Attorney General of Texas

Taxation Division

Comptroller of Public Accounts
Case List and Summary of Issues

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Table of Contents

Table of Cases xiii

Franchise Tax

7-Eleven, Inc. v. Strayhorn, et al. 1
7-Eleven, Inc. v. Strayhorn, et al. 1
7-Eleven, Inc. v. Strayhorn, et al. 2
Anadarko E&P Co., L.P. vs Combs, et al. 2
Anadarko Petroleum Corporation v. Combs, et al. 3
AROC (Texas), Inc. v. Combs, et al. 3
Brink's Home Security, Inc. v. Strayhorn, et al. 4
Central Telephone Company of Texas and United Telephone Company of Texas v. Rylander, et al. 4
Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al. 5
Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al. 6
DaimlerChrysler Services North American, L.L.C. 6
El Paso Corporation v. Strayhorn, et al. 7
Fairfield Industries, Inc. v. Strayhorn, et al. 7
First Company v. Rylander, et al. 8
Galland Henning Nopak, Inc. v. Strayhorn, et al. 8
Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al. 9
Kellwood Company, The v. Strayhorn, et al. 9
Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al. 10
Owens Corning v. Strayhorn, et al. 11
Southwestern Bell Telephone Company v. Rylander, et al. 11
Texaco Refining & Marketing (East), Inc. v. Combs, et al. 12
TGS-NOPEC Geophysical Company v. Strayhorn, et al. 12
Tyson Foods, Inc. v. Strayhorn, et al. 13
Tyson Fresh Meats, Inc. formerly known as IBP, Inc. v. Combs, et al. 14
Viacom International, Inc. v. Strayhorn, et al. 14
York International Corporation v. Strayhorn, et al. 15

Sales Tax

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

AccuTel of Texas, L.P. v. Rylander, et al. 18
Alcatel Network Systems, Inc. v. Strayhorn, et al. 18
Alcatel Network Systems, Inc. v. Strayhorn, et al. 19
Allegiance Telecom of Texas, Inc. v. Strayhorn, et al. 19
Alumax Mill Products, Inc. v. Combs, et al. 20
Amerada Hess Corporation v. Strayhorn, et al. 20
Anderson Merchandisers Holding, Inc. v. Strayhorn, et al. 21
Aramis Services, Inc. v. Rylander, et al. 21
Aramis Services, Inc. v. Sharp, et al. 22
Ardsey, Inc. dba Noche Caliente Nightclub v. Strayhorn, et al. 22
AT&T Corporation; Teleport Communications of Houston, Inc.; TCG of Dallas, Inc.; AT&T Network Procurement, L.P.; AT&T Communications of Texas, L.P.; and AT&T Communications of the Southwest, Inc. v. Strayhorn, et al. 23
Austin Engineering Co., Inc. v. Combs, et al. 24
Awad, Mike v. Strayhorn, et al. 24
Bell Bottom Foundation Company v. Rylander, et al. 25
Bell Helicopter Textron, Inc. v. Rylander, et al. 25
Bell Helicopter Textron, Inc. v. Strayhorn, et al. 26
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al. 26
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al. 27
Boeing North America, Inc. v. Rylander, et al. 27
Boeing North America, Inc. v. Strayhorn, et al. 28
Bonart, Richard C., DVM v. Strayhorn, et al. 28
Broadwing Corporation v. Strayhorn, et al. 29
Burns, Kevin D. v. Strayhorn, et al. 29
C & T Stone Company v. Rylander, et al. 30
Cashiola, James v. Strayhorn, et al. 30
CEC Entertainment, Inc. v. Strayhorn, et al. 31
Cellular City Ltd. v. Strayhorn, et al. 31
Centreport Partners, L.P. v. Combs, et al. 32
Chapal Zenray, Inc. v. Rylander, et al. 32
Chevron USA, Inc. v. Combs, et al. 33
Chevron USA, Inc. v. Strayhorn, et al. 33
Church & Dwight Company, Inc. v. Rylander, et al. 34
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. 35

City of Webster and the Webster Economic Development Corporation v. Strayhorn 35
Clear Lake City Community Association, Inc. v. Strayhorn, et al. 36
Clinique Services, Inc. v. Rylander, et al. 36
Clinique Services, Inc. v. Sharp, et al. 37
Clinique Services, Inc. v. Strayhorn, et al. 38
Coca-Cola Company, The v. Strayhorn, et al. 38
Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al. 39
Cosmair, Inc. v. Strayhorn, et al. 39
Crown Central Petroleum Corporation v. Strayhorn, et al. 40
Day Cruises Maritime, L.L.C. v. Strayhorn, et al. 40
Day Cruises Maritime, L.L.C. v. Strayhorn, et al. 41
Delta Air Lines, Inc. v. Strayhorn, et al. 41
Design Masterpiece Landscaping, Inc. v. Strayhorn, et al. 42
Ebrahim, Suleiman S. v. Strayhorn, et al. 42
EFW, Inc. v. Rylander, et al. 43
EFW, Inc. v. Strayhorn, et al. 44
El Paso Merchant Energy-Petroleum Company v. Strayhorn, et al. 44
ELC Beauty, L.L.C., as a Successor-in-Interest to Estee Lauder Services, Inc. v. Strayhorn, et al. 45
ELC Beauty, L.L.C., as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al. 45
ELC Beauty, L.L.C., as Successor-in-Interest to Origins Services, Inc. v. Strayhorn, et al. 46
Embassy Equity Development Corporation, et al. v. Strayhorn, et al. 46
Estee Lauder Services, Inc. v. Rylander, et al. 47
Estee Lauder Services, Inc. v. Sharp, et al. 48
Estee Lauder Services, Inc. v. Sharp, et al. 48
Ethicon, Inc. v. Strayhorn, et al. 49
ExxonMobil Oil Corporation v. Combs, et al. 49
F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al. 50
General Dynamics Corporation v. Rylander, et al. 50
General Dynamics Corporation v. Rylander, et al. 51
Gift Box Corporation of America, Inc. v. Rylander, et al. 51
Golf Works, Inc. vs Susan Combs, Compt., et al. 52
Graybar Electric Company, Inc. v. Sharp, et al. 52
Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al. 53
GSC Enterprises, Inc. v. Strayhorn, et al. 53
GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al. 54

GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al. 54
GTE Southwest, Inc. v. Combs, et al. 55
GTE Southwest, Inc. v. Strayhorn, et al. 55
GTE Southwest, Inc. v. Strayhorn, et al. 56
GTE Southwest, Inc. v. Strayhorn, et al. 56
GTE Southwest, Inc. v. Strayhorn, et al. 57
GTE Southwest, Inc. v. Strayhorn, et al. 57
GTE Southwest, Inc. v. Strayhorn, et al. 58
Harsco Corp. vs Combs, et al. 58
Herndon Marine Products, Inc. v. Sharp, et al. 59
Home & Garden Party, Ltd. v. Strayhorn, et al. 59
Home Depot, USA, Inc. v. Strayhorn, et al. 60
Houston Wire & Cable Company v. Strayhorn, et al. 60
I-Ball Corp., dba The Gatsby Social Club v. Combs, et al. 61
J.C. Penney Company, Inc. v. Strayhorn, et al. 62
J.C. Penney Company, Inc. v. Strayhorn, et al. 62
Jerman Cookie Company v. Rylander, et al. 63
Kroger Company, The v. Strayhorn, et al. 63
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. 64
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al. 64
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al. 65
Laredo Pizza, Inc., and Samuel L. Alford, and L & H Pacific, L.L.C. v. Strayhorn, et al. 66
Lee Construction and Maintenance Company v. Rylander, et al. 66
Levy, Tara, et al. v. OfficeMax, Inc. and Best Buy Stores, L.P. 67
Liberty Vending Services, Inc. v. Strayhorn, et al. 67
Local Neon Company, Inc. v. Rylander, et al. 68
Lockheed Corporation v. Rylander, et al. 69
Lockheed Martin Corporation v. Rylander, et al. 69
Lockheed Martin Corporation v. Strayhorn, et al. 69
Lockheed Martin Corporation, as Successor to Lockheed Martin Vought Systems Corporation and Loral Vought Systems Corporation v. Rylander, et al. 70
Lockheed Martin Corporation, Successor to Lockheed Martin Vought Systems Corporation v. Rylander, et al. 70
Lockheed Martin Kelly Aviation Center, Inc. v. Strayhorn, et al. 71
Lone Star Steel Company v. Strayhorn, et al. 72

Macy's TX I, LP, Successor in Interest to the May Department Stores Company v. Strayhorn, et al. 72
Mars, Inc. v. Strayhorn, et al. 73
Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al. 73
Minyard Food Stores, Inc. vs Compt., et al. 74
Mitchell, Christia Parr v. Rylander, et al. 74
Northrop Grumman Systems Corporation (Successor to Northrop Grumman Corporation and Vought Aircraft Company) v. Rylander, et al. 75
Office Depot, Inc. et al. v. Combs, et al. 75
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. 76
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. 77
Olarnpunsagoon, Suchon v. Combs, et al. 77
Reynolds Metals Co. vs. Combs, et al. 78
Reynolds Metals Company v. Strayhorn, et al. 78
Roadway Express, Inc. v. Rylander, et al. 79
Roark Amusement & Vending, L.P. v. Strayhorn, et al. 79
Roark Amusement & Vending, L.P. v. Strayhorn, et al. 80
Rockwell Collins, Inc. v. Rylander, et al. 81
Rollins & Rollins Enterprises, Inc. , dba Country Kwik Stop v. Rylander, et al. 81
San Antonio Spurs, L.L.C. v. Strayhorn, et al. 81
SC Kiosks, Inc. v. Strayhorn, et al. 82
Sharper Image Corporation v. Rylander, et al. 83
Sharper Image Corporation v. Rylander, et al. 83
Southern Plastics, Inc. v. Strayhorn, et al. 84
Southern Union Company v. Strayhorn, et al. 84
Southwest Food Processing & Refrigerated Services, aka Southwest Refrigerated Warehousing Services v. Rylander, et al. 85
Southwestern Bell Telephone, L.P. v. Strayhorn, et al. 85
Southwestern Bell Yellow Pages, Inc. v. Strayhorn, et al. 86
Spacenet Services, Inc. v. Strayhorn, et al. 87
Stantrans Partners, L.P. v. Strayhorn, et al. 87
Stantrans Partners, L.P. v. Strayhorn, et al. 88
Steamatic of Austin, Inc., et al. v. Rylander, et al. 88
Sysco Food Services of Austin, Inc. v. Strayhorn, et al. 89

Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al. 89
Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al. 90
Target Corporation v. Strayhorn, et al. 90
TDI-Halter, Inc. v. Rylander, et al. 91
Texaco Grand Prix of Houston, L.L.C. v. Strayhorn, et al. 91
Texas Gulf, Inc. v. Bullock, et al. 92
The Kroger Company v. Combs, et al. 92
Tree of Life, Inc. v. Strayhorn, et al. 93
Tyler Holding Company, Inc. v. Strayhorn, et al. 93
United Scaffolding, Inc. v. Strayhorn, et al. 94
United Space Alliance, L.L.C. v. Strayhorn, et al. 95
United Space Alliance, L.L.C. v. Strayhorn, et al. 95
United Space Alliance, L.L.C. v. Strayhorn, et al. 96
Uretek U.S.A., Inc. v. Strayhorn, et al. 96
USCOC of Texahoma, Inc., Successor to USCOC of Corpus Christi, Inc. v. Strayhorn, et al. 97
V.H. Salas & Associates, Inc. v. Comptroller 97
Verizon Business Network Services, Inc. v. Compt. Et. Al. 98
Verizon North, Inc. v. Strayhorn, et al. 98
Wal-Mart Stores, Inc. vs Susan Combs, Compt., et al. 99
Watson Sysco Food Services, Inc. v. Strayhorn, et al. 99
West Texas Pizza, Limited Partnership v. Sharp, et al. 100
White Swan, Inc. v. Strayhorn, et al. 100
White Swan, Inc. v. Strayhorn, et al. 101
Williams, Duane Everett v. Comptroller 101
Wireless Now, L.P. v. Combs, et al. 102
World Fitness Centers, Inc. v. Rylander, et al. 102
Wyndham International Operating Partnership, LP v. Strayhorn, et al. 103
Zale Delaware, Inc. v. Rylander, et al. 103
Zale Delaware, Inc. v. Strayhorn, et al. 104
Zimmerman Sign Company v. Strayhorn, et al. 104

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. 107

AXA Equitable Life Insurance Company v. Strayhorn, et al. 107
Fireman's Fund Insurance Company of Ohio v. Rylander, et al. 108
First American Title Insurance Company v. Combs, et al. 109
First American Title Insurance Company v. Combs, et al. 110
First American Title Insurance Company v. Strayhorn, et al. 110
First American Title Insurance Company v. Strayhorn, et al. 111
First American Title Insurance Company v. Strayhorn, et al. 111
Metropolitan Life Insurance Company, et al. v. Combs, et al. 111
New York Life Insurance Company v. Strayhorn, et al. 112
Old Republic National Title Insurance Company v. Strayhorn, et al. 113
Old Republic National Title Insurance Company v. Strayhorn, et al. 113
Old Republic National Title Insurance Company v. Strayhorn, et al. 114
Old Republic National Title Insurance Company v. Strayhorn, et al. 114
Old Republic Title Insurance Company v. Combs, et al. 115
Old Republic Title Insurance Company v. Strayhorn, et al. 115
Prudential Insurance Company, The v. Strayhorn, et al. 116
STP Nuclear Operating Co. v. Combs 116
STP Nuclear Operating Company v. Combs, et al. 117
STP Nuclear Operating Company v. Strayhorn, et al. 118
STP Nuclear Operating Company v. Strayhorn, et al. 118
STP Nuclear Operating Company v. Strayhorn, et al. 119
Warranty Underwriters Insurance Company v. Rylander, et al. 119

Other Taxes

Apache Corp. vs Compt., et al. 121
Arnold, Jessamine J., Estate of, Deceased, and Jim Arnold, Jr., Independent Executor v. Rylander, et al. 121
Barney Holland Oil Co. vs Compt., et al. 122
Beadles, Joe Haven v. Strayhorn 122
Bryan ISD v. Strayhorn 123
CarMax Auto Superstores, Inc. v. Strayhorn, et al. 123
Charles Dawson, et al. vs. Comptroller, et al. 124
Charles Dawson, et al. vs. Comptroller, et al. 124
ConocoPhillips Company v. Strayhorn, et al. 124
Culberson County-Allamoore ISD v. Strayhorn 125
Cypress-Fairbanks ISD, et al. v. Troy G. Rountree, et al. 125
Daingerfield-Lone Star ISD v. Strayhorn 126

Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector 126
El Paso Natural Gas Company v. Sharp 127
El Paso Natural Gas Company v. Strayhorn, et al. 127
El Paso Natural Gas Company v. Strayhorn, et al. 128
El Paso Natural Gas Company v. Strayhorn, et al. 129
El Paso Natural Gas Company v. Strayhorn, et al. 130
Fort Worth's PR's, Inc. v. Rylander, et al. 130
Isis Partners, L.P., et al. vs. Combs, et al. 131
JP Morgan Chase Bank, N.A. v. Combs, et al. 131
Kendrick Oil Company v. Combs, et al. 132
Lake Austin Spa Investors, Ltd. v. Rylander, et al. 132
Mabank ISD v. Comptroller 133
Malakoff ISD v. Comptroller 133
MFC Finance Company of Texas v. Combs, et al. 134
Mineral Wells ISD v. Strayhorn 134
Mirage Real Estate, Inc., et al. v. Richard Durbin, et al. 135
Nextel of Texas, Inc. v. Strayhorn, et al. 135
Phenomenom v. Strayhorn, et al. 136
Point Isabel ISD v. Texas Comptroller of Public Accounts 136
Preston Motors by George L. Preston, Owner v. Sharp, et al. 137
Ranger Fuels & Maintenance, L.L.C. v. Rylander, et al. 137
Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al. 138
San Felipe-Del Rio CISD v. Strayhorn 138
Stuart, Robert T. Jr., Estate of v. Strayhorn, et al. 139
Texaco Exploration & Production, Inc. 139
Texas Entertainment, Inc., et al. v. Combs, et al. 140
Texas RSA 15B2 Limited Partnership v. Strayhorn, et al. 141
TPI Petroleum, Inc. v. Strayhorn, et al. 141
Vinson Oil Distribution v. Strayhorn, et al. 142

Closed Cases

Alcoa, Inc. v. Strayhorn, et al. 143
American International Specialty Lines Insurance Company v. Rylander, et al. 143
Lexington Insurance Company, Landmark Insurance Company v. Rylander, et al. 144
Saudi Refining, Inc. v. Rylander, et al. 145
St. Paul Surplus Lines Company v. Rylander, et al. 145

That's Entertainment - San Antonio, L.L.C. dba Park Place v. Strayhorn, et al. 146

Index 147

Table of Cases

7-Eleven, Inc. v. Strayhorn, et al. 1
7-Eleven, Inc. v. Strayhorn, et al. 1
7-Eleven, Inc. v. Strayhorn, et al. 2
7-Eleven, Inc. v. Strayhorn, et al. 17
7-Eleven, Inc. v. Strayhorn, et al. 17
AccuTel of Texas, L.P. v. Rylander, et al. 18
Alcatel Network Systems, Inc. v. Strayhorn, et al. 18
Alcatel Network Systems, Inc. v. Strayhorn, et al. 19
Alcoa, Inc. v. Strayhorn, et al. 143
Allegiance Telecom of Texas, Inc. v. Strayhorn, et al. 19
Allstate County Mutual Insurance Company; Allstate Insurance Company; Allstate Indemnity Company; Allstate Texas Lloyds; and Allstate Property and Casualty Insurance Company v. Strayhorn, et al. 107
Alumax Mill Products, Inc. v. Combs, et al. 20
Amerada Hess Corporation v. Strayhorn, et al. 20
American International Specialty Lines Insurance Company v. Rylander, et al. 143
Anadarko E&P Co., L.P. vs Combs, et al. 2
Anadarko Petroleum Corporation v. Combs, et al. 3
Anderson Merchandisers Holding, Inc. v. Strayhorn, et al. 21
Apache Corp. vs Compt., et al. 121
Aramis Services, Inc. v. Rylander, et al. 21
Aramis Services, Inc. v. Sharp, et al. 22
Ardsey, Inc. dba Noche Caliente Nightclub v. Strayhorn, et al. 22
Arnold, Jessamine J., Estate of, Deceased, and Jim Arnold, Jr., Independent Executor v. Rylander, et al. 121
AROC (Texas), Inc. v. Combs, et al. 3
AT&T Corporation; Teleport Communications of Houston, Inc.; TCG of Dallas, Inc.; AT&T Network Procurement, L.P.; AT&T Communications of Texas, L.P.; and AT&T Communications of the Southwest, Inc. v. Strayhorn, et al. 23
Austin Engineering Co., Inc. v. Combs, et al. 24
Awad, Mike v. Strayhorn, et al. 24
AXA Equitable Life Insurance Company v. Strayhorn, et al. 107
Barney Holland Oil Co. vs Compt., et al. 122
Beadles, Joe Haven v. Strayhorn 122
Bell Bottom Foundation Company v. Rylander, et al. 25
Bell Helicopter Textron, Inc. v. Rylander, et al. 25
Bell Helicopter Textron, Inc. v. Strayhorn, et al. 26
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al. 26
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al. 27
Boeing North America, Inc. v. Rylander, et al. 27

