

August 17, 2016

Christopher Boyd
VIA E-MAIL

RE: Collection of Tax for Drinks

Dear Mr. Boyd:

ISSUE: This office is in receipt of your e-mail dated July 7, 2016, wherein you advise that you are aware of recently passed legislation, now known as Act 39 of 2016 (“Act 39”), which enables limited wineries to sell Pennsylvania beer and Pennsylvania liquor by the glass at their premises. You ask if limited wineries are required to charge sales tax on the beer and mixed drinks that are sold by the glass.

Records of the Pennsylvania Liquor Control Board (“PLCB”) indicate that Boyds Cardinal Hollow Winery Corp. holds Limited Winery License No. LK-219 (LID 56627) for use by it at premises located at 720 West Prospect Avenue, North Wales, Pennsylvania. You are currently the PLCB-approved vice president, stockholder and manager for the licensee.

OPINION: As you are aware, on June 8, 2016, Governor Wolf signed into law Act 39, making various changes to the Liquor Code. The changes made by Act 39 will be effective on August 8, 2016. One such change allows holders of limited winery licenses to sell malt or brewed beverages and liquor for on-premises consumption, provided that the malt or brewed beverages and liquor are produced by PLCB-licensed breweries, limited distilleries, or distilleries. 47 P.S. § 5-505.2(a)(6.1).

As to your inquiry regarding the collection of tax, the Commonwealth of Pennsylvania, Department of Revenue (“Revenue”) is the agency responsible for overseeing the collection of tax in the Commonwealth. The PLCB is not authorized to answer questions related to who is required to pay tax on alcohol. Therefore, your question should be directed to Revenue at 1-888-PATAXES, or the telephone number for miscellaneous tax (including malt beverage tax) information, (717) 783-9354, or the telephone number for business tax questions, (717) 787-1064.

Christopher Boyd
August 17, 2016
Page 2

Additional information is available on Revenue's website at <http://www.revenue.pa.gov>. You may also wish to check with your local municipality concerning any applicable taxes, such as a poured drink tax.

Should you have any further questions or concerns regarding the Liquor Code or PLCB Regulations, please do not hesitate to again 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.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

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

LCB Advisory Opinion No. 16-301