

Martens, Todd & Leonard

Texas Tax Update:
Upcoming 2024 Trials
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This article provides a short overview of the various Texas tax trials set for 2024.

City of Carrollton Texas, City of Coppell Texas, City of Desoto Texas, City of Farmers Branch Texas, City of Humble Texas, City of Round Rock, Texas vs. Hegar, et al.

Cause Number: D-1-GN-21-003198

Trial Date: Monday, May 06, 2024

Issue: In 2020, the Comptroller adopted amendments to Rule 3.334's subsection (b)(5) which shifted the local tax sourcing for many internet and shopping app sales to the customer's location (i.e., "destination" sourcing) instead of the seller's location (i.e., "origin" sourcing). Texas law typically provides that sales are consummated at the seller's place of business. As a result of this origin sourcing, cities in Texas have been successful in attracting out-of-state businesses to build large facilities by offering incentives in the form of a partial share of the local tax collected. The Comptroller amended his local sales tax rule to provide that orders placed through websites and shopping apps aren't received at a "place of business." That meant that more of those sales would be sourced to the customer's location (i.e., "destination" sourcing). Six Texas cities have joined in this suit to halt and challenge the rule's implementation. For more information on this case Martens, Todd and Leonard Article ["Texas Sales Tax Update: Texas Comptroller Proposes Amendments To Local Tax Sourcing \(Again\)"](#).

Ryan, LLC vs. Hegar, et al.

Cause Number: D-1-GN-23-002189

Trial Date: Monday, June 10, 2024

Issue: This case challenges the validity of a Comptroller policy which places limitations on taxpayers claiming exemptions when purchasing oil-soluble and processing chemicals like emulsion breakers, demulsifiers, paraffin inhibitors and dispersants, biocide, asphaltene dispersants, methanol, and corrosion inhibitors for use in oil well operations. The plaintiff argues that the following Comptroller policies are invalid: 1) oil soluble chemicals are not exempt unless they are injected into wells that are classified by the Texas Railroad Commission as oil wells; 2) processing chemicals are exempt only when

they are oil soluble; and 3) that taxpayer must meet strict documentation requirements in order to exempt oil soluble chemicals.

American Airlines, Inc. vs. Hegar, et al.

Cause Number: D-1-GN-16-000621

Trial Date: Monday, June 17, 2024

Issue: Does the federal Anti-Head Tax Act prevent the Comptroller from imposing its Texas franchise tax on gross receipts from air commerce? The Anti-Head Tax Act prohibits states from levying or collecting “a tax, fee, head charge, or other charge on an individual traveling in air commerce; the transportation of an individual traveling in air commerce; the sale of air transportation; or the gross receipts from that air commerce or transportation.”

Apple, Inc. vs. Hegar, et al.

Cause Number: D-1-GN-20-004108

Trial Date: Monday, September 9, 2024

Issue: Whether the federal Internet Tax Freedom Act, a federal law which intends to prevent states from burdening internet-based technology, prevents the Comptroller’s taxation of iCloud services. Another key issue in this case is whether iCloud services itself constitutes taxable data processing. This case is set for jury trial.

Dallas Underground, LLC vs. Hegar, et al.

Cause Number: D-1-GN-22-007160

Trial Date: Monday, September 30, 2024

Issue: This case challenges a Comptroller sales tax assessment related to underground utility infrastructure and the validity of Comptroller Rule 3.291 as it pertains to development work. Dallas Underground, an underground utility infrastructure construction company, specializes in public works projects for underground water and sewer systems. Dallas Underground argues that various items it purchased, improvements it made and services it used in the performance of its contracts for exempt entities are exempt. Dallas Underground also contends that Comptroller Rule 3.291, regarding development work, imposes sales tax on activities that the Texas Tax Code exempts. Martens, Todd and Leonard represents Dallas Underground.

Marshall’s Tavern #8, LLC vs. Hegar, et al.

Cause Number: D-1-GN-22-003297

Trial Date: November 12, 2024

Issue: This concerns whether the sales of gift certificates are taxable when they are acquired through a promotional sweepstakes program. Marshall’s Tavern is a neighborhood bar and grill located in Texas and owned by the Songwriter’s Group, an entertainment and music promotion business. One way the Songwriter’s Group promotes

sales of its products is through collaborations with local bars and restaurants to sell gift certificates which contain free sweepstakes. The ultimate issue is whether patrons are paying for the sweepstakes entries rather than for the credits on the gift cards. Martens, Todd and Leonard represents Marshall's Tavern #8.

About MARTENS, TODD & LEONARD

MARTENS, TODD & LEONARD is a trial and appellate law firm headquartered in Austin, Texas. It handles only Texas tax cases, specifically those involving the Texas sales tax and Texas franchise tax. The firm's attorneys have handled cases all the way through the Texas Supreme Court and U.S. Supreme Court. They speak and write frequently on a variety of Texas sales tax and franchise tax topics and have published articles in publications such as the Journal of State Taxation, the Texas Bar Journal, the Texas Lawyer, and the Texas Tech Administrative Law Journal. For more information, please visit texaslaw.com.