilton                      Brown McCarroll, L.L.P. / Austin  
Spurck, Robert L.

Issue: Whether Plaintiff is liable for sales tax assessed against his father's business. Plaintiff also seeks attorneys' fees.

Status: Counterclaim filed.

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

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

Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

Sigel, Doug  
Osterloh, Curtis J.

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

Status: Answer filed.

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

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

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: D-1-GN-06-003071 AG Case #: 062403696 Filed: 8/23/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Hagenswold, R. Eric

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

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

Status: Answer filed.

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

Cause Number: GN500048

AG Case #: 052085990

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cowling, David E.  
Lyda, Kirk

Jones Day / Dallas

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

Status: Answer filed.

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

Cause Number: GN203514

AG Case #: 021681226

Filed: 9/26/2002

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN500047

AG Case #: 052085966

Filed: 1/6/2005

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

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

uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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

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

Filed: 11/9/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN101312

AG Case #: 011439874

Filed: 5/1/2001

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: 98-03525

AG Case #: 98930358

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

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

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

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

Cause Number: 98-03524

AG Case #: 98930367

Filed: 4/3/1998

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

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

Status: Court sent Notice of DWOP for 12/20/00. Plaintiff filed Motion to Retain 12/15/00; granted 01/24/01. Court sent Notice of DWOP for 07/22/02. Plaintiff filed Motion to Retain 07/15/02; granted 02/03/03. Numerous scheduling orders have been entered in this case since 2003; the latest being 11/2006. Discovery in progress. Trial set 10/15/07.

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

Cause Number: GN304779                      AG Case #: 041904616                      Filed: 12/18/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$52,616.94	01/01/96 - 12/31/99
	01/01/94 - 12/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Motion for Summary Judgment hearing held 04/19/06. Settlement negotiations in progress.

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

Cause Number: GN002724                      AG Case #: 001353960                      Filed: 9/15/2000

Sales Tax; Injunction

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Discovery in progress. Summary Judgment hearing postponed.

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***Garza, Lawrence v. Sharp, et al.***

Cause Number: 98-07607

AG Case #: 981001886

Filed: 7/17/1998

Sales Tax; Protest

Claim Amount      Reporting Period  
\$83,910.00      01/01/93 - 09/30/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Dillon, Stephen P.                      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: Trial setting passed by agreement. Inactive.

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

Cause Number: GN201322

AG Case #: 021598057

Filed: 4/22/2002

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN201323

AG Case #: 021598073

Filed: 4/22/2002

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN102934

AG Case #: 011492865

Filed: 9/5/2001

Sales Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether additional resale certificates should have been accepted for Plaintiff's sales of boxes and packaging materials.

Status: Case reinstated. Plaintiff to make settlement offer.

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***Graybar Electric Company, Inc. v. Sharp, et al.***

Cause Number: 97-01795

AG Case #: 97682966

Filed: 2/13/1997

Sales Tax; Protest

Claim Amount	Reporting Period
\$107,667.00	01/01/88 - 12/31/91

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Settlement negotiations in progress. Unopposed Motion to Retain filed 09/25/06 by Plaintiff.

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

Cause Number: GN300904

AG Case #: 031782931

Filed: 3/20/2003

Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

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

Status: Discovery in progress.

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

Cause Number: GN501091 AG Case #: 052132271 Filed: 4/7/2005

Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cunningham, Judy M. Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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

Cause Number: GN501921 AG Case #: 052163441 Filed: 5/27/2005

Sales Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

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

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

Status: Answer filed.

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

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

Filed: 2/23/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

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

Filed: 1/8/2007

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN501139                      AG Case #: 052132818                      Filed: 4/11/2005  
Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

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

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN502330

AG Case #: 052177326

Filed: 7/6/2005

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN504191

AG Case #: 052252699

Filed: 11/22/2005

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: D-1-GN-06-002468

AG Case #: 062380522

Filed: 7/6/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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

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

Status: Answer filed.

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

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

Filed: 9/29/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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

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

Status: Answer filed.

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***Herndon Marine Products, Inc. v. Sharp, et al.***

Cause Number: 91-14786

AG Case #: 91164788

Filed: 10/18/1991

Sales Tax; Refund

Claim Amount	Reporting Period
\$62,465.00	01/01/87 - 03/31/90

Counsel Associated With This Case:

*Assistant Attorney General*

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

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Bell, John D.	Wood, Boykin & Wolter / Corpus Christi
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Issue: Whether predominant use of electricity from Plaintiff's meter is exempt. Whether burden of proof in administrative hearing should be clear and convincing evidence or preponderance of the evidence.

Status: Special exceptions and answer filed.

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

Cause Number: D-1-GN-06-001392 AG Case #: 062311402

Filed: 4/21/2006

Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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

Hobbs, Mark C.

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

Status: Answer filed.

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

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

Filed: 7/6/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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***Houston Wire & Cable Company v. Strayhorn, et al.***

Cause Number: GN500581

AG Case #: 052113057

Filed: 2/23/2005

#03-07-00006-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$160,596.03	08/01/97 - 12/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Starkey, Jerry L.                      Attorney at Law / Houston

Issue: Whether wire, cable and reels purchased, customized and sold to wholesalers as non-returnable are exempt from sales tax under the manufacturing exemption and sale-for-resale exemption.

Status: Trial held 10/09/06. Final Judgment signed 11/06/06 in favor of State. Notice of Appeal filed by Plaintiff 01/04/07. Docketing statement filed 01/10/07. Clerk's Record due 03/06/07. Court Reporter's Record due 03/06/07.

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***ITS Engineered Systems, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004318    AG Case #: 062426630

Filed: 11/16/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$10,000.00	01/01/02 - 12/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.                      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.                      Martens & Associates / Austin

Mondrik, Christina A.

Seay, Michael B.

Issue: Whether products manufactured by the Plaintiff and sold to domestic customers for delivery of the products outside of Texas or the United States are exempt from sales tax. Whether the Comptroller improperly assessed sales tax on sales to customers for export

outside the United States. Whether equipment and parts Plaintiff sold to customers who resold the items are exempt from sales tax as sales for resale. Whether the Comptroller's policy limiting the type of equipment qualifying for exemption under Tax Code §151.324 is constitutional. Whether other additional sales, purchases and supplies are exempt as non-taxable. Plaintiff claims violation of equal and uniform taxation, due process of law, the Import and Export Clauses of the U.S. Constitution and the Commerce Clause. Plaintiff requests declaratory relief and waiver of penalty and interest.

Status: Answer filed.

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

Cause Number: GN300883                      AG Case #: 031770613                      Filed: 3/19/2003  
Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: D-1-GN-06-002496    AG Case #: 062381678                      Filed: 7/7/2006  
Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN101492                      AG Case #: 011451598                      Filed: 5/16/2001

Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

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. Plaintiff's Motion to Retain filed 07/13/05. Trial set 05/14/07. Settlement negotiations in progress.

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

Cause Number: GN403582                      AG Case #: 042058032                      Filed: 10/28/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$366,142.79	01/01/94 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Cunningham, Judy M.                  Attorney at Law / Austin

Issue: Whether electricity used in a manufacturing process is exempt from sales tax. Whether the manufacturing process used by Plaintiff results in a physical change to tangible personal property being resold.

Status: Discovery in progress.

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

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

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,958.18	07/01/00 - 06/30/04
\$5,591.87	07/01/00 - 06/30/04
\$31,330.82	07/01/00 - 06/30/04
\$21,811.57	07/01/00 - 06/30/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN300575

AG Case #: 031759657

Filed: 2/21/2003

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Plaintiff filed a Motion for Summary Judgment 04/23/05. Plaintiff to withdraw Motion for Summary Judgment and refile.

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

Cause Number: GN401379                      AG Case #: 041964941                      Filed: 4/30/2004

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray  
Osterloh, Curtis J.

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

Status: Discovery in progress.

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***Laredo Pizza, Inc., and Samuel L. Alford, and L & H Pacific, L.L.C. v. Strayhorn, et al.***

Cause Number: GN401507

AG Case #: 041971482

Filed: 5/12/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$34,965.35	07/01/92 - 08/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Rothfelder, Richard L.                Rothfelder & Falick, L.L.P. / Houston  
Falick, Michael C.

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: Defendants' First Amended Original Answer, Plea to the Jurisdiction and Special Exception filed 06/27/05.

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

Cause Number: 99-01091

AG Case #: 991112160

Filed: 1/29/1999

Sales Tax; Protest

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin



Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.                Martens & Associates / Austin  
Mondrik, Christina A.