Boeing North America, Inc. v. Strayhorn, et al. 28
Bonart, Richard C., DVM v. Strayhorn, et al. 28
Brink's Home Security, Inc. v. Strayhorn, et al. 4
Broadwing Corporation v. Strayhorn, et al. 29
Bryan ISD v. Strayhorn 123
Burns, Kevin D. v. Strayhorn, et al. 29
C & T Stone Company v. Rylander, et al. 30
CarMax Auto Superstores, Inc. v. Strayhorn, et al. 123
Cashiola, James v. Strayhorn, et al. 30
CEC Entertainment, Inc. v. Strayhorn, et al. 31
Cellular City Ltd. v. Strayhorn, et al. 31
Central Telephone Company of Texas and United Telephone Company of Texas v. Rylander, et al. 4
Centreport Partners, L.P. v. Combs, et al. 32
Chapal Zenray, Inc. v. Rylander, et al. 32
Charles Dawson, et al. vs. Comptroller, et al. 124
Charles Dawson, et al. vs. Comptroller, et al. 124
Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al. 5
Chevron USA, Inc. v. Combs, et al. 33
Chevron USA, Inc. v. Strayhorn, et al. 33
Church & Dwight Company, Inc. v. Rylander, et al. 34
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. 35
City of Webster and the Webster Economic Development Corporation v. Strayhorn 35
Clear Lake City Community Association, Inc. v. Strayhorn, et al. 36
Clinique Services, Inc. v. Rylander, et al. 36
Clinique Services, Inc. v. Sharp, et al. 37
Clinique Services, Inc. v. Strayhorn, et al. 38
Coca-Cola Company, The v. Strayhorn, et al. 38
Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al. 39
Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al. 6
ConocoPhillips Company v. Strayhorn, et al. 124
Cosmair, Inc. v. Strayhorn, et al. 39
Crown Central Petroleum Corporation v. Strayhorn, et al. 40
Culberson County-Allamoore ISD v. Strayhorn 125
Cypress-Fairbanks ISD, et al. v. Troy G. Rountree, et al. 125
DaimlerChrysler Services North American, L.L.C. 6
Daingerfield-Lone Star ISD v. Strayhorn 126
Day Cruises Maritime, L.L.C. v. Strayhorn, et al. 40
Day Cruises Maritime, L.L.C. v. Strayhorn, et al. 41

Delta Air Lines, Inc. v. Strayhorn, et al. 41
Design Masterpiece Landscaping, Inc. v. Strayhorn, et al. 42
Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector 126
Ebrahim, Suleiman S. v. Strayhorn, et al. 42
EFW, Inc. v. Rylander, et al. 43
EFW, Inc. v. Strayhorn, et al. 44
El Paso Corporation v. Strayhorn, et al. 7
El Paso Merchant Energy-Petroleum Company v. Strayhorn, et al. 44
El Paso Natural Gas Company v. Sharp 127
El Paso Natural Gas Company v. Strayhorn, et al. 127
El Paso Natural Gas Company v. Strayhorn, et al. 128
El Paso Natural Gas Company v. Strayhorn, et al. 129
El Paso Natural Gas Company v. Strayhorn, et al. 130
ELC Beauty, L.L.C., as a Successor-in-Interest to Estee Lauder Services, Inc. v. Strayhorn, et al. 45
ELC Beauty, L.L.C., as Successor-in-Interest to Aramis Services, Inc. v. Rylander, et al. 45
ELC Beauty, L.L.C., as Successor-in-Interest to Origins Services, Inc. v. Strayhorn, et al. 46
Embassy Equity Development Corporation, et al. v. Strayhorn, et al. 46
Estee Lauder Services, Inc. v. Rylander, et al. 47
Estee Lauder Services, Inc. v. Sharp, et al. 48
Estee Lauder Services, Inc. v. Sharp, et al. 48
Ethicon, Inc. v. Strayhorn, et al. 49
ExxonMobil Oil Corporation v. Combs, et al. 49
F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al. 50
Fairfield Industries, Inc. v. Strayhorn, et al. 7
Fireman's Fund Insurance Company of Ohio v. Rylander, et al. 108
First American Title Insurance Company v. Combs, et al. 109
First American Title Insurance Company v. Combs, et al. 110
First American Title Insurance Company v. Strayhorn, et al. 110
First American Title Insurance Company v. Strayhorn, et al. 111
First American Title Insurance Company v. Strayhorn, et al. 111
First Company v. Rylander, et al. 8
Fort Worth's PR's, Inc. v. Rylander, et al. 130
Galland Henning Nopak, Inc. v. Strayhorn, et al. 8
General Dynamics Corporation v. Rylander, et al. 50
General Dynamics Corporation v. Rylander, et al. 51
Gift Box Corporation of America, Inc. v. Rylander, et al. 51
Golf Works, Inc. vs Susan Combs, Compt., et al. 52
Graybar Electric Company, Inc. v. Sharp, et al. 52
Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al. 53
GSC Enterprises, Inc. v. Strayhorn, et al. 53
GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al. 54
GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al. 54

GTE Southwest, Inc. v. Combs, et al. 55
GTE Southwest, Inc. v. Strayhorn, et al. 55
GTE Southwest, Inc. v. Strayhorn, et al. 56
GTE Southwest, Inc. v. Strayhorn, et al. 56
GTE Southwest, Inc. v. Strayhorn, et al. 57
GTE Southwest, Inc. v. Strayhorn, et al. 57
GTE Southwest, Inc. v. Strayhorn, et al. 58
Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al. 9
Harsco Corp. vs Combs, et al. 58
Herndon Marine Products, Inc. v. Sharp, et al. 59
Home & Garden Party, Ltd. v. Strayhorn, et al. 59
Home Depot, USA, Inc. v. Strayhorn, et al. 60
Houston Wire & Cable Company v. Strayhorn, et al. 60
I-Ball Corp., dba The Gatsby Social Club v. Combs, et al. 61
Isis Partners, L.P., et al. vs. Combs, et al. 131
J.C. Penney Company, Inc. v. Strayhorn, et al. 62
J.C. Penney Company, Inc. v. Strayhorn, et al. 62
Jerman Cookie Company v. Rylander, et al. 63
JP Morgan Chase Bank, N.A. v. Combs, et al. 131
Kellwood Company, The v. Strayhorn, et al. 9
Kendrick Oil Company v. Combs, et al. 132
Kroger Company, The v. Strayhorn, et al. 63
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. 64
Lake Austin Spa Investors, Ltd. v. Rylander, et al. 132
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al. 64
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al. 65
Laredo Pizza, Inc., and Samuel L. Alford, and L & H Pacific, L.L.C. v. Strayhorn, et al. 66
Lee Construction and Maintenance Company v. Rylander, et al. 66
Levy, Tara, et al. v. OfficeMax, Inc. and Best Buy Stores, L.P. 67
Lexington Insurance Company, Landmark Insurance Company v. Rylander, et al. 144
Liberty Vending Services, Inc. v. Strayhorn, et al. 67
Local Neon Company, Inc. v. Rylander, et al. 68
Lockheed Corporation v. Rylander, et al. 69
Lockheed Martin Corporation v. Rylander, et al. 69
Lockheed Martin Corporation v. Strayhorn, et al. 69
Lockheed Martin Corporation, as Successor to Lockheed Martin Vought Systems Corporation and Loral Vought Systems Corporation v. Rylander, et al. 70
Lockheed Martin Corporation, Successor to Lockheed Martin Vought Systems Corporation v. Rylander, et al. 70
Lockheed Martin Kelly Aviation Center, Inc. v. Strayhorn, et al. 71
Lone Star Steel Company v. Strayhorn, et al. 72
Mabank ISD v. Comptroller 133

Macy's TX I, LP, Successor in Interest to the May Department Stores Company v. Strayhorn, et al. 72
Malakoff ISD v. Comptroller 133
Mars, Inc. v. Strayhorn, et al. 73
Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al. 73
Metropolitan Life Insurance Company, et al. v. Combs, et al. 111
MFC Finance Company of Texas v. Combs, et al. 134
Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al. 10
Mineral Wells ISD v. Strayhorn 134
Minyard Food Stores, Inc. vs Compt., et al. 74
Mirage Real Estate, Inc., et al. v. Richard Durbin, et al. 135
Mitchell, Christia Parr v. Rylander, et al. 74
New York Life Insurance Company v. Strayhorn, et al. 112
Nextel of Texas, Inc. v. Strayhorn, et al. 135
Northrop Grumman Systems Corporation (Successor to Northrop Grumman Corporation and Vought Aircraft Company) v. Rylander, et al. 75
Office Depot, Inc. et al. v. Combs, et al. 75
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. 76
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. 77
Olarnpunsagoon, Suchon v. Combs, et al. 77
Old Republic National Title Insurance Company v. Strayhorn, et al. 113
Old Republic National Title Insurance Company v. Strayhorn, et al. 113
Old Republic National Title Insurance Company v. Strayhorn, et al. 114
Old Republic National Title Insurance Company v. Strayhorn, et al. 114
Old Republic Title Insurance Company v. Combs, et al. 115
Old Republic Title Insurance Company v. Strayhorn, et al. 115
Owens Corning v. Strayhorn, et al. 11
Phenomenom v. Strayhorn, et al. 136
Point Isabel ISD v. Texas Comptroller of Public Accounts 136
Preston Motors by George L. Preston, Owner v. Sharp, et al. 137
Prudential Insurance Company, The v. Strayhorn, et al. 116
Ranger Fuels & Maintenance, L.L.C. v. Rylander, et al. 137
Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al. 138
Reynolds Metals Co. vs. Combs, et al. 78
Reynolds Metals Company v. Strayhorn, et al. 78
Roadway Express, Inc. v. Rylander, et al. 79
Roark Amusement & Vending, L.P. v. Strayhorn, et al. 79
Roark Amusement & Vending, L.P. v. Strayhorn, et al. 80
Rockwell Collins, Inc. v. Rylander, et al. 81
Rollins & Rollins Enterprises, Inc. , dba Country Kwik Stop v. Rylander, et al. 81

