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EAST SIDE  
BEVERAGE

Wednesday, September 17, 2003

Attn: TTB Notice No. 4  
Chief, Regulations and Procedures Division  
Alcohol and Tobacco Tax and Trade Bureau  
PO Box 50221  
Washington, DC 20091-0221

Dear Sir or Madam:

East Side Beverage Company supports the proposed rule issued in March 2003 by the Tax and Trade Bureau (TTB) that outlines the alcohol content requirements in order for flavored malt beverages (FMB) to be classified as beer. Specifically, the TTB proposes that for an FMB to be classified as beer, its alcohol content from distilled alcohol cannot exceed 0.5%.

Beer is a unique product and has been regulated and taxed differently than other alcohol beverages. The proposed rule is consistent with the historical interpretation of what constitutes beer. The different regulatory treatment of beer is based on its production process, and its definition in the Internal Revenue Code dates back to the 1800s when Congress first imposed the beer excise tax.

Maintaining consistent regulatory policy is important because while states enjoy regulatory power over alcohol, most follow federal regulatory guidelines. This proposed rule would help maintain an orderly marketplace and avoid costly and confusing disruptions in state licensing, taxation and distribution policies, any of which would deal a severe blow to beer wholesalers.

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Moreover, equating beer and beverages that derive a majority of their alcohol content from distilled spirits could weaken the important distinctions between beer and products with higher alcohol content. These distinctions impact state and federal policies regarding the regulation and taxation of beer and other beverages.

If traditional distinctions disappear, it will only be a matter of time before other producers of alcohol beverages attempt to categorize themselves as beer products.

Beer is not distilled spirits. Beer is not fortified wine. Beer is not a product that has been made through the distillation process. Beer is made through the brewing process. The 0.5% standard will ensure that the integrity of beer remains.

Once again East Side Beverage Company encourages the TTB to give final approval to the proposed 0.5% standard on FMBs.

Sincerely,

Chuck Guth  
President

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