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

Status: Answer filed.

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***Local Neon Company, Inc. v. Rylander, et al.***

Cause Number: 99-15042

AG Case #: 001254036

Filed: 12/31/1999

#03-04-00261-CV

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$34,390.24	01/01/88 - 03/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Sigel, Doug                              Scott, Douglass & McConnico, L.L.P. / 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. Appellant's brief filed 07/01/04. Appellees' brief filed 08/02/04. Submitted on briefs 12/06/04. Opinion issued 06/16/05 affirming trial court's Judgment in part, reversing the Judgment in part, and remanding the case. State's Motion for Rehearing filed 06/30/05. Court requested response 08/01/05. Appellant's response filed 08/11/05. Appellees' response filed 08/19/05. Motion for Rehearing overruled 11/01/05. Motion to dismiss filed.

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

Cause Number: GN201000

AG Case #: 021583745

Filed: 3/26/2002

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN200999

AG Case #: 021583737

Filed: 3/26/2002

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: GN300420

AG Case #: 031751118

Filed: 2/10/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period  
\$2,837,000.00      07/01/97 - 07/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Case settled.

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***Lockheed Martin Corporation, as Successor to Lockheed Martin Vought Systems Corporation and Loral Vought Systems Corporation v. Rylander, et al.***

Cause Number: GN103525                  AG Case #: 011523446                  Filed: 10/24/2001

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period  
\$2,680,000.00      09/01/92 - 11/30/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Case settled.

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***Lockheed Martin Corporation, Successor to Lockheed Martin Vought Systems Corporation v. Rylander, et al.***

Cause Number: GN201725                  AG Case #: 021620414                  Filed: 5/23/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,857,000.00	12/01/95 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Case settled.

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

Cause Number: GN400625                      AG Case #: 041928870                      Filed: 2/26/2004

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

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

Filed: 2/9/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K. OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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

Cause Number: D-1-GN-06-003122 AG Case #: 062403712

Filed: 8/24/2006

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff is entitled to a refund of tax on industrial solid waste removal services,

purchases of wrapping and packaging supplies, installation labor, purchases for sale for resale, and temporary storage of tangible personal property.

Status: Answer filed.

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

Cause Number: GN401349

AG Case #: 041965336

Filed: 4/29/2004

Sales Tax; Refund

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Eidman, Mark W.

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

Langenberg, Ray

Hagenswold, R. Eric

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

Status: Discovery in progress.

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

Cause Number: GN404187

AG Case #: 052082260

Filed: 12/27/2004

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lochridge, Robert

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

Status: Answer filed.

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***Mitchell, Christia Parr v. Rylander, et al.***

Cause Number: GN201330

AG Case #: 021604541

Filed: 4/22/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$160,870.48	01/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Pro Se

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.

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***North American Intelcom, Inc., et al. v. Sharp, et al.***

Cause Number: 97-05318

AG Case #: 97733563

Filed: 5/2/1997

Sales Tax; Refund

Claim Amount	Reporting Period
\$2,029,180.00	04/01/91 - 05/31/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                              OAG Taxation / Austin

*Opposing Counsel*

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Taylor, III, Jasper G.

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.

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***Northrop Grumman Systems Corporation (Successor to Northrop Grumman Corporation and Vought Aircraft Company) v. Rylander, et al.***

Cause Number: GN201344

AG Case #: 021607155

Filed: 5/1/2002

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,600,000.00	09/01/92 - 11/30/95

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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***Northwestern Resources Company v. Strayhorn, et al.***

Cause Number: GN500768

AG Case #: 052118247

Filed: 3/11/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$825,300.33	10/01/97 - 03/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.              OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray

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

Issue: Whether parts, consumables and repair services that Plaintiff purchased for draglines used in its coal mining operations are exempt from sales tax under the manufacturing exemption. Plaintiff claims that the use of a dragline is to remove overburden, which results in a physical change. Plaintiff also claims violation of equal and uniform taxation, Equal Rights Clause, Equal Protection Clause, due course of law and Due Process Clause.

Status: Answer filed.

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***Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN503442

AG Case #: 052217601

Filed: 9/22/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$1,552,785.55	01/01/94 - 07/31/98
	01/01/94 - 12/31/95
	07/01/92 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

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

Langenberg, Ray

Sigel, Doug

Issue: Whether transactions for which customer identities are unavailable are taxable. Whether the Comptroller used the proper sampling procedure. Whether the proper error rate for assessed sales transactions with missing customer information was used. Plaintiff also claims violation of equal and uniform taxation, the Equal Rights Clause, the Equal Protection Clause, due course of law and Due Process Clause.

Status: Answer filed.

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***Office Depot, Inc., Successor to Office Depot Business Services Division (aka Office Depot Business Services, Inc.) and Office Depot of Texas, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000041

AG Case #: 062269014

Filed: 1/5/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,552,785.55	01/01/94 - 07/31/98
	01/01/94 - 12/31/95
	07/01/92 - 12/31/93

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether transactions for which customer identities are unavailable are taxable. Whether the Comptroller improperly extrapolated the error rate associated with tax-exempt copier lease payments over an under-valued population base.

Status: Answer filed.

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***Reynolds Metals Company v. Strayhorn, et al.***

Cause Number: GN401468                      AG Case #: 041970799                      Filed: 5/7/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$828,614.08	03/01/94 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

exempt from sales tax. Plaintiff also claims violation of equal and uniform taxation and equal protection.

Status: Partial MSJ hearing held 12/19/06. Partial judgment granted for State.

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

Cause Number: GN002831

AG Case #: 001357631

Filed: 9/25/2000

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Cowling, David E.

Jones Day / Dallas

Lochridge, Robert

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

Status: Trial setting passed. Discovery in progress.

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

Cause Number: D-1-GN-06-004726

AG Case #: 072431166

Filed: 12/22/2006

Sales Tax; Refund & Declaratory Judgment

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

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.

OAG Taxation / Austin

*Opposing Counsel*

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Martens, James F.  
Seay, Michael B.

Martens & Associates / Austin

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

Status: Answer filed.

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

Cause Number: D-1-GN-06-004725 AG Case #: 072431158

Filed: 12/22/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$443,221.70	10/01/00 - 02/29/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K. OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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***Robbins & Myers, Inc. v. Strayhorn, et al.***

Cause Number: GN301171

AG Case #: 031786551

Filed: 4/11/2003

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$23,492.41	06/01/95 - 07/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Binder, Henry                      Porter & Hedges / 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.

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***Rockwell Collins, Inc. v. Rylander, et al.***

Cause Number: GN203339                      AG Case #: 021676788                      Filed: 9/13/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$591,028.39	01/01/97 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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***Rollins & Rollins Enterprises, Inc. , dba Country Kwik Stop v. Rylander, et al.***

Cause Number: GN202097                      AG Case #: 021640651                      Filed: 6/28/2002

Sales Tax; Protest

Claim Amount	Reporting Period
\$45,059.74	08/01/97 - 07/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Peckham, William T.                      Attorney at Law / Austin

Issue: Whether Plaintiff is liable for tax on food sold from its convenience store area. Whether the Comptroller applied proper percentages for loss and waste.

Status: Answer filed.

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***Sabine Mining Company, The v. Strayhorn, et al.***

Cause Number: GN401382                      AG Case #: 041964867                      Filed: 4/30/2004  
#03-06-00293-CV  
#13-06-00330-CV

Sales Tax; Refund

Claim Amount	Reporting Period
\$905,468.12	10/01/97 - 09/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.                      OAG Taxation / Austin

*Opposing Counsel*

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

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: Trial held 04/10/06. District court rendered judgment in favor of State. Notice of Appeal filed 05/25/06. Clerk's Record filed 08/02/06. Exhibits filed 08/25/06. Court Reporter's Record filed 08/25/06. Appellant's brief filed 10/27/06; Oral Argument requested. Appellees' brief filed 12/27/06; Oral Argument not requested. Appellant's reply brief due 01/31/07.

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***San Antonio Spurs, L.L.C. v. Strayhorn, et al.***

Cause Number: GN403429                      AG Case #: 042050401                      Filed: 10/15/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$913,435.03	06/01/97 - 06/30/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

Issue: Whether suite rental fees are exempt from sales tax as non-taxable rentals or licenses for the use of real property.

Status: Answer filed.

