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## Explanatory Statement

# A New Tax System (Wine Equalisation Tax) (New Zealand Producer Rebate Foreign Exchange Conversion) Determination 2026

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### General outline of instrument

1. This instrument is made under subsection 19-15(1B) of the *A New Tax System (Wine Equalisation Tax) Act 1999* (the Act).
2. Eligible New Zealand wine producers are entitled to claim a producer rebate (in the form of a wine tax credit) for certain dealings in wine. The New Zealand producer must know the approved selling price of wine to calculate the amount of the producer rebate. Where a component of the approved selling price is expressed in a currency other than Australian currency, this amount must be converted into Australian currency. This instrument sets out how this amount can be converted into Australian currency.
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.

### Background

6. New Zealand wine producers are entitled to claim a producer rebate (in the form of a wine tax credit) for certain dealings in wine where they meet the eligibility criteria in subsection 19-5(2) of the Act. One of the conditions in subsection 19-5(2) of the Act that must be met before an entitlement to a producer rebate arises is that wine tax must have been paid in Australia during the financial year in respect of the wine. Therefore, a claim for the producer rebate can only be made in relation to the financial year in which the wine equalisation tax (WET) has been paid in Australia.
7. The amount of producer rebate that a New Zealand producer is entitled to under subsection 19-5(2) of the Act is calculated by multiplying the approved selling price of the relevant wine by 29%. The approved selling price of wine is defined in subsection 19-5(1C) of the Act as the New Zealand producer's selling price for the wine net of any expenses unrelated to the production of the wine in New Zealand.
8. To work out the amount of producer rebate in circumstances where a component of the approved selling price is expressed in a currency other than Australian currency (the foreign

currency component), the New Zealand participant must be able to determine the amount that foreign currency component would have if it were an amount of Australian currency.

9. Under subsection 19-15(1B) of the Act, the Australian Commissioner of Taxation may determine the manner to be used to work out the value the foreign currency component would be treated as when converted to Australian currency.

10. The *Wine Equalisation Tax New Zealand Producer Rebate Foreign Exchange Determination (No. 57) 2016* (2016 Instrument) set out 3 methods that a New Zealand participant may use to determine the amount that a foreign currency component would have when converted into Australian currency. This instrument repeals and replaces the 2016 Instrument, which would otherwise sunset on 1 October 2026.

11. While the 2016 Instrument provides 3 methods for converting a foreign currency component into Australian currency, this instrument specifies 2 methods that may be used for this conversion.

12. Evidence shows that New Zealand participants use either the RBA rate or average yearly RBNZ rate methods, while the method using a rate agreed between the New Zealand participant and the recipient of the wine has not been utilised. Given this, the method in the 2016 Instrument that allows a foreign currency component to be converted using a rate agreed between the New Zealand participant and the recipient of the wine has not been included in this instrument.

### **Effect of this instrument**

13. For the purposes of working out the amount of producer rebate they are entitled to, a New Zealand participant must know the approved selling price of wine.

14. Where a component of the approved selling price is expressed in a currency other than Australian currency, the New Zealand participant must use the relevant method in section 7 to work out the amount that the foreign currency component would be treated as having in Australian currency on a conversion day.

15. For the purposes of this instrument, the conversion day is the day that the sale of the wine is deemed to have taken place and is the earlier of the day on which the New Zealand participant receives any consideration for the supply of the wine or the day on which they issue an invoice for the supply.

16. The method that a New Zealand participant uses to work out the foreign currency component of the approved selling price depends on the foreign currency in which the component is expressed.

17. A New Zealand participant must use either the method in subsection 7(1) or the method in subsection 7(2) to work out the foreign currency component of the approved selling price of all wine for a financial year. The New Zealand participant cannot use both methods in relation to a financial year but may choose to use different methods in different financial years.

