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September 29, 2003

Attn: TTB Notice #4
Chief, Regulations and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
P.O. Box 50221
Washington, D.C. 20091-0221

Dear Sir or Madam:

The Liquor Division of the Wyoming Department of Revenue supports the proposed rule recently issued in March 2003 by the Tax and Trade Bureau that outlines the necessary alcohol content requirements in order for Flavored Malt Beverage (FMB) to be classified as beer. The proposed standard would require that in order for an FBM to be classified as beer, its alcohol content derived from distilled alcohol cannot exceed 0.5%.

Beer is a unique type of alcohol product that has been regulated and taxed differently than other alcohol beverages throughout our nation's history. The distinction that beer enjoys from other alcohol products is based on its age-old production process. Its definition in the United State's Internal Revenue Code dates back to the 1800's when beer excise tax was first imposed by Congress. The proposed rule is consistent with historical interpretation of what constitutes beer and other malt beverage products.

Such policy consistency is important because while states enjoy regulatory power over alcohol, most follow federal regulatory guidelines. This proposed rule would help maintain an orderly marketplace, thus avoiding costly and confusing disruptions in state licensing taxation and distribution policy and practices. All would have an economic effect on local beer wholesalers.

Moreover, equating beer and beverages deriving 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 alcohol beverages. If these distinctions disappear, it will only be a matter of time before other producers of alcohol products may attempt to categorize themselves as beer products.

Once again, the Liquor Division of the Wyoming Department of Revenue encourages the TTB to give final approval to the proposed "0.5% standard" on FMB's.

Respectfully,

Bill Pomeroy
Administrator
XC: file
Mission Statement

...to provide quality wholesale distribution services and to administer alcoholic beverage control laws for the citizens of Wyoming.