



# TTB Bootcamp for Brewers

CRAFT BREWERS CONFERENCE ONLINE

MAY 2020

# Bootcamp Introduction

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DIRECTOR, OFFICE OF INDUSTRY AND STATE  
OUTREACH





# TTB Disclaimer

This information is being presented to help the public to understand and comply with the laws and regulations that the Alcohol and Tobacco Tax and Trade Bureau (TTB) administers.

It is not intended to establish any new, or change any existing, definitions, interpretations, standards, or procedures regarding those laws and regulations.

In addition, this presentation may be made obsolete by changes in laws and regulations.

Please consult the applicable laws and regulations for the most current requirements.



# Agenda

- In this session we will cover the following topics:
  - Overview of TTB
  - TTB Law and Regulations
  - Brewer's Notices
    - Changes to report to TTB
    - Alternation of Premises
    - Alternation of Proprietor
    - Termination of Operations

# TTB Overview

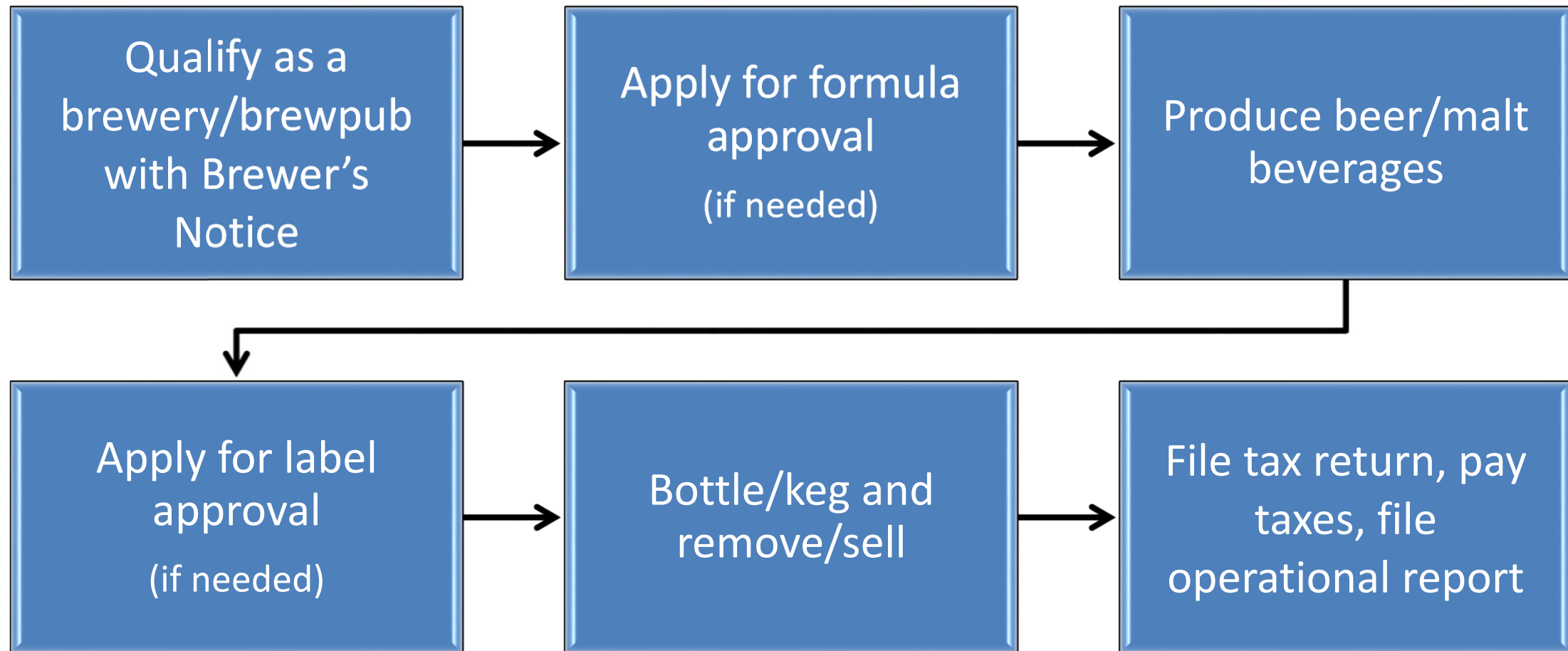




# TTB Overview

- We are a bureau within the Department of the Treasury
- We currently have about 480 employees
- Our headquarters are in Washington, DC
- The National Revenue Center is in Cincinnati, Ohio
- We have field offices located across the country
- We have 4 laboratories, located in Maryland and California