### **Example 1**

*S&J Wines (S&J) are an eligible New Zealand participant that supplies wine in both the 2024-2025 and 2025-2026 financial years.*

*S&J chooses to use the method in subsection 7(1) for the 2024-2025 financial year.*

*However, when making their claim for the 2025-2026 financial year they calculate that it is more beneficial for them to instead use the method in subsection 7(2).*

*S&J is able to choose to use different methods for different financial years.*

18. The approved selling price of wine is used to calculate the amount of producer rebate that a New Zealand participant is entitled to. As the entitlement to a producer rebate does not arise until

the requirements in subsection 19-5(2) of the Act are met, a claim for the producer rebate can only be made in relation to the financial year in which the WET has been paid in Australia. Given this, the method that applies on a conversion day is the method in subsection 7(1) or subsection 7(2) that is chosen for the financial year in which the entitlement to the producer rebate arises, which may not be the same method that has been chosen for the financial year in which the conversion day actually occurs.

### **Example 2**

*The financial year in which an entitlement to claim the New Zealand wine producer rebate arises for S&J Wines (S&J) is the financial year in which WET is paid on sales of their wines in Australia.*

*On 24 May 2025 S&J issue N&M Wine Distributors Australia (N&M) an invoice for a sale of wine which is exported to them in Australia. Part payment for this invoice is received by S&J on 15 July 2025. The conversion day is therefore 24 May 2025 – being the earlier of the day on which any consideration is received, or the invoice is issued, for the supply of wine.*

*By the end of the 2024-2025 financial year, WET has been paid by N&M on 30% of the wine. S&J are therefore entitled to claim the New Zealand producer rebate in the 2024-2025 financial year for that portion of the wine.*

*As S&J has chosen to use the method in subsection 7(1) for the 2024-2025 financial year, they use this method in relation to the 30% of the wine on which WET has been paid and on which they are entitled to claim the producer rebate.*

*WET is paid on the remainder of the wine in the 2025-2026 financial year and S&J chooses to use the method in subsection 7(2) for that financial year.*

*Although the conversion day in relation to this wine falls within the 2024-2025 financial year, the entitlement to the producer rebate for this wine arises in the 2025-2026 financial year. Therefore, the method that must be applied to the conversion day is the method that is chosen for 2025-2026 financial year.*

*S&J applies the formula in subsection 7(2).*

### **Subsection 7(1) method – average yearly RBNZ rate**

19. A New Zealand participant may use the method in subsection 7(1) to work out the amount that the foreign currency component of the approved selling price would have in Australian currency, but only if the foreign currency component is expressed in New Zealand currency. This method cannot be used to convert a foreign currency component which is expressed in any other currency.

20. In circumstances where some of the components of the approved selling price of wine supplied by a New Zealand participant in relation to a financial year is expressed in New Zealand currency and some is expressed in other foreign currency, this method cannot be used.

21. The amount the component would have in Australian currency is worked out by multiplying the amount in New Zealand currency by the average yearly RBNZ rate that applied to the financial year in which the conversion day occurs.

22. The average yearly RBNZ rate is the total of the RBNZ average monthly exchange rates for an Australian financial year, divided by twelve. The RBNZ publishes average RBNZ exchange rates every month. The average yearly RBNZ rate is published on the Australian Taxation Office website ([www.ato.gov.au](http://www.ato.gov.au)) and is the average exchange rate, expressed as a unit of Australian currency per New Zealand dollar, for a financial year. These rates have been chosen because they are easy to obtain and to calculate.

23. For most New Zealand participants foreign currency conversions are generally made from New Zealand currency to Australian currency. This method provides greater flexibility and reduced

compliance costs, particularly in instances where a New Zealand participant has a significant number of dealings at different times during a financial year.

### **Example 3**

*NZ Wineries (an eligible New Zealand participant) is entitled to make a claim in Australia for a wine tax credit for the producer rebate. Before NZ Wineries can work out the amount of producer rebate it is entitled to under section 19-15 of the Act, it must work out the approved selling price of wine supplied by them in the relevant financial year.*

*NZ Wineries works out the approved selling price of all wine they supply in the 2024-2025 financial year (and on which WET has been paid) and determines that \$500,000 of the approved selling price has been expressed in a currency other than Australian currency. As all of this foreign currency component is expressed in New Zealand currency, NZ Wineries chooses to use the method in subsection 7(1) to work out the amount the foreign currency component would have in Australian currency.*

