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LAW OFFICES NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

SUITE 1000
915 L STREET
SACRAMENTO, CALIFORNIA 95814-3705
TELEPHONE (916) 442-8888
FACSIMILE (915) 442-0382

WALTER L NOSSAMAN

WILLIAM C. GUTHNER, JR

SAN FRANCISCO
THIRTY-FOURTH FLOOR
50 CALIFORNIA STREET
SAN FRANCISCO, CA 94111-4700

IRVINE
SUITE 1800
10101 VON KARMAN AVENUE
IRVINE, CA 92612-0177
803-7800

JOHN T. KNOX
WARREN G. ELLIOT
OF COUNSEL

WASHINGTON, D.C./VIRGINIA
SUITE 800
2111 WILSON BOULEVARD
ARLINGTON, VA 22201-3052
(703)351-5010

LOS ANGELES
THIRTY-FIRST FLOOR
445 S. FIGUEROA STREET
LOS ANGELES, CA 00071-1802

REFER TO FILE NUMBER
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VIA FACSIMILE
(716) 434-8041

Chief, Regulations / Procedures Division
Tax and Trade Bureau
P.O. Box 50221
Washington, DC 20091-0221

RE: PROPOSED CHANGES TO 27 CFR PARTS 7 AND 25 NOTICE No.41
RELATED TO FLAVORED MALT BEVERAGES AND BEER

Dear Chief:

I write on behalf of the California Small Brewers Association (CSBA), a client of this firm, in support of the Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau's (TTB) proposed changes to 27 CFR Parts 7 and 25 as contained in Notice No, 4. CSBA is a trade association representing the interests of approximately 300 craft brewers and family-owned small businesses in the State of California.

As you may know, craft and regional brewers along with brewpubs have helped create many successful business opportunities over the past twenty-five years with brewers found in virtually every large and small metropolitan area in California employing thousands of people in small family owned businesses. This is the type of industry that government should foster and protect through fair and equitable laws and regulations. Unfortunately, the number of craft brewing small businesses closing since the arrival of the newer varieties of flavored malt beverages (FMB) has exceeded the number of craft brewing small businesses opening, reversing the trend and weakening the industry. This fact has made for difficult years in the craft brewing industry, resulting in small business closures, layoffs and decreased revenue for family-owned and local businesses in California.

As craft brewers, the membership of CSBA support and rely upon clarity in the marketplace. Thus. CSBA supports the notion that if any product is sold, marketed and taxed as a malt beverage it should also be produced in accordance with the strict standards required of all

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other malt beverage products. CSBA supports TTB's proposed "05% flavored malt beverage standard" standard because it ensures product integrity, preserves longstanding distinctions imposed on beer, wine and spirits, and provides a uniform and consistent classification system on which states, manufacturers, wholesalers, retailers and consumers can rely. Further, the TTB's proposed "0.5% flavored malt beverage standard" is firmly based on existing federal and state statutes and regulations which were designed to properly identify products for the benefit of consumers and to appropriately protect government revenues.

In short, TTB's proposed changes recognize that beer and distilled spirits are distinctly different products. The recent introduction and high volume growth of FMBs in the marketplace warrants a corresponding and timely regulatory change to ensure the distinctions between different products are maintained and not blurred or confused. It is clear that the blurring of these distinctions will cause confusion amongst the consuming public and threaten the tax rates of the beer industry, most significantly the Small Brewers Differential at federal and state levels. Absent a national standard rooted in existing law and regulation, small craft brewers face a potential for a patchwork of individual state laws and regulations. In the end, the chaos created in the marketplace could be particularly injurious to the economics of the small businesses and craft brewers represented by CSBA.

For these reasons CSBA is pleased to support the proposed changes by TTB as contained in the Federal Register, Vol. 68, No. 56, Monday, March 24, 2003, affecting Part 7 Labeling and Advertising of Malt Beverages and Part 25 Beer.

If you or your staff should have any questions need of additional information, please feel free to contact me at (916) 442-8888. Thank you.

Sincerely,

Christopher J. Walker
for NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

CJ W