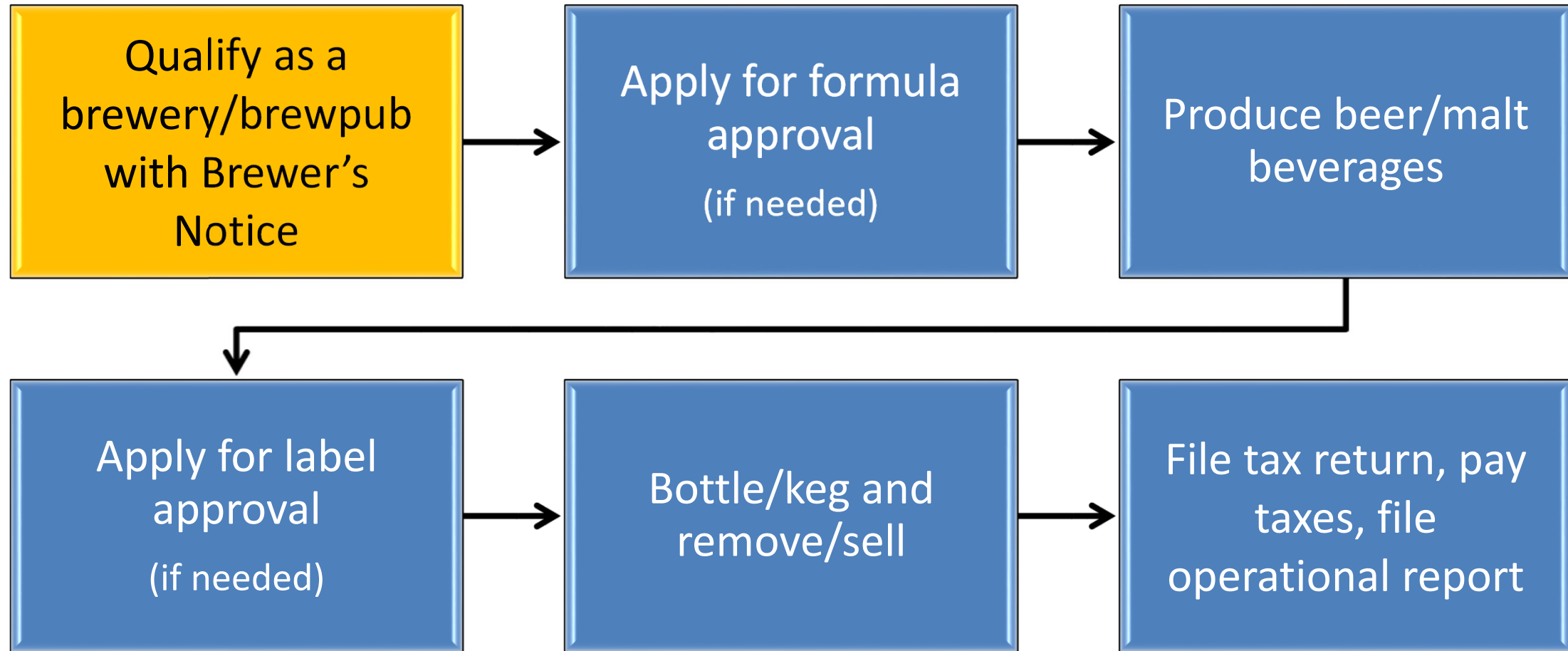
# Follow the TTB Path



**Ongoing once your Brewer's Notice is approved:**

- 1) Keep records of brewery operations
- 2) report changes to your business or brewery to TTB

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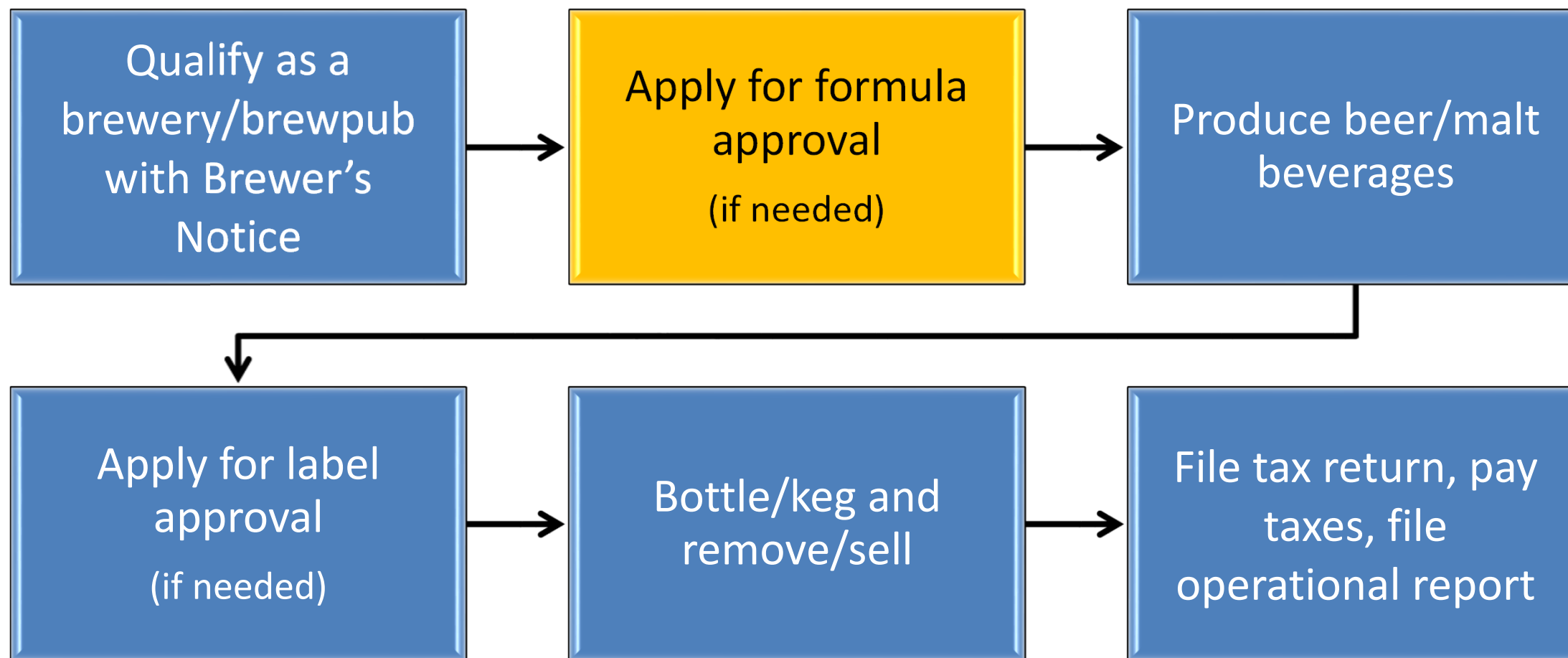


