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BJ's

October 21, 2003

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

RE: TTB Notice #4, Flavored Malt Beverages and Related Proposals (200 1R-136P)

Dear Sir or Madam:

Chicago Pizza & Brewery, Inc. (dba BJ's Restaurant & Brewery) supports 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 flavor concentrates, as well as juices and sodas that contain small amounts of alcohol. TTB 0,5% standard is fair across the board for all beverages, and should apply to FMBs with added flavors as well.

The perception of the general public is that beer is a malt-based beverage with malt flavor and hop bitterness, flavor and aroma. Many small brewers currently produce flavored malt beverages that have these characteristics. The products currently classified as FMBs and recently analyzed by TTB display none of these characteristics, and should not be considered or taxed as beer. The manner of FMB production described in Notice No. 4 avoids many of the costs associated with the volume demands of beer production and storage, and enjoys an unfair competitive advantage over traditional and craft brewers, based on the regulations. I commend the TTB on recognizing the imbalance and the need to propose regulations.

In summary, our company supports the proposed "0.5% standard" for FMBs for reasons of fairness and to protect the image of what the general public considers beer.
Sincerely,

Alex. Puchner
Senior Vice President of Brewing Operations
Chicago Pizza & Brewery, Inc.

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