

Judge Conway: Please find attached Petitioner's memorandum of law regarding the Tribunal's jurisdiction over this appeal.

At the hearing on Petitioner's motion to reconsider the stay, the Tribunal asked the parties to address whether either section 1-45 or section 1-15 of the Tax Tribunal Act precluded Tribunal jurisdiction in this case. The Department's email of this morning concludes that section 1-45 is not a jurisdictional bar, but it overlooks discussion of section 1-15. The memorandum we have attached here addresses this section, and concludes that it is no bar either.

Finally, as a reason for staying the case, the Department suggests that if time really were of the essence for GModelo, it would have filed a protest on or shortly after the date on which its claims were deemed denied (by operation of law) in July 2013. While this point is perhaps debatable in the abstract, it omits mention of the fact that from May 2013 through April 2014, the parties were involved in settlement discussions in a related case, and that the outcome of those discussions would have resolved the matter under consideration here. Thus, assuming as it did, that the settlement negotiations were held in good faith, there was no reason for GModelo to have opened another front by filing an appeal with the Tribunal. We respectfully suggest that the Department's request for two bites at the apple—first a lengthy audit, and then full-blown discovery—is the least efficient or economical means of proceeding with this case. We request that the stay be lifted accordingly.

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