



ATTORNEY GENERAL OF TEXAS
FINANCIAL AND TAX LITIGATION DIVISION

COMPTROLLER OF PUBLIC ACCOUNTS
CASE LIST AND SUMMARY OF ISSUES

MARCH 2012

Table of Contents

Table of Cases	xi
Franchise Tax	
Allcat Claims Service, L.P. v. Combs, et al.	1
Apache Corp. vs Compt., et al.	1
AROC (Texas), Inc. v. Combs, et al.	2
Basic Energy Services, Inc. v. Combs, et al.	2
Bigham Brothers, Inc. v. Combs, et al.	3
Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.	3
Exxon Mobil Corp. v. Combs, et al.	4
Fairfield Industries, Inc. v. Combs, et al.	4
Fairfield Industries, Inc. v. Strayhorn, et al.	5
Fairfield Industries, Inc. v. Strayhorn, et al.	5
Flint Energy Services, Inc. v. Combs, et al.	6
Gulf Chemical & Metallurgical Corp. v. Combs	6
Gulf Chemical & Metallurgical Corp. v. Compt., et al.	7
Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.	7
Ingersoll-Rand Company v. Combs, et al.	8
Keystone RV Company Inc. v. Combs, et al.	8
Keystone RV Company, Inc. v. Combs, et al.	9
Liaison Resources LP v. Combs, et al.	9
Lone Star Industries, Inc. v. Combs, et al.	10
Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al.	10
Newpark Resources, Inc. v. Combs, et al.	11
Nike USA, Inc. v. Combs	11
PEK, Inc. dba Serviceline Transport v. Combs, et al.	12
Renewable Energy Systems v. Combs, et al.	12
Rent-A-Center, Inc. v. Combs, et al.	13
Service King Paint & Body, LLC as Successor to Alamo Body & Paint, Inc. v. Combs, et al.	13
Shell Trading Services Co. v. Combs, et al.	14
Taylor & Hill, Inc. v. Combs, et al.	14
TD Auto Finance, LLC v. Combs, et al.	15
TGS-NOPEC Geophysical Company v. Strayhorn, et al.	15

Titan Transportation, LP v. Combs, et al.	17
TLH Enterprises, Inc. v. Combs, et al.	17
TTX Company v. Combs, et al.	18
Viacom International, Inc. v. Strayhorn, et al.	18
Winstead, PC v. Combs, et al.	19

Sales Tax

7-Eleven, Inc. v. Strayhorn, et al.	21
7-Eleven, Inc. v. Strayhorn, et al.	21
Agri-Plex Heating & Cooling, LLC v. Combs, et al.	22
Air Liquide America, L.P. v. Compt., et al.	22
Alfred F. Mares v. Combs	23
Al-Noor Impex Corporation and Azim Bhaiwala v. Gregg Abbott and Susan Combs	23
Anderson Merchandisers, LP v. Combs, et al.	24
Apache Corp. v. Combs, et al.	24
Apache Corp. vs. Compt., et al.	25
Austin Engineering Co., Inc. v. Combs, et al.	25
Awad, Mike v. Strayhorn, et al.	26
Bell Helicopter Textron, Inc. v. Compt., et al.	27
Bhaiwala Corporation, et al. v. Gregg Abbott and Susan Combs	27
BHR Texas L.P. v. Combs, et al.	28
Big Tex Aviation, Inc. v. Combs, et al.	28
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.	29
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.	30
Boeing North America, Inc. v. Strayhorn, et al.	30
BP America, Inc. v. Combs, et al.	31
Broadwing Corporation v. Strayhorn, et al.	31
BTA Oil Producers, LLC v. Combs, et al.	32
Budget Prepay, Inc. v. Combs, et al.	32
Burns, Kevin D. v. Strayhorn, et al.	33
C & T Stone Company v. Rylander, et al.	33
C.C. Carlton Industries, Ltd. v. Combs, et al.	34
Captain Hook-Austin, Inc. v. Combs, et al.	34
Carino's Italian Kitchen, Inc. v. Combs, et al.	34
CEC Entertainment, Inc. v. Strayhorn, et al.	35
Centreport Partners, L.P. v. Combs, et al.	35
Chapal Zenray, Inc. v. Combs, et al.	36

Church & Dwight Company, Inc. v. Rylander, et al.	37
Cirrus Exploration Company v. Combs, et al.	37
City of Dickinson v. Combs	38
City of Webster and the Webster Economic Development Corporation v. Strayhorn	38
Coca-Cola Company, The v. Strayhorn, et al.	39
Continental Airlines, Inc. v. Combs, et al.	40
Cosmair, Inc. v. Strayhorn, et al.	40
Courthouse Direct.com v. Combs, et al.	41
Day Cruises Maritime, L.L.C. v. Strayhorn, et al.	41
Day Cruises Maritime, L.L.C. v. Strayhorn, et al.	42
Del Monte Fresh Produce (Texas), Inc. v. Combs, et al.	42
Dish Purchasing Corp. v. Combs, et al.	43
Doubletree DTWC Corp. v. Combs, et al. (Formerly Embassy Equity Development Corporation, et al. v. Strayhorn, et al.)	43
Dow Jones & Company, Inc. v. Combs, et al.	44
DSC Enterprises, Inc. v. Combs, et al.	45
DSW Shoe Warehouse, Inc. v. Combs, et al.	45
EFW, Inc. v. Rylander, et al.	46
EFW, Inc. v. Strayhorn, et al.	46
Energy Education of Montana, Inc. v. Combs	47
Energy Education of Montana, Inc. v. Combs, et al.	48
ExxonMobil Oil Corporation v. Combs, et al.	48
F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al.	49
Fair Isaac Corp. v. Combs, et al.	49
Fencecrete America Manufacturing, Inc. v. Combs, et al.	50
First Class Enterprises, Inc. v. Combs, et al.	50
Florida Management, Inc., et al. v. Compt., et al.	51
Future A's Limited Liability v. Combs, et al.	51
GEO Group, Inc., The v. Combs, et al.	52
Gift Box Corporation of America, Inc. v. Rylander, et al.	52
Glazier Foods Co. v. Combs, et al.	52
GMRI Texas, LP v. Combs	53
Grocers Supply Co., Inc. v. Combs, et al.	53
Grocers Supply Institutional Convenience Inc. v. Combs, et al.	54
Grocers Supply Produce Co. v. Combs, et al.	54
Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.	54

GSC Enterprises, Inc. v. Strayhorn, et al.	55
H.K. Global Trading, Ltd. v. Combs, et al.	55
Habib Surani, H.S.N. Enterprises, Inc. v. Tx. Comptroller of Public Accounts	56
Health Care Service Corp. v. Combs, et al.	56
Health Care Service Corp., et al. vs. Compt., et al.	57
Health Care Services, Corp. v. Combs	57
High Tech Document Service v. Combs, et al.	58
Home Depot, USA, Inc. v. Strayhorn, et al.	58
Hospice DME of Texas, Inc. v. Combs, et al.	59
Hospice DME of West Texas, Inc. v. Combs, et al.	59
Hospice DME, Inc. v. Combs, et al.	60
Hotel Paso Del Norte, Inc. v. Combs, et al.	60
J.E. Dunn Construction Co. v. Combs, et al.	61
Kenneth O. Lester Co., et al. v. Susan Combs, Compt., et al.	61
Kenneth O. Lester, Co., Inc. v. Combs, et al.	62
Krishna Bhavana, LLC and Krishna Kothari v. Combs, et al.	62
KST Electric, Ltd. v. Combs, et al.	62
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.	63
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.	63
Leoncito Plant, L.L.C. v. Combs, et al.	64
Liberty Vending Services, Inc. v. Strayhorn, et al.	65
Lockheed Martin Corp. v. Combs, et al.	65
Makara Enterprise, LP v. Combs, et al.	66
Matoka, Inc. vs. Compt., et al.	66
Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.	67
NCO Financial Systems, Inc. v. Combs, et al.	67
OA, LLC v. Combs, et al.	68
Olmos Abatement, Inc. v. Compt., et al.	68
Pointsmith Point of Purchase Management Services, LP v. Combs, et al.	69
Pop Restaurants, LLC. v. Combs, et al.	69
Rackspace US Inc. v. Combs, et al.	70
Richard's Heating & Air Conditioning, Inc. v. State of Texas, et al.	70
Richmont Aviation, Inc. v. Combs, et al.	71
Roadway Express, Inc. v. Rylander, et al.	71
Roark Amusement & Vending, L.P. v. Combs, et al.	72

Roark Amusement & Vending, L.P. v. Strayhorn, et al.	72
Roark Amusement & Vending, L.P. v. Strayhorn, et al.	73
Root's Rocks, Inc. v. Combs, et al.	74
Salim Abbas Merchant v. Combs, et al.	75
Sanadco, Inc. and Mahmoud A. Isba aka Moumoud Ahmed Abuisba aka Mike Isba v. Combs, et al.	75
Scott A. Williams v. Combs, et al.	75
Shehzad Dhanani v. Combs, et al.	76
Southern Union Company v. Strayhorn, et al.	76
Southern Union Gas v. Combs, et al.	77
Southwest Royalties, Inc. v. Combs, et al.	77
Sysco Food Services of Austin, Inc. v. Strayhorn, et al.	78
Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.	78
Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.	79
Sysco Food Services of San Antonio, LP, et al. v. Combs	79
Tara Levy, Robert Tycast, Vivian Daywood, John Butler, Rocky & Linda Piazza and Paul DeNucci, et al. v. Combs, et al.	80
Tecpetrol Operating, LLC v. Combs, et al.	81
Texas and Kansas City Cable Partners LP v. Combs, et al.	81
Texas Gulf, Inc. v. Bullock, et al.	82
Texas Waste Systems, Inc. v. Combs, et al.	82
The Neiman-Marcus Group, Inc. v. Combs, et al.	82
Time Warner Entertainment & Advance Newhouse v. Combs, et al.	83
Tree of Life, Inc. v. Combs, et al.	83
U.S. Food Service, Inc. f/k/a White Swan, Inc. v. Combs, et al.	84
U.S. Foodservice, Inc., et al. v. Combs, et al.	84
U.S. Foodservices, Inc. v. Combs, et al.	85
United Scaffolding, Inc. v. Strayhorn, et al.	85
United Space Alliance, LLC v. Combs, et al.	86
V.H. Salas & Associates, Inc. v. Comptroller	86
Verizon Business Network Services, Inc. v. Compt. Et. Al.	87
W. Robert Brown v. Combs, et al.	87
Watson Sysco Food Services, Inc. v. Strayhorn, et al.	88
Weatherization Management Group, LLC, In re	88
White Swan, Inc. v. Strayhorn, et al.	89

White Swan, Inc. v. Strayhorn, et al.	89
Wyndham International Operating Partnership, LP v. Strayhorn, et al.	90
Zale Delaware, Inc. v. Combs, et al.	90
Zimmer US, Inc. v. Combs, et al.	91

Insurance Tax

American National Insurance Company v. Combs, et al.	93
American National Life Insurance Company of Texas v. Combs, et al.	93
Argonaut Insurance Company and Argonaut Great Central v. Combs, et al.	94
Fidelity National Title Ins. Co. v. Combs, et al.	94
Standard Life and Accident Insurance Company v. Combs, et al.	95
Warranty Underwriters Insurance Company v. Rylander, et al.	95

Other Taxes

35 Bar & Grill, LLC, et al. v. Compt., et al.	97
A & D Interests, Inc., dba Heartbreakers v. Compt., et al.	97
Anadarko Austin Chalk, Co., Anadarko Petroleum Corp., and Anadarko E&P Co., LP v. Combs, et al.	98
Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.	98
Bassam Jaber Hantouli v. Susan Combs, Compt., et al.	98
Benelux Corp., dba The Palazzo & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.	99
Benelux Corp., dba, et al. v. Compt., et al.	99
Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.	100
D. Houston, Inc., dba v. Compt., et al.	101
Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector	101
El Paso Entertainment, Inc. dba v. Compt., et al.	102
Emirates, Inc. v. Combs, et al.	102
Enterprise Operating Co., Inc., dba v. Compt., et al.	103
FW, Inc. and S & S Bros., Inc. v. Compt., et al.	103
Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.	104
I Gotcha, Inc., dba, et al. v. Compt., et al.	104
Isis Partners, L.P., et al. vs. Combs, et al.	104
John P. Bellam, dba Showgirl v. Compt., et al.	105
Kairos of Texas v. Combs, et al.	105
Karpod, Inc., dba, et al. v. Compt., et al.	106
Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.	106

MC/VC, Inc. v. Compt., et al.	107
North By East, Inc., et al. v. Compt., et al.	107
Price & Company v. Combs, et al.	107
Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.	108
RPM Entertainment, Inc., et al. v. Compt., et al.	109
Savvy, Inc., dba v. Compt., et al.	109
SSD Enterprises, Inc. v. Compt., et al.	109
Texas Cabaret, Inc., dba, et al. v. Compt., et al.	110
Texas Richmond Corp. v. Compt., et al.	110
The King Lounge, Inc., dba v. Compt., et al.	111
The Men's Club Corp. v. Compt., et al.	111
Closed Cases	
BBB Trading Co. v. State of Texas, et al.	113
Boat Town, Inc. v. Combs, et al.	113
Cashiola, James v. Strayhorn, et al.	114
Coastal Industries, Inc. v. Compt., et al.	114
Frito-Lay, Inc. v. Compt., et al.	115
GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.	115
GTE Southwest, Inc. v. Combs, et al.	116
Lee Construction and Maintenance Company v. Rylander, et al.	116
Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.	117
Ranger Fuels and Maintenance, LLC v. Combs, et al.	117
Senior Care Consultants, Inc. v. Prevail Systems, Inc., et al.	117
Taco Bell Corp. v. Combs, et al.	118
Vinson Oil Distribution v. Strayhorn, et al.	118
Index	121

Table of Cases

35 Bar & Grill, LLC, et al. v. Compt., et al.	97
7-Eleven, Inc. v. Strayhorn, et al.	21
7-Eleven, Inc. v. Strayhorn, et al.	21
A & D Interests, Inc., dba Heartbreakers v. Compt., et al.	97
Agri-Plex Heating & Cooling, LLC v. Combs, et al.	22
Air Liquide America, L.P. v. Compt., et al.	22
Alfred F. Mares v. Combs	23
Allcat Claims Service, L.P. v. Combs, et al.	1
Al-Noor Impex Corporation and Azim Bhaiwala v. Gregg Abbott and Susan Combs	23
American National Insurance Company v. Combs, et al.	93
American National Life Insurance Company of Texas v. Combs, et al.	93
Anadarko Austin Chalk, Co., Anadarko Petroleum Corp., and Anadarko E&P Co., LP v. Combs, et al.	98
Anderson Merchandisers, LP v. Combs, et al.	24
Apache Corp. v. Combs, et al.	24
Apache Corp. vs Compt., et al.	1
Apache Corp. vs. Compt., et al.	25
Argonaut Insurance Company and Argonaut Great Central v. Combs, et al.	94
AROC (Texas), Inc. v. Combs, et al.	2
Austin Engineering Co., Inc. v. Combs, et al.	25
Awad, Mike v. Strayhorn, et al.	26
Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.	98
Basic Energy Services, Inc. v. Combs, et al.	2
Bassam Jaber Hantouli v. Susan Combs, Compt., et al.	98
BBB Trading Co. v. State of Texas, et al.	113
Bell Helicopter Textron, Inc. v. Compt., et al.	27
Benelux Corp., dba The Palazzo & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.	99
Benelux Corp., dba, et al. v. Compt., et al.	99
Bhaiwala Corporation, et al. v. Gregg Abbott and Susan Combs	27
BHR Texas L.P. v. Combs, et al.	28
Big Tex Aviation, Inc. v. Combs, et al.	28
Bigham Brothers, Inc. v. Combs, et al.	3
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.	29
Blue Cross and Blue Shield of Texas, Inc. v. Strayhorn, et al.	30
Boat Town, Inc. v. Combs, et al.	113
Boeing North America, Inc. v. Strayhorn, et al.	30
BP America, Inc. v. Combs, et al.	31
Broadwing Corporation v. Strayhorn, et al.	31
BTA Oil Producers, LLC v. Combs, et al.	32

