

# ***WETR 2004/1A - Addendum - Wine equalisation tax: the operation of the wine equalisation tax system***

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## Addendum

### Wine Equalisation Tax Ruling

#### Wine equalisation tax: the operation of the wine equalisation tax system

This Addendum amends Wine Equalisation Tax Ruling WETR 2004/1 to update that Ruling for the following amendments to the A New Tax System (Wine Equalisation Tax) Regulations 2000 (WET Regulations), and the *A New Tax System (Wine Equalisation Tax) Act 1999* (WET Act):

- Schedule 1 to the A New Tax System (Wine Equalisation Tax) Amendment Regulations 2005 (No. 1), which amends the WET Regulations to allow traditional mead products, which previously did not fit within the definition of mead, to be treated as mead for the purposes of the WET Act and WET Regulations from 9 June 2005;
- Schedule 14 to *Tax Laws Amendment (2006 Measures No. 3 Act) 2006*, which amends the WET Act to increase the maximum amount of the producer rebate a producer (or group of associated producers) may claim in a full financial year from \$290,000 to \$500,000 from 1 July 2006; and
- Schedule 4 to the *Tax Laws Amendment (2005 Measures No. 4) Act 2005*, which amends the WET Act from 1 July 2005 to extend the producer rebate to producers of wine in New Zealand that have their wine exported to Australia.

#### **WETR 2004/1 is amended as follows:**

##### **1. Paragraph 121**

Omit the paragraph; substitute:

121. The Commonwealth operates a rebate scheme which provides a rebate of wine tax for eligible producers of wine.

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121A. When the rebate scheme commenced on 1 October 2004, the maximum amount of the rebate a producer (or group of associated producers) could claim in a full financial year was \$290,000, pro-rated in the 2004-05 financial year.<sup>112</sup> The maximum amount of producer rebate a producer (or group of associated producers) may claim in a full financial year increased from \$290,000 to \$500,000 from 1 July 2006.

121B. Prior to 1 July 2005, only eligible producers of rebatable wine in Australia were able to claim the producer rebate. However, from 1 July 2005, eligible producers of wine in New Zealand that have their wine exported to Australia and in respect of which they can demonstrate WET has been paid, are able to claim the rebate. The following paragraphs of this Ruling explain how the producer rebate applies to Australian wine producers only. Wine Equalisation Tax Ruling WETR 2006/1 Wine equalisation tax: the operation of the producer rebate for producers of wine in New Zealand, provides a detailed explanation of how the wine tax producer rebate operates for New Zealand wine producers.

## 2. Paragraph 124

After the paragraph, insert:

124A. The word 'producer' for the purposes of section 19-20 of the WET Act includes a 'New Zealand participant' as defined in section 33-1 of the WET Act. How the producer rebate applies to New Zealand participants is discussed in WETR 2006/1.

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<sup>112</sup> Transitional rules set out in item 8 in Schedule 1 to the *Tax Laws Amendment (Wine Producer Rebate and Other Measures) Act 2004* apply for the 2004-05 financial year. These rules provide that the maximum amount of producer rebate for the 2004-05 financial year for dealings in wine in the period 1 October 2004 to 30 June 2005 is \$217,500. For dealings in wine that are made in the period 1 July 2004 to 30 September 2004 the amount of producer rebate is worked out under section 19-10 of the WET Act (as in force immediately before the commencement of Schedule 1) as if 30 September 2004 were the end of the financial year. This means the maximum producer rebate for dealings in wine in the period 1 July 2004 to 30 September 2004 under the scheme in operation at that time is \$42,000.

**3. Paragraph 128**

Omit the paragraph; substitute:

128. The maximum amount of producer rebate to which a producer is entitled for a financial year is \$290,000 up until 30 June 2006, and \$500,000 from 1 July 2006.<sup>120</sup> However, if the producer is an *associated producer* (refer to paragraph 129 of this Ruling) of one or more other producers for a financial year, the maximum amount of producer rebates to which those producers are entitled as a group for the financial year is \$290,000 until 30 June 2006, and \$500,000 from 1 July 2006.<sup>121</sup>

**4. Paragraph 133**

Omit from the first sentence '\$290,000'; substitute 'more than the maximum amount of producer rebates to which the group is entitled for the financial year'.

**5. Appendix A**

(a) Omit 'mead is a beverage that:' in the table; substitute 'Up to and including 8 June 2005, mead is defined for WET purposes as a beverage that:'

(b) Insert in the Table under 'Mead' and above 'Sake':

<p><b>Mead</b></p> <p><i>From 9 June 2005, mead is defined for WET purposes as a beverage that:</i></p> <ul style="list-style-type: none"> <li>• <i>is the product of the complete or partial fermentation of honey;</i></li> <li>• <i>has not had added any ethyl alcohol from any other source, except grape spirit or neutral spirit;</i></li> <li>• <i>has not had added any liquor or substance that gives colour or flavour other than:</i> <ul style="list-style-type: none"> <li>○ <i>grape spirit or neutral spirit;</i></li> <li>○ <i>honey, herbs and spices, all of which can be added at any time;</i></li> <li>○ <i>caramel, provided it is added after the fermentation process is complete;</i></li> <li>○ <i>fruit or product derived entirely from fruit, provided:</i></li> </ul> </li> </ul>	<p>Mead includes:</p> <ul style="list-style-type: none"> <li>• honey mead;</li> <li>• fortified mead;</li> <li>• liqueur mead; and</li> <li>• spiced mead.</li> </ul>
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<sup>120</sup> Subsection 19-15(2).

<sup>121</sup> Subsection 19-15(3).

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<ul style="list-style-type: none"><li>▪ <i>the fruit or product has not been fermented;</i></li><li>▪ <i>the fruit or product is added to the mead before fermentation of the mead;</i></li><li>▪ <i>after the addition of the fruit or product and before fermentation the mead contains not less than 14% by volume of honey and not more than 30% by volume of the fruit or product;</i></li><li>▪ <i>if fruit or product is added the mead contains between 8% and 22% (inclusive) of ethyl alcohol by volume; and</i></li></ul> <ul style="list-style-type: none"><li>• <i>if grape spirit or neutral spirit has been added contains between 15% and 22% (inclusive) of ethyl alcohol by volume. However, grape spirit or neutral spirit can only be added if the beverage meets the definition of mead before the grape spirit or neutral spirit is added.</i></li></ul> <p><i>Note* If fruit or product derived from fruit is added and it contains concentrated fruit juice or fruit pulp, the proportion of fruit or product in the mead is worked out by assuming that it has been reconstituted according to the recommendations of the manufacturer of the concentrated fruit juice or pulp.</i></p>	
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This Addendum, in relation to the New Zealand producer rebate, explains the Commissioner's view of the law as it applied from 1 July 2005.

This Addendum, in relation to the changes to the WET Regulations in respect of mead, explains the Commissioner's view of the law as it applied from 9 June 2005.

This Addendum, in relation to the amount of the producer rebate, explains the Commissioner's view of the law as it applied from 1 July 2006.

You can rely on these amendments to WETR 2004/1, for the purposes of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953* (formerly section 37), from the date of issue of the Addendum.

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**Commissioner of Taxation**

22 November 2006

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ATO references

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