WETR 2009/2EC - Compendium

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The edited version of the Compendium of Comments is a Tax Office communication that is not intended to be relied upon as it provides no protection from primary tax, penalties, interest or sanctions for non-compliance with the law. In accordance with PS LA 2008/3 it only affords level 3 protection.

Ruling Compendium – WETR 2009/2

This is a compendium of comments to the issues raised by external parties to draft WETR 2008/D2 – Wine equalisation tax: operation of the producer rebate for other than New Zealand participants

This compendium of comments has been edited to maintain the anonymity of entities that commented on the draft ruling.

Summary of issues raised and responses

Issue No.	Issue raised	Tax Office Response/Action taken
1	The draft Ruling does not discuss the meaning of beverage. Suggest that paragraph 32 is a starting point to discuss this concept	Additional explanation of the meaning of 'beverage' for the purposes of the WET Act has been added to WETR 2009/1 at paragraphs 37 to 43 of that Ruling. These paragraphs of WETR 2009/1 are cross referenced at paragraph 31 of this Ruling.
2	Given the interaction between the WET and GST legislation consider commenting about the meaning of 'supplies' when used as a verb in the producer rebate context.	Agreed. Additional explanation has been added to paragraph 23 of the Ruling.
3	Paragraphs 28, 34 and 44 of the draft Ruling refer to limbs of the definition of 'manufacture.' Consider making this a reference to the extended meaning of manufacture.	Agreed. These paragraphs have been amended to refer to the extended meaning of the definition in section 33-1.
4	Paragraph 35 of the draft Ruling of discusses 'blending' of different wines. Suggest including a further explanation of the meaning of different wines.	Further explanation has been included at paragraph 40 of the Ruling. An additional example has also been added at paragraphs 43 and 44.
5	Paragraph 41 of the draft Ruling refers to where an entity provides the inputs. It is not clear what inputs are being referred to - for example production aids in the manufacture of wine.	Paragraph 50 of the Ruling has been amended to clarity this issue.

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6	Suggest changing the word 'supplies in paragraph 43 of the draft Ruling to 'provides'. This would be consistent with paragraphs 20 and 41 of the draft Ruling.	Agreed. The relevant paragraphs have been amended accordingly.
7	Paragraph 44 of the draft Ruling states that third limb of the definition of manufacture in section 33-1 is not relevant to whether an activity in relation to wine is manufacture. The submission does not support this proposition but is unable to provide a specific example. However, note that it is open to contention that wine is a foodstuff and that in applying a process or treatment to that wine (or foodstuff) the entity manufactures wine. The GST definition of food supports this.	Paragraphs 51 to 55 of the Ruling have been amended to include further discussion as to why the Commissioner considers that wine is not a 'foodstuff' for the purposes of the WET Act.
8	Paragraph 51 of the draft Ruling makes reference to the approved form for quoting. Suggest including Appendix A from WETR 2008/D1 (the quotation form) or at minimum cross reference to this appendix.	Agreed. Footnote 32 has been added to cross reference to Appendix A of WETR 2009/1 (the final ruling from WETR 2008/D1).
9	Recommend that, consistent with paragraph 45 of the draft Ruling, paragraph 56 be revised to recognise that the producer rebate is claimed in the tax period to which the WET payable on the dealing is attributed or 'would be attributed if the dealing were subject to wine tax.'	Agreed. Paragraph 67 of the Ruling (Paragraph 56 in WETR 2008/D1) has been amended to clarify this point.
10	Paragraph 61 of the draft Ruling refers to the necessity to revise activity statements where post sale adjustments (such as volume rebates) reduce the price for which the wine was sold and therefore reduce the amount of producer rebate. Consider it inappropriate to impose GIC or shortfall penalty in these cases and suggest that the Commissioner include a statement to that effect in the Ruling.	The matter of GIC and or shortfall penalties will depend on the circumstances of each individual case. For further information relating to the remission of penalties and GIC, generally, please refer to Law Administration Practice Statement, PS LA 2006/8 - Remission of shortfall interest charge and general interest charge for shortfall periods.