Budget Prepay, Inc. v. Combs, et al.	32
Burns, Kevin D. v. Strayhorn, et al.	33
C & T Stone Company v. Rylander, et al.	33
C.C. Carlton Industries, Ltd. v. Combs, et al.	34
Captain Hook-Austin, Inc. v. Combs, et al.	34
Carino's Italian Kitchen, Inc. v. Combs, et al.	34
Cashiola, James v. Strayhorn, et al.	114
CEC Entertainment, Inc. v. Strayhorn, et al.	35
Centreport Partners, L.P. v. Combs, et al.	35
Chapal Zenray, Inc. v. Combs, et al.	36
Chevron Chemical Company, L.L.C., as Successor to Chevron Chemical Company v. Strayhorn, et al.	3
Church & Dwight Company, Inc. v. Rylander, et al.	37
Cirrus Exploration Company v. Combs, et al.	37
City of Dickinson v. Combs	38
City of Webster and the Webster Economic Development Corporation v. Strayhorn	38
Coastal Industries, Inc. v. Compt., et al.	114
Coca-Cola Company, The v. Strayhorn, et al.	39
Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.	100
Continental Airlines, Inc. v. Combs, et al.	40
Cosmair, Inc. v. Strayhorn, et al.	40
Courthouse Direct.com v. Combs, et al.	41
D. Houston, Inc., dba v. Compt., et al.	101
Day Cruises Maritime, L.L.C. v. Strayhorn, et al.	41
Day Cruises Maritime, L.L.C. v. Strayhorn, et al.	42
Del Monte Fresh Produce (Texas), Inc. v. Combs, et al.	42
Dickens, Larry & Mary and Kevin & Jennifer Zaputil v. Combs and Connie Perry, Grimes County Tax Assessor and Collector	101
Dish Purchasing Corp. v. Combs, et al.	43
Doubletree DTWC Corp. v. Combs, et al. (Formerly Embassy Equity Development Corporation, et al. v. Strayhorn, et al.)	43
Dow Jones & Company, Inc. v. Combs, et al.	44
DSC Enterprises, Inc. v. Combs, et al.	45
DSW Shoe Warehouse, Inc. v. Combs, et al.	45
EFW, Inc. v. Rylander, et al.	46
EFW, Inc. v. Strayhorn, et al.	46
El Paso Entertainment, Inc. dba v. Compt., et al.	102
Emirates, Inc. v. Combs, et al.	102
Energy Education of Montana, Inc. v. Combs	47
Energy Education of Montana, Inc. v. Combs, et al.	48
Enterprise Operating Co., Inc., dba v. Compt., et al.	103
Exxon Mobil Corp. v. Combs, et al.	4
ExxonMobil Oil Corporation v. Combs, et al.	48

F M Express Food Mart, Inc., and Fouad Hanna Mekdessi v. Rylander, et al.	49
Fair Isaac Corp. v. Combs, et al.	49
Fairfield Industries, Inc. v. Combs, et al.	4
Fairfield Industries, Inc. v. Strayhorn, et al.	5
Fairfield Industries, Inc. v. Strayhorn, et al.	5
Fencecrete America Manufacturing, Inc. v. Combs, et al.	50
Fidelity National Title Ins. Co. v. Combs, et al.	94
First Class Enterprises, Inc. v. Combs, et al.	50
Flint Energy Services, Inc. v. Combs, et al.	6
Florida Management, Inc., et al. v. Compt., et al.	51
Frito-Lay, Inc. v. Compt., et al.	115
Future A's Limited Liability v. Combs, et al.	51
FW, Inc. and S & S Bros., Inc. v. Compt., et al.	103
GEO Group, Inc., The v. Combs, et al.	52
Gift Box Corporation of America, Inc. v. Rylander, et al.	52
Glazier Foods Co. v. Combs, et al.	52
GMRI Texas, LP v. Combs	53
Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.	104
Grocers Supply Co., Inc. v. Combs, et al.	53
Grocers Supply Institutional Convenience Inc. v. Combs, et al.	54
Grocers Supply Produce Co. v. Combs, et al.	54
Grocers Supply-Institutional-Convenience, Inc. v. Rylander, et al.	54
GSC Enterprises, Inc. v. Strayhorn, et al.	55
GTE Mobilnet of the Southwest, L.L.C. v. Strayhorn, et al.	115
GTE Southwest, Inc. v. Combs, et al.	116
Gulf Chemical & Metallurgical Corp. v. Combs	6
Gulf Chemical & Metallurgical Corp. v. Compt., et al.	7
Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al.	7
H.K. Global Trading, Ltd. v. Combs, et al.	55
Habib Surani, H.S.N. Enterprises, Inc. v. Tx. Comptroller of Public Accounts	56
Health Care Service Corp. v. Combs, et al.	56
Health Care Service Corp., et al. vs. Compt., et al.	57
Health Care Services, Corp. v. Combs	57
High Tech Document Service v. Combs, et al.	58
Home Depot, USA, Inc. v. Strayhorn, et al.	58
Hospice DME of Texas, Inc. v. Combs, et al.	59
Hospice DME of West Texas, Inc. v. Combs, et al.	59
Hospice DME, Inc. v. Combs, et al.	60
Hotel Paso Del Norte, Inc. v. Combs, et al.	60
I Gotcha, Inc., dba, et al. v. Compt., et al.	104
Ingersoll-Rand Company v. Combs, et al.	8
Isis Partners, L.P., et al. vs. Combs, et al.	104
J.E. Dunn Construction Co. v. Combs, et al.	61

John P. Bellam, dba Showgirl v. Compt., et al.	105
Kairos of Texas v. Combs, et al.	105
Karpod, Inc., dba, et al. v. Compt., et al.	106
Kenneth O. Lester Co., et al. v. Susan Combs, Compt., et al.	61
Kenneth O. Lester, Co., Inc. v. Combs, et al.	62
Keystone RV Company Inc. v. Combs, et al.	8
Keystone RV Company, Inc. v. Combs, et al.	9
Krishna Bhavana, LLC and Krishna Kothari v. Combs, et al.	62
KST Electric, Ltd. v. Combs, et al.	62
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.	63
Laredo Coca-Cola Bottling Company, and Coca-Cola Enterprises, Inc. v. Strayhorn, et al.	63
Lee Construction and Maintenance Company v. Rylander, et al.	116
Leoncito Plant, L.L.C. v. Combs, et al.	64
Liaison Resources LP v. Combs, et al.	9
Liberty Vending Services, Inc. v. Strayhorn, et al.	65
Lockheed Martin Corp. v. Combs, et al.	65
Lone Star Industries, Inc. v. Combs, et al.	10
Makara Enterprise, LP v. Combs, et al.	66
Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.	106
Matoka, Inc. vs. Compt., et al.	66
Maxus Energy Corporation as Successor in Interest to Maxus Corporate Company v. Strayhorn, et al.	67
MC/VC, Inc. v. Compt., et al.	107
Millennium Inorganic Chemicals, Inc. v. Strayhorn, et al.	10
Mirage Real Estate, Inc., et al. v. Richard Durbin, et al.	117
NCO Financial Systems, Inc. v. Combs, et al.	67
Newpark Resources, Inc. v. Combs, et al.	11
Nike USA, Inc. v. Combs	11
North By East, Inc., et al. v. Compt., et al.	107
OA, LLC v. Combs, et al.	68
Olmos Abatement, Inc. v. Compt., et al.	68
PEK, Inc. dba Serviceline Transport v. Combs, et al.	12
Pointsmith Point of Purchase Management Services, LP v. Combs, et al.	69
Pop Restaurants, LLC. v. Combs, et al.	69
Price & Company v. Combs, et al.	107
Rackspace US Inc. v. Combs, et al.	70
Ranger Fuels & Maintenance, L.L.C. v. Strayhorn, et al.	108
Ranger Fuels and Maintenance, LLC v. Combs, et al.	117
Renewable Energy Systems v. Combs, et al.	12
Rent-A-Center, Inc. v. Combs, et al.	13
Richard's Heating & Air Conditioning, Inc. v. State of Texas, et al.	70
Richmont Aviation, Inc. v. Combs, et al.	71

Roadway Express, Inc. v. Rylander, et al.	71
Roark Amusement & Vending, L.P. v. Combs, et al.	72
Roark Amusement & Vending, L.P. v. Strayhorn, et al.	72
Roark Amusement & Vending, L.P. v. Strayhorn, et al.	73
Root's Rocks, Inc. v. Combs, et al.	74
RPM Entertainment, Inc., et al. v. Compt., et al.	109
Salim Abbas Merchant v. Combs, et al.	75
Sanadco, Inc. and Mahmou A. Isba aka Moumoud Ahmed Abuisba aka Mike Isba v. Combs, et al.	75
Savvy, Inc., dba v. Compt., et al.	109
Scott A. Williams v. Combs, et al.	75
Senior Care Consultants, Inc. v. Prevail Systems, Inc., et al.	117
Service King Paint & Body, LLC as Successor to Alamo Body & Paint, Inc. v. Combs, et al.	13
Shehzad Dhanani v. Combs, et al.	76
Shell Trading Services Co. v. Combs, et al.	14
Southern Union Company v. Strayhorn, et al.	76
Southern Union Gas v. Combs, et al.	77
Southwest Royalties, Inc. v. Combs, et al.	77
SSD Enterprises, Inc. v. Compt., et al.	109
Standard Life and Accident Insurance Company v. Combs, et al.	95
Sysco Food Services of Austin, Inc. v. Strayhorn, et al.	78
Sysco Food Services of Houston, L.P. (fka Sysco Food Service of Houston, Inc.) v. Rylander, et al.	78
Sysco Food Services of Houston, L.P. (fka Sysco Food Services of Houston, Inc.) v. Strayhorn, et al.	79
Sysco Food Services of San Antonio, LP, et al. v. Combs	79
Taco Bell Corp. v. Combs, et al.	118
Tara Levy, Robert Tycast, Vivian Daywood, John Butler, Rocky & Linda Piazza and Paul DeNucci, et al. v. Combs, et al.	80
Taylor & Hill, Inc. v. Combs, et al.	14
TD Auto Finance, LLC v. Combs, et al.	15
Tecpetrol Operating, LLC v. Combs, et al.	81
Texas and Kansas City Cable Partners LP v. Combs, et al.	81
Texas Cabaret, Inc., dba, et al. v. Compt., et al.	110
Texas Gulf, Inc. v. Bullock, et al.	82
Texas Richmond Corp. v. Compt., et al.	110
Texas Waste Systems, Inc. v. Combs, et al.	82
TGS-NOPEC Geophysical Company v. Strayhorn, et al.	15
The King Lounge, Inc., dba v. Compt., et al.	111
The Men's Club Corp. v. Compt., et al.	111
The Neiman-Marcus Group, Inc. v. Combs, et al.	82
Time Warner Entertainment & Advance Newhouse v. Combs, et al.	83
Titan Transportation, LP v. Combs, et al.	17

TLH Enterprises, Inc. v. Combs, et al.	17
Tree of Life, Inc. v. Combs, et al.	83
TTX Company v. Combs, et al.	18
U.S. Food Service, Inc. f/k/a White Swan, Inc. v. Combs, et al.	84
U.S. Foodservice, Inc., et al. v. Combs, et al.	84
U.S. Foodservices, Inc. v. Combs, et al.	85
United Scaffolding, Inc. v. Strayhorn, et al.	85
United Space Alliance, LLC v. Combs, et al.	86
V.H. Salas & Associates, Inc. v. Comptroller	86
Verizon Business Network Services, Inc. v. Compt. Et. Al.	87
Viacom International, Inc. v. Strayhorn, et al.	18
Vinson Oil Distribution v. Strayhorn, et al.	118
W. Robert Brown v. Combs, et al.	87
Warranty Underwriters Insurance Company v. Rylander, et al.	95
Watson Sysco Food Services, Inc. v. Strayhorn, et al.	88
Weatherization Management Group, LLC, In re	88
White Swan, Inc. v. Strayhorn, et al.	89
White Swan, Inc. v. Strayhorn, et al.	89
Winstead, PC v. Combs, et al.	19
Wyndham International Operating Partnership, LP v. Strayhorn, et al.	90
Zale Delaware, Inc. v. Combs, et al.	90
Zimmer US, Inc. v. Combs, et al.	91

Franchise Tax

Allcat Claims Service, L.P. v. Combs, et al.

Cause Number: D-1-GN-11-002294 AG Case #: 113283048

Filed: 7/29/2011

Franchise Tax; Protest & UDJA

Claim Amount	Reporting Period
\$96,039.00	01/01/2008 through 12/31/2009

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Seay, Michael B.
Traphagan, Amanda M.
Leonard, Lacy L.

Issue: Whether certain payments made by Plaintiff to subcontractors should be excluded from total revenue. Whether certain payments made by Plaintiff to subcontractors should be included in COGS. Whether the Comptroller's application of §171.1011(g)(3) and §171.1012 violates the Equal Protection clause. Whether imposition of the tax on a limited partnership violates the Bullock Amendment.

Status: Answer filed.

Apache Corp. vs Compt., et al.

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

Filed: 11/6/2007

Franchise Tax;

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

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin 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.

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

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

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

Status: Discovery in progress.

Basic Energy Services, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-003101 AG Case #: 113295083

Filed: 10/6/2011

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,921,913.94	Report year 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Colmenero, David E. Meadows, Collier, Reed, Cousins, Crouch & Ungerman, LLP / Dallas

Freeman, Jason

Issue: Whether Plaintiff's election to utilize the compensation deduction disqualifies Plaintiff from filing an amended report for the same year claiming the COGS deduction. Whether detrimental reliance would require the Comptroller to accept a change in Plaintiff's election of deduction.

Status: Answer filed.

Bigham Brothers, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-002206 AG Case #: 113283055

Filed: 7/21/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$38,946.00	Report years 2008-2010

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Traphagan, Amanda M.
Leonard, Lacy L.

Issue: Whether Plaintiff's election to file an EZ report disqualifies the Plaintiff from subsequently claiming the COGS deduction for the same report year.

Status: Trial set for 08/20/12.

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

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Eidman, Mark W.
Langenberg, Ray
Sigel, Doug

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

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

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

Exxon Mobil Corp. v. Combs, et al.

Cause Number: D-1-GN-10-004036 AG Case #: 103237442

Filed: 11/16/2010

Franchise Tax; Refund

Claim Amount	Reporting Period
\$16,347,707.00	Report Years 2002 - 2004

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether the taxpayer is entitled to investment tax credits under subchapter Q (now repealed) of Chapter 171. Whether the statute requires a 90-day "look-back" period for qualifying events.

Status: Answer filed.

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

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

Filed: 4/21/2009

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,557,040.47	2005-2007

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Mann, Christopher S.

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

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

Status: Answer filed.

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

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

Filed: 9/13/2005

Franchise Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

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

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

Status: Order consolidating with *Fairfield Industries, Inc. v. Compt., et al.*, Cause No. D-1-GN-06-000797 entered 07/11/07. Inactive. Pending disposition of TGS-NOPEC case, Cause #D-1-GN-05-00637.

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

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

Filed: 3/7/2006

Franchise Tax; Protest & Declaratory Judgment

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

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

White, John D.

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

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

Status: Case consolidated into Fairfield Industries, Inc. v. Strayhorn, et al., Cause #GN503289.

