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October 17, 2003

Chief, Regulations and Procedures Division
Tax and Trade Bureau
PO Box 50221

Washington, D.C. 20031-0221

RE: TTB Notice #4, Flavored Malt Beverages and Related Proposals (2001R-136P)

Dear Sir or Madam:

I am employed in the malt beverage industry and support the proposed regulations for products marketed as flavored malt beverages (FMBs), as set forth by the Tax and Trade Bureau (TTB) in TTB Notice No. 4 of March 2003.

It is appropriate that the limit of alcohol in a "beer" derived from distilled spirits be limited to 0.5% alcohol by volume. The 0.5% alcohol by volume limit is the standard for determining the tax status of beer, wine and fruit flavored concentrates as well as juices and sodas that contain small amounts of alcohol. The 0.5% standard is fair across the board for all beverages, and should apply to FMBs with added flavors as well.

The TTB proposal asks for comment on alternative standards, such as whether the standard should be less than 50 percent of the final alcohol derived from spirits addition. This alternative limit would create a huge disruption to state governments who currently have regulations mirroring the federal standards.

Craft and regional brewers along with brewpubs have helped create many successful business opportunities over the past twenty-five years, with brewers found in every state, every major metropolitan area, and many small towns and employing tens of thousands more people in small businesses. This is the type of industry that the federal government should foster and protect. The number of microbreweries closing since the arrival of the newer varieties of FMBs has exceeded the number of microbreweries opening, reversing the trend and weakening the industry. This fact has made for difficult years in the allied industry, resulting in business closures, layoffs and decreased revenue for the allied trade.

It is interesting to note that many products now classified as FMBs do not have a malt component when produced in and for other countries. In the United States, however, companies are obtaining substantial tax and regulatory benefits using a minimal amount of malt. The preamble to Notice No. 4 indicates that TTB is aware of this business strategy. It significantly reduces the agricultural products used in the brewing process, and it adversely affects many suppliers of goods and services to the brewing industry.

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In summary, my company and myself supports the proposed "0.5% standard" for FMBs for reasons of fairness, to protect the beer industry and the allied trade and to protect the image of what the general public considers beer.

Sincerely

Henry Schwartz
Marketing Manager
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Markstein Beverage Co-Sacramento, Calif.