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***SC Kiosks, Inc. v. Strayhorn, et al.***

Cause Number: GN500795                      AG Case #: 052126810                      Filed: 3/15/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$146,909.55	November 2004 Filing Period
\$66,251.85	December 2004 Filing Period
\$59,268.75	January 2005 Filing Period

Counsel Associated With This Case:

*Assistant Attorney General*

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

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

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

Status: Answer filed.

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***Sharper Image Corporation v. Rylander, et al.***

Cause Number: GN203645

AG Case #: 021686779

Filed: 10/9/2002

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$264,355.46	07/01/94 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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

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Eisenstein, Martin I.	Brann & Isaacson / Lewiston, ME
Beal, Kevin J.	

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

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***Sharper Image Corporation v. Rylander, et al.***

Cause Number: GN203821

AG Case #: 021696851

Filed: 10/22/2002

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$258,205.20	12/01/97 - 03/31/01

Counsel Associated With This Case:

*Assistant Attorney General*

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

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Eisenstein, Martin I.	Brann & Isaacson / Lewiston, ME
Beal, Kevin J.	

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

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***Southern Plastics, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000047 AG Case #: 062270459

Filed: 1/6/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$4,872.78	11/01/99 - 10/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Petitioner's waste from its manufacturing plant qualifies as industrial solid waste and thus exempt from sales tax when removed as industrial solid waste.

Status: Discovery in progress.

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***Southern Union Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004637 AG Case #: 062430574

Filed: 12/15/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$747,733.01	07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff's purchases of gas pipes, valves and meters are exempt from sales and use tax as tangible personal property under the sale for resale exemption.

Status: Answer filed.

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***Southwest Food Processing & Refrigerated Services, aka Southwest Refrigerated Warehousing Services v. Rylander, et al.***

Cause Number: GN103390

AG Case #: 011509668

Filed: 10/15/2001

Sales Tax; Protest

Claim Amount	Reporting Period
\$188,477.57	01/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Mott, H. Christopher                Krafur Gordon Mott / El Paso

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

Status: Settlement analysis being drafted.

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***Southwestern Bell Telephone, L.P. v. Strayhorn, et al.***

Cause Number: GN402300

AG Case #: 041998360

Filed: 7/22/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$291,516,385.00	06/01/05 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                              OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray

Hagenswold, R. Eric

Osterloh, Curtis J.

Issue: Whether equipment used in telecommunications 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.

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***Southwestern Bell Yellow Pages, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004500 AG Case #: 062428495

Filed: 12/1/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$6,917,047.67	10/01/03 - 12/31/05

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff owes use tax on printing charges for directories printed out-of-state but ultimately distributed within Texas. Plaintiff claims the directories were "manufactured" rather than "purchased" outside of Texas, resulting in the printing operations occurring outside of Texas and used and consumed outside of Texas.

Status: Answer filed.

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

Cause Number: D-1-GN-06-002437 AG Case #: 062380332

Filed: 7/3/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$650,940.41	09/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

Sigel, Doug

Issue: Whether Plaintiff owes no tax because it accepted resale certificates in good faith.  
Whether all penalty and interest should be waived.

Status: Answer filed.

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***Stantrans Partners, L.P. v. Strayhorn, et al.***

Cause Number: GN502648

AG Case #: 052186624

Filed: 7/29/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$326,813.49	07/01/93 - 06/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray

Sigel, Doug

Issue: Whether purchases of tangible personal property for ultimate sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption.  
Whether gas and electricity purchased and used to process tangible personal property for sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption.

Status: Answer filed.

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***Stantrans Partners, L.P. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004583    AG Case #: 062430343

Filed: 12/11/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$273,088.45	07/01/99 - 03/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

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

Issue: Whether purchases of tangible personal property for ultimate sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption. Whether gas and electricity purchased and used to process tangible personal property for sale as tangible personal property are exempt from sales tax under the manufacturing and processing exemption.

Status: Answer filed.

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***Steamatic of Austin, Inc., et al. v. Rylander, et al.***

Cause Number: GN200631

AG Case #: 021567771

Filed: 2/25/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$103,335.27	04/01/91 - 04/30/94

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff is entitled to a tax refund for repairs to tangible personal property on the grounds that such repairs were for casualty losses exempt under the Comptroller's Rules 3.357 and 3.310. Whether the claim is barred by limitations. Whether the Comptroller improperly changed the rule on casualty losses.

Status: Motion for summary judgment filed. Response filed. Partial summary judgment on limitations granted for Plaintiff 04/07/04.

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***Sysco Food Services of Austin, Inc. v. Strayhorn, et al.***

Cause Number: GN400465

AG Case #: 041925850

Filed: 2/17/2004

Sales Tax; Protest

Claim Amount	Reporting Period
\$92,357.48	05/01/98 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Eidman, Mark W.

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

Osterloh, Curtis J.

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

Status: Discovery in progress. Hearing on Motion to Exclude set 11/07/06 passed.

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

Cause Number: GN100633

AG Case #: 011420734

Filed: 3/1/2001

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$196,492.74	01/01/94 - 12/31/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cunningham, Judy M.

Attorney at Law / Austin

Blume, James

Blume & Studdard / Dallas

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

Status: Discovery in progress.

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

Cause Number: GN302075

AG Case #: 031816119

Filed: 6/13/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$270,401.80	07/01/94 - 06/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cunningham, Judy M.          Attorney at Law / Austin

Blume, James                  Blume & Studdard / Dallas

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

Status: Discovery in progress.

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

Cause Number: GN502440

AG Case #: 052184538

Filed: 7/14/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$591,242.98	02/01/96 - 07/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                  OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray

Issue: Whether charges for labor under separated contracts and charges under lump sum contracts constitute non-taxable new construction. Whether charges for assembly and installation of display items in retail stores are non-taxable third party installation services. Whether components purchased outside the state and used outside the state to construct other items, including assembly labor charges, are taxable. Whether installation charges for purchases of tangible personal property are non-taxable as separable charges.

Status: Answer filed.

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***TDI-Halter, Inc. v. Rylander, et al.***

Cause Number: GN100339

AG Case #: 011409653

Filed: 2/1/2001

Sales Tax; Refund

Claim Amount	Reporting Period
\$475,000.00	01/01/93 - 06/30/96

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether conversion of drilling rigs to self-propelled, deep water rigs is manufacturing under the statute and Comptroller rules. Whether dredging is non-taxable maintenance of real property. Alternatively, whether interest should be waived.

Status: DWOP notice sent by court 03/29/05. Order retaining case entered 08/04/05. Discovery in progress. Scheduling order entered. Non-jury trial set 07/16/07. Settlement negotiations pending.

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***Texaco Grand Prix of Houston, L.L.C. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002510    AG Case #: 062381686

Filed: 7/10/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$48,129.01	1998 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether rental furniture and similar items provided in hospitality suites are exempt under the sale for resale exemption. Whether additional parking space provided in a parking lot for motorcoaches is taxable as motor vehicle parking and storage service or exempt as real property.

Status: Plaintiff to file MSJ.

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***Texas Gulf, Inc. v. Bullock, et al.***

Cause Number: 485,228

AG Case #: 90311185

Filed: 6/5/1990

Sales Tax; Refund

Claim Amount      Reporting Period  
\$294,000.00      01/01/85 - 06/30/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Inactive.

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***Texas Westmoreland Coal Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001312      AG Case #: 062309455

Filed: 4/14/2006

Sales Tax; Refund

Claim Amount      Reporting Period  
\$1,007,126.65      04/01/01 - 12/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether replacement parts and repair services for draglines and bucketwheels qualify as manufacturing equipment and exempt from sales tax. Plaintiff claims that the draglines and bucketwheels directly make or cause a chemical or physical change to lignite by removing the overburden, falling within the exempt manufacturing process.

Status: Answer filed.

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***Tree of Life, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002103      AG Case #: 062367701

Filed: 6/9/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period  
\$200,000.00      01/01/97 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cunningham, Judy M.      Attorney at Law / Austin

Issue: Whether electricity used to lower the temperature of food products is exempt as electricity used in processing. Whether the process causes a physical change to the products. Whether packing supplies and replacement parts of processing equipment qualify as manufacturing equipment and exempt from sales tax. Whether the Comptroller violated the rules of statutory construction. Plaintiff claims violation of equal and uniform taxation. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***Tyler Holding Company, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004608      AG Case #: 062430350

Filed: 12/13/2006

Sales Tax; Refund

Claim Amount      Reporting Period  
\$47,129.21      10/01/96 - 12/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.      OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray

Sigel, Doug

Issue: Whether purchases of tangible personal property by Plaintiff's predecessor were exempt from sales and use tax under the manufacturing exemption. Whether charges of contractors for erecting, dismantling and moving scaffolding are exempt from sales and use tax as a non-taxable service, or taxable as rental of tangible personal property.