Flint Energy Services, Inc. v. Combs, et al.

Cause Number: D-1-GN-12-000671 AG Case #: 123320228

Filed: 3/7/2012

Franchise Tax; Protest

Claim Amount	Reporting Period
\$14,496.00	Report Year 2010

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B.

OAG Taxation / Austin

Opposing Counsel

Martens, James F.

Martens, Todd & Leonard / Austin

Traphagan, Amanda M.

Leonard, Lacy L.

Issue: Whether Plaintiff may include travel per diem expenses in its COGs deduction. Whether the travel per diem payments qualify as a direct cost.

Status: Answer filed.

Gulf Chemical & Metallurgical Corp. v. Combs

Cause Number: D-1-GN-11-003174 AG Case #: 113296925

Filed: 10/13/2011

Franchise Tax; Refund

Claim Amount	Reporting Period
\$1,357,920.00	Report years 2005-2007

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin

OAG Taxation / Austin

Opposing Counsel

Sigel, Doug

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

Issue: Whether a payment/credit from the Plaintiff to Plaintiff's customer should be netted against gross receipts for apportionment purposes.

Status: Answer filed.

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

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

Filed: 7/2/2008

Franchise Tax; Protest & Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin

OAG Taxation / Austin

Opposing Counsel

Eidman, Mark W.

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

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

Status: Order granting Motion to Consolidate into Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al, Cause #D-1-GN-06-004636, entered 09/22/09.

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

Van Oort, Kevin

OAG Taxation / Austin

Opposing Counsel

Eidman, Mark W.
Langenberg, Ray

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

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: Order granting Motion to Consolidate with Gulf Chemical & Metallurgical Corporation v. Strayhorn, et al, Cause #D-1-GN-08-002313, entered 09/22/09. Hearing on Plaintiff's MSJ held on 12/05/11. Plaintiff's motion denied in part and granted in part. Trial set for 01/17/12 has been passed.

Ingersoll-Rand Company v. Combs, et al.

Cause Number: D-1-GN-11-002010 AG Case #: 113279871

Filed: 7/6/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$2,200,334.00	Report year 2011

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Fruchtman, David A. Horwood Marcus & Berk Chartered / Chicago, IL
Ruskin, David S.

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

Issue: Whether Plaintiff properly calculated the amount of its temporary credit under Section 171.111.

Status: Discovery in progress.

Keystone RV Company Inc. v. Combs, et al.

Cause Number: D-1-GN-11-001284 AG Case #: 113263875

Filed: 4/29/2011

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$796,724.00	Report years 2003-2005

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade

OAG Taxation / Austin

Opposing Counsel

Gilliland, David H.

Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether warranty services provided under contract by a third-party are sufficient to establish nexus. Whether warranty services are within the scope of P.L. 86-272. Whether penalty should be waived.

Status: Answer filed.

Keystone RV Company, Inc. v. Combs, et al.

Cause Number: D-1-GN-12-00072 AG Case #: 123309668

Filed: 1/12/2012

Franchise Tax; Refund

Claim Amount Reporting Period

\$1,015,945.43 Report Years 2006 & 2007

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade

OAG Taxation / Austin

Opposing Counsel

Gilliland, David H.

Duggins Wren Mann & Romero, LLP / Austin

Issue: Whether warranty services provided under contract by a third-party are sufficient to establish nexus. Whether warranty services are within the scope of P.L. 86-272. Whether penalty should be waived.

Status: Answer filed.

Liaison Resources LP v. Combs, et al.

Cause Number: D-1-GN-12-000624 AG Case #: 123320525

Filed: 3/2/2012

Franchise Tax; Protest

Claim Amount Reporting Period

\$96,872.66 Report Years 2008-2009

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C.

OAG Taxation / Austin

Opposing Counsel

Martens, James F.
Leonard, Lacy L.

Martens, Todd & Leonard / Austin

Issue: Whether Plaintiff is entitled to exclude certain receipts from total revenue under §171.1011(k) as a staff leasing services company. Whether Plaintiff must utilize the compensation deduction when calculating its taxable margin.

Status: Answer filed.

Lone Star Industries, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-000065 AG Case #: 103172730

Filed: 1/7/2010

Franchise Tax; Protest & Refund

Claim Amount	Reporting Period
\$428,568.50	Report years 1999-2002

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 taxpayer's taxable capital should be based on its historical cost without regard to applicable push-down adjustments.

Status: Discovery in progress.

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

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 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.

Newpark Resources, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-002205 AG Case #: 113280895

Filed: 7/21/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$472,872.00	Report year 2008 and Report year 2009

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Leonard, Lacy L.

Issue: Whether certain expenditures attributed to environmental disposal and reclamation services are eligible for the COGS deduction. Whether Plaintiff properly calculated its indirect cost limitation under §171.1012(f). Whether certain payments to subcontractors should be excluded from revenue.

Status: Bench trial set for 05/21/12.

Nike USA, Inc. v. Combs

Cause Number: D-1-GN-12-000373 AG Case #: 123316226

Filed: 2/9/2012

Franchise Tax; Refund and APA

Claim Amount	Reporting Period
\$2,456,810.72	Report Years 2004-2007

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether certain sales should be apportioned to Texas, if, as alleged by Plaintiff, Plaintiff's customer took delivery outside of Texas. Whether the Comptroller's application of the apportionment statute violates the Commerce, Due Process, and Equal Protection clauses of the U.S. Constitution. Whether Comptroller Rule 3.557 exceeds the scope of the Tax Code.

Status: Answer filed.

PEK, Inc. dba Serviceline Transport v. Combs, et al.

Cause Number: D-1-GN-11-003539 AG Case #: 113301493

Filed: 11/16/2011

Franchise Tax; Protest, Injunctive Relief & Declaratory Judgment

Claim Amount	Reporting Period
\$78,315.81	Report years 2008-2009

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Leonard, Lacy L.

Issue: Whether certain expenses are eligible to be excluded from Plaintiff's revenue as subcontracting payments per §171.011(g)(3).

Whether Plaintiff prospectively qualifies as a courier and logistics company.

Plaintiff also asserts an Equal Protection challenge.

Status: Trial set for 09/24/12.

Renewable Energy Systems v. Combs, et al.

Cause Number: D-1-GN-11-003625 AG Case #: 113303044

Filed: 11/28/2011

Franchise Tax; Refund

Claim Amount	Reporting Period
\$350,574.09	Report year 2008

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

Moore, Steven D. Jackson Walker, L.L.P / Austin
McCalla, Dudley D.

Issue: Whether Plaintiff is exempt from the franchise tax under §171.056 as being solely engaged in the business of installing solar energy devices.

Status: Answer filed.

Rent-A-Center, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-001059 AG Case #: 113260954

Filed: 4/11/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$1,162,191.64	Report year 2008

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Butcher, Daniel L. Strasburger & Price / Dallas
Katz, Farley P. Strasburger & Price / San Antonio

Issue: Whether Plaintiff's rent-to-own business qualifies for the 0.5% rate under §171.002(b). Whether Plaintiff qualifies for the cost of goods sold deduction. Plaintiff also raises an equal protection clause challenge to: i) the tax rate, and ii) the cost of goods sold deduction.

Status: Discovery in progress.

Service King Paint & Body, LLC as Successor to Alamo Body & Paint, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-003039 AG Case #: 113293583

Filed: 9/30/2011

Franchise Tax; Protest

Claim Amount	Reporting Period
\$40,012.00	Report year 2008

Franchise Tax; Protest

Claim Amount	Reporting Period
\$145,010.00	Report year 2009

Counsel Associated With This Case:

Assistant Attorney General

Barenblat, Marc A. OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Seay, Michael B.
Traphagan, Amanda M.

Issue: Whether Plaintiff qualifies for the cost of goods sold deduction. Whether Plaintiff's §171.101(d) election precludes post-audit use of the compensation deduction to calculate margin.

Status: Hearing on Cross-Motions for Summary Judgment held 06/16/11, both motions denied. Trial held 06/28-29/11. Final Judgment for Plaintiff entered 07/20/11.

TD Auto Finance, LLC v. Combs, et al.

Cause Number: D-1-GN-12-000528 AG Case #: 123320517

Filed: 2/22/2012

Franchise Tax; Refund

Claim Amount	Reporting Period
\$381,278.47	Report Years 2006-2007

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Meisel, Seth E. Ryan Law Firm, LLP / Austin

Issue: Whether proceeds from the sale of loan finance receivables should be valued on a gross basis or on a net gain basis for the purpose of apportionment.

Status: Answer filed.

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

Cause Number: GN500637

AG Case #: 052114220

Filed: 3/1/2005

#03-07-00640-CV
#08-1056

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

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

McBride, James T. Jackson Walker 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. Cross-Appellant's brief filed 04/18/08; Oral Argument requested. Appellant's brief filed 04/21/08; oral argument not requested. Appellee's brief filed 05/22/08; oral argument requested. Cross-Appellee's brief filed 05/20/08; oral argument not requested. Oral Argument denied 05/30/08. Appellants' reply brief filed 06/11/08. Trial court's judgment affirmed on 08/15/08. Appellee's Motion for Rehearing filed 09/02/08. Appellant's Motion for Rehearing filed 10/13/08. Appellants' and Appellees' Motion for Rehearing overruled 11/03/08. Petitioner's Unopposed Motion for Extension of Time to File Petition for Review in the Supreme Court filed and granted 12/17/08. Petition for Review filed 01/21/09. Respondent's Response to Petition for Review waived 02/18/09. The International Association of Geophysical Contractors submitted an amicus brief in support of TGS on 03/13/09. Response to Petition for Review requested on 03/27/09. Response to Petition filed 05/27/09. Petitioner's Reply filed 06/11/09. Briefing on the merits requested 06/26/09. Petitioner's Brief on The Merits filed 08/26/09. Petitioner's Amended Brief filed 08/27/09. Respondent's Motion for Extension of Time to File Brief filed 10/23/09; granted 10/27/09. Respondent's briefing on the merits filed 11/20/09. Petitioner's reply brief filed 12/14/09. Amicus letter filed 12/31/09. Petition for Review granted 03/12/10. Case submitted on oral argument on 04/15/10. Petitioner's post-submission brief filed 06/09/10.

Amicus letter received 08/06/10. Opinion issued 05/27/11, reversing the court of appeals' judgment and remanding the case to the trial court for further proceedings. Mandate issued 07/13/11.

Titan Transportation, LP v. Combs, et al.

Cause Number: D-1-GN-11-002866 AG Case #: 113291926

Filed: 9/15/2011

Franchise Tax; Protest & UDJA

Claim Amount	Reporting Period
\$88,461.00	Report year 2008

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Seay, Michael B.
Traphagan, Amanda M.
Leonard, Lacy L.

Issue: Whether certain expenses are eligible to be excluded from Plaintiff's revenue as subcontracting payments per §171.1011(g)(3).

Whether Plaintiff's election to file an EZ Report disqualifies Plaintiff from subsequently claiming the COGS deduction for the same report year.

Whether Plaintiff prospectively qualifies as a courier and logistics company.

Status: Trial set for 07/16/12.

TLH Enterprises, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-002768 AG Case #: 103213674

Filed: 8/6/2010

Franchise Tax; Protest, UDJA, APA

Claim Amount	Reporting Period
\$70,339.50	Report year 2010

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Skaggs, Jack Ernest Jackson Walker, L.L.P / Austin

Issue: Whether Plaintiff's rent-to-own business qualifies for the 0.5% rate under §171.002(b) and §171.0001(12).

Status: Discovery in progress.

TTX Company v. Combs, et al.

Cause Number: D-1-GN-11-002762 AG Case #: 113288161

Filed: 9/6/2011

Franchise Tax; Protest & UDJA

Claim Amount	Reporting Period
\$5,194.89	Report year 2009

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Wahby, Peter S. Greenberg Traurig, LLP / Dallas
Novakov, Daniel P.

Issue: Whether Plaintiff's Notice of Preservation of Temporary Credit was timely submitted.

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

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

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

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.

Winstead, PC v. Combs, et al.

Cause Number: D-1-GN-12-000141 AG Case #: 123313777

Filed: 1/19/2012

Franchise Tax; Protest, APA

Claim Amount	Reporting Period
\$28,974.15	Report Years 2008 and 2009

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

Nolan, Peter A. Winstead PC / Austin

Rabb, Jennifer Patterson

Kana, Anna

Issue: Whether, for purposes of the compensation deduction, certain expenditures are eligible §171.1013(b)(2) employee benefit costs and subject to inclusion in the deduction amount.

Status: Answer filed.

Sales Tax

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

Cause Number: GN403369

AG Case #: 042046367

Filed: 10/8/2004

#03-08-00212-CV

#10-0509

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Seaquist, Gunnar

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. Judgment granted for the State on 03/24/08. Plaintiff filed Notice of Appeal 04/07/08. Clerk's Record filed 06/19/08. Appellant's brief filed 07/21/08. Appellees' brief filed 08/20/08. Appellant's Reply Brief filed 09/16/08; accepted for oral argument. Appellant's Motion to Postpone Oral Argument filed 01/12/09. Submission cancelled 01/13/09. Submitted on oral argument on 04/08/09. Opinion issued 08/31/09, reversing the summary judgment in favor of the State, rendering judgment that 7-Eleven is entitled to a partial sales-tax refund with respect to the software that it transferred to its franchise stores, and remanding to the trial court the portion of the cause pertaining to software that was delivered to its out-of-state company stores. The State filed a Motion for Rehearing on 10/06/09 and re-filed its Motion for Rehearing on 11/02/09. Response requested 11/18/09. Appellant's Response to the Motion for Rehearing filed 12/03/09. Substitute Opinion issued 04/22/10, reversing the Court of Appeals' 08/31/09 decision, remanding both issues to the trial court. Appellant's Motion for Rehearing filed 05/07/10; overruled 05/19/10. Petition for Review filed in the Texas Supreme Court on 07/02/10; denied 09/08/10. Mandate issued 10/22/10.

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

Seaquist, Gunnar 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: Hearing on Defendant's Motion to Consolidate held and denied on 01/05/11. Hearing on Plaintiff's Motion for Summary Judgment held on 01/19/11. Order denying Plaintiff's MSJ signed 02/08/12.

Agri-Plex Heating & Cooling, LLC v. Combs, et al.

Cause Number: D-1-GN-12-000545 AG Case #: 123318909

Filed: 2/23/2012

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$53,800.00	04/01/03 - 08/24/06

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Millican, Paul H. Gossett, Harrison, Millican & Stipanovic, P.C. /
San Angelo

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

Status: Answer, PTJ and Motion to Dismiss filed.

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

Cause Number: D-1-GN-09-000193 AG Case #: 093101491

Filed: 1/21/2009

Sales and use Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

Alfred F. Mares v. Combs

Cause Number: D-1-GN-12-000216 AG Case #: 113293989

Filed: 9/30/2011

Sales and use Tax; Lien challenge; UDJA

Claim Amount Reporting Period
\$8,000.00 10/01/04 through 12/31/04

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

Manriquez, Audrey E. San Antonio

Issue: Plaintiff seeks to invalidate a tax lien. Plaintiff also seeks declaratory relief.

Status: Agreed Motion to Transfer Venue filed. Case transferred from Bexar County to Travis County.

Al-Noor Impex Corporation and Azim Bhaiwala v. Gregg Abbott and Susan Combs

Cause Number: D-1-GN-11-001791 AG Case #: 113272736

Filed: 6/15/2011

Sales and use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount Reporting Period
Aug. 1, 2006 - Jan. 31, 2010

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Tresnicky, John Austin

Issue: Whether the audit method used by the Comptroller accurately reflects the business operations of Plaintiff's convenience store.

Whether officers and directors of Plaintiff may be held liable for the assessment.