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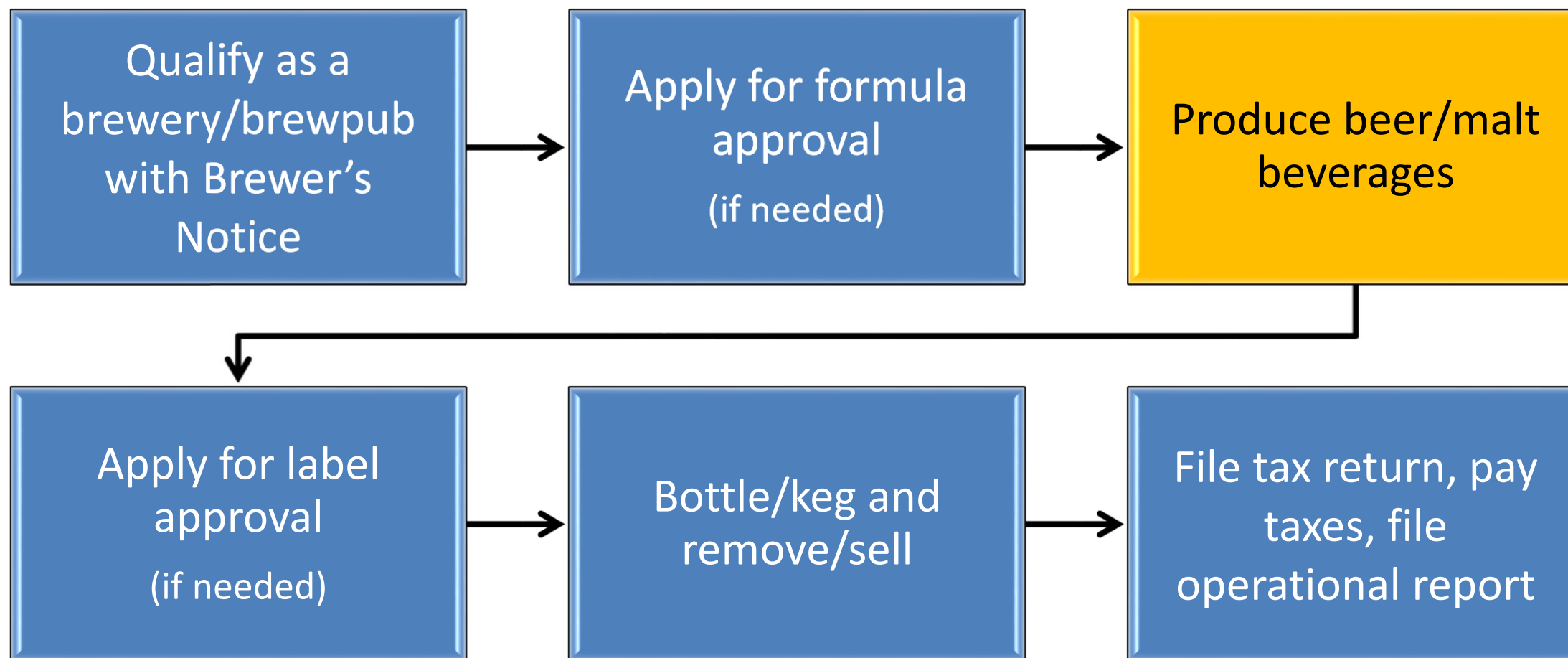
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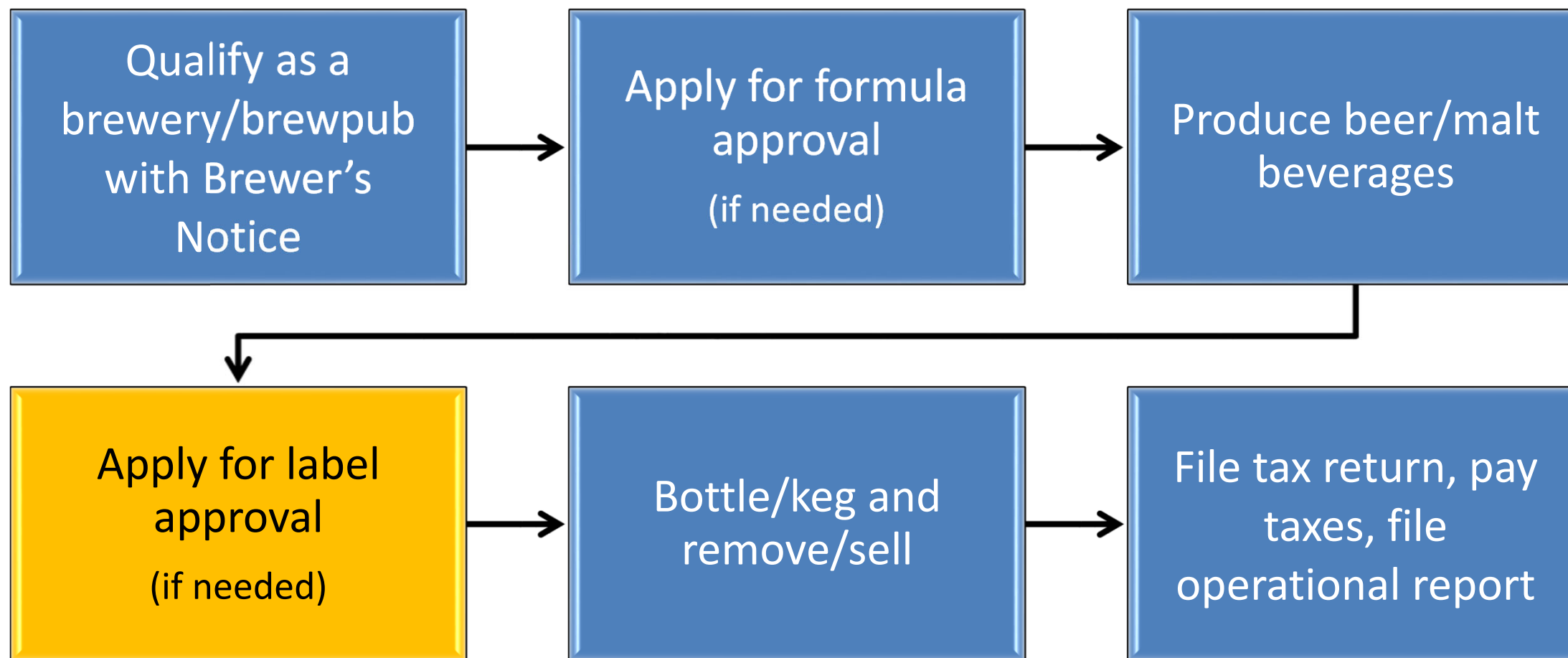
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