Status: Answer filed.

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***United Scaffolding, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002270 AG Case #: 062375514

Filed: 6/21/2006

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$897,633.51	10/01/97 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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

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Ohlenforst, Cynthia M.	Hughes & Luce / Dallas
Villa, Richard D.	Hughes & Luce / Austin

Issue: Whether scaffolding services provided by Plaintiff are taxable rentals of tangible personal property in regard to certain lump sum contracts, or exempt as non-taxable services. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN401174

AG Case #: 041954488

Filed: 4/14/2004

Sales Tax; Refund

Claim Amount	Reporting Period
\$975,000.00	07/01/99 - 07/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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

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

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

Status: Answer filed.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN501793

AG Case #: 052151891

Filed: 5/17/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$881,264.71	03/01/00 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Discovery in progress.

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***United Space Alliance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504467

AG Case #: 062267356

Filed: 12/16/2005

Sales Tax; Protest

Claim Amount	Reporting Period
\$297,739.30	03/01/00 - 06/30/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether security services provided to Plaintiff in connection with services to the federal government qualify for the sale for resale exemption. Whether tax on tangible personal property should be refunded pursuant to the Raytheon case. Whether electricity used to produce software qualifies for the manufacturing and processing exemption. Whether certain software maintenance is a non-taxable service.

Status: Answer filed.

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***Uretek U.S.A., Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003268 AG Case #: 062405964

Filed: 8/31/2006

Sales Tax; Protest & Refund

Claim Amount	Reporting Period
\$35,436.95	07/01/02 - 10/31/05
\$21,939.96	01/01/99 - 06/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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

Wethekam, Marilyn A. Horwood Marcus & Berk Chartered / Chicago, IL

Issue: Whether Plaintiff is entitled to an exemption on drill bits because the bits are incorporated into realty for exempt organizations. Whether consumable supplies and equipment qualify as tangible personal property used in the performance of a contract to improve real property and, therefore, tax exempt. Whether tangible personal property purchased outside of Texas, temporarily stored in Texas, and then used in the performance of contracts located outside of Texas are tax exempt. Plaintiff seeks waiver of all penalty and interest.

Status: Answer filed.

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***USCOC of Texahoma, Inc., Successor to USCOC of Corpus Christi, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002388 AG Case #: 062380266

Filed: 6/29/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$110,668.91	01/01/97 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

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

Issue: Whether Plaintiff owes use tax on telecommunications equipment components shipped out-of-state by a vendor and manufactured into site base stations which are then shipped back into Texas.

Status: Answer filed.

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***V.H. Salas & Associates, Inc. v. Comptroller***

Cause Number: GN403975

AG Case #: 042071365

Filed: 12/6/2004

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$66,543.64	08/01/98 - 04/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Lopez, Diego A.                      The Law Offices of Diego A. Lopez / San Antonio

Issue: Whether Plaintiff owes sales tax on purchased equipment used in the manufacturing of wood and metal products. Whether Plaintiff owes sales tax on electricity used to operate the equipment. Whether Plaintiff was denied due process of law and the right to equal protection of the law. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Discovery in progress.

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***Verizon North, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001295    AG Case #: 062309349

Filed: 4/13/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$1,116,225.00	06/01/96 - 02/29/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug

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

Issue: Whether purchases of software licenses qualify as tangible personal property. Whether some portion of the software license not stored, used or consumed in or during the manufacturing, processing, or fabrication of tangible personal property for ultimate sale is exempt from sales tax.

Status: Plaintiff filed a motion for summary judgment.

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***Watson Sysco Food Services, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002879 AG Case #: 062397849

Filed: 8/10/2006

Sales Tax; Protest

Claim Amount	Reporting Period
\$63,720.38	04/01/01 - 07/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Hagenswold, R. Eric  
Osterloh, Curtis J.

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

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

Status: Discovery in progress.

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***West Texas Pizza, Limited Partnership v. Sharp, et al.***

Cause Number: 96-11751

AG Case #: 96611633

Filed: 9/27/1996

Sales Tax; Protest

Claim Amount	Reporting Period
\$35,247.00	06/01/88 - 06/30/92

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Rothfelder, Richard L.      Rothfelder & Falick, L.L.P. / Houston  
Magee, Milissa M.

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.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: GN304767      AG Case #: 041904608      Filed: 12/18/2003

Sales Tax; Refund

Claim Amount	Reporting Period
\$415,185.61	10/01/93 - 12/31/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cunningham, Judy M.      Attorney at Law / Austin

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

Status: Discovery in progress.

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***White Swan, Inc. v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002987      AG Case #: 062398086      Filed: 8/17/2006

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$219,297.54	01/01/98 - 12/31/00

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Cunningham, Judy M.      Attorney at Law / Austin

Issue: Whether the purchase of electricity used to lower the temperature of food products is exempt under Tax Code Sections 151.317 and 151.318. Whether the process causes a physical change to the products. Whether the purchases of packing supplies and repairs to and replacement parts of processing are exempt from sales tax. Whether the decision of the Comptroller violated the rules of statutory construction and long-standing Comptroller policy. Plaintiff also seeks attorneys' fees.

Status: Discovery in progress.

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***Williams, Duane Everett v. Comptroller***

Cause Number: GN304667

AG Case #: 031899222

Filed: 12/10/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$50,000.00      2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Cooper, Michael R.

Attorney at Law / Salado

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

Status: Answer filed.

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***World Fitness Centers, Inc. v. Rylander, et al.***

Cause Number: GN201795

AG Case #: 021626239

Filed: 5/30/2002

Sales Tax; Refund

Claim Amount      Reporting Period

\$273,005.56      09/01/94 - 05/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.

OAG Taxation / Austin

*Opposing Counsel*

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Bonilla, Ray

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

Issue: Whether Plaintiff owes sales tax on the discount and reserve amounts of its factored

contracts when Plaintiff is a cash-basis taxpayer.

Status: Answer filed.

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***Wyndham International Operating Partnership, LP v. Strayhorn, et al.***

Cause Number: D-1-GN-06-004260 AG Case #: 062425574

Filed: 11/9/2006

Sales Tax; Refund

Claim Amount	Reporting Period
\$31,283.31	01/01/99 - 09/30/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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

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

Status: Answer filed.

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***Zale Delaware, Inc. v. Rylander, et al.***

Cause Number: GN202030

AG Case #: 021640669

Filed: 6/24/2002

Sales Tax; Refund

Claim Amount	Reporting Period
\$333,602.57	08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H. OAG Taxation / Austin

*Opposing Counsel*

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

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: Plaintiff to provide documents to resolve dispute.

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***Zale Delaware, Inc. v. Strayhorn, et al.***

Cause Number: GN301725

AG Case #: 031806045

Filed: 5/27/2003

Sales Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$1,170,404.64	08/01/92 - 02/28/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

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: Plaintiff to provide documents to resolve dispute.

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***Zimmerman Sign Company v. Strayhorn, et al.***

Cause Number: GN500612

AG Case #: 052113065

Filed: 2/28/2005

Sales Tax; Refund

Claim Amount	Reporting Period
\$105,046.66	01/01/95 - 04/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether certain equipment, machinery, parts, supplies and consumables purchased to

manufacture exterior signs are exempt from sales tax under the manufacturing exemption.  
Whether or not Plaintiff is a “contractor” to qualify for the manufacturing exemption.

Status: Discovery in progress.

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## Insurance Tax

***Allstate County Mutual Insurance Company; Allstate Insurance Company;  
Allstate Indemnity Company; Allstate Texas Lloyds; and Allstate Property and  
Casualty Insurance Company v. Strayhorn, et al.***

Cause Number: GN300968

AG Case #: 031778947

Filed: 3/26/2003

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$174,386.15	1995 - 1998
\$10,529.48	1995 - 1998
\$4,013.24	1995 - 1998
\$11,858.40	1995 - 1998
\$7,306.09	1995 - 1998
\$208,093.27	Total of All Above

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.                      Jackson Walker, L.L.P. / Austin  
Moore, Steven D.

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

Status: Discovery in progress.