Whether the prepayment requirements of Tax Code Ch. 112 violate the open courts doctrine.

Status: Answer filed.

Anderson Merchandisers, LP v. Combs, et al.

Cause Number: D-1-GN-11-003390 AG Case #: 113303036

Filed: 11/3/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,000,000.00	10/01/06 through 09/30/09

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
Osterloh, Curtis J.

Issue: Whether certain transactions are exempt as out of state sales. Whether certain transactions are exempt as temporary storage of TPP.

Status: Trial set for 06/25/12 at 9:00 a.m.

Apache Corp. v. Combs, et al.

Cause Number: D-1-GN-09-004344 AG Case #: 103170098

Filed: 12/21/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$7,080,790.79	Jan. 1, 1995 through Dec. 31, 2002

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

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

Issue: Plaintiff's refund suit raises multiple exemptions to the application of the sales and use tax to its operations. Claims include manufacturing exemptions, sale for resale, and services performed on exempt TPP.

Status: Trial set for 09/04/12.

Apache Corp. vs. Compt., et al.

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

Filed: 6/6/2008

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

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

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

Status: Trial set for 09/04/12.

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

Cause Number: D-1-GN-07-000565 AG Case #: 072440159
#03-10-00323-CV

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

Johnson, Ronald	OAG Taxation / Austin
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Opposing Counsel

Mondrik, Christina A.	Mondrik & Associates / Austin
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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: Cross Motions for Summary Judgment heard on 04/27/10. Final Judgment entered 05/12/10, granting Defendants' Cross-Motion. Plaintiff's Notice of Appeal filed 06/07/10. Appellant's brief filed 10/04/10. Appellee's Motion for Extension of Time to File Brief filed 10/29/10. Appellee's brief filed 12/16/10. Request for oral argument denied 12/23/10. Appellant's Reply Brief filed 01/05/11. Case submitted on briefs on 06/21/11. Memorandum Opinion issued 08/05/11, affirming that portion of the trial court's order denying Austin Engineering's motion for summary judgment, reversing that portion of the order granting summary judgment in favor of the Comptroller, and remanding for further proceedings. Appellee's Motion for Rehearing filed 09/06/11; denied 03/08/12.

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

Van Oort, Kevin	OAG Taxation / Austin
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Opposing Counsel

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

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

Cause Number: D-1-GN-08-002279 AG Case #: 082516972
#03-10-00764-CV

Filed: 6/27/2008

Sales and use Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

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

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

Status: Court ruled for Comptroller after 08/02/10 trial. Notice of Appeal filed 11/16/10. Appellant's brief filed 02/11/11. Appellee's brief filed 05/27/11. Appellant's Reply Brief filed 07/01/11. Case submitted on oral argument on 11/16/11. Opinion issued 12/29/11, affirming the trial court's judgment. Mandate issued 03/09/12.

Bhaiwala Corporation, et al. v. Gregg Abbott and Susan Combs

Cause Number: D-1-GN-11-001788 AG Case #: 113272520

Filed: 6/15/2011

Sales and use Tax; Protest, Injunction & Declaratory Judgment

Claim Amount	Reporting Period
	June 1, 2006 - Oct. 31, 2009

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Tresnicky, John Austin

Issue: Whether the audit method used by the Comptroller accurately reflects the business operations of Plaintiff's convenience store.
Whether officers and directors of Plaintiff may be held liable for the assessment.
Whether the prepayment requirements of Tax Code Ch. 112 violate the open courts doctrine.

Status: Answer filed.

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

Cause Number: D-1-GN-09-003056 AG Case #: 093150829

Filed: 9/10/2009

Sales and use Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin 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 & similar items provided to hotel guests are exempt from sales tax as sales for resale.

Status: Case abated pending Doubletree DTWC Corp. v. Combs appeal.

Big Tex Aviation, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-002015 AG Case #: 113278337

Filed: 7/6/2011

Sales Tax; Protest

Claim Amount	Reporting Period
\$84,375.00	January 1, 2005 through January 31, 2005

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Ryan, Kory L.

Ryan Law Firm, LLP / Austin

Issue: Whether Plaintiff's purchase of an aircraft was exempt under §151.304 as an occasional sale.

Status: Discovery in progress.

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

Cause Number: GN401955

AG Case #: 041988023

Filed: 6/21/2004

#03-09-00617-CV

#11-0283

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: Order consolidating with Cause #D-1-GN-06-000787 signed 05/14/07. Summary Judgment hearing set for 01/22/08. Partial Summary Judgment for Blue Cross granted 02/01/08. Trial held 09/02/08. Evidence reopened. Letter ruling in favor of Blue Cross issued 07/16/09. Judgment for Plaintiff on 07/31/09. Notice of Appeal filed 10/28/09. Reporter's Record filed 11/24/09. Clerk's Record filed 01/05/10. Appellant's brief filed 03/08/10. Appellee's Motion for Extension of Time to File Brief filed 03/24/10; granted 04/01/10. Appellee's brief filed 05/07/10. Appellant's Motion for Extension of Time to File Reply Brief filed and granted 05/20/10. Reply brief filed 06/28/10. Case submitted on oral argument on 09/29/10. Appellee's Post-submission brief filed 10/13/10. Memorandum Opinion issued 03/16/11, affirming the district court's judgment. Petitioner's Motion for Extension to File Petition for Review in the Supreme Court filed 05/17/11; granted 05/20/11. Petition for Review filed 06/20/11. Respondent's Response to Petition for Review waived 06/21/11. Court requested response 07/29/11. Response filed 08/23/11. Petitioner's Reply filed 09/02/11. Amicus Curiae letter filed 01/20/12. Response to Amicus Curiae brief filed by Respondent on 01/26/12. Brief on the Merits requested on 02/17/12. Petitioner's Motion to

Consolidate filed 02/28/12. Petitioner's Motion for Extension of Time to File Brief filed 03/06/12; granted 03/09/12. Petitioner's brief due 04/18/12. Respondent's brief due 05/08/12.

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

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.

BP America, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-000049 AG Case #: 103172706

Filed: 1/6/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,684,875.00	07/01/00 through 12/31/01

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade	OAG Taxation / Austin
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Opposing Counsel

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

Issue: Plaintiff brings approximately twenty-five different sales and use tax refund issues in connection with its production and refining operations. Claims include waste removal, environmental services, credit interest, and various manufacturing exemption claims.

Status: Answer filed.

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

McKinney, Dennis	OAG Taxation / Austin
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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.

BTA Oil Producers, LLC v. Combs, et al.

Cause Number: D-1-GN-11-003640 AG Case #: 113303093

Filed: 11/28/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,028,989.00	01/01/04 - 12/31/07

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Ryan, Kory L. Ryan Law Firm, LLP / Austin
McEwen, Drew

Issue: Plaintiff's refund claim raises multiple exemptions to the application of the sales and use tax to its operations. Exemptions asserted include: manufacturing exemption; environmental & conservation services; third-party installation; and services performed on exempt items.

Status: Answer filed.

Budget Prepay, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-001189 AG Case #: 113263867

Filed: 4/21/2011

Sales Tax; Refund

Claim Amount	Reporting Period
\$83,476.82	11/01/04 through 02/29/08

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Seidel, Scott M.
Gulotta, Anthony C. AG Tax Law, P.C. / Harrisburg, PA

Issue: Whether the "prompt payment discount" which Plaintiff provides to its customers constitutes a discount from the sales price.

Status: Answer filed.

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

Johnson, Ronald 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: Defendants' Motion to Dismiss filed 02/09/12.

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

Cloudt, Jim B. 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: Inactive.

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

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

Filed: 9/22/2008

Sales and use Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Non-jury trial set for 06/25/12.

Captain Hook-Austin, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-000544 AG Case #: 113250096

Filed: 2/22/2011

Sales and use Tax; APA

Claim Amount	Reporting Period
\$84,000.00	01/01/05-12/31/07

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Bigelow, Bruce Blazier, Christensen, Bigelow & Virr, P.C. / Austin

Issue: Whether certain waste removal services were associated with new construction and not subject to the sales tax.

Status: Answer filed.

Carino's Italian Kitchen, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-000524 AG Case #: 103179644

Filed: 2/18/2010

Sales and use Tax; Protest

Claim Amount Reporting Period
\$97,924.98 07/01/02 through 03/31/03

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether certain cleaning supplies used in food processing areas qualify for the manufacturing exemption. Whether the Comptroller used the proper calculation method for interest applied to overpayments.

Status: Answer filed.

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

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

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

Status: Inactive.

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

04/06/11. Reply brief filed 04/20/11. Appellee's Supplemental Brief filed 05/24/11. Case submitted on briefs on 08/11/11. Appellee's Motion for Rehearing filed 01/05/12. Petition for Review filed in the Tx. Supreme Court on 03/01/12. Petition for Review filed in the Tx. Supreme Court on 03/01/12. Response filed 03/30/12.

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

Wolfe, Susan 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: Case dismissed for want of prosecution 06/15/05. Case re-opened. Reinstated by bill of review 11/22/05.

Cirrus Exploration Company v. Combs, et al.

Cause Number: D-1-GN-11-001851 AG Case #: 113273395

Filed: 6/21/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
	01/01/06 - 06/30/06

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether Plaintiff qualifies as a licensed and certificated carrier under Tex. Tax Code §151.328(a).

Status: Discovery in progress.

City of Dickinson v. Combs

Cause Number: D-1-GV-12-000094 AG Case #: 123314528

Filed: 1/27/2012

Sales and use Tax; UDJA & Injunctive Relief

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Smith, Loren B. Olson & Olson, LLP / Houston

Issue: Plaintiff seeks declaration relating to tax situs for local sales tax on certain transactions. Plaintiff also seeks injunctive relief.

Status: TRO hearing set for 04/10/12.

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

#03-08-00291-CV

#10-0416

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

Phillips, Wade 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 reallocation of local sales taxes based on the filing of amended tax returns violates the procedural and substantive due course of law provisions of

the Texas Constitution and constitutes a taking. Whether the Comptroller's interpretation of Tax Code §321.002(a)(3) is constitutional. Whether Plaintiffs and Intervenors have standing to challenge the Comptroller's interpretation of sec. 321.002 of the Tax Code under the Texas Constitution, UDJA, and APA. Whether sovereign immunity bars Plaintiffs' & Intervenors' suit. Plaintiffs also request attorneys' fees.

Status: Discovery in progress. Defendant's Plea to the Jurisdiction filed 02/14/07. Original Plea in Intervention & Third Party Petition filed 04/18/07 by cities of Denton, Humble, Lewisville, Mesquite, North Richland Hills, and Plano, and Denton County Transportation Authority and Fort Worth Transportation Authority. Original Answer filed by City of Grand Prairie, third party defendant, on 05/29/07. First Amended Plea in Intervention filed on 06/12/07, adding the City of Waco as a party. Second Amended Plea in Intervention And Third-Party Petition filed 09/28/07. Hearing on Defendant's First Amended Plea to the Jurisdiction 02/07/08 at 9:00 a.m. Letter Ruling issued on 03/26/08, denying Defendant's First Amended Plea to the Jurisdiction and First Supplemental Plea to the Jurisdiction; Proposed Order submitted to court on 04/09/08 by Counsel for Intervenors. 04/11/08 Order denying Comptroller's 1st Amended & 1st Supplemental Pleas to the Jurisdiction signed by the court. Notice of Appeal filed 05/01/08. Hearing on Intervenors' Motion to Compel 06/11/08. Court ordered that commencement of trial, and all other proceedings in the trial court, including discovery, are automatically stayed pending resolution of the Comptroller's interlocutory appeal on 06/17/08. Appellant's brief filed 07/11/08. Appellee's brief filed 08/18/08. Appellant's Reply Brief filed 09/15/08. Submitted on oral argument on 06/10/09. Supplemental brief received from Appellee on 06/19/09. Response due 06/29/09. Appellee's Motion for Leave filed 06/29/09; granted 07/02/09. Opinion issued 10/02/09, affirming the trial court's denial of the plea to the jurisdiction as to the UDJA claim on the issue of whether the comptroller acted outside her authority regarding the determination of where specific sales were consummated, but reversed the trial court and dismissed the other UDJA claims, constitutional claims and APA claims and dismissed those claims for lack of subject matter jurisdiction. Supplemental Clerk's Record filed 10/15/09. Appellee's Motion for Rehearing filed 10/20/09; denied 04/16/10. Denton's Petition for Review filed in the Texas Supreme Court on 06/01/10. Webster's Petition for Review filed 06/03/10. State's Response filed 06/22/10. State's Cross-Petition for Review filed 06/30/10. Webster's Reply filed 07/07/10. Denton's Reply filed 07/09/10. Response to the State's Cross-Petition waived by Webster on 07/15/10, and by Denton on 07/16/10. Petitions for Review denied 08/20/10. Mandate issued by Court of Appeals on 10/22/10. Intervenors (Denton, et al.) filed Notice of Non-Suit on 10/29/10.

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

Phillips, Wade 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: Scheduling order filed 01/09/09.

Continental Airlines, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-001751 AG Case #: 103200416

Filed: 5/28/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,919,943.00	11/01/1998 to 03/31/2003

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether the Comptroller properly applied the statute of limitations to specific transactions based on the invoice date rather than an accrual date. Whether the Comptroller properly excluded a transaction from an audit sample based on the invoice date. Whether Plaintiff's purchase of TPP and building maintenance services, used or consumed at a leased facility, qualify for the sale for resale exemption. Whether Plaintiff's purchase of equipment and consumable supplies qualify for exemption under 151.328(d) (aircraft maintenance) and 151.328(e), respectively.

Status: Discovery in progress.

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

Johnson, Ronald 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: Agreed Motion to Retain filed 04/23/07; granted 08/14/07.

Courthouse Direct.com v. Combs, et al.

Cause Number: D-1-GN-11-001252 AG Case #: 113268445

Filed: 4/27/2011

Sales and use Tax; Refund and Protest; UDJA

Claim Amount Reporting Period
\$77,604.00 (plus interest & penalties) 12/01/98 thru 05/31/02

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

Hopkins, Mark D. Hopkins & Williams, PLLC / Austin
Roberts, William A. The Roberts Law Firm / Dallas

Issue: Whether services provided by Plaintiffs including title search services, constitute information services or should be exempt as "landman" services under §151.0048(b-1).

Status: Discovery in progress. Plea to the Jurisdiction filed 10/27/11.

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

Cloudt, Jim B. 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

Cloudt, Jim B. 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: Jury trial previously set for 03/09/12 has been passed.

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

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

Filed: 7/28/2009

Sales and use Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Ohlenforst, Cynthia M. Hughes & Luce / Dallas

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

Status: Answer filed.

Dish Purchasing Corp. v. Combs, et al.

Cause Number: D-1-GN-12-000172 AG Case #: 123313769

Filed: 1/23/2012

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$11,333.20	04/01/08 through 11/30/10

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Ryan, Kory L. Ryan Law Firm, LLP / Austin
McEwen, Drew

Issue: Whether certain wrapping and packaging materials are exempt under §151.318(d). Whether certain wrapping and packaging materials were purchased for resale.

Status: Answer filed.

Doubletree DTWC Corp. v. Combs, et al. (Formerly Embassy Equity Development Corporation, et al. v. Strayhorn, et al.)

Cause Number: D-1-GN-06-004267 AG Case #: 062425566
#03-10-00801-CV

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

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Sigel, Doug Scott, Douglass & McConnico, 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: Hearing on Cross-Motions for Summary Judgment held 08/18/10. Case consolidated with Centreport Partners, L.P. v. Combs, et al., Cause #D-1-GN-07-000152. Court ruled for the Comptroller on 08/24/10. Plaintiff's Amended Notice of Appeal filed 12/03/10. Appellant's brief filed 02/15/11; oral argument requested. Appellee's brief filed 05/03/11. Appellant's Motion to Withdraw Attorney filed 05/04/11; granted 05/11/11. Appellant's Reply Brief filed 06/06/11. Case submitted on oral argument on 09/28/11. Additional authorities filed by Appellee on 09/30/11. Appellant's Motion filed 10/06/11; granted 10/10/11. Letter brief filed by Appellant 10/10/11.

