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COMPTROLLER
of MARYLAND
Annapolis, Maryland 21404-2999

William Donald Schaefer
Comptroller

Charles W. Ehart, DPA
Director
Alcohol and Tobacco Tax Division

July 28, 2003

Mr. William Foster
Chief
Regulation and Procedures Division
Alcohol and Tobacco Tax and Trade Bureau
Washington, D.C. 20091-0221

Re: Notice No.4
Flavored MaJt Beverage and Related Proposal

Dear Mr. Foster:

On behalf of the Comptroller of Maryland and the Alcohol and Tobacco Tax Division, I would like to be permitted to offer a few comments regarding the above captioned regulatory proposal which is currently pending before your agency. I am very familiar with this issue and the positions of the various parties through my close involvement with the National Conference of State Liquor Administrators and also the Joint Committee of the States representing both license and control states. I have been exposed to no less than three full scale briefings and debates on this topic.

Since Maryland adopts federal standards with respect to labeling and content of alcoholic beverages, we are prepared to apply whatever standards your agency ultimately determines to be most appropriate. However, after monitoring this issue and its ensuing debate for almost a year now, Maryland is prepared to go on record clearly supporting the 0.5% alcohol by volume standard proposed by TTB for categorizing flavored malt beverage product.

It seems inherently unfair to tax a product as a "malt beverage" when the majority of the alcohol by volume contained in the product is from distilled spirits (flavoring or otherwise). We believe this may create confusion and could easily result in a tax inequity. As the tax collector for alcoholic beverages in Maryland, as well as the regulator, I believe this could pose a problem for our agency.

It has been suggested that those who wish to have individual products remain classified as a malt beverage could reformulate the product to fit the new standard. I know from personal observation and knowledge that this has in fact been done on a test basis, apparently with success. As a result of successful reformulation, there are those who have rescinded or altered their original opposition to this proposal.

Accordingly, we strongly urge the Alcohol and Tobacco Tax and Trade Bureau to adopt the regulation as proposed and bring closure to this issue. It is fair, reasonable, easily understood, and enforceable. If I can be of any further assistance or you require additional information, please do not hesitate to contact me.

Very truly yours,

Charles W. Ehart, DPA
Director
Alcohol and Tobacco Tax Division