

October 20, 2014

Tiffany Aldridge

Re: Limited Winery Questions Regarding Taxes and Reports

Dear Ms. Aldridge:

ISSUE: This is in response to your e-mail sent on September 15, 2014, wherein you ask questions on behalf of Boordy Vineyards Inc. (“Boordy”), which recently obtained a Pennsylvania limited winery license. Boordy is located in Maryland and is seeking confirmation regarding information it has received about required taxes and reports.

Specifically, Boordy has been advised that it does not need to file the Pennsylvania Monthly Winery Report, and related taxes do not need to be paid on a monthly basis, as Boordy does not have a physical presence in Pennsylvania and is not utilizing Pennsylvania fruit to make its wines. Also, Boordy has been advised that it does not need to pay the eighteen percent (18%) emergency tax on liquor, since that tax is imposed on wines sold through Pennsylvania Liquor Control Board (“Board”) wine and spirits stores. Boordy believes that the only taxes and reports that will need to be remitted to Pennsylvania for Boordy’s wine sales into Pennsylvania will be the Pennsylvania sales tax. Boordy seeks written confirmation that its understanding of the above is correct.

Board records indicate that Boordy holds Pennsylvania Limited Winery License No. LK-417 (LID 69602) for the premises at 12820 Long Green Pike, in Hydes, Maryland.

OPINION: With regard to the filing of the Pennsylvania Monthly Winery Report, please note that effective November 19, 2011, the Board’s Regulations were amended to change the monthly reporting requirement to an annual reporting requirement that coincides with the limited winery’s renewal and validation cycles. [40 Pa. Code § 5.103(c)]. This amendment pertains to all limited winery licensees, regardless of location.

Please note that the Board cannot speak to any reporting requirements of the Department of Agriculture under 3 Pa.C.S. Chapter 45 (relating to the Agricultural Commodities Marketing Act) and regulations promulgated thereunder, including 7 Pa. Code § 104.75 (relating to accounting and payment). The Department of Agriculture can be reached by telephone at (717) 787-4737 or on the internet at <http://agriculture.state.pa.us>.

In addition, the Board cannot advise you as to the reporting or filing requirements for any taxes owed to the Pennsylvania Department of Revenue. The Department of Revenue can be reached by telephone at (717) 787-1064 or on the internet at <http://revenue.pa.gov>.

With regard to the emergency liquor tax, Boordy is not required to assess this tax. The tax is assessed only on sales by or to the Board. [47 P.S. § 795].

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

cc: Pennsylvania State Police,
Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 14-543