San Antonio Spurs, L.L.C. v. Strayhorn, et al. 81
San Felipe-Del Rio CISD v. Strayhorn 138
Saudi Refining, Inc. v. Rylander, et al. 145
SC Kiosks, Inc. v. Strayhorn, et al. 82
Sharper Image Corporation v. Rylander, et al. 83
Sharper Image Corporation v. Rylander, et al. 83
Southern Plastics, Inc. v. Strayhorn, et al. 84
Southern Union Company v. Strayhorn, et al. 84
Southwest Food Processing & Refrigerated Services, aka Southwest Refrigerated Warehousing Services v. Rylander, et al. 85
Southwestern Bell Telephone Company v. Rylander, et al. 11
Southwestern Bell Telephone, L.P. v. Strayhorn, et al. 85
Southwestern Bell Yellow Pages, Inc. v. Strayhorn, et al. 86
Spacenet Services, Inc. v. Strayhorn, et al. 87
St. Paul Surplus Lines Company v. Rylander, et al. 145
Stantrans Partners, L.P. v. Strayhorn, et al. 87
Stantrans Partners, L.P. v. Strayhorn, et al. 88
Steamatic of Austin, Inc., et al. v. Rylander, et al. 88
STP Nuclear Operating Co. v. Combs 116
STP Nuclear Operating Company v. Combs, et al. 117
STP Nuclear Operating Company v. Strayhorn, et al. 118
STP Nuclear Operating Company v. Strayhorn, et al. 118
STP Nuclear Operating Company v. Strayhorn, et al. 119
Stuart, Robert T. Jr., Estate of v. Strayhorn, et al. 139
Sysco Food Services of Austin, Inc. v. Strayhorn, et al. 89
Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al. 89
Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al. 90
Target Corporation v. Strayhorn, et al. 90
TDI-Halter, Inc. v. Rylander, et al. 91
Texaco Exploration & Production, Inc. 139
Texaco Grand Prix of Houston, L.L.C. v. Strayhorn, et al. 91
Texaco Refining & Marketing (East), Inc. v. Combs, et al. 12
Texas Entertainment, Inc., et al. v. Combs, et al. 140
Texas Gulf, Inc. v. Bullock, et al. 92
Texas RSA 15B2 Limited Partnership v. Strayhorn, et al. 141
TGS-NOPEC Geophysical Company v. Strayhorn, et al. 12
That’s Entertainment - San Antonio, L.L.C. dba Park Place v. Strayhorn, et al. 146
The Kroger Company v. Combs, et al. 92
TPI Petroleum, Inc. v. Strayhorn, et al. 141
Tree of Life, Inc. v. Strayhorn, et al. 93
Tyler Holding Company, Inc. v. Strayhorn, et al. 93

Tyson Foods, Inc. v. Strayhorn, et al. 13
Tyson Fresh Meats, Inc. formerly known as IBP, Inc. v. Combs, et al. 14
United Scaffolding, Inc. v. Strayhorn, et al. 94
United Space Alliance, L.L.C. v. Strayhorn, et al. 95
United Space Alliance, L.L.C. v. Strayhorn, et al. 95
United Space Alliance, L.L.C. v. Strayhorn, et al. 96
Uretek U.S.A., Inc. v. Strayhorn, et al. 96
USCOC of Texahoma, Inc., Successor to USCOC of Corpus Christi, Inc. v. Strayhorn, et al. 97
V.H. Salas & Associates, Inc. v. Comptroller 97
Verizon Business Network Services, Inc. v. Compt. Et. Al. 98
Verizon North, Inc. v. Strayhorn, et al. 98
Viacom International, Inc. v. Strayhorn, et al. 14
Vinson Oil Distribution v. Strayhorn, et al. 142
Wal-Mart Stores, Inc. vs Susan Combs, Compt., et al. 99
Warranty Underwriters Insurance Company v. Rylander, et al. 119
Watson Sysco Food Services, Inc. v. Strayhorn, et al. 99
West Texas Pizza, Limited Partnership v. Sharp, et al. 100
White Swan, Inc. v. Strayhorn, et al. 100
White Swan, Inc. v. Strayhorn, et al. 101
Williams, Duane Everett v. Comptroller 101
Wireless Now, L.P. v. Combs, et al. 102
World Fitness Centers, Inc. v. Rylander, et al. 102
Wyndham International Operating Partnership, LP v. Strayhorn, et al. 103
York International Corporation v. Strayhorn, et al. 15
Zale Delaware, Inc. v. Rylander, et al. 103
Zale Delaware, Inc. v. Strayhorn, et al. 104
Zimmerman Sign Company v. Strayhorn, et al. 104

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

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

Status: Plaintiff's Motion for Partial Summary Judgment filed 02/04/08. Plaintiff's Motion for Summary Judgment set for hearing on 05/15/08 at 9:00 am. Defendants will file a Cross-Motion in April.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

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

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

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

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

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.

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

Cause Number: D-1-GN-07003385 AG Case #: 072475932 Filed: 10/3/2007

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
$4,518,016.85	1999-2001 Texas Franchise Tax Report

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

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

Status: Discovery in progress.

Anadarko Petroleum Corporation v. Combs, et al.

Cause Number: D-1-GN-07-000670 AG Case #: 072441751 Filed: 3/6/2007

Franchise Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

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

Status: Discovery in progress.

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

Cause Number: D-1-GN-07-000882 AG Case #: 072445745 Filed: 3/23/2007

Franchise Tax; Protest & Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Discovery commenced further to settlement.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Discovery stayed pending appeal of Southwestern Bell case.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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

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.

Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.

Cause Number: D-1-GN-07-001968 AG Case #: 072458797 Filed: 6/29/2007

Franchise Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
$122,419.77	1997 - 2003

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

Lyda, Kirk	Jones Day / Dallas
Gall, Maryann B.	Jones Day / Columbus, OH
Mansfield, Douglas M.	
Shambaugh, Phyllis J.	

Issue: Whether Plaintiff's out-of-state mail order business meets the "substantial nexus" requirement to justify franchise tax liability. Whether Plaintiff's activities at tradeshows in Texas exceeded the limitations set forth in Tax Code Section 171.084. Plaintiff claims violation of the Commerce Clause of the U.S. Constitution, Due Process Clause, Equal Protection Clause, and Tax Code Section 171.001(c). Plaintiff also requests waiver of penalty and attorneys' fees.

Status: Case consolidated into Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al. Cause #D-1-GN-07-001967. Discovery in progress.

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

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

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: Cross-Motions for Summary Judgment set for hearing on 06/26/08.

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

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

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: Discovery in progress. Non-jury trial set for November 10, 2008.

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

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Inactive.

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

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Awaiting Plaintiff's documentation.

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

Moore, D. Mark — OAG Taxation / Austin

Opposing Counsel

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.

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

Monzingo, Christine — OAG Taxation / Austin

Opposing Counsel

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

Langenberg, Ray

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

Status: Discovery in progress.

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

Moore, D. Mark — OAG Taxation / Austin

Opposing Counsel

Flaherty, Jason — Jenkens & 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: Court sent Notice of DWOP for 10/05/07. Plaintiff filed Motion to Retain 10/01/07.

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

Monzingo, Christine — OAG Taxation / Austin

Opposing Counsel

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.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

Southwestern Bell Telephone Company v. Rylander, et al.

Cause Number: GN204559 AG Case #: 031730666 Filed: 12/20/2002
#03-07-00142-CV
#07-07-000172-CV

Franchise Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

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

Status: First Amended Original Petition adding 2001 final report filed. Cross-MSJ hearing held 02/14/07. On 02/16/07 Defendants' MSJ granted; Plaintiff's denied. Notice of Appeal filed 03/08/07. Clerk's Record filed 03/21/07. Appellant's brief filed 04/20/07; Oral Argument requested. Case transferred to Seventh Court of Appeals 05/01/07. Appellee's amended brief filed 06/27/07; Oral Argument requested. Appellants' reply brief filed 07/23/07.

Texaco Refining & Marketing (East), Inc. v. Combs, et al.

Cause Number: D-1-GN-07-000346 AG Case #: 072439326 Filed: 2/6/2007

Franchise Tax; Bill of Review

Claim Amount	Reporting Period
$1,028,616.15	1994

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

Issue: Plaintiff did not receive notice of the Court's intent to dismiss Plaintiff's prior protest/refund suit or of the final Order of Dismissal. (See AG#991249228, Cause #99-14555, attorney: Chris Jackson, closed 05/31/06 due to Order of Dismissal signed 06/15/05.) Whether Plaintiff is entitled to a franchise tax credit for sales tax paid on qualifying manufacturing equipment purchased by a joint venture that it co-owned.

Status: Defendants did not oppose Plaintiff's motion to reinstate and the original case was reinstated.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

McBride, James Thomas	Shook, Hardy & Bacon, L.L.P. / Houston

Issue: Whether Plaintiff's gross receipts should be treated as receipts from intangibles apportioned based on the location of the payer 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 heard on 07/16/07. Final Summary Judgment signed on 10/15/07. The court granted Summary Judgment to Defendants on the apportionment issue and granted Summary Judgment to Plaintiff on the penalty and interest issue. Defendants'/Cross-Appellants' Notice of Appeal filed 11/15/07. Court Reporter's Record due 12/14/07. Notice of Late Record sent 01/15/08. Clerk's record filed 01/17/08. Appellant TGS and Cross-Appellant Comptroller filed a Joint Motion for Extension of Time to File Briefs 02/04/08; granted 02/07/08. Appellant's and Cross-Appellants' briefs due 04/04/08.

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

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

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.

Tyson Fresh Meats, Inc. formerly known as IBP, Inc. v. Combs, et al.

Cause Number: D-1-GN-07-000139 AG Case #: 072435753 Filed: 1/18/2007

Franchise Tax; Refund

Claim Amount	Reporting Period
$3,100,934.20	1993 - 1996 (tax)
$306,626.75	1993 - 1996 (penalty)

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

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. Whether the throw-back statute violates the Commerce Clause.

Status: Answer filed.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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. On the dismissal docket to be dismissed 01/30/08.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Hearing on cross-motions for summary judgment and defendants' plea to the jurisdiction held 02/05/08. Awaiting Judgment.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

Malish, Christopher Foster & Malish / Austin

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

Status: Answer filed.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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: Partial MSJ hearing held 12/17/07. Judgment granted for the State 01/11/08.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Motion granted 11/14/06 to consolidate with case styled Alcatel Network Systems, Inc. v. Strayhorn, et al., Cause #D-1-GN-06-000104.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether equipment purchased by Plaintiff is exempt from sales tax as tangible personal

property used in manufacturing and processing. Whether freight charges are exempt from sales tax under the manufacturing exemption.

Status: Answer filed. Court sent Notice to Dismiss for Want of Prosecution on 01/30/08.

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

Cause Number: D-1-GN-07-000165 AG Case #: 072435746 Filed: 1/22/2007

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

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.