Dow Jones & Company, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-001506 AG Case #: 113269112

Filed: 5/20/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$97,206.96	April 2011

Counsel Associated With This Case:

Assistant Attorney General

McKinney, Dennis OAG Taxation / Austin

Opposing Counsel

Leatherbury, Thomas S. Vinson & Elkins L.L.P. / Dallas
Hobbs, Lisa Bowlin Vinson & Elkins L.L.P. / Austin

Penny, James D. Vinson & Elkins LLP / Houston
Rosenbaum, Glen A.

Issue: Plaintiff alleges that §151.319, which provides an exemption for newspapers having a sales price of less than \$1.50, violates the Equal Protection Clause and the First Amendment of the U.S. Constitution. Plaintiff alleges that Comptroller's application of §151.319 violates the rule promulgation requirements of the APA.

Status: Notice of Removal filed 06/23/11. Final Judgment entered 01/30/12, dismissing case with prejudice.

DSC Enterprises, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-003112 AG Case #: 103218558

Filed: 9/2/2010

Sales and use Tax; Protest & Refund

Claim Amount	Reporting Period
\$52,189.00	02/01/02 through 08/31/05

Counsel Associated With This Case:

Assistant Attorney General

McKinney, Dennis OAG Taxation / Austin

Opposing Counsel

Rosenblatt, James David San Antonio

Issue: Plaintiff challenges methodology of a sales and use tax audit. Plaintiff also seeks a waiver of assessed penalty and interest.

Status: Discovery in progress. Plea to the Jurisdiction filed 09/26/11.

DSW Shoe Warehouse, Inc. v. Combs, et al.

Cause Number: D-1-GN-12-000233 AG Case #: 123314759

Filed: 1/30/2012

Sales and use Tax; Protest

Claim Amount Reporting Period
\$570,222.00 07/01/05 through 09/30/08

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Leonard, Lacy L.

Issue: Plaintiff challenges sampling methodology applied in a sales tax audit.

Status: Citation issued.

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.

Energy Education of Montana, Inc. v. Combs

Cause Number: D-1-GN-09-001249 AG Case #: 093120491
#03-10-00644-CV

Filed: 4/17/2009

Sales and use Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Seaquist, Gunnar OAG Taxation / Austin

Opposing Counsel

Rogers, Harold D. Wichita Falls
Johnson III, Robert F. Gardere Wynne & Sewell / Dallas

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

Status: Cross-Motions for Summary Judgment heard on 05/12/10. Letter ruling granting Comptroller's MSJ and denying Plaintiff's MSJ entered 06/10/10. Final Order signed 08/19/10. Notice of Appeal filed 09/17/10. Appellant's Brief filed 01/21/11; oral argument

requested. Appellee's brief filed 03/29/11. Oral argument denied 04/06/11. Appellant's Reply Brief filed 04/18/11.

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

Cause Number: D-1-GN-09-002728 AG Case #: 093146496
#03-10-00644-CV

Filed: 8/20/2009

Sales and use Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Seaquist, Gunnar OAG Taxation / Austin

Opposing Counsel

Johnson III, Robert F. Gardere Wynne & Sewell / Dallas

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

Status: Abated pending resolution of Energy Education of Montana, Inc. v. Combs, Cause #D-1-GN-09-001249.

ExxonMobil Oil Corporation v. Combs, et al.

Cause Number: D-1-GN-11-002257 AG Case #: 113280598

Filed: 7/26/2011

Sales and use Tax; Protest & Refund

Claim Amount	Reporting Period
\$2,089,796.31	01/01/1996 through 12/31/2003

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Whether the addition of emission control equipment to an existing refinery constitutes new construction.

Status: Discovery in progress.

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

Cause Number: GN002724

AG Case #: 001353960

Filed: 9/15/2000

#03-12-00144-CV

Sales Tax; Injunction

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

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. 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: Plaintiffs' Amended Motion for Partial Summary Judgment filed 07/15/11. Defendants' Response to Plaintiffs' Amended Motion for Partial Summary Judgment filed 08/15/11. Plaintiffs' Objections to Defendants' Evidence in Support of Their Amended Motion for Summary Judgment filed 08/15/11. Plaintiff's Amended Motion for Partial Summary Judgment and Defendants' First Amended Cross-MSJ heard 09/29/11. Defendants' First Motion for Summary Judgment granted 10/03/11. Defendants' 2nd MSJ granted 02/14/12. Notice of Appeal filed 03/13/12.

Fair Isaac Corp. v. Combs, et al.

Cause Number: D-1-GN-11-003553 AG Case #: 113302715

Filed: 11/15/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$257,528.90	11/01/03 through 06/30/07

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

Ryan, Kory L.
Meisel, Seth E.
Oldham, Kevin

Ryan Law Firm, LLP / Austin

Issue: Whether certain computer programming services qualify as custom software.

Status: Answer filed.

Fencecrete America Manufacturing, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-003690 AG Case #: 113305163

Filed: 12/2/2011

Sales and use Tax; Refund & UDJA

Claim Amount	Reporting Period
\$135,638.50	07/01/00 - 11/30/03

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

Cunningham, Judy M. Attorney at Law / Austin

Blume, James D. BLUME, FAULKNER, SKEEN & NORTHAM,
PLLC / Richardson

Issue: Whether Plaintiff was entitled to a credit for tax remitted on the purchase of materials for certain contracts.

Status: Answer filed.

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

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

Filed: 4/17/2009

Sales and use Tax; Declaratory Judgment & Injunction

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

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

Fowler, Gerald Fife Houston

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

Status: Answer filed.

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

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

Filed: 11/21/2008

Sales and use Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K.	OAG Taxation / Austin
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Opposing Counsel

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

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

Status: Defendants' MSJ granted 03/08/12.

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

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

Filed: 10/15/2009

Sales and use Tax; Redetermination

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

Counsel Associated With This Case:

Assistant Attorney General

McKinney, Dennis	OAG Taxation / Austin
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Opposing Counsel

Mastrangelo, John	Houston
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Issue: Whether the audit procedures applied in the audit were appropriate.

Status: Agreed Judgment entered 02/08/12.

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

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

Filed: 8/28/2009

Sales and use Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Hearing on Plaintiff's MSJ previously set for 04/25/12 has been passed.

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

Johnson, Ronald 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: Defendants' Motion to Dismiss filed 02/08/12.

Glazier Foods Co. v. Combs, et al.

Cause Number: D-1-GN-12-000516 AG Case #: 123320327

Filed: 2/21/2012

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal, for want of prosecution, of D-1-GN-09-002137.

Status: Answer filed.

GMRI Texas, LP v. Combs

Cause Number: D-1-GN-11-003155 AG Case #: 113296768

Filed: 10/13/2011

Sales and use Tax; Refund

Claim Amount Reporting Period

\$110,000.00 10/01/04 through 06/30/07

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Ryan, Kory L. Ryan Law Firm, LLP / Austin

Meisel, Seth E.

Issue: Whether Plaintiff is entitled to interest on the gross amount of credit in a managed audit.

Status: Answer filed.

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

Cause Number: D-1-GN-12-000513 AG Case #: 123320236

Filed: 2/21/2012

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate the dismissal, for want of prosecution, of D-1-GN-09-001804.

Status: Answer filed.

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

Cause Number: D-1-GN-12-000514 AG Case #: 123320251

Filed: 2/21/2012

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B.

OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate the dismissal, for want of prosecution, of D-1-GN-09-001803.

Status: Answer filed.

Grocers Supply Produce Co. v. Combs, et al.

Cause Number: D-1-GN-12-000515 AG Case #: 123320269

Filed: 2/21/2012

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B.

OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal, for want of prosecution, of D-1-GN-09-001805.

Status: Answer filed.

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

Cloudt, Jim B. 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

Cloudt, Jim B. 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.

H.K. Global Trading, Ltd. v. Combs, et al.

Cause Number: D-1-GN-11-002632

AG Case #: 113287932

Filed: 8/30/2011

Sales Tax; Protest, UDJA, APA

Claim Amount	Reporting Period
\$592,667.63	09/01/00 - 07/31/04

Counsel Associated With This Case:

Assistant Attorney General

Langenberg, Ray
Sigel, Doug

Issue: Whether certain transactions were subject to tax as taxable services. Whether certain transactions were eligible for the sale-for-resale exemption.

Status: Answer filed.

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

Cause Number: D-1-GN-08-001771 AG Case #: 082512302
#03-10-00675-CV
#11-0652

Filed: 5/23/2008

Sales Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Trial held 06/01/10. Judgment for Plaintiff entered 07/13/10. Order Denying Defendants' Request for Amended and Additional Findings of Facts and Conclusions of Law entered 08/23/10. Notice of Appeal filed 10/06/10. Appellant's Motion to Abate Appeal filed 11/29/10; overruled 12/09/10. Appellee's Response filed 12/08/10. Appellant's brief filed 01/11/11. Appellee's brief filed 02/09/11; oral argument requested. Oral argument denied 02/25/11. Appellant's Reply Brief filed 03/01/11. Appellee's certificate of conference filed 04/13/11. Appellant's and Appellee's Letter Briefs filed 04/20/11. Appellee's Motion to File Supplemental Brief filed 05/09/11; granted 05/24/11. Case submitted on briefs on 07/05/11. Memorandum Opinion issued 07/07/11, affirming the district court's judgment. Petition for Review filed 08/22/11. Response filed 11/28/11. Petitioner's Reply filed 12/21/11. Amicus Curiae letter received 01/20/12. Response to Amicus Curiae brief filed by Respondent on 01/26/12. Brief on the merits requested on 02/17/12. Petitioner's Motion to Consolidate filed 03/06/12. Petitioner's brief due 04/18/12. Respondent's brief due 05/08/12.

Health Care Services, Corp. v. Combs

Cause Number: D-1-GN-12-000387 AG Case #: 123316218

Filed: 2/10/2012

Sales and use Tax; Refund

Claim Amount Reporting Period
\$1,002,498.37 01/01/04 through 06/30/07

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 certain taxable items were sold to the federal government and whether such transactions are eligible for the sale-for-resale exemption.

Status: Answer filed.

High Tech Document Service v. Combs, et al.

Cause Number: D-1-GN-10-000220 AG Case #: 103175469 Filed: 1/20/2010

Sales and use Tax; Protest

Claim Amount Reporting Period
\$61,592.65 09/01/00 through 01/31/04

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Whether the purchase of certain items subsequently leased to a third party are eligible for the sale-for-resale exemption.

Status: Jury trial previously set for 07/23/12 was passed by agreement.

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: Trial set for 09/24/12.

Hospice DME of Texas, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-001746 AG Case #: 113271118

Filed: 6/10/2011

Sales and use Tax; Injunction; UDJA

Claim Amount	Reporting Period
\$257,661.50	01/01/04 through 12/31/06

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Whether certain items sold by Plaintiff are exempt as prosthetic devices. Plaintiff seeks injunctive and declaratory relief.

Status: Discovery in progress.

Hospice DME of West Texas, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-001743 AG Case #: 113271050

Filed: 6/11/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$49,442.51	January 1, 2005 through December 31, 2006

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin
Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Whether certain items sold by Plaintiff are exempt as prosthetic devices.

Status: Discovery in progress.

Hospice DME, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-001744 AG Case #: 113271134

Filed: 6/10/2011

Sales and use Tax; Injunction; UDJA

Claim Amount	Reporting Period
\$51,140.79	10/01/05 through 12/31/06

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin
Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Whether certain items sold by Plaintiff are exempt as prosthetic devices. Plaintiff seeks injunctive and declaratory relief.

Status: Discovery in progress.

Hotel Paso Del Norte, Inc. v. Combs, et al.

Cause Number: D-1-GN-12-000115 AG Case #: 123312431

Filed: 1/16/2012

Sales and use Tax; Protest; APA; UDJA, & Injunctive Relief

Claim Amount	Reporting Period
\$247,028.49	07/01/00 through 12/31/03
\$363,618.46	04/01/01 through 03/31/05

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin
Opposing Counsel

Lorenzana, Jr., Elias V. The Lorenzana Law Firm, PC / Round Rock

Issue: Plaintiff challenges a sales tax assessment and a hotel occupancy tax assessment.

Status: Answer filed.

J.E. Dunn Construction Co. v. Combs, et al.

Cause Number: D-1-GN-11-002825 AG Case #: 113288617

Filed: 9/12/2011

Sales Tax; Refund

Claim Amount	Reporting Period
\$189,293.81	02/01/03 through 01/31/07

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Ryan, Kory L. Ryan Law Firm, LLP / Austin
Meisel, Seth E.

Issue: Whether Plaintiff properly calculated the amount of tax due on various contracts for remodeling services.

Status: Answer filed.

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

Cause Number: D-1-GN-08-003762 AG Case #: 082534553

Filed: 10/17/2008

Sales and use Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Cunningham, Judy M. Attorney at Law / Austin

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

Status: Case Dismissed for Want of Prosecution 05/06/11. Petition to Reinstate filed as Cause

No. GN-11-002741.

Kenneth O. Lester, Co., Inc. v. Combs, et al.

Cause Number: D-1-GN-11-002741 AG Case #: 113287916

Filed: 9/2/2011

Sales Tax; Bill of Review

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B.

OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom

Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal of D-1-GN-08-003762 for want of prosecution.

Status: Answer filed.

Krishna Bhavana, LLC and Krishna Kothari v. Combs, et al.

Cause Number: D-1-GN-11-003393 AG Case #: 113300016

Filed: 11/3/2011

Sales and use Tax; Injunction

Claim Amount Reporting Period

\$283,592.01 05/01/2006 - 08/31/2009

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald

OAG Taxation / Austin

Opposing Counsel

Sookdeo, Christina I.

Sookdeo & Associates, PC / Plano

Issue: Plaintiff contests sales tax assessment. Plaintiff also seeks injunctive relief.

Status: Discovery in progress.

KST Electric, Ltd. v. Combs, et al.

Cause Number: D-1-GN-11-003855 AG Case #: 123306664

Filed: 12/20/2011

Sales and use Tax; Protest

Claim Amount Reporting Period

\$162,197.00 01/01/05 - 09/30/08

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Traphagan, Amanda M.
Leonard, Lacy L.

Issue: Plaintiff challenges the sampling methodology used in a sales tax audit.

Status: Answer filed.

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

Van Oort, Kevin 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. Court sent Notice of DWOP on 06/12/09. Plaintiffs' Amended Motion to Retain filed 08/19/09; granted 08/28/09. Case abated pending Doubletree DTWC Corp. v. Combs appeal.

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

Eldred, Charles K. 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: Court denied Plaintiffs' MSJ heard on 04/01/10. Cross motions for summary judgment heard 02/21/12.

Leoncito Plant, L.L.C. v. Combs, et al.

Cause Number: D-1-GN-11-001116 AG Case #: 113260947

Filed: 4/14/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$619,588.00	01/01/04 - 09/30/07

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether the purchase of pumping equipment and piping is eligible for the water

recycling exemption under §151.355(1). Whether purchase of casing is eligible for the manufacturing exemption under §151.318.

Status: State's partial MSJ granted 03/07/12.

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, Todd & Leonard / 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: Case Dismissed for Want of Prosecution on 05/28/08.

Lockheed Martin Corp. v. Combs, et al.