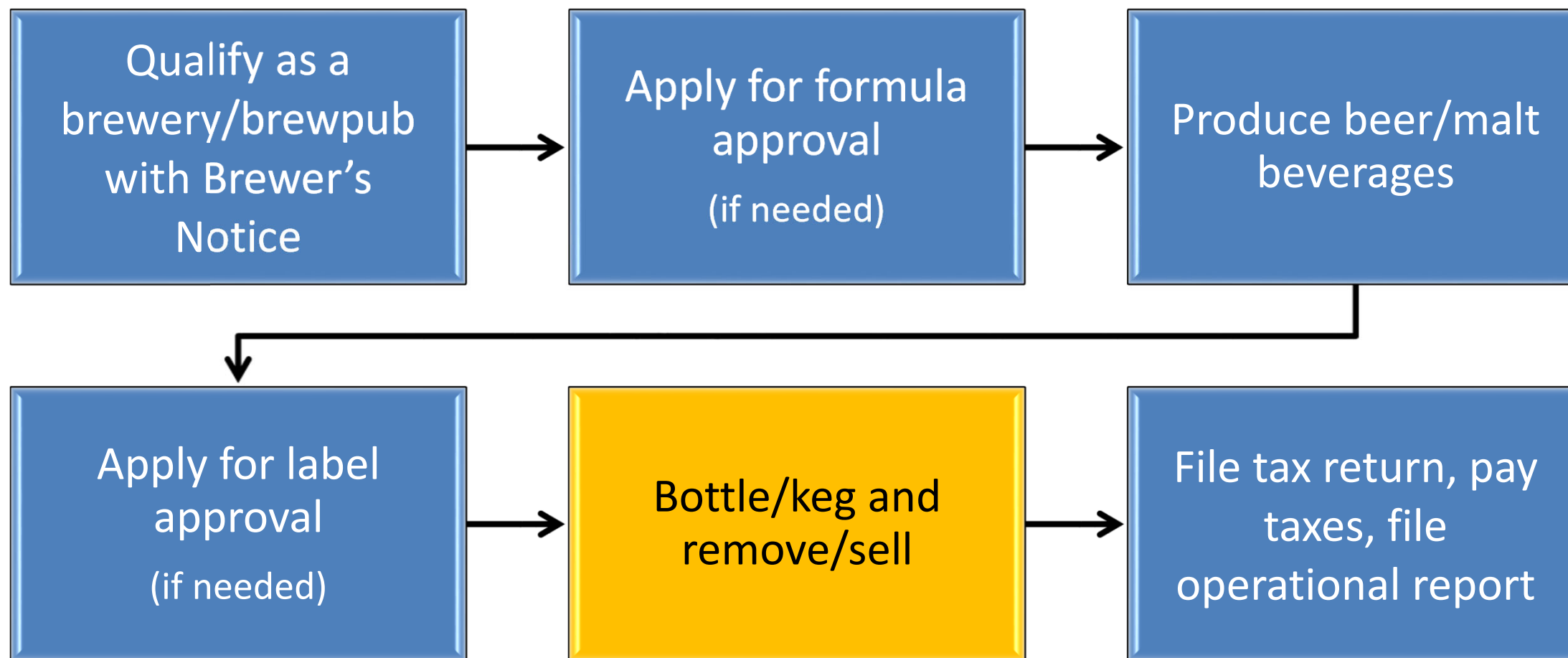
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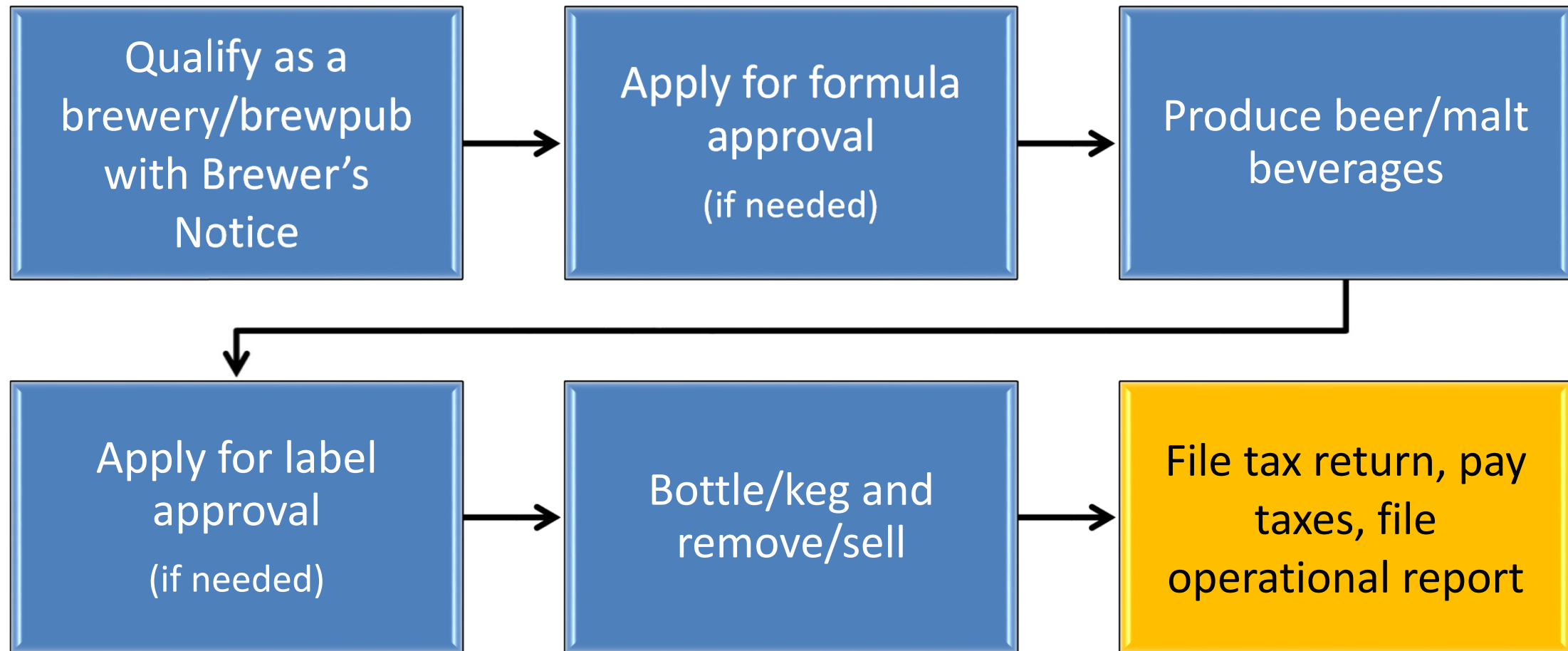
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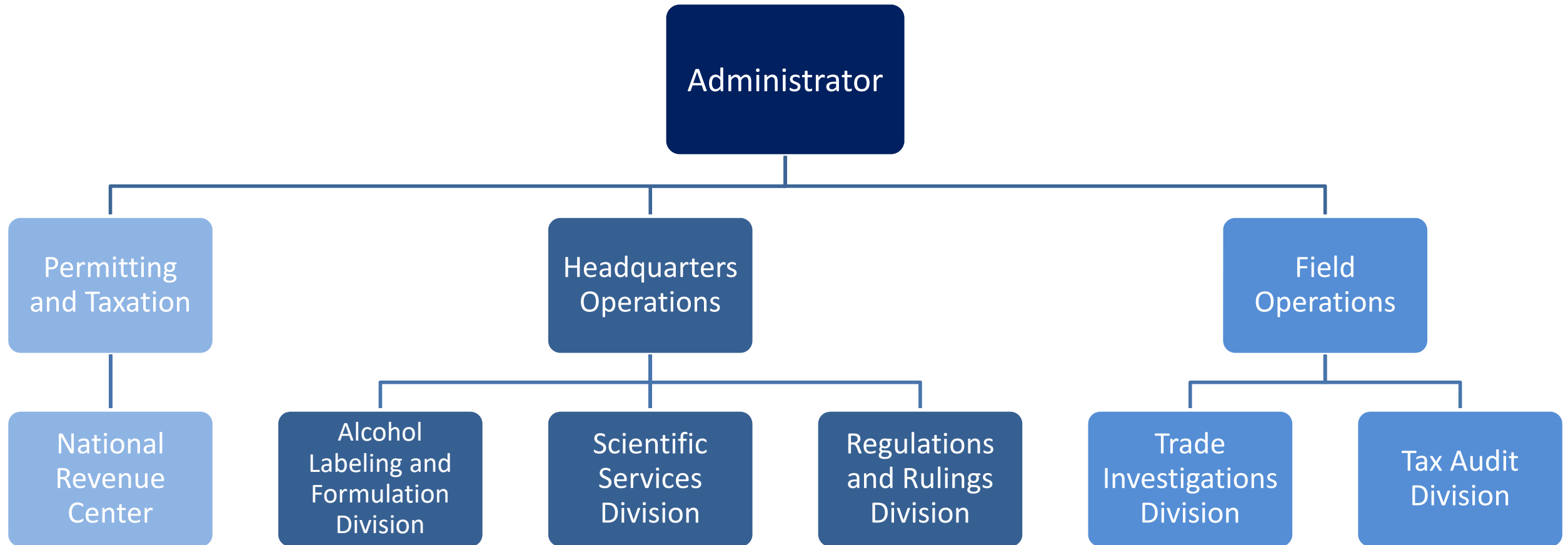