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

Cause Number: D-1-GN-07-000565 AG Case #: 072440159 Filed: 2/23/2007

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

Assistant Attorney General

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

Mondrik, Christina A. Mondrik & Associates / Austin

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

Status: Discovery in progress.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

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

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

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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: Case settled 12/07/07.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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: Case settled 12/07/07.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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: Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial set for 07/28/08.

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

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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: Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial set for 07/28/08.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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: Case dismissed for want of prosecution on 07/11/07.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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. Hearing on Defendants' Motion to Compel held 05/30/07.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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 in progress.

Cashiola, James v. Strayhorn, et al.

Cause Number: D-1-GN-06-004629 AG Case #: 072434863 Filed: 12/15/2006

Sales Tax; Administrative Appeal

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

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

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

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Cause Number: D-1-GN-07-000152 AG Case #: 072435795 Filed: 1/19/2007

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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. Plaintiff's motion for summary judgment filed 03/21/07.

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

Cause Number: D-1-GN-07-000292 AG Case #: 072453475 Filed: 12/6/2004

Sales Tax; Refund

Claim Amount	Reporting Period
$9,560,775.78	01/01/93 - 06/30/96

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	
Sigel, Doug	

Issue: Whether tax paid on discounted portions of Plaintiff's purchases should be refunded. Whether tax paid at an incorrect tax rate should be refunded.

Status: Case severed from original case styled Chevron USA, Inc. v. Strayhorn, et al., Cause #GN403978. Motion for Partial Summary Judgment set for 04/02/08.

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

Cause Number: GN403978 AG Case #: 042071324 Filed: 12/6/2004
#03-07-00127-CV

Sales Tax; Refund

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

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	
Sigel, Doug	

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

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

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.

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

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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. Defendant's Plea to the Jurisdiction filed 02/14/07. Original Plea in Intervention & Third Party Petition filed 04/18/07 by cities of Denton, Humble, Lewisville, Mesquite, North Richland Hills, and Plano, and Denton County Transportation Authority and Fort Worth Transportation Authority. Original Answer filed by City of Grand Prairie, third party defendant, on 05/29/07. First Amended Plea in Intervention filed on 06/12/07, adding the City of Waco as a party. Second Amended Plea in Intervention And Third-Party Petition filed 09/28/07. Hearing on Defendant's First Amended Plea to the Jurisdiction 02/07/08 at 9:00 a.m. Defendant's Post-submission brief due 02/29/08.

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

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan — OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan — OAG Taxation / Austin

Opposing Counsel

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

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

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

11/10/08.

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

Wolfe, Susan	OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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.

Colonial Surgical Supply, Inc. & Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al.

Cause Number: D-1-GN-07-001967 AG Case #: 072458896 Filed: 6/29/2007

Sales Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
$2,122,997.61	01/01/97 - 09/30/04

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

Lyda, Kirk	Jones Day / Dallas
Gall, Maryann B.	Jones Day / Columbus, OH
Mansfield, Douglas M.	
Shambaugh, Phyllis J.	

Issue: Whether Plaintiff's out-of-state mail order business meets the "substantial nexus" requirement to justify sales tax liability. Plaintiff claims violation of the Commerce Clause of the U.S. Constitution, Due Process Clause, Equal Protection Clause, and Tax Code Section 171.001(c). Plaintiff also requests waiver of penalty and attorneys' fees.

Status: Answer filed. Discovery in progress. Motion to Consolidate filed 09/20/07 into case styled Colonial Surgical Supply, Inc. and Henry Schein, Inc., as Successor-in-Interest to Colonial Surgical Supply, Inc. v. Combs, et al., Cause # D-1-GN-07-001968.filed 09/20/07.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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

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

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

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan	OAG Taxation / Austin

Opposing Counsel

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

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

Status: On dismissal docket. Motion to Retain filed 07/06/07; granted 11/15/07. Set for trial on 12/08/08.

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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: Plaintiff's Motion for Summary Judgment filed 09/24/07.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether Plaintiff is entitled to a refund of sales and use tax on services provided by contract labor, certain manufacturing equipment, services performed on manufacturing

equipment, materials needed for machinery and equipment used in the manufacturing process, maintenance of real property, new construction, non-taxable services, programming services, manufacturing equipment with a useful life of six months or less, property shipped out-of-state, repair of real or tangible personal property resulting in a casualty loss, hazardous and industrial waste removal services, safety supplies, items and materials used for quality control purposes, pollution control equipment, and other non-taxable items.

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

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan	OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan	OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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. Trial set for 05/12/08.

ExxonMobil Oil Corporation v. Combs, et al.

Cause Number: D-1-GN-07-001398 AG Case #: 072452881 Filed: 5/11/2007

Sales Tax; Protest

Claim Amount	Reporting Period
$2,615,400.64	01/01/92 - 12/31/95

Counsel Associated With This Case:

Assistant Attorney General

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

Taylor, III, Jasper G.	Fulbright & Jaworski / Houston
Chadha, Jayash M.	

Issue: Whether tangible personal property with an operator is non-taxable as leased equipment. Whether shipping and freight charges paid directly by Plaintiff are non-taxable. Whether charges to maintain real property during a "turnaround" are taxable. Plaintiff requests that penalty be waived.

Status: Answer filed.

F M Express Food Mart, Inc., and Fouad Hanna Mekdessi 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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Cause Number: D-1-GN-08-000129 AG Case #: 082491648 Filed: 1/9/2008

Sales Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Wolfe, Susan	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

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

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Settlement negotiations in progress. Unopposed Motion to Retain filed 09/25/06 by Plaintiff; granted 02/26/07.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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

Osterloh, Curtis J.

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

Status: Answer filed. Plaintiff filed Motion for Partial Summary Judgment 01/25/08.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

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.

Harsco Corp. vs Combs, et al.

Cause Number: D-1-GN-07-004512 AG Case #: 082486747 Filed: 12/28/2007

Sales Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Moore, D. Mark — OAG Taxation / Austin

Opposing Counsel

Martin, Mark R. — Gardere Wynne & Sewell / Dallas

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

Status: Answer filed.

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

Cloudt, Jim B. — OAG Taxation / Austin

Opposing Counsel

Bell, John D. — Wood, Boykin & Wolter / Corpus Christi

Issue: Whether predominant use of electricity from Plaintiff's meter is exempt. Whether burden of proof in administrative hearing should be clear and convincing evidence or preponderance of the evidence.

Status: Special exceptions and answer filed.

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

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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.

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

Cause Number: GN500581 #03-07-00006-CV AG Case #: 052113057 Filed: 2/23/2005

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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. Clerk's Record filed 02/01/07. Court Reporter's Record filed 03/26/07. Appellant's brief filed 06/19/07; Oral Argument requested. Appellees' brief filed 07/18/07; Oral Argument requested. Supplemental Clerk's Record filed 07/20/07. Appellants' reply brief filed 08/14/07. Case submitted on briefs 10/09/07. Memorandum Opinion issued 12/12/07 affirming the district court's judment. Appellant's Motion for Extension of Time to File Motion for Rehearing filed 12/21/07; granted 12/28/07. Appellant's Motion for Rehearing filed 01/17/08. Response requested by the Court 01/29/08. Appellee's Motion for Extension filed 02/04/08; granted 02/06/08. Response due 02/22/08.

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

Cause Number: D-1-GN-07-001100 AG Case #: 072449465 Filed: 4/13/2007

Sales Tax; Declaratory Judgment

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

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

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

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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; granted 10/03/05. Trial set 03/04/08. Settlement negotiations in progress. Hearing on Cross-Motions for Summary Judgment set for 02/19/08.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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: Case Dismissed for Want of Prosecution 08/24/07.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

Trickey, Timothy M. The Trickey Law Firm / Austin

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

Status: Settlement negotiations pending. Trial to be reset. Motion to Retain filed by Plaintiff 11/29/06.

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

Cause Number: GN201252 #03-06-00391-CV AG Case #: 041926635 Filed: 1/1/1901

Sales Tax; Declaratory Judgment

Claim Amount	Reporting Period
$0.00	N/A

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene — OAG Taxation / Austin

Opposing Counsel

Perlmutter, Mark L. — Perlmutter & Schuelke, L.L.P. / Austin

Schuelke, C. Brooks

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

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

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

Cause Number: GN502836 AG Case #: 052198108 Filed: 8/11/2005

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

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

Cause Number: 99-15042 #03-04-00261-CV AG Case #: 001254036 Filed: 12/31/1999

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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.

Lockheed Corporation v. Rylander, et al.

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

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

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

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

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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

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

Status: Discovery in progress. Trial passed by agreement.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

Minyard Food Stores, Inc. vs Compt., et al.

Cause Number: D-1-GN-07-003882 AG Case #: 072481211 Filed: 11/8/2007

Sales Tax; Protest

Claim Amount	Reporting Period
$1,221,250.86	08/01/95 - 10/31/01

Counsel Associated With This Case:

Assistant Attorney General

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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

Langenberg, Ray

Issue: Whether sample was defective because of missing records and credit items. Whether assessments were made on non-taxable services. Whether utility and manufacturing exemptions applied to some items. Whether the statute of limitations was properly extended.

Status: Answer filed.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

Office Depot, Inc. et al. v. Combs, et al.

Cause Number: D-1-GN-07-004220 AG Case #: 072484710 Filed: 12/7/2007

Sales Tax; Protest & Refund

Claim Amount	Reporting Period
$1,827,565.08	11/01/98 - 07/31/02

Counsel Associated With This Case:

Assistant Attorney General

Wolfe, Susan	OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether sales to unidentified customers were treated correctly. Whether tax was improperly assessed or paid on various transactions. Whether out of state items were treated correctly.

Status: Answer filed.

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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.

Olarnpunsagoon, Suchon v. Combs, et al.

Cause Number: D-1-GN-07-000134 AG Case #: 072436124 Filed: 1/18/2007

Sales Tax; Declaratory Judgment

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

Counsel Associated With This Case:

Assistant Attorney General

Wolfe, Susan	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Jury trial set for 07/21/08.

Reynolds Metals Co. vs. Combs, et al.