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***American Fidelity Assurance Company v. Strayhorn, et al.***

Cause Number: GN302070

AG Case #: 031816564

Filed: 6/12/2003

Insurance Premium Tax; Refund

Claim Amount	Reporting Period
\$241,625.20	1992

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Jones, Michael W.      Thompson, Coe, Cousins & Irons / Austin  
Lee, Kevin F.

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: Plaintiff's settlement offer accepted. Awaiting Plaintiff's review of compromise and settlement agreement.

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***American International Specialty Lines Insurance Company v. Rylander, et al.***

Cause Number: GN002666      AG Case #: 001351998      Filed: 9/8/2000

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$362,975.97	1995

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene      OAG Taxation / Austin

*Opposing Counsel*

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Hollingsworth, Cynthia      Gardere Wynne & Sewell / Dallas  
Frisbie, Jr., Curtis L.  
Gordon, Randy D.  
Joyner, Samuel E.

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: Case consolidated into Lexington Insurance Company and Landmark Insurance Company v. Rylander, et al., Cause #GN100569.

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***AXA Equitable Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501095      AG Case #: 052135712      Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$57,166.00	2004

\$28,583.00 2005  
\$849.00 2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B. Jackson Walker, L.L.P. / Austin  
Small, Edward C.  
Moore, Steven D.  
Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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***Fireman's Fund Insurance Company of Ohio v. Rylander, et al.***

Cause Number: GN101899

AG Case #: 011464476

Filed: 6/20/2001

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount Reporting Period

\$439,074.12 1992 - 1998

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene OAG Taxation / Austin

*Opposing Counsel*

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Alexander, Ricky Cantey & Hanger / Austin  
Ramsey, Jennifer

Issue: Whether Plaintiff, an authorized surplus lines insurer, is liable for unauthorized insurance premiums tax. Whether the Comptroller lacks authority to determine that Plaintiff is an unauthorized insurer, and whether the Texas Department of Insurance is required to make that determination. Whether the Comptroller engaged in selective and improper enforcement. Whether the assessment violates Due Process and the McCarran-Ferguson Act. Alternatively, whether penalty should be waived. Plaintiff also seeks injunctive relief and attorneys' fees.

Status: Case was to be dismissed by court unless retained. Plaintiff filed unopposed motion to

retain; granted. Inactive until Lexington Insurance is decided. Trial set 08/13/07.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN301692

AG Case #: 031806011

Filed: 5/23/2003

#03-04-00342-CV

#05-0541

Retaliatory Tax; Protest & Declaratory Judgment

Claim Amount      Reporting Period

\$1,432,580.76      1998 - 2002

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.      Sneed, Vine & Perry / Austin

Zim, Matthew J.      Steptoe & Johnson, L.L.P. / Washington, DC

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

Status: State's Motion for Summary Judgment granted 05/18/04; Plaintiff's denied. Notice of Appeal filed 06/17/04. Motion to consolidate cases granted 07/29/04 (Old Republic National Title Insurance Co. v. Strayhorn, et al., Cause #GN401630). Appellants' brief filed 08/30/04. Appellees' brief filed 10/26/04. Appellants' reply brief filed 11/15/04. Submitted on Oral Argument 01/19/05. Appellees' supplemental brief filed 02/01/05. Appellants' supplemental brief filed 02/15/05. Opinion issued 06/03/05 affirming trial court's judgment in favor of Comptroller. Petition for Review filed in the Tx. Supreme Court 07/14/05. Respondent filed Waiver to Respond 07/28/05. Case forwarded to Court 08/02/05. Court requested response 08/29/05; response filed 09/28/05. Petitioner's reply filed 10/13/05. Briefing on the merits requested 12/19/05. Petitioners' brief filed 02/17/06. Respondents' brief filed 03/09/06. Petitioners' reply brief filed 03/24/06. Amicus Curiae brief received by Court 04/11/06. Petition for Review denied 09/01/06. Motion for Rehearing filed 10/16/06. Amicus Curiae brief received by Court 10/16/06. Response to Motion for Rehearing filed by Respondent 12/08/06. Petitioner's reply filed 12/22/06.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN401631

AG Case #: 041976440

Filed: 5/21/2004

Retaliatory Tax; Protest

Claim Amount      Reporting Period  
\$1,490,029.00      2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.      Sneed, Vine & Perry / Austin

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

Status: Answer filed.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN501795

AG Case #: 052153855

Filed: 5/17/2005

Retaliatory Tax; Protest

Claim Amount      Reporting Period  
\$2,140,952.88      2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.      Sneed, Vine & Perry / Austin

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

Status: Answer filed.

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***First American Title Insurance Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001853

AG Case #: 062359823

Filed: 5/24/2006

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$1,020,476.26	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.	OAG Taxation / Austin
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*Opposing Counsel*

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Eudy, Ron K.	Sneed, Vine & Perry / Austin
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Issue: Whether the Comptroller properly used “split” premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller’s interpretation of the title insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller’s policy change violated Due Process and the APA.

Status: Answer filed.

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***Lexington Insurance Company, Landmark Insurance Company v. Rylander, et al.***

Cause Number: GN100569

AG Case #: 011417896

Filed: 2/22/2001

#03-03-00169-CV

#04-0429

Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$1,596,196.63	1992 - 1995
\$36,174.92	1992 - 1995

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene	OAG Taxation / Austin
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*Opposing Counsel*

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Hollingsworth, Cynthia	Gardere Wynne & Sewell / Dallas
Frisbie, Jr., Curtis L.	
Martin, Jeremy	

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 hearing 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 to Petition for Review filed by Respondent 08/26/04. Petitioner's Reply filed 09/17/04. Court requested briefs on the merits. Petitioners' brief filed 11/18/04. Respondents' brief filed 01/07/05. Amicus Curiae posted 01/18/05. Petitioner's reply brief on the merits filed 01/27/05. Court requested reply from Respondents; reply brief filed 03/17/05. Lexington filed a motion on 03/23/05 to strike and/or seal the Amicus Brief of Varco Int'l. Response filed 04/13/05 at the Court's request. Petition granted 05/27/05. Motion to Strike Amicus Brief denied and Motion to Seal granted 05/27/05. Submitted on Oral Argument 09/28/05. Amicus Curiae posted 10/18/05 and 10/21/05. Opinion issued 12/01/06 affirming Court of Appeal's judgment. Case remanded to trial court. Plaintiff's motion for rehearing due 12/18/06.

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***Metropolitan Life Insurance Company, et al. v. A.W. Pogue, et al.***

Cause Number: 484,745

AG Case #: 90304512

Filed: 5/24/1990

#03-06-00446-CV

Gross Premium Tax; Protest

Claim Amount      Reporting Period

\$10,817,043.00      1989 - 2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Moore, Steven D.

Harrison, Breck

Rogers, Tom

Issue: Whether insurance taxes are owed by insurance companies on dividends applied to paid-up additions and renewal premiums.

Status: Ninth Amended Petition filed. Settlement discussed, and partial settlement agreed to. Final Judgment entered on paid-up additions issue. Renewal premium issue severed and retained on docket. Plaintiffs made settlement offer on remainder of case. Motion for Summary Judgment hearing held 02/14/06. Judgment granted for Plaintiffs 06/29/06. State filed Notice of Appeal 07/26/06; docketing statement filed 08/01/06. Clerk's Record filed 08/24/06.

Appellants' brief filed 09/25/06. Appellees' brief filed 10/25/06. Appellants' reply brief filed 11/14/06. Oral Argument set 02/14/07.

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***Metropolitan Life Insurance Company, et al. v. A. W. Pogue, et al.***

Cause Number: 484,796

AG Case #: 90304503

Filed: 5/23/1990

Maintenance Tax; Protest

Claim Amount	Reporting Period
\$1,616,497.00	1989 - 1991

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.

Jackson Walker, L.L.P. / 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 from other Plaintiffs.

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***New York Life Insurance Company v. Strayhorn, et al.***

Cause Number: GN501094

AG Case #: 052130697

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$105,822.00	2004
\$52,911.00	2005
\$1,572.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.

Jackson Walker, L.L.P. / Austin

Small, Edward C.

Moore, Steven D.

Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN401630

AG Case #: 041976416

Filed: 5/21/2004

Retaliatory Tax; Refund

Claim Amount	Reporting Period
\$289,403.85	2003

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.      Sneed, Vine & Perry / Austin

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

Status: Answer filed.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN501794

AG Case #: 052151883

Filed: 5/17/2005

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$234,970.95	2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.      Sneed, Vine & Perry / Austin

Issue: Whether the Comptroller properly used "split" premiums in calculating the retaliatory tax of a foreign title insurance company. Whether the Comptroller's interpretation of the title

insurance tax statutes violates the Equal Protection Clause. Whether the Comptroller's policy change violated Due Process and the APA.

