



Explanatory Statement

A New Tax System (Wine Equalisation Tax) (New Zealand Producer Rebate Claim Lodgment) Determination 2026

General outline of instrument

1. This instrument is made under subsection 17-10(2B) of the *A New Tax System (Wine Equalisation Tax) Act 1999* (the Act).
2. This instrument allows eligible New Zealand wine producers that export wine to Australia to claim a producer rebate, in the form of a wine tax credit, at any time within 4 years after the wine tax credit arises. It will reduce compliance costs for New Zealand wine producers that are not registered for goods and services tax (GST) in Australia by giving them more flexibility to claim their wine tax credits.
3. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Date of effect

5. This instrument commences on the day after it is registered on the Federal Register of Legislation.
6. This instrument repeals and replaces *Wine Equalisation Tax New Zealand Producer Rebate Claim Lodgment Determination (No. 34) 2016* which would otherwise sunset on 1 April 2026. The instrument has the same substantive effect as the one it is replacing.

Background

7. Under subsection 17-10(2A) of the Act, eligible New Zealand wine producers can make a claim in Australia for a wine tax credit for a producer rebate in the approved form and subject to them meeting the entitlement conditions for the rebate in section 19-5(2) of the Act. The claim needs to be supported by such evidence as required by the Commissioner of Taxation (Commissioner).
8. An eligible New Zealand wine producer is one that, on application, is approved by the Commissioner as a 'New Zealand participant' (section 19-7 of the Act). Before providing approval, the Commissioner needs to be satisfied that the New Zealand participant is a producer of rebatable wine¹ in New Zealand, which has been or is likely to be exported to the indirect tax zone. A New Zealand participant is not required to be registered for GST in Australia.
9. Subsection 19-5(2) of the Act sets out the conditions that need to be met before a New Zealand participant is entitled to a producer rebate (which is provided in the form of a wine tax credit). One of the conditions is that wine tax must have been paid in Australia during the financial

¹ Rebatable wine, as defined in the Act, means grape wine, grape wine products, fruit or vegetable wine, cider or perry, mead, or sake.

year in respect of the wine, before a New Zealand participant is entitled to a producer rebate for that wine for the financial year.

10. A New Zealand participant that wishes to claim a wine tax credit for a producer rebate, must lodge it with the Commissioner within 4 years after the time when the wine tax credit arises (subsection 17-10(3) of the Act). A wine tax credit for a producer rebate arises immediately before the end of the financial year in which the assessable dealing, in respect of the wine subject to the rebate claim, occurs (item number CR9 of the table in subsection 17-5(3) of the Act).

11. Subsection 17-10(2B) of the Act allows the Commissioner to determine, by legislative instrument, the time or times during which a claim for a wine tax credit for a producer rebate may be made.

12. A special claim cycle is required for non-GST registered New Zealand participants because the claim cannot be aligned with the GST lodgment obligations as is done for GST registered entities.

Effect of this instrument

13. Section 6 allows a New Zealand participant to make a claim for a wine tax credit for a producer rebate for rebatable wine **at any time** within 4 years after the time when the credit arises provided the participant was entitled to a producer rebate for the wine under subsection 19-5(2) of the Act.

14. This will provide eligible New Zealand wine producers with significant flexibility in relation to the time at which they choose to lodge a claim for the producer rebate, including because the claim does not need to be aligned with Australian GST lodgment cycles. This should reduce the costs of compliance for such entities.

Compliance cost assessment

15. To be advised.

Consultation

16. Subsection 17(1) of the *Legislation Act 2003* requires that the Commissioner be satisfied that appropriate and reasonably practicable consultation has been undertaken before they make a determination.

17. As part of the consultation process, you are invited to comment on the draft determination and its accompanying draft explanatory statement.

Please forward your comments to the contact officer by the due date.

Due date:	5 December 2025
Contact officer:	Sally Fonovic
Email:	sally.fonovic@ato.gov.au
Phone:	(08) 7422 2049

Statement of compatibility with human rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

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This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

This legislative instrument allows eligible New Zealand wine producers that export wine to Australia to make a claim for a wine tax credit for a producer rebate in Australia at any time within 4 years after the end of the financial year in which the wine tax credit arises.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms. It helps reduce compliance costs for New Zealand wine producers by providing them with more flexibility to make a claim for producer rebates for wine they export to Australia.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.