Cause Number: D-1-GN07003574 AG Case #: 072477284 Filed: 10/18/2007

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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: Appeal filed by Plaintiff.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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 erroneouly 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.

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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 erroneouly 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.

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

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

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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: Case dismissed for want of prosecution 02/28/07.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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: Motion to Retain filed 08/20/07; granted 01/08/08.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

Sharper Image Corporation v. Rylander, et al.

Cause Number: GN203645 AG Case #: 021686779 Filed: 10/9/2002

Sales Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

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

Issue: Whether use tax imposed on catalogs shipped from out-of-state is unlawful because: (1) Plaintiff never used the catalogs in Texas; (2) the tax violates the Commerce Clause; and, (3) Rule 3.346 is unconstitutional. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Discovery in progress. Trial to be reset.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

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

Issue: Whether use tax imposed on catalogs shipped from out-of-state is unlawful because: (1) Plaintiff never used the catalogs in Texas; (2) the tax violates the Commerce Clause; and, (3)

Rule 3.346 is unconstitutional. Plaintiff also seeks declaratory relief and attorneys' fees.

Status: Discovery in progress. Trial to be reset.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Discovery in progress. Plaintiff's Motion for Summary Judgment filed 08/23/07. Defendants' Special Exceptions filed 09/26/07. Plaintiff's Second Amended Original Petition filed 09/26/07. Defendants' Cross Motion for Summary Judgment filed 09/27/07. Summary Judgment hearing scheduled for 10/18/07. Defendant's Motion for Summary Judgment granted 10/18/07. Plaintiff's Motion for Summary Judgment denied 10/18/07. Plaintiff's Motion for Reconsideration and Rehearing on Motions for Summary Judgment filed 12/10/07. Rehearing on Motions for Summary Judgment held 01/09/08. Final Judgment granted for Defendants 01/30/08.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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: Rehearing on Motion for Summary Judgment 01/09/08. Judgment for Defendant's signed 01/30/08.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

Mott, H. Christopher Krafsur Gordon Mott / El Paso

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

Status: Settlement analysis in review.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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: Court sent Notice of Setting for DWOP on 08/24/07. Plaintiff filed Motion to Retain, Memorandum in Support of Motion to Retain and proposed Order Granting Motion to Retain on 08/15/07. Order Granting Motion to Retain signed 01/08/08. Plaintiff to file scheduling order.

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

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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: Defendant's Motion for Summary Judgment and Notice of Hearing filed 09/10/07. Plaintiff's reply filed 09/20/07. Motion for Summary Judgment hearing held 10/02/07. Defendant's Judgment granted 10/17/07. Plaintiff's Notice of Appeal filed 11/13/07. Clerk's record filed 12/13/07. Appellant's brief filed 01/11/08; Oral Argument requested. Appellee filed Motion for Extension of Time to File Brief 02/05/08; granted 02/06/08. Appellee's brief filed 02/25/08; Oral Argument requested. Appellant's Reply due 03/17/08.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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

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

Status: Discovery in progress.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Motion for summary judgment filed. Response filed. Partial summary judgment on limitations granted for Plaintiff 04/07/04. Case dismissed for want of prosecution 02/28/07.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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. Waiting for Plaintiff to decide on use of expert witness.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

Cunningham, Judy M.	Attorney at Law / Austin
Blume, James	Blume & Studdard / Dallas

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

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

Cunningham, Judy M.	Attorney at Law / Austin
Blume, James	Blume & Studdard / Dallas

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

Status: Pending Sysco Food Services of Austin, Inc. v. Strayhorn, et al., Cause #GN400465.

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

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Summary Judgment hearing set for 04/15/08.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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 week of 07/14/08. Settlement negotiations pending.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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: Settlement negotiations in progress.

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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.

The Kroger Company v. Combs, et al.

Cause Number: D-1-GN-07-000175 AG Case #: 072435787 Filed: 1/22/2007

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

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

Wolfe, Susan	OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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: Summary Judgment set for 03/04/08.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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: Summary Judgment set for 03/04/08.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Discovery in progress.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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.

Verizon Business Network Services, Inc. v. Compt. Et. Al.

Cause Number: D-1-GN-07-004221 AG Case #: 072484389 Filed: 12/7/2007

Sales Tax; Refund

Claim Amount	Reporting Period
$20,179,336.77	01/01/96 - 03/31/02

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether programming services were taxable. If the services are taxable, whether their sale or use occurred in Texas.

Status: Settlement negotiations in progress.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Trial court rendered judgment for the state on 12/13/07.

Wal-Mart Stores, Inc. vs Susan Combs, Compt., et al.

Cause Number: D-1-GN-07-003887 AG Case #: 072481203 Filed: 11/9/2007

Sales Tax; Protest & Refund

Claim Amount	Reporting Period
$7,460,665.48	04/01/89 - 01/31/93

Counsel Associated With This Case:

Assistant Attorney General

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether the Comptroller used improper sampling methods. Whether the Comptroller should be estopped from making certain assessments because of delay in completing the audit. Whether Plaintiff should receive a credit or refund for a variety of transactions.

Status: Answer filed.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Discovery in progress.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B.	OAG Taxation / Austin

Opposing Counsel

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.

Wireless Now, L.P. v. Combs, et al.

Cause Number: D-1-GN-07001038 AG Case #: 072447469 Filed: 4/6/2007

Sales Tax; Refund

Claim Amount	Reporting Period
$29,431.70	09/01/01 - 08/31/05

Counsel Associated With This Case:

Opposing Counsel

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

Issue: Whether telephones puchased by Plaintiff, and subsequently sold to customers who contract for telephone service with a carrier associated with the Plaintiff, are exempt from sales tax under the sale for resale exemption. Index: Sale for Resale; Sub-Index: telecommunications equipment.

Status: Answer filed.

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

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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: Case dismissed for want of prosecution 02/28/07.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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: Discovery in progress. Case consolidated with Zale Delaware, Inc. v. Strayhorn, et al., Cause #GN301725, per court order signed 12/12/07.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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: Case consolidated into Zale Delaware, Inc. v. Rylander, et al., Cause #GN202030. Order to consolidate signed 12/12/07.

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

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

Werkenthin, Fred B. Jackson Walker, L.L.P. / Austin

Moore, Steven D.

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

Status: Discovery in progress. Plaintiffs' Third Amended Petition filed 10/03/07. Encompass Home and Auto Insurance Company's Plea in Intervention filed 10/03/07. Allstate Fire and Casualty Insurance Company's Plea in Intervention filed 10/03/07. Plaintiff's Motion for Summary Judgment filed 01/28/08.

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

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

Alexander, Ricky	Cantey Hanger LLP / Austin
Welborn, Amy	

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 08/25/08. Plaintiff will provide documents to seek agreed judgment.

First American Title Insurance Company v. Combs, et al.

Cause Number: GN301692 AG Case #: 031806011 Filed: 5/23/2003
#03-04-00342-CV
#05-0541

Retaliatory Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
$1,432,580.76	1998 - 2002

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

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. Motion for Rehearing granted 03/09/07. Motion to participate pro hac vice filed by Petitioner 03/29/07; granted 04/04/07. Submitted on Oral Argument 04/11/07. Post-submission brief filed by Respondent 04/19/07. Response to Petition for Review filed by Petitioner 04/27/07. Response to Amicus Curiae brief filed by Petitioner 04/27/07. Post-submission brief filed by Respondent 05/02/07. Response filed by Petitioner

05/07/07. Motion for Leave to file brief filed 05/07/07; granted 05/10/07.

First American Title Insurance Company v. Combs, et al.

Cause Number: D-1-GN-07-001503 AG Case #: 072452949 Filed: 5/22/2007

Retaliatory Tax; Protest

Claim Amount	Reporting Period
$1,219,341.64	2006

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

Metropolitan Life Insurance Company, et al. v. Combs, et al.

Cause Number: 484,745 #03-06-00446-CV AG Case #: 90304512 Filed: 5/24/1990

Gross Premium Tax; Protest

Claim Amount	Reporting Period
$10,817,043.00	1989 - 2003

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene OAG Taxation / Austin

Opposing Counsel

Werkenthin, Fred B. Jackson Walker, L.L.P. / Austin
Moore, Steven D.
Harrison, Breck
Rogers, Tom

Issue: Whether insurance taxes are owed by insurance companies on dividends applied to paid-up additions and renewal premiums.

Status: Ninth Amended Petition filed. Settlement discussed, and partial settlement agreed to. Final Judgment entered on paid-up additions issue. Renewal premium issue severed and retained on docket. Plaintiffs made settlement offer on remainder of case. Motion for Summary Judgment hearing held 02/14/06. Judgment granted for Plaintiffs 06/29/06. State filed Notice of Appeal 07/26/06; docketing statement filed 08/01/06. Clerk's Record filed 08/24/06. Appellants' brief filed 09/25/06. Appellees' brief filed 10/25/06. Appellants' reply brief filed 11/14/06. Submitted on Oral Argument 02/14/07.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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.

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

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

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.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

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

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

Old Republic Title Insurance Company v. Combs, et al.

Cause Number: D-1-GN-07-001502 AG Case #: 072452923 Filed: 5/22/2007

Retaliatory Tax; Protest

Claim Amount	Reporting Period
$268,130.28	2006

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

Old Republic Title Insurance Company v. Strayhorn, et al.

Cause Number: GN301693 AG Case #: 031806029 Filed: 5/23/2003
#03-04-00347-CV

Retaliatory Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
$219,626.40	2002

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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.

Prudential Insurance Company, The v. Strayhorn, et al.

Cause Number: GN501093 AG Case #: 052137189 Filed: 4/7/2005

Gross Premium & Maintenance Tax; Protest & Declaratory Judgment

Claim Amount	Reporting Period
$230,578.00	2004
$115,289.00	2005
$3,426.00	2004 (Maintenance Tax)

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

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.

STP Nuclear Operating Co. v. Combs

Cause Number: D-1-GN-07-002357 AG Case #: 072462294 Filed: 7/30/2007

Insurance Premium Tax; Protest

Claim Amount	Reporting Period
$172,397.04	2006

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene — OAG Taxation / Austin

Opposing Counsel

Newton, Howard P. — Cox Smith Matthews Inc. / San Antonio

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

Status: Answer filed 08/09/07.