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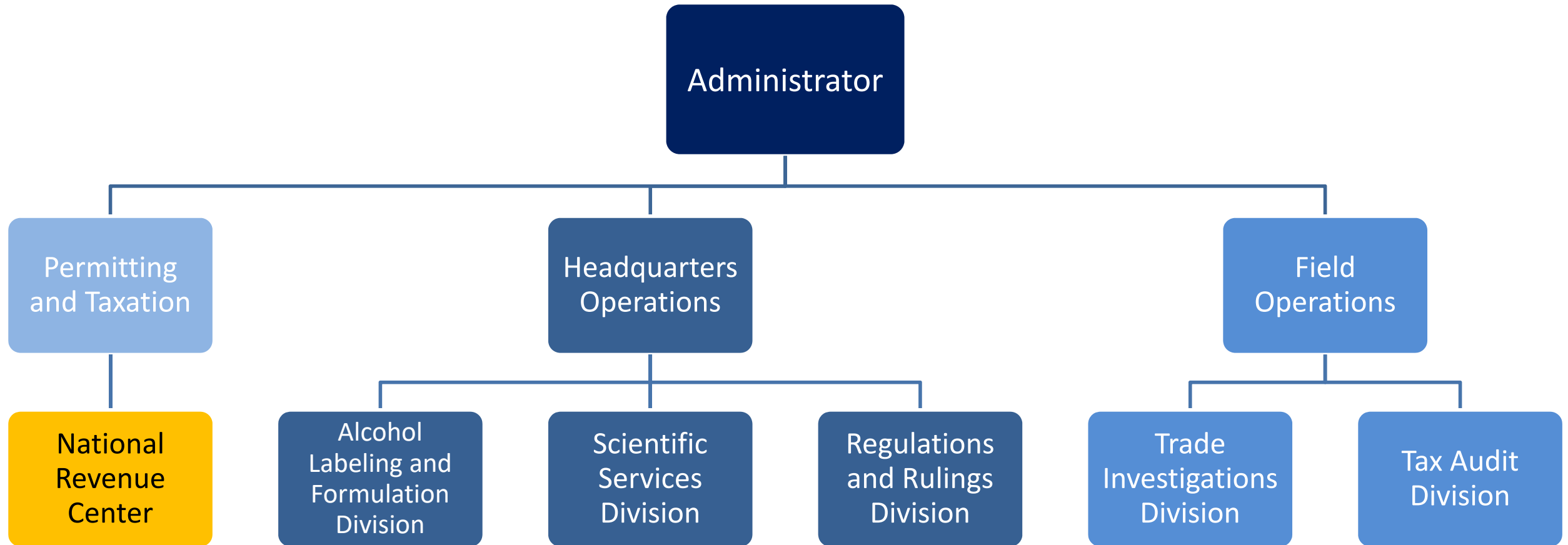