Cause Number: D-1-GN-11-003477 AG Case #: 113303010

Filed: 11/10/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,082,333.92	09/01/92 through 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

Issue: Plaintiff asserts various sales tax refund claims based on sale-for-resale, manufacturing exemption, intra-company transfers and TPP shipped out of state.

Status: Discovery in progress.

Makara Enterprise, LP v. Combs, et al.

Cause Number: D-1-GN-11-003507 AG Case #: 113302830

Filed: 11/15/2011

Sales and use Tax; Protest & UDJA

Claim Amount	Reporting Period
\$297,993.00	01/01/06 - 07/31/09

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

Mondrik, Christina A. Mondrik & Associates / Austin

Issue: Whether the audit procedures were proper. Plaintiffs also challenge assessment of individual liability against a partner. Plaintiffs challenge validity of a tax lien. Plaintiffs also seek declaratory and insolvency relief.

Status: Answer filed.

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

Cause Number: D-1-GN-08-001217 AG Case #: 082505595

Filed: 4/10/2008

Sales and use Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

Mondrik, Christina A. Mondrik & Associates / Austin

Issue: Whether Plaintiff is engaged in non-taxable erosion control services. Whether the

essence of Plaintiff's transactions is services. Whether Plaintiff's services are exempt as environmental services. Whether Rule 3.291 is invalid. Whether the Comptroller violated equal protection and the Commerce Clause. Plaintiff also seeks penalty and interest abatement and declaratory relief.

Status: Trial set for 04/25/11. Trial setting 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

Johnson, Ronald 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: Defendant's Motion to Dismiss filed 02/09/12.

NCO Financial Systems, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-004447

AG Case #: 113247738

Filed: 12/22/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,889,671.18	(+ principal & interest) 08/01/99 through 12/31/0

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K.

OAG Taxation / Austin

Opposing Counsel

Langenberg, Ray

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

Issue: Whether debt collection services provided by Plaintiff should be exempt as a service benefiting an out-of-state customer under 34 TAC 3.345(g). Plaintiff also asserts a refund claim for taxes paid on financial settlement services and on interpretation and translation services.

Status: Trial set for 08/27/12.

OA, LLC v. Combs, et al.

Cause Number: D-1-GN-12-000506 AG Case #: 123320509

Filed: 2/21/2012

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$710,179.24	01/01/07 - 06/30/07

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K.

OAG Taxation / Austin

Opposing Counsel

Grimsinger, William O.

Chamberlain, Hrdlicka, White, Williams & Martin
/ Houston

Fountain, Renesha

Huey, Renee

Issue: Whether an aircraft purchased and registered out of state, but used in Texas, is subject to the use tax.

Status: Answer filed.

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

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

Filed: 12/3/2008

Sales and use Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Trickey, Timothy M. The Trickey Law Firm / Austin

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

Status: Answer filed.

Pointsmith Point of Purchase Management Services, LP v. Combs, et al.

Cause Number: D-1-GN-11-001514 AG Case #: 113269286

Filed: 5/20/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$247,670.20	11/11/03 through 03/31/07

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Masters, Paul H. Chamberlain, Hrdlicka, White, Williams & Martin
/ Houston

Grimsinger, William O.

Issue: Whether charges associated with Defendant's printing services should be characterized a receipt for storage services. Whether certain transactions are exempt as sale-for-resale. Whether certain transactions are exempt as out of state sales. Whether the Comptroller properly calculated the error rate in the audit. Whether the Comptroller properly denied penalty and interest waiver.

Status: Answer filed. Discovery in progress.

Pop Restaurants, LLC. v. Combs, et al.

Cause Number: D-1-GN-10-002636 AG Case #: 103207007

Filed: 7/9/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$91,679.00	01/01/2003 thru 12/31/2006

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

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

Issue: Plaintiff alleges that it over reported sales and remitted sales tax on that amount.

Status: Plaintiff's MSJ filed 07/01/11. Defendant's MSJ filed 08/12/11.

Rackspace US Inc. v. Combs, et al.

Cause Number: D-1-GN-11-000947 AG Case #: 113260749 Filed: 3/31/2011

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$739,186.00	10/01/01 - 06/30/05

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether purchase of a software license qualifies for the sale-for-resale exemption.

Status: Bench trial set for 07/02/12 at 9:00 a.m.

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

Cause Number: C-1-CV-08-006490 AG Case #: 082517020 Filed: 6/30/2008

Sales and use Tax; Injunction

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

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Leeper, David P. El Paso

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

Status: Plaintiff's Motion for Summary Judgment filed, no date set.

Richmont Aviation, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-000783 AG Case #: 113254387

Filed: 3/16/2011

#03-11-00486-CV

#03-11-00486-CV

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$530,195.64	01/01/04 thru 12/31/04

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Whether Plaintiff's purchase of an aircraft was eligible for exemption pursuant to either §151.328 (a)(1) or the sale for resale exemption.

Status: Hearing on State's PTJ and Plaintiff's application for injunctive relief held on 06/02/11. Trial court granted State's PTJ on 06/29/11. Notice of Appeal filed 07/29/11. Appellant's Brief filed 02/27/12. Appellee's Brief filed 03/28/12.

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. Combs, et al.

Cause Number: D-1-GN-10-003530 AG Case #: 103224986

Filed: 9/30/2010

Sales and use Tax; Refund, Protest & Declaratory Judgment

Claim Amount	Reporting Period
\$303,542.00	03/01/04 - 09/30/07

Counsel Associated With This Case:

Assistant Attorney General

Barenblat, Marc A. OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Traphagan, Amanda M.

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

Status: Answer filed.

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

Barenblat, Marc A. OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Seay, Michael B.

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

Status: Case consolidated into Cause #D-1-GN-06-004725 on 12/02/09.

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

Cause Number: D-1-GN-06-004725 AG Case #: 072431158
#03-10-00105-CV
#11-0261

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

Barenblat, Marc A. OAG Taxation / Austin

Opposing Counsel

Martens, James F. Martens, Todd & Leonard / Austin
Seay, Michael B.

Issue: Whether toys purchased for crane machines are tax exempt as sale for resale. Whether the service provided by crane machines is tax exempt as part of a taxable service. Whether the

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

Status: Case consolidated with D-1-GN-06-004726 and set for MSJ hearing on 12/02/09. Motion to Retain filed 06/01/09. MSJ hearing reset by agreement for 02/17/09. Order granting Defendant's MSJ and denying Plaintiff's Motion for Partial Summary Judgment signed and entered on 02/22/10.

Notice of Appeal filed 02/23/10. Clerk's Record filed 03/25/10. Appellant's brief filed 06/02/10. Appellee's brief filed 07/02/10. Appellant's reply brief filed 08/18/10. Case submitted on oral argument on 12/15/10. Memorandum Opinion issued 01/26/11, reversing the trial court's grant of summary judgment in favor of the State, rendering judgment that Roark is entitled to the exemption, and remand the cause to the trial court for a determination of the amount of the refund to which Roark is entitled. Motion for Rehearing filed 02/10/11; overruled 02/24/11.

Petition for Review filed in the Texas Supreme Court on 04/11/11. Amicus Curiae letter received 04/19/11. Court requested response on 05/20/11. Response to Petition for Review filed 06/07/11. Petitioner's Reply filed 06/22/11. Brief on the merits requested 08/19/11. Petitioner's Brief filed 09/19/11. Respondent's Brief filed 11/09/11. Petitioner's Reply Brief filed 11/28/11. Petitioner's Motion to Postpone Submission Date filed 01/27/12; granted 02/03/12.

Root's Rocks, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-004391 AG Case #: 113241509

Filed: 12/17/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$273,052.00	05/01/03 through 02/28/07

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Tome, Christopher J. C. Tome Law Firm / Cedar Park

Issue: Whether Plaintiff's books and records accurately receipts subject to sales tax. Whether certain transactions are exempt as out of state sales.

Status: Answer filed.

Salim Abbas Merchant v. Combs, et al.

Cause Number: D-1-GN-09-000511 AG Case #: 093107688

Filed: 2/17/2009

Sales and use Tax; Protest

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Canfield, George W. San Antonio

Issue: Plaintiff seeks review under the APA of a sales tax deficiency. Plaintiff claims that the Comptroller used unreliable data and incorrect mark-up percentages.

Status: Discovery in progress.

Sanadco, Inc. and Mahmoud A. Isba aka Moumoud Ahmed Abuisba aka Mike Isba v. Combs, et al.

Cause Number: D-1-GN-10-000902 AG Case #: 113243950
#03-11-00462-CV

Filed: 1/12/2011

Sales and use Tax; Declaratory Judgment, APA

Claim Amount	Reporting Period
\$26,312.00	01/01/08-02/28/09

Counsel Associated With This Case:

Assistant Attorney General

Hohengarten, Jack OAG Taxation / Austin

Opposing Counsel

Jackson, Sammual T. Arlington

Issue: Whether AP92 and AP122 were properly applied in determining Plaintiff's tax liability. Whether the implementation of AP92 and AP122 was in violation of the APA.

Status: Plea to the Jurisdiction granted 07/08/11. Notice of Appeal filed in the Third Court of Appeals on 07/25/11. Appellant's brief filed 08/24/11. Appellee's brief filed 10/13/11. Appellant's Reply Brief filed 12/14/11. Case submitted on oral argument on 01/11/12. Sanadco's Motion for Emergency Relief and Petition for Writ of Injunction denied on 02/24/12. Sanadco's Motion for Emergency Relief and Petition for Mandamus filed in Texas Supreme Court on 03/07/12.

Scott A. Williams v. Combs, et al.

Cause Number: D-1-GN-10-004304 AG Case #: 103237426
Sales and use Tax; Administrative appeal; Injunction

Filed: 12/8/2010

Claim Amount	Reporting Period
\$83,022.00	July 1, 2005 through December 31, 2008

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Kennedy, Nathan L. Austin

Issue: Whether the procedures applied in the audit were appropriate. Taxpayer also seeks injunctive relief.

Status: Answer filed.

Shehzad Dhanani v. Combs, et al.

Cause Number: D-1-GN-10-003321 AG Case #: 103224499
Sales and use Tax; Protest, Injunction & Declaratory Judgment

Filed: 9/17/2010

Claim Amount	Reporting Period
\$14,987.77	11/01/05 through 04/30/07

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether Plaintiff, as the general manager of a convenience store, is liable for certain tax delinquencies of that entity, including taxes collected but not remitted.

Status: Answer filed.

Southern Union Company v. Strayhorn, et al.

Cause Number: D-1-GN-06-004637 AG Case #: 062430574
Sales Tax; Refund

Filed: 12/15/2006

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

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade 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: Answer filed.

Southern Union Gas v. Combs, et al.

Cause Number: D-1-GN-09-001536 AG Case #: 093127603

Filed: 5/14/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$2,910,000.00	07/01/1997 through 06/30/2001

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether property used in gas processing and distribution is exempt under the manufacturing exemption. Whether the property is exempt as property used to comply with public health laws. Whether services performed on that property were exempt under §151.3111. Whether pipes, valves, and meters installed on customers' premises are exempt as sales for resale.

Status: Answer filed.

Southwest Royalties, Inc. v. Combs, et al.

Cause Number: D-1-GN-09-004284 AG Case #: 103170106

Filed: 12/17/2009

Sales and use Tax; Refund

Claim Amount Reporting Period
\$960,000.00 Jan. 1, 1997 through April 30, 2001

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

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

Issue: Plaintiff's refund suit raises approximately 50 sales and use tax issues in relation to its production and refining operations. Claims include waste removal, sale for resale, environmental services, and various manufacturing exemption claims.

Status: Trial set for 04/09/12.

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

Cloudt, Jim B. 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.

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

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$239,634.20	01/01/02 through 09/30/05

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

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

Status: Answer filed.

Tara Levy, Robert Tycast, Vivian Daywood, John Butler, Rocky & Linda Piazza and Paul DeNucci, et al. v. Combs, et al.

Cause Number: D-1-GN-10-001182 AG Case #: 103191029 Filed: 4/13/2010
#03-10-00648-CV

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,604,367.17	Comp USA
\$11,017,104.44	Best Buy
\$1,999,730.71	Office Max

Counsel Associated With This Case:

Assistant Attorney General

Seaquist, Gunnar OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether claimant had standing to present the refund claim. Whether the claimant's documentation was sufficient to verify the claimed refund amount. Whether certain transactions are barred by the statute of limitations.

Status: Comptroller's Plea to the Jurisdiction considered 07/20/10. Final Order granting Comptroller's PTJ entered 09/03/10. Notice of Appeal filed 09/23/10. Appellant's brief filed 12/06/10. Appellee's Brief filed 01/18/11. Appellant's Reply Brief filed 02/17/11. Case

submitted on oral argument on 04/13/11. Appellant's Notice filed 04/29/11.

Tecpetrol Operating, LLC v. Combs, et al.

Cause Number: D-1-GN-10-002353 AG Case #: 103225868

Filed: 7/9/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$89,888.00	06/01/04 - 09/30/07

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether certain compressors used to move natural gas are subject to the manufacturing exemption.

Status: Answer filed.

Texas and Kansas City Cable Partners LP v. Combs, et al.

Cause Number: D-1-GN-09-001257 AG Case #: 093127587

Filed: 4/17/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$18,434,607.00	01/01/2003 through 12/31/2003

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether Plaintiff's equipment is exempt as property used in manufacturing. Whether equipment used to insert commercials and other programming into television signals is exempt as equipment used in the production of motion picture, video or audio programming or as the production of broadcasts and television programming. Whether electricity and various services are exempt purchases by Plaintiff. Whether interest and penalty should be waived.

Status: Discovery 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

Jones, Matthew C. 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.

Texas Waste Systems, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-001865 AG Case #: 103201638

Filed: 6/7/2010

Sales and use Tax; Declaratory Judgment, APA

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

Tubbs, Laura Denise Austin

Issue: Plaintiff alleges that the Comptroller failed to provide proper notice of an audit determination and that Plaintiff's request for a redetermination hearing was improperly denied. Plaintiff also seeks a declaration under the UDJA as to the amount of tax due. Plaintiff further alleges that the protest payment requirements of Tax Code §112.051 are violative of both the Texas and U.S. Constitutions.

Status: Plaintiff Counsel's Motion to Withdraw filed.

The Neiman-Marcus Group, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-003377 AG Case #: 113298616

Filed: 11/2/2011

Sales and use Tax; Refund

Claim Amount Reporting Period
\$1,425,000.00 03/01/05 through 12/31/06

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Ryan, Kory L. Ryan Law Firm, LLP / Austin
Meisel, Seth E.

Issue: Plaintiff asserts refund claim based on multiple grounds, including: data processing, sale for resale, multi-state use, temporary storage and charitable purchases.

Status: Discovery in progress.

Time Warner Entertainment & Advance Newhouse v. Combs, et al.

Cause Number: D-1-GN-09-001982 AG Case #: 093136828 Filed: 6/19/2009

Sales and use Tax; Refund

Claim Amount Reporting Period
\$5,413,530.44 01/01/2000 through 12/31/2003

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether Plaintiff qualifies for the exemption on manufacturing and processing in sections 151.318 and 151.317. Whether services were exempt under §151.3111. Whether Plaintiff resold electricity as part of a taxable service. Whether some equipment is exempt under §151.3185 and various service issues. Plaintiff also seeks penalty and interest waiver.

Status: Answer filed.

Tree of Life, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-003402 AG Case #: 113300008 Filed: 11/4/2011

Sales and use Tax; Bill of Review

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate the dismissal of D-1-GN-06-002103 for want of prosecution.

Status: Answer filed.

U.S. Food Service, Inc. f/k/a White Swan, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-002611 AG Case #: 113287874 Filed: 8/29/2011

Sales Tax; Bill of Review

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Plaintiff seeks to vacate dismissal of GN304767 for want of prosecution.