Status: Answer filed.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN503918

AG Case #: 052240827

Filed: 10/28/2005

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$247,928.29	01/01/01 - 12/31/04

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.      Sneed, Vine & Perry / Austin

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

Status: Answer filed.

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***Old Republic National Title Insurance Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-001854

AG Case #: 062359823

Filed: 5/24/2006

Retaliatory Tax; Protest

Claim Amount	Reporting Period
\$255,144.50	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.      Sneed, Vine & Perry / Austin

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

change violated Due Process and the APA.

Status: Answer filed.

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***Old Republic Title Insurance Company v. Strayhorn, et al.***

Cause Number: GN301693

AG Case #: 031806029

Filed: 5/23/2003

#03-04-00347-CV

Retaliatory Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
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\$219,626.40	2002
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Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.

OAG Taxation / Austin

*Opposing Counsel*

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Eudy, Ron K.

Sneed, Vine & Perry / Austin

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

Status: The State’s Motion for Summary Judgment granted 05/17/04 and Plaintiff’s Motion denied. Notice of Appeal filed 06/17/04; dismissed 07/29/04 due to Motion for Consolidation. Case consolidated into First American Title Insurance Co. v. Strayhorn, et al., Cause #GN301692, #03-04-00342-CV.

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***Prudential Insurance Company, The v. Strayhorn, et al.***

Cause Number: GN501093

AG Case #: 052137189

Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
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\$230,578.00	2004
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\$115,289.00	2005
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\$3,426.00	2004 (Maintenance Tax)
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Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Werkenthin, Fred B.                      Jackson Walker, L.L.P. / Austin  
Small, Edward C.  
Moore, Steven D.  
Fitzgerald, Pat

Issue: Whether dividends retained and applied to reduce premiums be included in gross premiums subject to tax under Article 4.11 and Article 4.17. Plaintiff also seeks attorneys' fees.

Status: Stayed by agreement pending final decision in Metropolitan Life Insurance Co., et al. v. A.W. Pogue, et al., Cause No. 484,745.

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***St. Paul Surplus Lines Company v. Rylander, et al.***

Cause Number: GN102788                      AG Case #: 011490877                      Filed: 8/24/2001  
Insurance Premium Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$163,021.27	01/01/95 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene                      OAG Taxation / Austin

*Opposing Counsel*

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Jones, Michael W.                      Thompson, Coe, Cousins & Irons / Austin  
Lee, Kevin F.  
Geiger, Richard S.                      Thompson, Coe, Cousins & Irons / Dallas

Issue: Whether Plaintiff, an eligible surplus lines insurer, is liable for unauthorized insurance tax. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: To be determined by Lexington Insurance Co., Landmark Insurance Co., et al. v. Strayhorn, et al. Dismissal notice has been received from the court.

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***STP Nuclear Operating Company v. Strayhorn, et al.***

Cause Number: GN302053                      AG Case #: 031808371                      Filed: 6/11/2003  
#03-06-00428-CV

Insurance Premium Tax; Protest

Claim Amount	Reporting Period
\$115,287.80	2002
\$125,848.14	2003



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***STP Nuclear Operating Company v. Strayhorn, et al.***

Cause Number: GN503375

AG Case #: 052214509

Filed: 9/19/2005

Insurance Premium Tax; Refund

Claim Amount      Reporting Period

\$529,071.60      1998 - 2001

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

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

Status: Inactive. Pending resolution of companion STP case.

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***STP Nuclear Operating Company v. Strayhorn, et al.***

Cause Number: D-1-GN-06-002569

AG Case #: 062382932

Filed: 7/14/2006

Insurance Premium Tax; Protest

Claim Amount      Reporting Period

\$166,950.77      2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Newton, Howard P.

Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

Figueroa, Rodrigo J.

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

operation of nuclear plants.

Status: Answer filed.

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***Warranty Underwriters Insurance Company v. Rylander, et al.***

Cause Number: 99-12271

AG Case #: 991226739

Filed: 10/20/1999

Insurance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$416,462.73	1993 - 1997
\$214,893.74	1993 - 1997

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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White, Raymond E.

Akin, Gump, Strauss, Hauer & Feld / Austin

Micciche, Daniel

Issue: Whether the Comptroller improperly included amounts not received by Plaintiff in Plaintiff's gross premiums tax base. Whether any maintenance tax is payable on Plaintiff's business of home warranty insurance. Whether the Comptroller is bound by the prior actions and determinations of the Texas Department of Insurance. Whether the assessments of tax violate due process and equal taxation. Whether penalty and interest should have been waived.

Status: Discovery in progress. Trial set 04/23/07. Settlement offer pending.

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## Other Taxes

***Arnold, Jessamine J., Estate of, Deceased, and Jim Arnold, Jr., Independent Executor v. Rylander, et al.***

Cause Number: GN203255

AG Case #: 021670484

Filed: 9/9/2002

Inheritance Tax; Protest

Claim Amount      Reporting Period

\$161,956.00      N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Martens, James F.

Martens & Associates / Austin

Mondrik, Christina A.

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

Status: Answer filed.

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***Beadles, Joe Haven v. Strayhorn***

Cause Number: D-1-GN-06-002682

AG Case #: 062385901

Filed: 7/24/2006

Diesel Fuel Tax; Refund & Declaratory Judgment

Claim Amount      Reporting Period

\$697,793.00      N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Storie, Gene

OAG Taxation / Austin

*Opposing Counsel*

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Pro Se

Issue: Plaintiff claims that the State issued a diesel fuel bonded suppliers' permit to Plaintiff without Plaintiff's knowledge, allowing diesel fuel taxes to be assessed against Plaintiff. Plaintiff claims he never purchased or sold diesel fuel. Plaintiff claims the State previously

collected the taxes in question from subsidiaries who sold diesel fuel through truck stops. Plaintiff claims these subsidiaries bought the diesel fuel from an oil company which the State, through an “agreement with the oil company,” exempted from paying taxes. Plaintiff requests that all diesel fuel taxes assessed be dismissed.

Status: Answer filed.

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***Bryan ISD v. Strayhorn***

Cause Number: D-1-GV-06-001442 AG Case #: 062389937

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Categories A and B property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A, B and L1 property. Whether the Comptroller’s order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Answer filed.

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***CarMax Auto Superstores, Inc. v. Strayhorn, et al.***

Cause Number: GN400433 AG Case #: 041921990

Filed: 2/12/2004

Motor Vehicle Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$0.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Reenan, Lara L. Henry Oddo Austin & Fletcher / 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.

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***ConocoPhillips Company v. Strayhorn, et al.***

Cause Number: GN403149

AG Case #: 042035626

Filed: 9/22/2004

Gas Production Tax; Refund

Claim Amount	Reporting Period
\$539,224.78	01/01/95 - 11/30/97

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Nielson, Jamie                      Attorney at Law / Austin

Issue: Whether Plaintiff's refund claim fell within the statute of limitations deadline once the high-cost gas exemption or reduction was applied. Whether the high-cost gas refund claim involves the same type of tax as the marketing cost deduction claim which was the basis for the Section 111.207(d) tolling.

Status: Case in final settlement.

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***Culberson County-Allamoore ISD v. Strayhorn***

Cause Number: D-1-GV-06-001443    AG Case #: 062390018

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Categories A, C and D3 property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A, C and D3 property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Discovery in progress.

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***Cypress-Fairbanks ISD, et al. v. Troy G. Rountree, et al.***

Cause Number: 2004-54335

AG Case #: 042056796

Filed: 9/30/2004

Property Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$0.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Spears, Walter E.                      Bartley & Spears, P.C. / Houston  
Hamilton, Stephen K.  
McLaurin, IV, Neil H.

Issue: Whether Tax Code §32.05(c), which subordinates the liens of property owners' associations, is unconstitutional.

Status: Answer filed.

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***Daingerfield-Lone Star ISD v. Strayhorn***

Cause Number: D-1-GV-06-001444    AG Case #: 062390034

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Categories A and F1 property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A and F1 property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Answer filed.

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***El Paso Natural Gas Company v. Sharp***

Cause Number: 91-6309

AG Case #: 9178237

Filed: 5/6/1991

Gas Production Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$3,054,480.60	01/01/87 - 12/31/87

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Comptroller should have granted Plaintiff a hearing on penalty waiver and related issues.

