



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

File Number: M98/2024
File Title: Commissioner of Taxation v. PepsiCo, Inc.
Registry: Melbourne
Document filed: Form 27B - Appellant's chronology
Filing party: Appellant
Date filed: 09 Jan 2025

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties and whenever the document is reproduced for use by the Court.

Form 27B – Appellant’s chronology

Note: see rule 44.02.3.

M98/2024

IN THE HIGH COURT OF AUSTRALIA
MELBOURNE REGISTRY

BETWEEN:

Commissioner of Taxation
Appellant

and

PepsiCo, Inc.

Respondent

Stokely-Van Camp, Inc.

Respondent

10

APPELLANT’S CHRONOLOGY

Part I: Certification

This chronology is in a form suitable for publication on the internet

20 **Part II: Chronology**

Item	Date	Event	Reference
1.	3 April 2009	PepsiCo, Inc. , The Concentrate Manufacturing Company of Ireland and Schweppes Australia Pty Ltd (SAPL) entered into a restated and amended Exclusive Bottling Appointment in relation to carbonated soft drinks (PepsiCo EBA).	Appellant’s Book of Further Materials (AFM), pp 6-25
2.	3 April 2009	Stokely-Van Camp, Inc. (SVC) and SAPL entered into a restated and amended Exclusive Bottling	AFM , pp 26-89

Item	Date	Event	Reference
		Agreement in relation to non-carbonated beverages (SVC EBA).	
3.	2009-2015	The designated seller of concentrate to SAPL under the PepsiCo EBA and the SVC EBA was Pepsi-Cola International, Cork, an Irish subsidiary of PepsiCo (PCIC).	Judgment of the primary judge (PJ) [58], [105] (Core Appeal Book (CAB), pp 33, 45)
4.	8 December 2015	PepsiCo sent a letter to SAPL notifying it that, from 1 January 2016, the Seller of Units under the PepsiCo EBA will change to PepsiCo Beverage Singapore Pty Ltd (Singapore Branch) (PBS).	AFM, p 91
5.	8 December 2015	SVC sent a letter to SAPL notifying it that, from 1 January 2016, the Seller of Units under the SVC EBA will change to PBS.	AFM, p 93
6.	11 January 2016	A letter on PepsiCo letterhead was sent to SAPL referring to the 8 December 2015 letter sent by PepsiCo and notifying SAPL of the bank account details of PBS.	AFM p 95
7.	11 January 2016	A letter on PepsiCo letterhead was sent to SAPL referring to the 8 December 2015 letter sent by SVC and notifying SAPL of the bank account details of PBS.	AFM p 97
8.	1 July 2017-30 June 2019	Concentrate Manufacturing (Singapore) Pte. Ltd (CMSPL), a member of the PepsiCo Group incorporated in Singapore, produced concentrate.	PJ [7(a)] (CAB, p 19)

Item	Date	Event	Reference
9.	On or about 1 January 2018	CMSPL and PBS entered into a Concentrate Distribution Agreement.	PJ [112] (CAB, p 48)
10.	4 December 2020	The Commissioner issued notices of diverted profits tax (DPT) assessment to each of PepsiCo and SVC for the years ended 30 June 2018 and 30 June 2019 (Relevant Period).	
11.	3 December 2021	The Commissioner issued amended notices of DPT assessment to PepsiCo for the Relevant Period.	
12.	25 January 2022	The Commissioner issued to each of PepsiCo and SVC a notice of royalty withholding tax in respect of the Relevant Period.	
13.	2 February 2022	Each of PepsiCo and SVC filed notices of appeal in the Federal Court of Australia (in respect of DPT).	PJ [32] (CAB, p 25)
14.	15 February 2022	Each of PepsiCo and SVC filed an originating application seeking relief under s 39B of the <i>Judiciary Act 1903</i> (in respect of withholding tax).	PJ [9] (CAB, p 20)
15.	6 March 2023	The Commissioner issued to each of PepsiCo and SVC an amended notice of royalty withholding tax for the Relevant Period.	PJ [15], [16] (CAB, p 21)
16.	6 March 2023	The Commissioner issued each of PepsiCo and SVC with an amended notice of diverted profits tax assessment for the Relevant Period.	PJ [17] (CAB, p 22)
17.	22 December 2023	Sealed orders of Moshinsky J made, following publication of reasons for judgment on 30 November 2023.	CAB, pp 146-157

Item	Date	Event	Reference
18.	18 January 2024	Each of PepsiCo and SVC filed a notice of appeal to the Full Federal Court (in respect of withholding tax) with amended notices filed on 18 June 2024.	CAB, pp 158-171
19.	2 February 2024	The Commissioner filed notices of appeal to Full Federal Court (in respect of DPT).	CAB, pp 172-191
20.	16 July 2024	Sealed orders of Perram, Colvin and Jackman JJ made, following publication of reasons for judgment on 26 June 2024.	CAB, pp 259-270
21.	8 August 2024	The Commissioner applied for special leave to appeal from the orders of the Full Court of the Federal Court of Australia.	
22.	7 November 2024	Special leave to appeal granted.	CAB, pp 286-287, 291-292, 296-297, 304-305, 312-313, 320-321
23.	20 November 2024	The Commissioner filed notices of appeal.	CAB, pp 288-290, 293-295, 298-300, 306-308, 314-316, 322-324

Dated 8 January 2025



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