Status: Answer filed.

U.S. Foodservice, Inc., et al. v. Combs, et al.

Cause Number: D-1-GN-09-003215 AG Case #: 093153260 Filed: 9/18/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$48,908.29	07/01/1998 through 07/31/2002

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Whether electricity used to lower temperature of food products is exempt as electricity

used in processing.

Status: Answer filed.

U.S. Foodservices, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-000060 AG Case #: 103174488

Filed: 1/7/2010

Sales and use Tax; Refund

Claim Amount Reporting Period

\$200,000.00 (Plus penalty and interest)06/01/01 thru 09/30/04

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. 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. Petition also asserts manufacturing exemption claims for replacement parts, wrapping & packaging materials and certain work clothes.

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: Order of Nonsuit entered 01/25/12.

United Space Alliance, LLC v. Combs, et al.

Cause Number: D-1-GN-09-004310 AG Case #: 103169785

Filed: 12/18/2009

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$22,353.86	August, October and November 2009

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 electricity consumed by the Plaintiff is eligible for the sale for resale exemption.

Status: Answer filed.

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

Jones, Matthew C. 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: Inactive.

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

Cause Number: D-1-GN-07-004221 AG Case #: 072484389
#07-11-00025-CV

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

Phillips, Wade 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: Bifurcated trial held 01/19/10. Case submitted to court after trial on 01/20/10. Post-submission briefs submitted on 02/03/10. Court ruled for Defendants on creation of TPP and first use in Texas, and against Defendants on delivery of other TPP (non-custom software). Trial on bifurcation portion on 10/04/10 in favor of Plaintiff. Final Judgment entered 10/29/10. Notice of Appeal filed by Verizon on 12/03/10. Case transferred to Amarillo Court of Appeals on 01/25/11. Appellant's Brief filed 04/04/11; oral argument requested. Appellee's brief filed 05/05/11. Appellant's Reply Brief filed 05/31/11. Appellant's Motion for Oral Argument filed 06/27/11. Appellee's Response filed 06/30/11. Appellant's Motion for Oral Argument denied 07/12/11. Case submitted on oral argument on 01/09/12. Appellee and Appellant Letter Briefs filed 02/14/12.

W. Robert Brown v. Combs, et al.

Cause Number: D-1-GN-11-000338 AG Case #: 113248231

Filed: 2/1/2011

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$21,228.61	04/01/03 - 06/30/03

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Tamborello, Gus G. Houston

Issue: Whether sale of an aircraft qualified as an exempt sale of the seller's entire operating assets. Whether the assessment was barred by the 4-year statute of limitations.

Status: Discovery in progress.

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

Cloudt, Jim B. 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.

Weatherization Management Group, LLC, In re

Cause Number: D-1-GN-12-000456 AG Case #: 123309676

Filed: 2/17/2012

Sales and use Tax; Injunction

Claim Amount	Reporting Period
\$100,000.00	

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C. OAG Taxation / Austin

Opposing Counsel

Wood, Mary E. Meadows, Collier, Reed, Cousins, Crouch &
Ungerman, LLP / Dallas

Issue: Plaintiff challenges the requirement to post a security bond. Plaintiff seeks injunctive relief.

Status: Answer filed.

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

Cloudt, Jim B. 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

Cloudt, Jim B. 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.

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

Van Oort, Kevin 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. Court sent Notice of DWOP on 04/03/09. Plaintiff's Amended Motion to Retain filed and granted 08/19/09. Case abated pending Doubletree DTWC v. Combs appeal.

Zale Delaware, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-003994 AG Case #: 103233847

Filed: 11/12/2010

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$1,198,935.00	01/01/01 through 12/31/02

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

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

Sigel, Doug

Issue: Whether Plaintiff's methodology for calculating bad debt deduction is proper. Whether credit interest under §111.064 is applicable to a refund generated by a bad debt deduction.

Status: Hearing on Cross Motion for Summary Judgment held 07/06/11. Court granted Defendants' Motion in part on credit interest issue & denied remainder of Defendants' Motion and Plaintiff's Motion in its entirety. Plaintiff's motion for bifurcated non-jury trial denied 09/08/11. Hearing on PTJ, Motion to Strike & Motion to Quash on 10/04/11. State's PTJ denied 10/13/11. Trial set for 02/20/12.

Zimmer US, Inc. v. Combs, et al.

Cause Number: D-1-GN-09-002096 AG Case #: 093136620
#03-11-00178-CV

Filed: 6/30/2009

Sales and use Tax; Refund

Claim Amount	Reporting Period
\$947,827.00	09/01/03 through 02/28/07

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

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

Issue: Plaintiff claims that surgical instrument kits used to install prosthetic devices are "supplies" under §151.313 (a)(5). Alternatively, Plaintiff claims that the kits are either purchased for resale or are donated to an exempt organization.

Status: Hearing on Cross Motions for Summary Judgment held on 02/23/11. Summary Judgment for Defendants entered on 02/24/11. Notice of Appeal filed 03/25/11. Appellant's Brief filed 05/31/11. Appellee's brief filed 6/29/11. Appellant's Reply Brief filed 07/19/11. Case submitted on oral argument 10/19/11. Opinion issued 02/09/12, reversing the district court's judgment. Appellee's Motion for Rehearing filed 03/09/12.

Insurance Tax

American National Insurance Company v. Combs, et al.

Cause Number: D-1-GN-11-002014 AG Case #: 113278345

Filed: 7/6/2011

Gross Premium Tax & Maintenance Tax Tax; Refund, APA, UDJA

Claim Amount	Reporting Period
\$1,469,527.13	1999-2002

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Conway, Susan G. Graves, Dougherty, Hearon & Moody / Austin
Cabaniss, Boyce C.

Issue: Whether certain premiums collected by Plaintiff are exempt as premiums paid for reinsurance.

Status: Answer filed.

American National Life Insurance Company of Texas v. Combs, et al.

Cause Number: D-1-GN-11-002018 AG Case #: 113278469

Filed: 7/6/2011

Gross Premium Tax & Maintenance Tax Tax; Refund, APA, UDJA

Claim Amount	Reporting Period
\$614,142.00	1999-2002

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Conway, Susan G. Graves, Dougherty, Hearon & Moody / Austin
Cabaniss, Boyce C.

Issue: Whether certain premiums collected by Plaintiff are exempt as premiums paid for reinsurance.

Status: Answer filed.

Argonaut Insurance Company and Argonaut Great Central v. Combs, et al.

Cause Number: D-1-GN-11-001584 AG Case #: 113269278

Filed: 5/26/2011

Gross Premium & Maintenance Tax; Protest

Claim Amount	Reporting Period
\$1,157,588.33	01/01/2006 through 12/31/09

Counsel Associated With This Case:

Assistant Attorney General

Jones, Matthew C.	OAG Taxation / Austin
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Opposing Counsel

Pauerstein, Jonathan D.	Rosenthal Pauerstein Sandoloski Agather LLP / San Antonio
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Bergman, Alia M.

Issue: Whether premium payments received by Defendants should be characterized as reinsurance premiums.

Status: Answer filed.

Fidelity National Title Ins. Co. v. Combs, et al.

Cause Number: D-1-GN-10-001722 AG Case #: 103198883

Filed: 5/27/2010

Gross Premium Tax; Protest & UDJA

Claim Amount	Reporting Period
\$954,557.00	2009 to 2010

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade	OAG Taxation / Austin
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Opposing Counsel

Burgess, Linda	Winstead P.C. / Austin
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Issue: Whether imposition of a premium tax on the entire amount of a title insurance premium is violative of:

- i) the equal protection clauses of the U.S. and Texas Constitutions and
- ii) the equal and uniform taxation provision of the Texas Constitution

Status: Answer filed.

Standard Life and Accident Insurance Company v. Combs, et al.

Cause Number: D-1-GN-11-002020 AG Case #: 113278428

Filed: 7/6/2011

Gross Premium Tax & Maintenance Tax Tax; Refund, APA, UDJA

Claim Amount	Reporting Period
\$292,098.81	1999-2002

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Conway, Susan G. Graves, Dougherty, Hearon & Moody / Austin
Cabaniss, Boyce C.

Issue: Whether certain premiums collected by Plaintiff are exempt as premiums paid for reinsurance.

Status: Answer filed.

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

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

White, Raymond E. McGinnis, Lochridge & Kilgore, LLP / Austin

Issue: Whether the Comptroller improperly included amounts not received by Plaintiff in Plaintiff's gross premiums tax base. Whether any maintenance tax is payable on Plaintiff's business of home warranty insurance. Whether the Comptroller is bound by the prior actions and determinations of the Texas Department of Insurance. Whether the assessments of tax violate due process and equal taxation. Whether penalty and interest should have been waived.

Status: Trial set for 07/30/12.

Other Taxes

35 Bar & Grill, LLC, et al. v. Compt., et al.

Cause Number: D-1-GN-08-002535 AG Case #: 082520511

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$1,913,112.25	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Deegear III, James O.
Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also claims due process violations, and seeks declaratory and injunctive relief.

Status: Answer filed.

A & D Interests, Inc., dba Heartbreakers v. Compt., et al.

Cause Number: D-1-GN-08-002410 AG Case #: 082519083

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,785.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

Anadarko Austin Chalk, Co., Anadarko Petroleum Corp., and Anadarko E&P Co., LP v. Combs, et al.

Cause Number: D-1-GN-11-002852 AG Case #: 113292023

Filed: 9/14/2011

Gas Production Tax; Refund

Claim Amount	Reporting Period
\$2,916,255.80	09/01/95 - 09/30/03

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether Plaintiff timely applied for a credit/refund pursuant to the §201.057 high cost gas exemption.

Status: Answer filed.

Badger Tavern L.P. et al. v. Susan Combs, Compt., et al.

Cause Number: D-1-GN-08-003794 AG Case #: 082534447

Filed: 10/20/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$21,065.00	Apr. - June 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of Texas Entertainment case.

Bassam Jaber Hantouli v. Susan Combs, Compt., et al.

Cause Number: D-1-GN-08-003547 AG Case #: 082531468

Filed: 9/26/2008

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

Claim Amount Reporting Period
\$352,819.92 Jan. 1, 2003 - Aug. 31, 2006

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether the Comptroller correctly estimated Plaintiff's tax on beer sales. Whether penalty and interest should be waived. Plaintiff seeks declaratory and injunctive relief.

Status: Discovery in progress. Non-Jury trial previously set for 09/26/11 has been passed by agreement.

Benelux Corp., dba The Palazio & Ziggfeld's Entertainment, Inc., dba Expose v. Susan Combs, Compt., et al.

Cause Number: D-1-GN-08-003385 AG Case #: 082529652 Filed: 9/16/2008

Other Tax; Protest

Claim Amount Reporting Period
\$70,620.00 Apr. - June 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

Benelux Corp., dba, et al. v. Compt., et al.

Cause Number: D-1-GN-08-002489 AG Case #: 082520487 Filed: 7/14/2008

Other Tax; Protest

Claim Amount Reporting Period
\$91,240.00 Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

Combs, et al. v. Texas Entertainment Association, Inc. and Karpod, Inc.

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

#03-08-00213-CV

#09-0481

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

Claim Amount Reporting Period

2008

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald 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. Plaintiff's Motion for Partial Summary Judgment was denied 03/04/08. Court signed judgment for Plaintiffs on 03/28/08. Findings of Fact and Conclusions of Law signed 05/07/08. Additional Findings of Fact and Conclusions of Law signed 06/10/08. Motion to Supersede & Petition for Mandamus proceedings. Appellants' brief filed 08/11/08. Argued by Solicitor General on 02/11/09. Opinion issued 06/05/09, affirming district court's judgment. The Comptroller filed a Petition

for Review with the Texas Supreme Court on 06/11/09. Response filed 07/10/09. Briefing on the merits requested 08/26/09. Petitioner's Brief filed 09/25/09. Respondent's Brief filed 10/15/09. Petitioner's Reply Brief filed 10/30/09. Case submitted on oral argument on 03/25/10. Opinion issued 08/26/11, reversing the judgment of the Court of Appeals and remanding the case to the trial court for further proceedings. Petition for Writ of Certiorari filed with the U.S. Supreme Court on 11/23/11; denied 01/23/12. Case on Remand in District Court for remaining issues.

D. Houston, Inc., dba v. Compt., et al.

Cause Number: D-1-GN-08-002483 AG Case #: 082519117

Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$482,440.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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

Mather, Melissa 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 Immunities Clause of Article IV, Section 2 of the United States Constitution; the Commerce Clause of Article I, Section 8 of the United States Constitution; and the Privileges and Immunities Clause and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek attorneys' fees.

Status: Case transferred to Travis County. Court sent Notice of DWOP. Plaintiff filed Motion to Retain and Motion for Summary Judgment on 06/30/11. Motion to Retain granted 09/29/11. Plaintiff filed a Motion for Protective Order on 11/30/11, seeking to avoid responding to certain discovery requests sent by the Comptroller. No hearing has been set.

El Paso Entertainment, Inc. dba v. Compt., et al.

Cause Number: D-1-GN-08-002548 AG Case #: 082520578

Filed: 7/21/2008

Other Tax; Protest

Claim Amount Reporting Period

\$64,767.00 Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

Emirates, Inc. v. Combs, et al.

Cause Number: D-1-GN-11-002349 AG Case #: 113282073

Filed: 8/3/2011

Motor fuel tax Tax; Refund

Claim Amount Reporting Period

\$115,248.00 12/01/2007 through 12/31/2007

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald OAG Taxation / Austin

Opposing Counsel

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

Britt, Steve

Issue: Whether Plaintiff's purchase of aviation fuel is exempt under §162.204(a)(6).

Status: Answer filed.

Enterprise Operating Co., Inc., dba v. Compt., et al.

Cause Number: D-1-GN-08-002575 AG Case #: 082520545

Filed: 7/21/2008

Other Tax; Protest

Claim Amount Reporting Period

\$76,780.00 Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Serper, Lauren M. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery suspended by Rule 11 Agreement. Pending final disposition of Texas Entertainment case.

FW, Inc. and S & S Bros., Inc. v. Compt., et al.

Cause Number: D-1-GN-08-002617 AG Case #: 082526575

Filed: 7/21/2008

Other Tax; Protest

Claim Amount Reporting Period

\$23,685.00 FW, Inc.

\$15,881.25 S&S Bros, Inc.

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Deegear III, James O.

Matthews-Kasson, Michell

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

Golden Productions JCG Fort Worth LLC., dba v. Compt., et al.

Cause Number: D-1-GN-08-002522 AG Case #: 082519992

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$11,055.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

I Gotcha, Inc., dba, et al. v. Compt., et al.

Cause Number: D-1-GN-08-002546 AG Case #: 082520503

Filed: 7/17/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$79,195.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Gamboa, John L. Gamboa & White / Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

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

Cause Number: D-1-GN-07-002828 AG Case #: 072470107

Filed: 9/4/2007

Mixed Beverage Gross Receipts Tax; Declaratory Judgment

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

Counsel Associated With This Case:

Assistant Attorney General

Johnson, Ronald 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: Defendants' Motion to Dismiss filed 02/09/12.

John P. Bellam, dba Showgirl v. Compt., et al.

Cause Number: D-1-GN-08-002491 AG Case #: 082519125

Filed: 7/14/2008

Other Tax; Protest

Claim Amount Reporting Period
\$8,430.00 Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of Texas Entertainment case.

Kairos of Texas v. Combs, et al.

Cause Number: D-1-GN-11-002073 AG Case #: 113279863

Filed: 7/11/2011

Hotel Occupancy Tax; Declaratory Judgment

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

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

Issue: Whether Plaintiff qualifies for an exemption under Section 156.102 as a religious, charitable, or educational organization.

