

**ILLINOIS INDEPENDENT  
TAX TRIBUNAL**

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PEPSICO INC. AND AFFILIATES,	)	
Petitioner,	)	
	)	
v.	)	16 TT 82 and 17 TT16
	)	Chief Judge James M. Conway
ILLINOIS DEPARTMENT	)	
OF REVENUE,	)	
Respondent.	)	

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**ORDER**

1. The next status conference will be held on June 13, 2022 at 9:00 a.m. (CST) by telephone; and

2. Prior to or at that status conference, the parties are to address the following points relating to the pending Motion to Strike:

    a) The Department claims that it assessed penalties against PepsiCo annually since 1998 through 2015. Mueller claims that, during his tenure, there were no fraud or negligence penalties assessed. To the extent any penalties were assessed between 1998 through 2010, the Department should provide a year-by-year chart of any penalty assessed (and ultimately agreed to/upheld) and the approximate dollar amounts to support its claim. Absent any documentation, PepsiCo will be deemed to have had an excellent compliance history prior to the audit years in question.

    b) PepsiCo claims that my order on the pending Motion to Strike did not take into account its paragraphs 70 and 71 concerning PwC in its Memorandum in Support of its Motion for Summary Judgment Motion for Reasonable Cause Penalty Abatement. In its Response in footnote 1, PepsiCo claims that Mueller had

“consultations” with PwC during which PwC confirmed FLNA qualified as an 80/20 company and that its conclusions were ultimately memorialized in a document that PepsiCo deems to be irrelevant. At this point, there is no factual support for Mueller’s claims in paragraphs 70 and 71 and those paragraphs will be stricken absent further explanation and, more importantly, relevant and admissible factual documentation from PepsiCo concerning the PwC consultations.

/s/ James Conway  
JAMES M. CONWAY  
Chief Administrative  
Law Judge

Date: June 1, 2022