# TTB Organizational Chart





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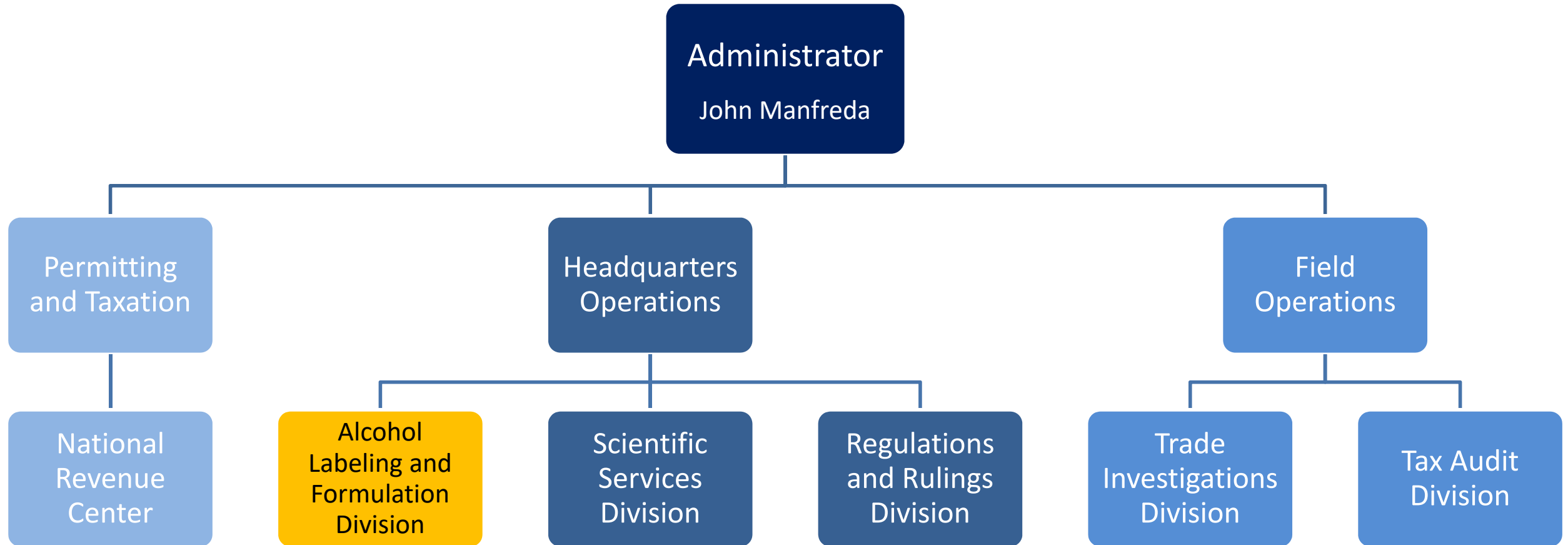
# National Revenue Center

- Issues **permits/notices/registrations**
- Processes **tax returns, operational reports, and claims**
- Located in Cincinnati, Ohio
- Toll-Free: 877-882-3277
- Web Form: [Submit Online Inquiry](#)





# TTB Organizational Chart





# Alcohol Labeling and Formulation Division

- Processes applications for **formula** approval
- Processes applications for **label** approval
- Located in Washington, DC
- Toll-Free: 866-927-2533
- Web Form: [Submit Online Inquiry](#)

# TTB Laws and Regulations





# TTB Laws and Regulations\*

## Domestic Breweries

- Internal Revenue Code (IRC)
  - [27 CFR part 25 – Beer](#) (the regulations implementing the law)
- Federal Alcohol Administration Act (FAA Act)
  - [27 CFR part 7 – Labeling and Advertising of Malt Beverages](#) (the regulations implementing the law)

\* Not a complete list



# IRC Definition of Beer

- **Beer** is: Beer, ale, porter, stout, and other similar fermented beverages (including saké and similar products) of any name or description **containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute for malt**
  - Only rice, grain of any kind, bran, glucose, sugar, and molasses are substitutes for malt
  - In addition, brewers may also use the following materials as adjuncts in fermenting beer: honey, fruit, fruit juice, fruit concentrate, herbs, spices, and other food materials
  - You may use flavors and other nonbeverage ingredients containing alcohol in producing beer in certain amounts

