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COLORADO

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## Virtual wine tastings, sample size

6 messages

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**Tyler Rudd** <truidd@wineinstitute.org>

Tue, Apr 14, 2020 at 5:06 PM

To: "Stone-Principato - DOR, Michelle" &lt;michelle.stone-principato@state.co.us&gt;

Cc: Brock Herzberg &lt;brock@capitolfocusllc.com&gt;, Landon Gates &lt;Landon@capitolfocusllc.com&gt;, "Caskey - CDA, Doug" &lt;doug.caskey@state.co.us&gt;, "stephanie.fransen@gmail.com" &lt;stephanie.fransen@gmail.com&gt;

Good morning Michelle,

I hope you had a great Easter weekend, or at least as great as it could be considering the circumstances. This is wild time, and it will be fascinating what changes are permanent once we (eventually) get back to "normal."

Below is an email from Andrew Malone of the TTB to Susan Gregory and Tracy Genesen of the Wine Institute. The email relates to whether, and how, wineries can have virtual tastings with consumers. As you can imagine, with California's, Colorado's, and other states' wineries closed for tastings during this time, wineries are searching for ways to reach new customers and wine club members. A virtual tasting is one way.

The idea is to ship by common carrier directly to the consumer a few sample tastings that consumers can sip while the winery employee describes and discusses the wine over FaceTime, Zoom, or other virtual conference-style application. The samples would be of a certain maximum size (see Andrew's email below), labeled accordingly, taxed (both excise and, if there is a charge on the tasting, sales tax if required by law), and in accordance with all federal and Colorado laws.

Wine Institute members would like to start doing this with Colorado consumers as soon as possible, as would Colorado wineries I assume. (I have cc'd Doug Caskey and Stephanie Fransen on this email.) I do not see any real impediments under Colorado law for doing this, but if you have questions or concerns, please let me know. Also, we could schedule a call one day this week to discuss if needed.

I know you are busy as ever, but please let me know your thoughts as soon as you can.

Thank you,

Tyler Rudd

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Good morning, Susan and Tracy,

This follows up on our conversation on Monday, April 6, 2020, regarding "virtual" replacements for a traditional winery tasting room. Specifically, we discussed the possibility of wineries sending their wine club members small containers of wine via

FedEx or UPS as a replacement for the traditional “tasting room,” in which visitors sample small quantities of wines at the winery premises.

We would note that under the option described below, distribution of the wine would be treated as a normal taxable removal from the winery premises, subject to all applicable requirements of the Federal Alcohol Administration Act (FAA Act), the Alcoholic Beverage Labeling Act (ABLA), and the Internal Revenue Code (IRC). Thus, wineries that send containers of wine to customers following the requirements listed below would not need any waivers from current requirements.

Sending small containers of wines to wine club members can be accomplished under the current regulations, as described below:

- You said that a typical sample in a tasting room is about 2 ounces. The standard of fill of 50 mL is a little less than 2 fl. oz. (1.7 fl. oz.), and the 100 mL standard of fill is a little more than 3 fl. oz. (3.4 fl. oz.). Wineries may choose either of these two approved standards of fill to approximate the typical tasting room sample size.
- A winery would have to obtain a certificate of label approval (COLA) or certificate of exemption, as applicable, to cover the label(s). On a small container like that, there may not be room for much more than the mandatory labeling information. Wineries can apply for a generic label with just this information, or change the net contents statements on an existing label as an **allowable revision**. Assuming these are 100% domestic wines, the labels would need to include the following:
  - Brand name
  - Class and type designation
  - Appellation of origin (if required)
  - Alcohol content (or the designation “table wine,” if applicable)
  - Name and address statement
  - Government health warning statement
  - Net contents
  - Sulfite declaration
  - Declarations of color ingredients, if applicable.

Please note that the minimum type size for all these elements on a container of 187 mL or less is 1 mm. More information on formatting and other requirements for each element of the mandatory information is available on our **wine labeling guidance page**.

- Shipments of these containers should be treated the same as other types of removals from bond – for example, the wine must be tax-determined, and wineries must maintain the required removal from bond records.
- The wineries would have to ensure that any shipments are in compliance with the laws of their States and the State(s) of their customers. Contact information for State alcohol regulatory agencies is available on the TTB website at <https://www.ttb.gov/wine/alcohol-beverage-control-boards>.

Please let me know if you have any other questions or need more information.

Best regards,

Andrew

Andrew L. Malone

Assistant Director, Wine Labeling Office

Alcohol Formulation and Labeling Division