Status: State's Plea in Abatement granted pending outcome of administrative hearing on audit liability. Negotiations pending.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN501395

AG Case #: 052141975

Filed: 4/25/2005

Gas Production Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$10,517.30	01/01/87 - 12/31/87
	01/01/88 - 12/31/88

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for tax on gas purchases as a producer or exempt as a purchaser. Whether Plaintiff is

exempt from paying severance taxes as an interstate natural gas pipeline company. Plaintiff claims violation of the Due Process, Commerce, and Supremacy Clauses, and equal and uniform taxation. Plaintiff requests that the assessed penalty and interest be waived, and seeks attorneys' fees.

Status: Discovery in progress. Settlement negotiations in progress.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN502628

AG Case #: 052186640

Filed: 7/28/2005

Gas Production Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
\$41,492.78	01/01/87 - 12/31/87
\$31,595.18	01/01/87 - 12/31/87 (penalty)
\$87,955.50	01/01/87 - 12/31/87 (interest)
\$25,231.65	01/01/88 - 12/31/88
\$44,138.50	01/01/88 - 12/31/88 (interest)

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.

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

Langenberg, Ray

Sigel, Doug

Dashiell, Doug

Issue: Whether Order 94 payments are exempt from tax. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether imposition of the gas production tax on Plaintiff violates the Commerce Clause and Supremacy Clause. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States. Plaintiff also claims violation of equal and uniform taxation. Plaintiff seeks attorneys' fees, and waiver of penalties and interest assessed.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause #GN501395.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN502815

AG Case #: 052195583

Filed: 8/10/2005

Gas Production Tax; Protest

Claim Amount	Reporting Period
\$2,217,939.19	12/01/82 - 12/31/86
	01/01/89 - 12/31/90

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray

Sigel, Doug

Dashiell, Doug

Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims that taxes assessed by the defendant is "double-dipping," and time limitations bar the assessments. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States, and violation of the Commerce Clause and Supremacy Clause. Plaintiff also claims violation of equal and uniform taxation. Plaintiff seeks attorneys' fees and waiver of interest assessed. Plaintiff also requests disclosure of certain information and material.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause #GN501395.

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***El Paso Natural Gas Company v. Strayhorn, et al.***

Cause Number: GN503965

AG Case #: 052243847

Filed: 11/2/2005

Gas Production Tax; Refund

Claim Amount	Reporting Period
\$1,814,098.80	12/01/82 - 12/31/86
\$1,958,296.59	12/01/82 - 12/31/86 (interest)
\$32,615.00	01/01/89 - 12/31/90
\$37,401.27	01/01/89 - 12/31/90 (interest)

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Eidman, Mark W.  
Langenberg, Ray  
Sigel, Doug  
Dashiell, Doug

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

Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether imposition of the gas production tax on Plaintiff violates the Commerce Clause and Supremacy Clause. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims violation of equal and uniform taxation. Plaintiff claims that taxes assessed by the defendant is "double-dipping," and time limitations bar the assessments. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States. Plaintiff seeks attorneys' fees and waiver of interest assessed.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause #GN501395.

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***Evercom Systems, Inc. v. Strayhorn, et al.***

Cause Number: GN503910

AG Case #: 052240835

Filed: 10/27/2005

#03-06-00481-CV

PUC Gross Receipts Tax; Protest

Claim Amount	Reporting Period
\$45,827.59	04/01/97 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.

OAG Taxation / Austin

*Opposing Counsel*

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Taylor, Andrew M.

Bracewell & Patterson / Austin

Storm, Eric B.

Issue: Plaintiff requests review of administrative hearing decision. Whether Plaintiff is a public utility or dominant carrier under PURA definitions. Whether the Gross Receipts Assessment can be applied against Plaintiff.

Status: Plaintiff's motion for summary judgment filed 03/02/06; hearing held 05/03/06. Plaintiff's motion granted in part; defendants' motion granted in part. State's Notice of Appeal filed 08/11/06. Cross-Appellant's Notice of Appeal filed 08/22/06. Clerk's Record filed 08/30/06. Appellants' brief filed 10/31/06; Oral Argument requested. Cross-Appellants' brief

filed 10/31/06; Oral Argument requested. Comptroller's/Appellee's brief filed 12/08/06; Oral Argument requested. Cross-Appellee's brief filed 12/08/06; Oral Argument requested. Letter received from Appellant 12/27/06.

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***Fort Worth's PR's, Inc. v. Rylander, et al.***

Cause Number: GN200711

AG Case #: 021573480

Filed: 3/4/2002

Mixed Beverage Gross Receipts Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$36,177.36	03/01/99 - 06/30/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Gamboa, John L.                      Gamboa & White / 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: Plea to the Jurisdiction and Motion for Summary Judgment withdrawn. Settlement negotiations being discussed.

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***Lake Austin Spa Investors, Ltd. v. Rylander, et al.***

Cause Number: GN203899

AG Case #: 021703913

Filed: 10/28/2002

Hotel Occupancy Tax; Protest, Injunction & Declaratory Judgment

Claim Amount	Reporting Period
\$193,629.45	03/01/97 - 11/30/00
\$59,232.72	12/01/00 - 03/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Manning, Kirk R.                      Cantey & Hanger / Austin

Phillips, Stephen L.

Lane, Julie K.

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. Settlement negotiations in progress.

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***Mabank ISD v. Comptroller***

Cause Number: GV503360                      AG Case #: 052185741                      Filed: 7/19/2005

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Swinney, Kirk                      McCreary, Veselka, Bragg & Allen, P.C. / Austin  
Armstrong, Roy L.

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties and whether the Comptroller failed to properly account for the inflationary trend.

Status: Passed trial date and suspended discovery by agreement.

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***Malakoff ISD v. Comptroller***

Cause Number: GV503359                      AG Case #: 052185758                      Filed: 7/19/2005

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2004

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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Swinney, Kirk                      McCreary, Veselka, Bragg & Allen, P.C. / Austin  
Armstrong, Roy L.

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties and whether the Comptroller failed to properly account for the inflationary trend.

Status: Passed trial date and suspended discovery by agreement.

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***MFC Finance Company of Texas v. Rylander, et al.***

Cause Number: GN002653

AG Case #: 001352632

Filed: 9/7/2000

#03-06-00328-CV

Motor Vehicle Sales Tax; Refund

Claim Amount	Reporting Period
\$5,533,079.80	01/01/96 - 12/31/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B.                      OAG Taxation / Austin

*Opposing Counsel*

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

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 setting passed. Plaintiff filed Motion for Partial Summary Judgment 03/03/05. Summary Judgment hearing held 04/12/06. Comptroller's Motion for Summary Judgment granted in full; MFC's motion denied 04/28/06. Notice of Appeal filed in the 3COA 06/12/06. Clerk's Record filed 07/10/06. Appellant's brief filed 08/11/06. Letter filed by Appellee 09/07/06. Supplemental Clerk's Record filed 10/04/06. Appellees' brief filed 10/09/06. Appellant's reply brief filed 10/31/06. Submitted on Oral Argument 11/29/06.

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***Mineral Wells ISD v. Strayhorn***

Cause Number: D-1-GV-06-001445    AG Case #: 062389838

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Categories A and D3 property. Whether the Comptroller erred in its procedures and methods used to properly value Categories A and D3 property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Discovery in progress.

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***Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.***

Cause Number: 92-16485

AG Case #: 92190294

Filed: 12/3/1992

Alcoholic Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$0.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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Mattox, Jim                              Attorney at Law / Paris

Lasley, Lowell

Mosher, Michael D.

Issue: Whether the TABC and Comptroller were allowed to use inventory depletions analysis to determine amount of gross receipts tax owed. Plaintiffs seek class certification.

Status: Inactive.

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***Nextel of Texas, Inc. v. Strayhorn, et al.***

Cause Number: GN501852

AG Case #: 052154796

Filed: 5/23/2005

Telecommunications Infrastructure Fund (TIF) Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$2,113,301.35	01/01/99 - 12/31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

Langenberg, Ray  
Sigel, Doug

Issue: Whether receipts for equipment sold to customers and listed separately on invoices are subject to an additional TIF assessment as taxable telecommunications receipts. Whether TIF charges which Plaintiff passed on and collected from its customers are allowable reimbursements as TIF assessment. Plaintiff also seeks attorneys' fees.

Status: Answer filed.