27 CFR part 25



# FAA Act Definition of Malt Beverage

- A **malt beverage** is: A beverage made by the **alcoholic fermentation** of an infusion or decoction, or combination of both, in potable brewing water, of
  - **malted barley with hops**, or their parts, or their products, and
  - with or without other malted cereals, and
  - with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and
  - with or without the addition of carbon dioxide, and
  - with or without other wholesome products suitable for human food consumption

27 CFR part 7



## As a Result...

- A beer is not regulated as a malt beverage under the FAA Act, unless it contains both:
  - Malted barley AND hops
- Malt beverages with less than 0.5% alcohol by volume are not taxed as beer under the IRC, but may be subject to FAA Act requirements
- See [TTB Ruling 2008-3](#) for additional information



# Therefore...

- **Saké** is beer under the IRC but is not a malt beverage under the FAA Act (it's wine)
- **Near beer** (less than 0.5% ABV) and **alcohol free** malt beverages (0.0% ABV) are potentially subject to TTB label approval
- **Sorghum beers** and other beers made without both malted barley and hops are never subject to TTB label approval, but must be labeled in accordance with Food and Drug Administration (FDA) food labeling requirements





# IRC Requirements for (Domestic) Beer

- Applies to all beer produced in the U.S.
- Includes:
  - Qualification of the Brewery/Brewpub
  - Recordkeeping requirements and reports
  - Taxes
  - Formulas (for some beers)
  - Minimum marks, brands and label requirements

27 CFR part 25



# FAA Act Requirements for Malt Beverages

- Applies to domestic and imported malt beverages, but only if they are sold or shipped ... in interstate commerce\*
- Includes:
  - Labeling requirements for malt beverages
  - Certificates of Label Approval (COLA)
  - Advertising of malt beverages
  - Trade practices

\*Other conditions apply for labeling and COLA requirements

27 CFR part 7

# Brewer's Notice

Alternations,  
Amendments,  
Termination of Operations



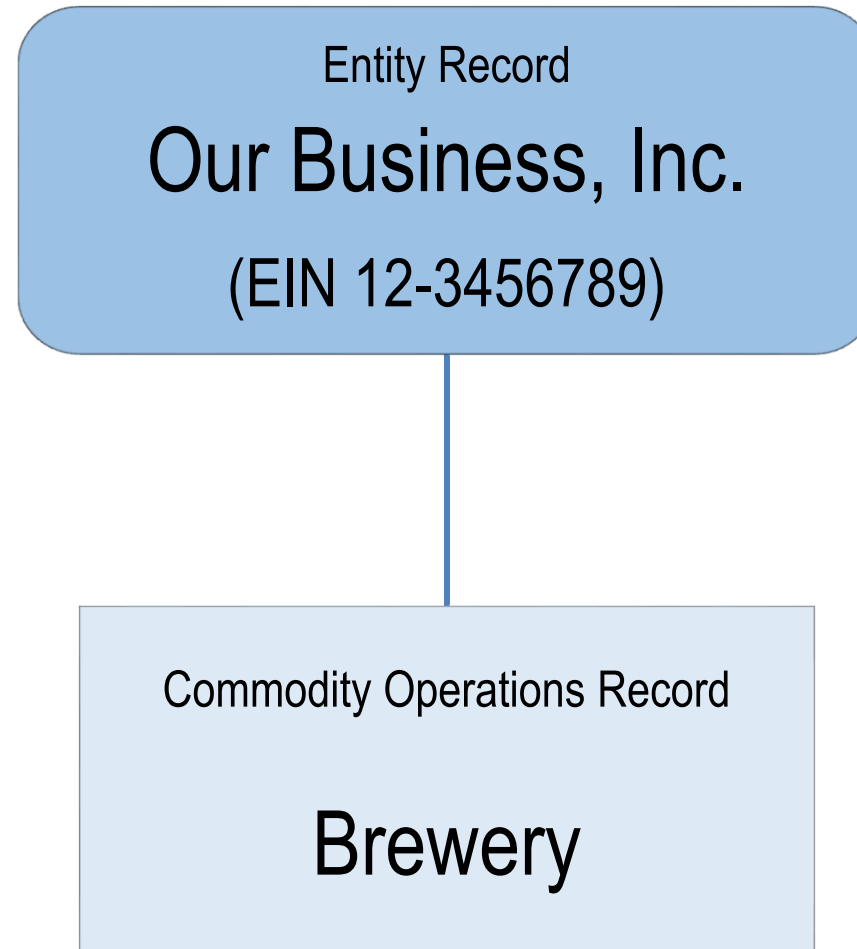


# Business Entity and Commodity Operations

- Your information in Permits Online is organized in two different kinds of records
  - The **entity record** equates to a single company or business entity, represented by a unique Employer Identification Number (EIN)
  - A **commodity operations record** is created for each TTB-regulated operation or permit, registration, or notice the entity is approved for
- A typical entity record will have at least one, but may have multiple commodity operations records associated with it

