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To: Page 1 of 2 2003-10-20 19:04:41 (GMT) Bison Brewing Co. From: Daniel DeiGrande

October20, 2003

VIA Fascimile 202-927-8525

Chief, Regulations and Procedures Division
Tax and Trade Bureau
PO Box 50221
Washington, D.C. 20031-0221

Subject; `TTB Notice #4

Dear Sir or Madam:

Bison Brewing Company supports the proposed standard of composition for Flavored Malt Beverages (FMB's"), as set forth by the Tax and Trade Bureau ("TTB") in TTB Notice No.4 of March 2003. While I do not advocate that the TTB squelch the innovation of today's craft brewer with regulation, but surely, closing some loopholes is needed. The proposed standards as written have my support.

INNOVATION BASED ON TRADITION1 In his 1992 book on Belgian Ale, Pierre Rajotte opines that with an array of traditional techniques, defining styles can be done only loosely. cWho knows? Maybe in five years a combination of old ways with modern techniques could result in a beer style that is nonexistent today!" This has come true with the popularity of IEMBs throughout the world.

I brew and retail a low-alcohol alternative malt beverage in kegs and in 6-packs in the San Francisco Bay Area. Having the frame of mind of a craft brewer, I innovated a beverage in the tradition of Belgian beers with some foresight to the buying trends of my brex-ub customers, and hopefully the American consumer. My brew is called Hard Ice Tea and is brewed entirely from fermentation in my brewery and "flavored" using whole leaf teas rather than the predominant flavor characteristics of malt, hops, and yeast typical of a "beer". I use a giant nine-foot tall tea bag to infuse the tea, much like you might do at home, except on a larger scale. Cleary, if a small brewer like myself, producing less than 1,000 bbls per year can make a wonderful tasting product, then my larger competitors can do it.

The revival in the brewing industry is predicated on renewed commitment to traditional processes and beer styles, but also to the evolving beer culture. This dedication to the art of beer has produced extensive investment in small businesses like Bison Brewing Company and the emergence of a group of consumers who appreciate the unique properties of our malt beverages. Many of my customers do

From the Classic Beer Style Series, Volume 6, Belgian Ale, by Pierre Rajotte, page13, published by Association of Brewers, Inc., Denver, CO 1992.

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not understand the legal definition of malt beverages and the consequences of this rulemaking process, but they are shocked to learn that some of the largest brands in the FMB category are more akin to a laboratory product than a brewed beverage!

CLOSE TILE LOOPHOLE. I understand that the definition of "malt beverage" has not changed since 1935. There is no reason to change it now. This proposed standard for FMBs removes a loophole to the traditional processes that define beer making. ATF Ruling 96-1 stated the general mle that, "A malt beverage under the FAA Act must only contain alcohol which is the result of fennentation at the brewery." This interpretation is entirely consistent with federal law dating back to the first beer excise tax enacted in 1864.

Simply stated, this rule limits distilled spirits to compose no more than 10% of the finished alcohol content. This is a reasonable percentage to allow for the addition of flavorings that are typically extracted with distilled spirits as a solvent. Some of today's IFMBs blur the distinction between beer and spirits, where a huge percentage of the finished alcohol content is due to dislilled spirits as a "flavoring". Beverages that contain almost exclusively spirit-based alcohol are now taxed at beer's lower rate.

These regulations will maintain an orderly marketplace by leveling the playing field for more than 1,400 domestic craft breweries, avoiding inconsistent state definitions to maintain consistent tax, licensing, and distribution polices for each beer, malt beverage, and spirits category. My manufacturing of Hard Ice Tea clearly demonstrates that IEMBs can be produced under the new standard. I won't have to change anything about the way I manufacture under the proposed rule. Today, it is very difficult to compete with these laboratory-like products and business practices at the retail store shelf price for a 6-pack. If companies want to use spirits to avoid the brewer's art, let them be taxed for it. Then I can compete in the marketplace.

I reaffirm my personal and my company's support for the proposed "0.5% standard" for FMBs. Its consistency with historical interpretations of federal regulations will help maintain and orderly marketplace and the integrity of the beer category.

Sincerely yours,

BISON BREWING COMPAI'IY, LLC

Daniel Del Grande

Owner and Brewer

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