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Paradise Beverages

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September 9, 2003

Attn: TTB Notice No. 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:

Paradise Beverages, Inc. supports the proposed rule issued in March 2003 by the Tax and Trade Bureau (TTB) that outlines the alcohol content requirements in order for flavored malt beverages (FMB) to be classified as beer. Specifically, the TTB proposes that for an FMB to be classified as beer, its alcoholic content from distilled alcohol cannot exceed 0.5%.

Beer is a unique product that has been regulated and taxed differently than other alcohol beverages throughout our nation's history. The TTB proposed rule perpetuates the historical interpretation that separates beer from all other alcoholic beverages. The distinct regulatory classification of beer is based on its age-old production process. Its definition in the Internal Revenue Code dates back to the 1800's when Congress first imposed the beer excise tax. Adoption of the TTB "0.5% by volume" standard would ensure the integrity of beer and the brewing process.

Presently, a Brewery is prohibited to import alcohol derived from spirits, add it the brewing process to fortify the alcoholic content, and classify it as beer. Why would the TTB allow a Producer (Distiller) to import alcohol derived from malt, add it to the distilling process, and call it a "maltemative" for the sole purpose of classifying the beverage as beer?

Consistent regulatory policy is important because most States follow Federal regulatory guidelines and Hawaii is no exception. Notice No. 4 will help maintain an orderly marketplace and avoid costly and confusing disruptions in State licensing, taxing, and distributing policies. Beer wholesalers will ultimately suffer the fall out.

Moreover, equating beer and beverages that derive a majority of their alcohol content from distilled spirits could weaken the important distinctions between beer and other products with higher alcoholic content. These distinctions impact State and Federal policies regarding the regulation and taxation of beer and other alcoholic beverages.

If traditional distinctions disappear, it will only be a matter of time before other producers of alcoholic beverages attempt to categorize their products as beer for the sole purpose of reducing their tax burden and gaining a marketing advantage.

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Beer is not a distilled spirit. Beer is not a fortified wine. Beer is not a product that has been made through the distillation process. Beer is made through the brewing process. The 0.5% standard will perpetuate the integrity of beer.

Once again, Paradise Beverages, Inc. encourages the TTB to give final approval to the proposed 0.5% standard on FMB's.

Sincerely,

Michael Shibuya
President