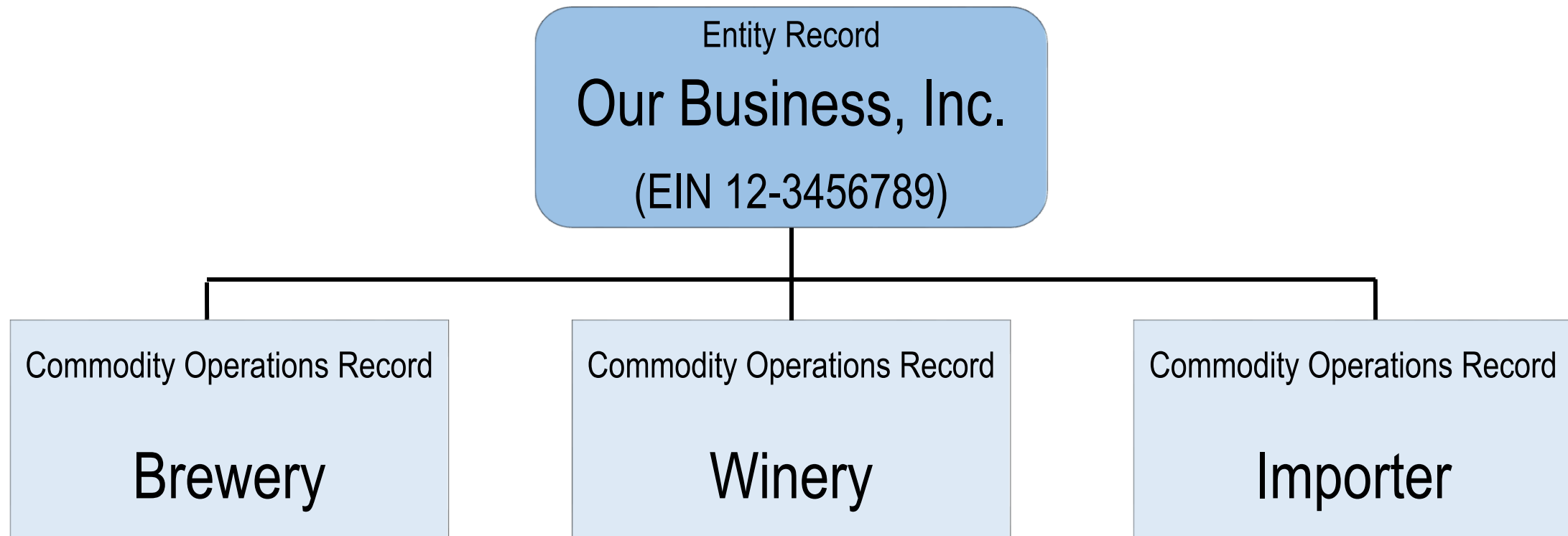


# Business Entity and Commodity Operations





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# Business Entity and Commodity Operations

- When applying to start a new TTB-regulated business, you'll complete **both a new entity application and a new commodity operations application** for each permit, registration, or notice you need
- If you need to file an amendment related to the business entity, you will file one application and the changes are associated with each TTB permit, registration, or notice held by that company



# Changes to Your Entity that You Must Report to TTB

- Changes in:
  - the legal business name
  - controlling ownership
  - any partner or general partner
  - any stockholder or members holding ownership of 10 percent or more
  - corporate officer, directors, or any titled positions
- Adding, revoking, or changing:
  - signing authority
  - power of attorney
- Termination of all TTB-regulated operations under your EIN (going completely out of business)





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# Changes to Your Commodity Operations That You Must Report

- Change in:
  - premises location
  - bond
  - construction or use of building
  - operations
  - DBA/Operating name
  - mailing address
- Adding or removing:
  - trade names
  - noncontiguous premises
  - alternation of premises
  - alternation of proprietor
  - variance or alternate method
- Termination of operations at one location, but keeping other operations/locations under the same EIN open



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# Alternation of Premises

**The premises is used by the same owner/same EIN to conduct another TTB - regulated business, such as a winery or distilled spirits plant**

- If you are an already established brewery and wish to add a winery or distilled spirits plant, you must submit:
  - A new application for the commodity operations that you are adding
  - Updated diagram showing which areas will be alternating
  - Variance request to use brewery for another purpose
  - Variance from the requirement to submit notification of each alternation
  - Change in Bond (Consent of Surety) TTB Form 5000.18 – if applicable

27 CFR 25.78 & 25.81



# Alternation of Proprietorship

**Two or more proprietors with different EINs are operating at the same premises and sharing space and/or equipment. Generally, the proprietor of an existing brewery, the “host brewer,” agrees to rent space and equipment to a new “tenant brewer.”**

- The **host** brewer is required to submit:
  - An alternating proprietorship agreement (a contract between the host and tenant)
  - Updated diagram showing which areas will be alternating and which will be the permanent non-alternating space of both the host and tenant
  - Variance Requests:
    - Application to Use Brewery for Other Purposes
    - Change in Premises to allow the use of brewery records in lieu of filing an amended brewer’s notice with each alternation of the premises



# Alternation of Proprietorship

- The **tenant** brewer is required to submit:
  - An alternating proprietorship agreement (a contract between the host and tenant)
  - Variance Requests:
    - Retention and Preservation of Records - Place of Maintenance - if the host, under power of attorney for the tenant, plans to prepare or store records on the premises of the host brewery
    - Notice of Alternation - to allow the establishment of an alternating proprietorship with the host brewer
    - Change in Premises to allow the use of brewery records in lieu of filing an amended brewer's notice with each alternation of the premises
  - A business plan showing the development plans for the business
- See [TTB Industry Circular 2005–2](#) for more information



# Going Out of Business

- If you are discontinuing all brewery operations:
  - File a termination of operations amendment to your brewer's notice
  - File a final Operations Report (TTB Form 5130.9 or TTB Form 5130.26) showing all beer on hand as taxpaid or transferred to new owner before termination
    - The report must be marked "FINAL REPORT" and have 0.0 "on hand" amount end-of-period
  - File final TTB Form 5000.24, Excise Tax Return, covering the last period of liability marked "FINAL RETURN"
    - The period should cover up to the last day of business as a brewery and should include all removals

27 CFR 25.85



# Permits Online Guidance

- Permits Online will guide you through the entire application process, but if you want to see guidance before you start:
  - [Permits Online Help Center](#)
  - [Permits Online tutorial](#)