STP Nuclear Operating Company v. Combs, et al.

Cause Number: GN302053 AG Case #: 031808371 Filed: 6/11/2003
#03-06-00428-CV
#07-0482

Insurance Premium Tax; Protest

Claim Amount	Reporting Period
$115,287.80	2002
$125,848.14	2003

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene — OAG Taxation / Austin

Opposing Counsel

Newton, Howard P. — Cox Smith Matthews Inc. / San Antonio
Ruiz, Rene D.

Issue: Whether the independently procured insurance tax may be collected from a Texas corporation despite the decisions in Todd Shipyards and Dow Chemical. Whether imposition of the tax violates equal protection or equal taxation.

Status: Due to order consolidating cases entered 06/27/05, STP Nuclear Operating Co. v. Strayhorn, et al., Cause No. GN501910, consolidated into this case. Hearing on cross-motions for summary judgment held 04/17/06. Judgment granted for Plaintiff on grounds of McCarran-

Ferguson Act and for Defendants on issue of pre-emption. Judgment signed 06/20/06. State filed Notice of Appeal 07/18/06; docketing statement filed 07/21/06. Clerk's Record filed 08/30/06. Appellants' brief filed 10/20/06. Appellee's brief filed 12/04/06. Submitted on Oral Argument 01/10/07. Letter brief filed by State 02/06/07. Letter brief filed by Appellee 02/15/07. Letter brief filed by State 02/27/06. Opinion issued 05/01/07 reversing the trial court's judgment and rendering judgment in favor of the Comptroller. Petition for Review filed in the Texas Supreme Court 06/15/07. Waiver of Response filed 07/06/07. Court requested response; filed 09/07/07. Briefing on the Merits requested 12/17/07. Case record filed 12/20/07. Petitioner's Briefing on the Merits due 01/16/08. Respondents' Briefing on the Merits due 02/05/08. Petitioner's Motion for Extension of Time to File Brief filed 01/15/08; granted 01/16/08. Petitioner's Brief filed 01/30/08. Respondents' Brief on the Merits due 03/11/08.

STP Nuclear Operating Company v. Strayhorn, et al.

Cause Number: GN501910 AG Case #: 052155728 Filed: 5/27/2005

Insurance Premium Tax; Protest

Claim Amount	Reporting Period
$154,235.67	2004

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene OAG Taxation / Austin

Opposing Counsel

Newton, Howard P. Cox Smith Matthews Inc. / San Antonio

Ruiz, Rene D.

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

Status: Order to consolidate cases entered 06/27/05. This case consolidated into STP Nuclear Operating Co. v. Strayhorn, et al., Cause No. GN302053.

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

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

Newton, Howard P.	Cox Smith Matthews Inc. / San Antonio
Ruiz, Rene D.	
Figueroa, Rodrigo J.	

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

Status: Answer filed. Inactive. Pending resolution of companion STP case, Cause#03-06-00428-CV.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

Other Taxes

Apache Corp. vs Compt., et al.

Cause Number: D-1-GN-07003861 AG Case #: 072481518 Filed: 11/6/2007

Tax;

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

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

Langenberg, Ray

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

Status: Answer filed.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens & Associates / Austin

Mondrik, Christina A. Mondrik & Associates / Austin

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

expenses and gifts.

Status: Plaintiff filed unopposed motion to retain 03/23/07; granted 07/10/07.

Barney Holland Oil Co. vs Compt., et al.

Cause Number: D-1-GN-08-000250 AG Case #: 082492216 Filed: 1/22/2008

Fuels Tax; Declaratory Judgment

Claim Amount	Reporting Period
$104,000.00	01/01/04-02/28/05

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Hudman, Douglas R.

Issue: Whether fuel access cards may be treated as credit cards for purposes of the bad debt deduction for fuels taxes.

Status: Answer filed.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

Charles Dawson, et al. vs. Comptroller, et al.

Cause Number: CV12,011 AG Case #: 072463946 Filed: 8/7/2007

Property Tax; Protest

Claim Amount	Reporting Period
$849,870.00	2007

Counsel Associated With This Case:

Assistant Attorney General

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

Perkins-Mouton, Trina Attorney at Law / Houston

Issue: Whether Plaintiff's property tax assessment was excessive.

Status: Answer and Plea to the Jurisdiction filed on behalf of the Comptroller on 08/30/07.

Charles Dawson, et al. vs. Comptroller, et al.

Cause Number: CV12,011 AG Case #: 072463946 Filed: 8/7/2007

Property Tax; Protest

Claim Amount	Reporting Period
$849,870.00	2007

Counsel Associated With This Case:

Assistant Attorney General

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

Perkins-Mouton, Trina Attorney at Law / Houston

Issue: Whether Plaintiff's property tax assessment was excessive

Status: Answer and Plea to the Jurisdiction filed on 08/30/07 on behalf of the Comptroller.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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: Agreed Judgment signed 02/11/08.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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.

Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector

Cause Number: 30861 AG Case #: 072457880 Filed: 6/1/2007

Motor Vehicle Tax; Refund & Declaratory Judgment

Claim Amount	Reporting Period
$180.00	2007

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

Clevenger, Ty	Attorney at Law / Bryan

Issue: Plaintiffs claim Section 152.023 of the Tax Code violates the Privileges and Immuniites Clause of Article IV, Section 2 of the United States Constitution; the Commerce Clause of Article I, Section 8 of the United States Constitution; and the Privileges and Immunities Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek attorneys' fees.

Status: Answer filed.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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: Settlement negotiations in progress.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether Plaintiff owes gas production tax on Order 94 Payments. Whether Plaintiff is liable for taxes as a gas producer or exempt as a purchaser. Whether imposition of the gas production tax on Plaintiff violates the Commerce Clause and Supremacy Clause. Whether gas contract settlement payments or transactions are taxable. Plaintiff claims violation of equal and uniform taxation. Plaintiff claims that taxes assessed by the defendant is “double-dipping," and time limitations bar the assessments. Plaintiff claims violation of due process rights under the Constitutions of both Texas and the United States. Plaintiff seeks attorneys' fees and waiver of interest assessed.

Status: This case consolidated into El Paso Natural Gas Company v. Strayhorn, et al., Cause #GN501395.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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 in progress. Case Dismissed for Want of Prosecution 02/28/07. Motion to Reinstate filed by Plaintiff 06/15/07; granted 10/11/07.

Isis Partners, L.P., et al. vs. Combs, et al.

Cause Number: D-1-GN-07-002828 AG Case #: 072470107 Filed: 9/4/2007

Tax; Declaratory Judgment

Claim Amount	Reporting Period
$20,409.70	09/01/02 through 11/30/05

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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

Issue: Plaintiff claims that the Comptroller did not properly compute liability for mixed beverage gross receipts tax under Tax Code 111.008 and did not send notice of liability in compliance with federal and state due process requirements.

Status: Answer filed.

JP Morgan Chase Bank, N.A. v. Combs, et al.

Cause Number: D-1-GN-07-002158 AG Case #: 072459811 Filed: 7/12/2007

Cigarette and Tobaccco Tax; Interpleader

Claim Amount	Reporting Period
$528,756.00	

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

Kilpatrick, Brian A. Jackson Walker, L.L.P. / Dallas

Issue: Who owns the funds held by JP Morgan Chase Bank as an innocent stakeholder after payment was stopped on a purchase of cigarettes and tobacco products.

Status: Settlement discussions in process.

Kendrick Oil Company v. Combs, et al.

Cause Number: D-1-GN-07-001031 AG Case #: 072445638 Filed: 4/5/2007

Fuels Tax; Refund

Claim Amount	Reporting Period
	01/01/99 - 07/31/02

Counsel Associated With This Case:

Assistant Attorney General

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

Grissom, Donald H. Grissom & Thompson / Austin

Thompson, III, William W.

Issue: Whether motor fuel taxes should be assessed on all tax-free diesel fuel sold by Plaintiff during the audit period or just those gallons exceeding the gallonage limits prescribed in Section 153.205(f) of the Tax Code. Plaintiff also claims the Comptroller improperly assessed diesel fuel taxes for sales allegedly not made in conformance with Sections 153.205 and 162.206 of the Tax Code.

Status: Answer filed.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

Manning, Kirk R. Cantey Hanger LLP / Austin
Levine, Jeremy
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. Order to Retain signed 03/29/07.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

Swinney, Kirk McCreary, Veselka, Bragg & Allen, P.C. / Austin
Armstrong, Roy L.

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties and whether the Comptroller failed to properly account for the inflationary trend.

Status: Henderson County Appraisal District filed a Petition of Intervention and for Injunctive Relief on 12/20/07.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

Swinney, Kirk McCreary, Veselka, Bragg & Allen, P.C. / Austin
Armstrong, Roy L.

Issue: Whether the Comptroller erred by not properly selecting and valuing sample properties and whether the Comptroller failed to properly account for the inflationary trend.

Status: Henderson County Appraisal District filed a Petition of Intervention and for Injunctive Relief on 12/20/07.

MFC Finance Company of Texas v. Combs, 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

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan — OAG Taxation / Austin

Opposing Counsel

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. Nonsuit filed 02/15/08.

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

Masters, Paul H. — OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A.	OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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: Inactive.

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

Moore, D. Mark — OAG Taxation / Austin

Opposing Counsel

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.

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

Cloudt, Jim B. — OAG Taxation / Austin

Opposing Counsel

Pro Se

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

Status: Inactive.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H. OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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.

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

Wolfe, Susan OAG Taxation / Austin

Opposing Counsel

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.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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: MSJ hearing set 09/12/07. Settlement negotiations pending. Agreed Judgment signed 09/11/07.

Texas Entertainment, Inc., et al. v. Combs, et al.

Cause Number: D-1-GN-07-004179 AG Case #: 072480643 Filed: 12/7/2007

S.O.B. Fee Tax; Declaratory Judgment & Injunction

Claim Amount	Reporting Period
	2008

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

Whitehead, G. Stewart Winstead P.C. / Austin

Issue: Whether collection of a fee on sexually oriented businesses where alcohol is consumed violates the First Amendment as an illegal restriction on free speech. Whether the fee is an occupation tax that violates equal protection and fails to allocate revenue to public.

