

February 3, 2015

Anthony M. Brichta
County Seats Spirits LLC

RE: Taxation of Spirits Sold to Licensees by Limited Distillery

Dear Mr. Brichta:

ISSUE: This is in response to your e-mail dated January 19, 2015, which was forwarded to this office for handling. You ask for confirmation of your understanding of the following as it pertains to your sale of spirits to other licensees:

1. All sales from Pennsylvania limited distilleries to liquor licensees require only the collection of a six percent (6%) sales tax and not the eighteen percent (18%) sales tax [sic].
2. A liquor licensee, once sold liquor directly from a Pennsylvania limited distillery, along with the six percent (6%) tax, is not liable to the Pennsylvania Liquor Control Board ("Board") or anyone else for the eighteen percent (18%) tax.

Board records indicate that County Seat Spirits LLC holds Limited Distillery License No. AL-31 (LID 70105) for use at the premises located at 905 Harrison Street, Suite 128, Allentown, Pennsylvania.

OPINION: As you may know, a limited distillery license allows the holder to produce not more than one hundred thousand (100,000) gallons of distilled liquor per year. [47 P.S. § 5-505.4]. Limited distilleries can manufacture and sell bottled liquor produced on the licensed premises to the Board, to licensees, and to the public between 9:00 a.m. and 11:00 p.m., operate and maintain up to two (2) Board-approved, additional satellite locations, apply for and hold a restaurant, hotel, or eating place retail dispenser license to sell alcoholic beverages for on-premises consumption at the licensed distillery premises, sell food and liquor for consumption on or off the licensed premises, and offer on-premises tastings. [Id.].

Section 795 of the Liquor Code directs the payment of an eighteen percent (18%) emergency state tax on all alcohol sold by the Board at its stores. [47 P.S. § 795].

Therefore, licensees that purchase your products directly from you and then lawfully re-sell them to patrons are not required to collect this tax.

On the issue of Pennsylvania's six percent (6%) sales tax, please contact the Pennsylvania Department of Revenue at 717-783-9360 as that agency is responsible for the oversight of sales taxes.

Should you have any additional questions, do not hesitate to contact this office.

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. 15-029