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***Nix Family Limited Partnership, a Texas Limited Partnership v. TWC and Texas CPA***

Cause Number: 2006-1952-1

AG Case #: 062380381

Filed: 5/17/2006

Property Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$871.20	(CPA)
\$14,915.32	(TWC)

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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Fontaine, Stephen R.                      Stephen R. Fontaine, P.C. / Waco

Issue: Whether lien attaches to homestead property and can encumber property held by subsequent owner.

Status: Answer filed.

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***Phenomenom v. Strayhorn, et al.***

Cause Number: D-1-GN-06-000658      AG Case #: 062295472

Filed: 2/23/2006

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$85,000.00	10/01/99 - 04/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                              OAG Taxation / Austin

*Opposing Counsel*

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Hopkins, Mark D.

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

Issue: Whether the sampling procedure used by the Comptroller was flawed, causing an incorrect tax assessment. Plaintiff claims Tax Code §112.108 is unconstitutional. Plaintiff seeks waiver of all penalty and interest, and seeks declaratory relief and attorneys' fees.

Status: Plaintiff's counsel informed of intent to withdraw.

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***Point Isabel ISD v. Texas Comptroller of Public Accounts***

Cause Number: D-1-GN-06-002641 AG Case #: 062384979

Filed: 7/21/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K. OAG Taxation / Austin

*Opposing Counsel*

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Hargrove, Judith A. Hargrove & Evans / Austin  
Evans, Jr., James R.

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

Status: Answer filed.

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***Preston Motors by George L. Preston, Owner v. Sharp, et al.***

Cause Number: 91-11987

AG Case #: 91133170

Filed: 8/26/1991

Motor Vehicle Tax; Protest

Claim Amount	Reporting Period
\$21,796.00	12/01/86 - 09/30/89

Counsel Associated With This Case:

*Assistant Attorney General*

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Cloudt, Jim B. OAG Taxation / Austin

*Opposing Counsel*

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Pro Se

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

Status: Inactive.

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***Ranger Fuels & Maintenance, L.L.C. v. Rylander, et al.***

Cause Number: GN204124

AG Case #: 021705900

Filed: 11/14/2002

Fuels Tax; Declaratory Judgment & Injunction

Claim Amount      Reporting Period

\$115,000.00      N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Grissom, Donald H.

Grissom & Thompson / Austin

Issue: Whether fuels tax is actually owed by an unrelated company. Whether the Comptroller abused its discretion and violated Plaintiff's constitutional rights. Plaintiff seeks injunctive and declaratory relief.

Status: Inactive.

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***Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.***

Cause Number: GN504104

AG Case #: 052245941

Filed: 11/15/2005

Fuels Tax; Refund

Claim Amount      Reporting Period

\$208,428.70      05/01/02 - 05/31/02 (Diesel)

01/01/02 - 04/30/02 (Gasoline)

03/01/02 - 04/30/02 (Diesel)

05/01/02 - 05/31/02 (Gasoline)

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.

OAG Taxation / Austin

*Opposing Counsel*

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Grissom, Donald H.

Grissom & Thompson / Austin

Thompson, III, William W.

Issue: Whether Plaintiff acquired a business and its assets by filing a sales tax application with the Comptroller. Whether such acquisition was a fraudulent transfer. Whether Plaintiff owes fuel taxes under successor liability.

Status: Discovery in progress. Jury trial set 04/23/07.

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***San Felipe-Del Rio CISD v. Strayhorn***

Cause Number: D-1-GV-06-001446 AG Case #: 062390042

Filed: 8/3/2006

Property Tax; Administrative Appeal

Claim Amount	Reporting Period
\$0.00	2005

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties in Category A property. Whether the Comptroller erred in its procedures and methods used to properly value Category A property. Whether the Comptroller's order on the value study is arbitrary and unreasonable and supported by substantial evidence.

Status: Answer filed.

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***Stuart, Robert T. Jr., Estate of v. Strayhorn, et al.***

Cause Number: GN503318

AG Case #: 052216702

Filed: 9/14/2005

Inheritance Tax; Protest

Claim Amount	Reporting Period
\$1,293,469.96	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Unassigned

*Opposing Counsel*

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Wheat, David Thompson & Knight, L.L.P. / Dallas

Hill, Frank Thompson & Knight, L.L.P. / Austin

Issue: Whether Plaintiff's partnership interest located out-of-state is intangible personal

property taxable in Texas. Plaintiff claims double taxation.

Status: Discovery in progress.

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***Texaco Exploration & Production, Inc.***

Cause Number: GN400440

AG Case #: 041925843

Filed: 2/13/2004

Gas Production Tax; Refund

Claim Amount	Reporting Period
\$456,608.80	01/01/97 - 05/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

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: Plaintiff filed a Motion for Summary Judgment 02/02/05.

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***Texas RSA 15B2 Limited Partnership v. Strayhorn, et al.***

Cause Number: GN403954

AG Case #: 042073783

Filed: 12/3/2004

Telecommunications Infrastructure Fund (TIF) Tax; Protest

Claim Amount	Reporting Period
\$293,223.67	02/01/99 - 10/31/02

Counsel Associated With This Case:

*Assistant Attorney General*

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Maloney, Natalie A.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether TIF charges which Plaintiff passed on and collected from its customers are

allowable reimbursements as TIF assessment. Whether Plaintiff is liable for “interest on the amount collected” or “accrued” interest on the amount collected.

Status: Discovery in progress. Settlement negotiations in progress.

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***That’s Entertainment - San Antonio, L.L.C. dba Park Place v. Strayhorn, et al.***

Cause Number: GN400781

AG Case #: 041937228

Filed: 3/9/2004

Mixed Beverage Gross Receipts Tax; Protest

Claim Amount	Reporting Period
\$211,145.65	05/01/96 - 09/30/98

Counsel Associated With This Case:

*Assistant Attorney General*

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Masters, Paul H.                      OAG Taxation / Austin

*Opposing Counsel*

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

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: Plaintiff to dismiss with prejudice.

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***TPI Petroleum, Inc. v. Strayhorn, et al.***

Cause Number: GN502629

AG Case #: 052186657

Filed: 7/28/2005

Fuels Tax; Refund

Claim Amount	Reporting Period
\$528,639.00	12/01/97 - 06/30/01

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.                      OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff is entitled to a refund of diesel fuel tax paid on diesel fuel lost by drive-offs, a refund of gasoline tax and diesel fuel tax based on bad debt deductions, and a credit for motor fuel tax paid on sales of reefer fuel.

Status: Discovery in progress.

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***Vinson Oil Distribution v. Strayhorn, et al.***

Cause Number: D-1-GN-06-003262 AG Case #: 062405956

Filed: 8/31/2006

Fuels Tax; Protest

Claim Amount	Reporting Period
\$40,711.92	(Diesel)
\$1,861.38	(Gasoline)
	12/01-31/01
	12/01-31/02
	12/01-31/03

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K. OAG Taxation / Austin

*Opposing Counsel*

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

Issue: Whether Plaintiff is entitled to a refund of gasoline tax and diesel fuel tax based on bad debt deductions resulting from proprietary card usage. Plaintiff claims violation of due process, equal protection and equal and uniform taxation.

Status: Answer filed.

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## Closed Cases

### ***JBI, Inc. v. Rylander, et al.***

Cause Number: GN203450

AG Case #: 021681218

Filed: 9/20/2002

Sales Tax; Protest

Claim Amount	Reporting Period
\$1,046,033.09	01/01/93 - 08/31/99

Counsel Associated With This Case:

*Assistant Attorney General*

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Monzingo, Christine J.      OAG Taxation / Austin

*Opposing Counsel*

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Benesh, W. Stephen      Bracewell & Patterson / Austin

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

Status: Case settled. Agreed Judgment signed 12/20/06.

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### ***Sanford, Gerald L. and Clara Krueger Sanford dba Gerald's Manufacturing, a Sole Proprietorship v. Strayhorn***

Cause Number: 2005-CI-10903

AG Case #: 052185733

Filed: 7/5/2005

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
\$0.00	N/A

Counsel Associated With This Case:

*Assistant Attorney General*

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Kinkade, Jana K.      OAG Taxation / Austin

*Opposing Counsel*

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Sagebiel, Dennis      Attorney at Law / Seguin

Issue: Plaintiff claims that the defendant established a tax account for Plaintiff's company without Plaintiff's knowledge or request. Plaintiff claims his business, which contracts for, installs and repairs residential roofs, is exempt from sales and use tax. Plaintiff requests declaratory relief and attorneys' fees.

Status: Non-suited 12/21/06.

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