Status: Plaintiff's MSJ filed 10/11/11. Hearing on Plaintiff's MSJ previously set for 03/29/12 has been passed by agreement.

Karpod, Inc., dba, et al. v. Compt., et al.

Cause Number: D-1-GN-08-002521 AG Case #: 082520479 Filed: 7/14/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$67,580.25	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

Manana Entertainment, Inc., dba v. Susan Combs, Compt., et al.

Cause Number: D-1-GN-08-003280 AG Case #: 082530288 Filed: 9/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$14,115.00	Apr. - June 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

MC/VC, Inc. v. Compt., et al.

Cause Number: D-1-GN-08-003092 AG Case #: 082526187

Filed: 8/26/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$9,516.55	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Deegear III, James O.

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Answer filed.

North By East, Inc., et al. v. Compt., et al.

Cause Number: D-1-GN-08-002624 AG Case #: 082520495

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$37,710.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Hopkins, Mark D. Hopkins & Williams, PLLC / Austin

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

Price & Company v. Combs, et al.

Cause Number: D-1-GN-09-002439 AG Case #: 093144020

Filed: 7/30/2009

Cigarette and Tobacco Tax; Protest

Claim Amount	Reporting Period
\$150,687.46	01/01/2003 through 08/31/2006

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, L.L.P. / Austin

Issue: Whether the Comptroller improperly assessed tax on cigarettes that were taxed and sold in Louisiana.

Status: Answer filed. Disclosures filed. Case Dismissed for Want of Prosecution 08/31/11. Motion to Reinstate filed 09/07/11. Hearing set for 10/05/11 was passed.

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

Eldred, Charles K. OAG Taxation / Austin

Opposing Counsel

Grissom, Donald H. Grissom & Thompson / Austin
Thompson, 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: Case dismissed for want of prosecution. Bill of Review filed 08/24/11. Bill of Review granted. Set for jury trial on 04/16/12.

RPM Entertainment, Inc., et al. v. Compt., et al.

Cause Number: D-1-GN-08-002622 AG Case #: 082520552

Filed: 7/21/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$69,909.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin	OAG Taxation / Austin
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Opposing Counsel

Martens, James F. Seay, Michael B.	Martens, Todd & Leonard / Austin
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief.

Status: Answer filed.

Savvy, Inc., dba v. Compt., et al.

Cause Number: D-1-GN-08-002520 AG Case #: 082520016

Filed: 7/16/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$159,595.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin	OAG Taxation / Austin
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Opposing Counsel

Swander, Steven H.	Fort Worth
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Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

SSD Enterprises, Inc. v. Compt., et al.

Cause Number: D-1-GN-08-002301 AG Case #: 082518697

Filed: 7/1/2008

Other Tax; Protest

Claim Amount Reporting Period
\$64,485.00 Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

Texas Cabaret, Inc., dba, et al. v. Compt., et al.

Cause Number: D-1-GN-08-002490 AG Case #: 082520032

Filed: 7/16/2008

Other Tax; Protest

Claim Amount Reporting Period
\$49,795.00 Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Swander, Steven H. Fort Worth

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Answer filed.

Texas Richmond Corp. v. Compt., et al.

Cause Number: D-1-GN-08-002438 AG Case #: 082519075

Filed: 7/10/2008

Other Tax; Protest

Claim Amount Reporting Period
\$102,535.00 Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin
Opposing Counsel

Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

The King Lounge, Inc., dba v. Compt., et al.

Cause Number: D-1-GN-08-003793 AG Case #: 082536822

Filed: 10/20/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$138,875.00	Apr. - Sept. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin
Opposing Counsel

Shells, T. Craig Richardson

Issue: Whether the Sexually Oriented Business fee is unconstitutional. Plaintiff also seeks declaratory relief and attorney's fees.

Status: Discovery abated until resolution of the Texas Entertainment case.

The Men's Club Corp. v. Compt., et al.

Cause Number: D-1-GN-08-002439 AG Case #: 082519091

Filed: 7/10/2008

Other Tax; Protest

Claim Amount	Reporting Period
\$60,890.00	Jan. - Apr. 2008

Counsel Associated With This Case:

Assistant Attorney General

Van Oort, Kevin OAG Taxation / Austin
Opposing Counsel

Pianelli, James V. Houston

Issue: Whether the Sexually Oriented Business fee is unconstitutional.

Status: Discovery abated until resolution of the Texas Entertainment case.

Closed Cases

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

Cause Number: C-1-CV-08-011446 AG Case #: 082539305

Filed: 10/28/2008

Sales and use Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Leeper, David P. El Paso

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

Status: Case transferred to the Bankruptcy & Collections Division.

Boat Town, Inc. v. Combs, et al.

Cause Number: D-1-GN-10-001659 AG Case #: 103199972

Filed: 5/24/2010

Sales and use Tax; Protest

Claim Amount	Reporting Period
\$78,915.79	01/01/2000 through 12/31/2003

Counsel Associated With This Case:

Assistant Attorney General

Barenblat, Marc A. OAG Taxation / Austin

Opposing Counsel

Dolezal, Trey L. Kasling, Hemphill, Dolezal & Atwell, L.L.P /
Austin

Guerra, Stephanie H.

Issue: Whether plaintiff's purchase of a business causes it to become a successor to the seller's tax liability. Plaintiff also seeks recovery of attorney's fees.

Status: Agreed Judgment entered 12/19/11.

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

Eldred, Charles K.	OAG Taxation / Austin
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Opposing Counsel

Grimsinger, William O.	Chamberlain, Hrdlicka, White, Williams & Martin / Houston
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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: Notice of Nonsuit filed 11/21/11.

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

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

Filed: 11/18/2008

Sales and use Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

McKinney, Dennis	OAG Taxation / Austin
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Opposing Counsel

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

Status: Agreed Judgment entered 02/06/12.

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

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

Filed: 11/7/2008

Sales and use Tax; Refund

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

Counsel Associated With This Case:

Assistant Attorney General

McKinney, Dennis OAG Taxation / Austin

Opposing Counsel

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

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

Status: Bench trial on bifurcated issue conducted on 09/13/10. Second half of trial conducted 12/08/10. Judgment for Plaintiff signed 12/13/10. Motion for New Trial filed 01/11/11; denied 02/24/11.

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

Van Oort, Kevin 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: Notice of Nonsuit filed 11/11/11.

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

Van Oort, Kevin 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: Notice of Nonsuit filed 10/11/11.

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

Phillips, Wade 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: Motion to Dismiss for Want of Prosecution granted 11/08/11.

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

Aterno, Tony

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: Agreed Motion to Dismiss signed 11/18/11.

Ranger Fuels and Maintenance, LLC v. Combs, et al.

Cause Number: D-1-GN-11-002564

AG Case #: 113286090

Filed: 8/24/2011

Fuels Tax; Bill of Review

Counsel Associated With This Case:

Assistant Attorney General

Eldred, Charles K.

OAG Taxation / Austin

Opposing Counsel

Grissom, Donald H.

Grissom & Thompson / Austin

Thompson, William W.

Issue: Plaintiff seeks to vacate dismissal for want of prosecution in cause number GN-504104.

Status: Bill of Review granted 11/07/11.

Senior Care Consultants, Inc. v. Prevail Systems, Inc., et al.

Cause Number: DC-11-04352

AG Case #: 113271225

Filed: 5/2/2011

Sales and use Tax; Declaratory Judgment

Counsel Associated With This Case:

Assistant Attorney General

Cloudt, Jim B. OAG Taxation / Austin

Opposing Counsel

Cook, Jeffrey Sullivan & Cook / Dallas

Issue: The Comptroller is joined by the Defendant, Prevail Systems, Inc. and sued under the Uniform Declaratory Judgment Act. Defendant seeks a declaration of the sales tax responsibilities between Plaintiff and Defendant. Attorney fees have not been pled for against the Comptroller.

Status: Order of Nonsuit signed 11/11/11.

Taco Bell Corp. v. Combs, et al.

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

Filed: 10/21/2009

Franchise Tax; Protest

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

Counsel Associated With This Case:

Assistant Attorney General

Phillips, Wade OAG Taxation / Austin

Opposing Counsel

Gilliland, David H. Duggins Wren Mann & Romero, LLP / Austin

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

Status: Agreed Judgment entered 12/02/11.

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

Van Oort, Kevin OAG Taxation / Austin

Opposing Counsel

Tourtellotte, Tom Hance Scarborough, 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: Notice of Non-suit entered 01/20/12.

Index

Aircraft

certificated carrier	71
collateral	51
consumables	40
hanger location	68
maintenance	40
occasional sale	28
out of state registration	47, 48, 68
sale for resale	71
sale of entire business	87

Amended Returns

detrimental reliance	2
equitable estoppel	2

Apportionment

location of delivery	11
----------------------	----

Assessment

AP122	66, 75
AP92	66, 75
authority of Comptroller	42
cigarette stamps	107
convenience store	66, 75, 76
double taxation	25, 35, 67, 72, 73
estimated audit	51, 75, 75
export items	67
insolvency relief	66, 70
liability for tax	76, 114
notice	82
out of state sales	74
procedure	74
statute of limitations	87
successor liability for tax	114
tax collected but not remitted	76

Audit

bookkeeping error	69
double taxation	67
procedure	66, 69, 75
sampling procedures	62

software services	67
-------------------	----

Bad Debt Credit

--	45
credit interest	90
private label agreement	58
proprietary card usage	118

Bill of Review

--	83
dismissal for want of prosecution	52, 53, 54, 54

Bonds

security bond	88
---------------	----

Business Loss Carry Forward

limitations	3
tax credits	3
temporary credit	8, 18

Cash Infusion

cash infusion	2
---------------	---

Compensation Deduction

benefit costs	19
---------------	----

Computer Software

allocation	70
custom software	49
sale for resale	70
services	49, 87
software services	21

Construction Contract

exempt entities	34
-----------------	----

Cost of Goods Sold

travel per diem	6
-----------------	---

Credit Interest

calculation	90
-------------	----

Custom Brokers

24-hour rule	55
export clause	55

Electricity

processing	54, 55, 78, 78, 79, 79, 83, 84, 86, 88, 89, 89
refrigeration	84, 85
residential use	52

Environmental Services

essence of the transaction	66
new construction or maintenance	25

Exclusions from Total Revenue

subcontracting payments	12, 17
temporary employment service	9

Financial Services

service benefit location	67
--------------------------	----

Financing Lease

liability for tax	33
-------------------	----

Fuels

bad debt credit	118
bill of review	117

Gas

sale for resale	76
-----------------	----

Gross Premiums

reinsurance	93, 93, 94, 95
self insurance risk pools	94
title insurance	94

Gross Receipts

apportionment of accounts receivable receipts	15
apportionment of intangible receipts	4, 5, 5, 15
earned surplus	7
inventory depletion	117
offsets	6

High Cost Gas

refund application	98
--------------------	----

Hotel Occupancy

assessment	60
equipment rentals	60
exempt status	105
internet services	60
security services	60
telecom services	60

Information services

title search	41
--------------	----

Injunction

bond requirement	88
------------------	----

Insolvency Relief

final estimated audit liability	113
------------------------------------	-----

Inter-Company Debt

collateral	2
------------	---

Intracorporeal Transportation

manufacturing exemption	82
-------------------------	----

Investment tax credits

timing of qualifying events	4
-----------------------------	---

Leased Property

authority of Comptroller	41
location of use	41
ships	41

Lien

validity	23, 66
----------	--------

Local Sales Tax

consumption of sale	38, 38
place of business	38
tax situs	69

Managed Audit

credit interest	22, 27, 34, 53
-----------------	----------------

Manufacturing Exemption

--	65
burden of proof	86
casing	64
cleaning supplies	34
compressors	81
electricity	55, 61, 62, 81, 83, 84
electricity;wrapping & packaging;clothes	85
food products	42, 115
gas distribution	77
intraplant transportation	82
oil field operations	24, 25, 31, 32, 77
packaging	43
pipe	82
sale for resale	39
telecommunications equipment	115, 116

Margin Calculation

compensation deduction	19
cost of goods sold	1, 2, 3, 11, 12, 13, 14, 17
detrimental reliance	2
election of deduction	1, 2, 3, 9, 14, 17
equal protection challenge	1, 13
EZ Report	3, 17
overhead costs	11
staff leasing	9, 14
subcontractor payments	11

Medical instruments

supplies	91
----------	----

Mixed Drinks

sampling method	98
-----------------	----

Motor Fuel

aviation fuel	102
---------------	-----

Motor Vehicle Property

--	101
nexus	71

New Construction

emission control equipment	48
----------------------------	----

environmental services	25
finish-out work	31
lump sum or separated contract	85
tax credits	116

Nexus

franchisees	118
independent contractor	8, 9
P.L. 86-272	9
warranty services	8, 9

Officer and Director Compensation

add-back to surplus	7, 7, 14
---------------------	----------

Packaging

sale for resale	52
shipment out-of-state	36

Penalty

waiver	8, 9, 45, 69
--------	--------------

Pipe

manufacturing exemption	82
-------------------------	----

Pre-acquisition Earnings

write-down	10
------------	----

Premiums

home warranty insurance	95
-------------------------	----

Prizes

sale for resale	72, 73
-----------------	--------

Promotional Materials

nexus	37
ownership of	40

Protest Payment

constitutionality	82
-------------------	----

Push-down Accounting

merger	10
--------	----

Real Property Repair

mold remediation	114
------------------	-----

Real Property Repair and Remodeling

finish-out work	31
tax-included contracts	61

Real Property Service

asbestos abatement	68
landman services	41

Retail Trade

equal protection challenge	13
installed auto parts	13
rent-to-own contracts	13, 17

Sale for Resale

--	56, 69
aircraft	71
blanket resale certificates	26
building maintenance services	40
contractor	21
detrimental reliance	33
double taxation	35
equipment	58
federal contractor	29, 30, 30, 46, 46, 57, 57, 65
federal contractor; electricity	86
gas	76
hotel amenities	28, 35, 43, 63, 90
packaging	43
prizes	72, 72, 73
transfer of care, custody, and control of equipment	72, 73

Sales Tax

airplane	37
assessment	60, 62
certificated carrier	37
charitable purchases	82
data processing	82
declaratory judgment	117
equipment leases	60
financing leases	60
healthcare	117
licensed carrier	37

lump sum contracts	50
multi-state use	82
newspapers	44
out of state sales	24, 65, 69
proprietary information services	56
prosthetic devices	59, 59, 60
rebate coupons	80
sale for resale	57, 82
sampling procedures	60
senior care	117
successor liability	22
temporary storage	24, 82

Sales/Use tax

convenience store	23, 27
declaratory judgment	23, 27
injunction	23, 27
open court doctrine	23, 27

Sample Audits

compliance with procedures	49
----------------------------	----

Sampling Technique

accrual date	40
sampling procedures	45, 45, 69

Sexually Oriented Business Fee

constitutionality	97, 97, 98, 99, 99, 100, 101, 102, 103, 103, 104, 104, 105, 106, 106, 107, 107, 109, 109, 109, 110, 110, 111, 111
-------------------	---

Solar Energy Devices

wind farms	12
------------	----

Statute of Limitations

accrual date	40
--------------	----

Subsidiary

valuation of	10
--------------	----

Successor Liability

assessment after sale	22, 50
business interference	108

nature of purchase agreement	113
------------------------------	-----

Taxable Surplus

impairment calculation	1
------------------------	---

Telecommunication Services

accounts receivable	18
networking services	18
pre-payment discounts	32

Third Party Lender

inter-company debt	2
sale of collateral	51

Vending Machine Sales

exempt entities	65
money validators	63

Waste Removal

real property services	34
------------------------	----

Water Recycling

pipng	64
pumping equipment	64

Write-down

investment in subsidiaries	10
----------------------------	----