Status: Plaintiffs' application for temporary injunction was denied on 12/18/07. Plaintiffs filed a Motion for Partial Summary Judgment on 12/21/07, and set it for a hearing on 01/22/08. Defendants filed a Conditional Motion for Partial Summary Judgment and Motion for Leave to Supplement the Motion or for Continuance on 12/28/07. The parties agreed to continue the hearing until 02/05/08 at 2 p.m. The parties' responses are due 01/29/08. Hearing on Plaintiff's Motion for Partial Summary Judgment held on 02/05/08. Non-jury trial began on

03/03/08. Plaintiff's Motion for Partial Summary Judgment was denied 03/04/08.

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

Maloney, Natalie A. OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark OAG Taxation / Austin

Opposing Counsel

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.

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

Moore, D. Mark	OAG Taxation / Austin

Opposing Counsel

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.

Closed Cases

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

Monzingo, Christine	OAG Taxation / Austin

Opposing Counsel

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: Case Non-suited on 11/07/07.

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	1992-1995

Counsel Associated With This Case:

Assistant Attorney General

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

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.

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

Storie, Gene OAG Taxation / Austin

Opposing Counsel

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. Parties to determine amount for final judgment. Third party filed motion to unseal court records. Hearing on motion held 04/30/07. Motion granted. Agreed Judgment signed 11/01/07.

Saudi Refining, Inc. v. Rylander, et al.

Cause Number: 99-04227 AG Case #: 99-1155755 Filed: 4/9/1999

Franchise Tax; Refund

Claim Amount	Reporting Period
$502,834.84	1994 - 1995
$190,000.58	1994 - 1995

Counsel Associated With This Case:

Assistant Attorney General

Monzingo, Christine OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether Plaintiff may take franchise tax credit as a joint venture partner for equipment sales taxes paid by the joint venture.

Status: Hearing on Cross-Motions for Summary Judgment held 12/16/02. Judgment granted for State 01/23/03; case closed. Notice of Court Setting for Dismissal for Want of Prosecution issued 11/02/06. Plaintiff filed Motion to Retain 11/22/06. Case reopened 02/16/07. Hearing on Motion to Dismiss held 06/11/07. Defendant's Motion to Dismiss granted on 06/15/07. Plaintiff filed an appeal on 07/05/07. Appellees filed a Motion to Dismiss for Want of Jurisdiction and Brief on the Motion on 08/24/07. Appellant filed a Response to the Motion on 09/14/07. Appellees filed a Reply to Appellant's Response on 09/26/07. Memorandum Opinion issued 10/12/07 dismissing the appeal for want of jurisdiction. Motion for Rehearing not filed.

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

Storie, Gene	OAG Taxation / Austin

Opposing Counsel

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.

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

Masters, Paul H.	OAG Taxation / Austin

Opposing Counsel

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: Case Dismissed for Want of Prosecution 07/11/07.

Index

Amusement Tax

amusement tax v. sales tax 66
real property services 81
sale for resale 66

Apportionment of Interstate Security Service

-- 127
nexus, taxable use 86
use tax--printed out of state 86
waiver 127

Assessment

authority of Comptroller 41
conspiracy 122
convenience store/deli 77
double taxation 24, 31, 73, 79, 80
estimated audit 77
export items 73
liability for tax 22, 30, 61
sales tax 22
sample audit 52
successor liability for tax 30, 42
tax overpayments 72
tax-free fuel 132

Audit

double taxation 73
procedure 101
software services 73

Bad Debt Credit

fuel access cards 122
private label agreement 60
proprietary card usage 142

Business Loss Carry Forward

limitations 5
tax credits 5

Cash Infusion

cash infusion 3

Catalogs

nexus 62
nexus, taxable use 83, 83
use tax--printed out of state 62, 62

Class Action

sales tax 67

Computer Software

services 98
software services 17

Construction Contract

lump sum or separated contract 25, 40, 42, 90

Credit for Overpaid Tax

inventory or bankruptcy 103, 104

Depreciation

net pension liabilities 3
straight line or accelerated 13

Domestic Insured

constitutional limits on tax 116, 117, 118, 118, 119

Electricity

manufacturing exemption 23, 58, 63, 87, 88, 93
processing 53, 53, 85, 89, 89, 90, 97, 99, 100, 101

Environmental Services

new construction or maintenance 24

Estate Values

liability for tax 139
partnership interest 139
taxable gifts 121

Factored Contracts

cash-basis accounting 102

Financing Lease

liability for tax 29

Food Products

convenience store/deli 81
mall vendor 63

Fuels

bad debt credit 141, 142
drive-offs 141
reefer 141

Gas

manufacturing exemption 87, 88
sale for resale 84

Gross Premiums

defaulted auto policies 107
paid-up additions 111
premium reduction 107, 112, 116
renewal premiums 111
split premium to agent 109, 110, 110, 111, 111, 113, 113, 114, 114, 115, 115

Gross Receipts

apportionment of accounts receivables receipts 6
apportionment of intangible receipts 7, 12
Apportionment of Interstate Security Service 4
apportionment of pension reversion gain 9
double taxation 146
earned surplus 9
interstate telephone charges 4, 11
inventory depletion 135
merger expenses 7
severance pay 7

Health Care Supplies

sales tax 28

High Cost Gas

limitations 124

Inaccurate Certification

sampling method 123, 125, 126, 133, 133, 134, 136, 138
valuation methods 123, 125, 126, 134, 136, 138

Installation Labor

retail 72
telecommunications equipment 85

Installment Sales

bad debt credit 134
vehicle financing 123

Inter-Company Debt

collateral 3

Interest waiver

scaffolding as "materials" 58

Interpleader

cigarette tax 131

Intraplant Transportation

manufacturing exemption 92

Joint Venture

sales tax credits 12, 145

Labor

labor 44, 90
sales tax 33, 40, 93

Leased Property

authority of Comptroller 40
contractor 49
gas generation system 49
location of use 40
ships 40

Lien

community liability 74
homeowners' associations 125

Limitations

administrative proceedings 139

subsequent refund claim 88

Local Sales Tax

consummation of sale 35

Maintenance

real property services 44
sale for resale 41

Manufacturing Exemption

-- 93
alteration property 72
burden of proof 97
candy manufacturing 73
coal mining operations 143
electricity 23, 35, 53, 58, 63, 87, 88, 93
gas 87, 88
industrial solid waste 44, 84
intraplant transportation 20, 78, 92
packaging 59, 72, 92
pipe 92
pollution control 44, 78
post-mix machines 64
rolling stock 78
sale for resale 38, 59, 60, 72, 72, 85, 87, 88
software licenses 98
software services 18
telecommunications equipment 19, 35, 54, 55, 55, 56, 56, 57, 57, 58
useful life period 19

Mixed Drinks

-- 146
sampling method 136

Motor Vehicle Property

#Error
nexus 79
real property services 91

Motor Vehicle Seller

liability for tax 137

New Construction

drilling rigs 91
environmental services 24
finish-out work 29
labor 33, 40, 93
lump sum or separated contract 40, 94
real property services 44
sales tax 33
tax credits 66

Nexus

delivery and installation of goods 68
earned surplus 8, 14
promotional materials 22, 37, 38, 45, 46, 47, 48, 48
seminar vendor 6, 39
taxable capital 8, 14

Officer and Director Compensation

add-back to surplus 1, 1, 9, 13
income tax 2
significant policy-making authority 1, 1

Oil Well Services

manufacturing exemption 20

Packaging

sale for resale 51
shipment out-of-state 32

Penalty

waiver 18, 127

Pipe

manufacturing exemption 92

Post Production Costs

natural gas company 127, 128, 129, 130
order 94 payments 127, 128, 129, 130

Pre-acquisition Earnings

write-down 10

Predominant Use

electricity 59

Premiums

home warranty insurance 119

Prizes

cost of taxable 100
sale for resale 79, 80

Promotional Materials

nexus 22, 34, 37, 45, 46, 47, 48, 48
ownership of 21, 36, 38, 39, 45, 45, 46
use tax--printed out of state 62

Proof

burden in administrative hearing 59

Push-down Accounting

merger 15

Real Property Repair and Remodeling

finish-out work 29
refrigeration 92
vs. maintenance 49

Real Property Service

exempt entities 96
golf courses 52
landscaping services 42
rolling stock 20
temporary storage 72, 96

Repair and replacement parts

#Error

Resale Certificates

good faith 87

Sale for Resale

blanket resale certificates 24
computer software 104
contractor 17
detrimental reliance 30
double taxation 31
electricity 87, 88
federal contractor 25, 26, 26, 27, 27, 28, 43, 44, 50, 51, 69, 69, 69, 70, 70, 71, 75, 81, 95, 95, 96
gas 84, 87, 88
hotel amenities 32, 46, 64, 103
manufacturing exemption 60, 87, 88
prizes 79, 80
rental furniture 91
telecommunications equipment 31, 82, 85, 102
transfer of care, custody, and control of equipment 79, 80

Sample Audits

compliance with procedures 50
non-taxable items 74
sample audit 52

Sampling Technique

bad debt credit 54
exemption certificates 75
sales tax 76, 77, 99, 136
validity 52, 130

Service Charges

gratuities 132

sexually oriented business fee

constitutionality 140

Ship unloaders

#Error

Subsidiary

valuation of 10

Successor Liability

business interference 137, 138

Surplus Lines Insurer

unauthorized insurance tax 108, 143, 144, 145

Tax Credits

deferred tax liability 11

Taxable Surplus

impairment calculation 2, 121

merger 15

Telecommunication Services

accounts receivable 14
liability for tax 141
networking services 14
TIF assessment 135, 141

Telecommunications Equipment

components 97

Third Party Lender

inter-company debt 3

Throwback Rule

P.L. 86-272 8

Valuation Methods

impairment calculation 3
valuation methods 3

Vending Machine Sales

exempt entities 67
money validators 65

Waste Removal

homeowners' associations 36
real property services 20, 21, 44, 72, 92

Write-down

investment in subsidiaries 10