*NZ Wineries determines that, for a conversion day that relates to an entitlement to a producer rebate that arises in the 2024-2025 financial year, the average yearly RBNZ rate is 1.0966 (published on ato.gov.au). Using the method in subsection 7(1) they determine that the foreign currency component of the approved selling price for wine supplied in the 2024-2025 financial year is \$548,300.*

*Amount of Australian currency = foreign currency component × average yearly RBNZ rate*

$$\$500,000 \times 1.0966 = \$548,300$$

*NZ Wineries must apply this method for the entire financial year.*

### **Subsection 7(2) method – RBA rate**

24. A New Zealand participant may use the method in subsection 7(2) to work out the amount that a foreign currency component of the approved selling price would have in Australian currency, where the component is expressed in any currency other than Australian (including New Zealand currency).

25. A New Zealand participant that cannot use the method in subsection 7(1) – for example, because the foreign currency component is not expressed in New Zealand currency – must use the method in subsection 7(2).

26. The amount the component would have in Australian currency is worked out by multiplying the foreign currency component by the inverse of the RBA rate that applied on the conversion day.

27. The RBA rate for a conversion day is the exchange rate (expressed as a unit of the foreign currency per Australian dollar) that the RBA publishes in relation to that day (on www.rba.gov.au). Where the conversion day falls on an RBA business day, the RBA rate is the rate published on the conversion day. Where the conversion day is not an RBA business day, the RBA rate is the rate published on the RBA business day that immediately preceded the conversion day.

### **Example 4**

*XYZ Wineries (an eligible New Zealand participant) is entitled to make a claim in Australia for a wine tax credit for the producer rebate.*

*As a component of the approved selling price is expressed in US\$, XYZ Wineries cannot use the method in subsection 7(1) and must use the method in subsection 7(2) for the entire financial year. The amount of this foreign currency component is US\$100,000.*

XYZ Wineries issues an invoice for the supply of wine on 15 February 2025, and receives a payment from the recipient on the 21 March 2025. The conversion day for the supply of wine therefore is 15 February 2025 (as it is the earlier of those 2 days). As the conversion day is a Saturday, XYZ must use the RBA rate published on the previous day.

XYZ Wineries determines that the RBA rate published on Friday 14 February, for US\$, is 0.6321.

XYZ Wineries uses the method in subsection 7(2) to determine the amount the component would have in Australian currency on the conversion day.

*Amount of Australian currency = foreign currency component × (1 ÷ RBA rate on the conversion day)*

$$\text{US\$}100,000 \times (1 \div 0.6321) = \$158,202.82$$

Therefore, by multiplying the foreign currency component (in US\$) by the inverse of the RBA rate they work out that the amount the foreign currency component of the approved selling price would have in Australian currency is \$158,202.82 on that conversion day.

XYZ Wineries must apply this method for the entire financial year.

### Compliance cost assessment

28. To be advised.

### Consultation

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

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

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

<b>Due date:</b>	19 June 2026
<b>Contact officer:</b>	Sally Fonovic
<b>Email:</b>	<a href="mailto:sally.fonovic@ato.gov.au">sally.fonovic@ato.gov.au</a>
<b>Phone:</b>	08 7422 2049

## **Statement of compatibility with human rights**

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

### **A New Tax System (Wine Equalisation Tax) (New Zealand Producer Rebate Foreign Exchange Conversion) Determination 2026**

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**

New Zealand wine producers are entitled to claim a producer rebate (in the form of a wine tax credit) for certain dealings in wine where they meet certain eligibility criteria.

The amount of producer rebate that an eligible New Zealand producer is entitled to under subsection 19-5(2) of the *A New Tax System (Wine Equalisation Tax) Act 1999* is calculated by multiplying the approved selling price of the relevant wine by 29%. The approved selling price of wine is the New Zealand producer's selling price for the wine net of any expenses unrelated to the production of the wine in New Zealand.

This instrument sets out the manner in which a component of the approved selling price of wine, which is expressed in a currency other than Australian currency, may be converted to Australian currency for the purpose of calculating the producer rebate.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms as it merely provides eligible New Zealand producers with methods to work out the amount that a component of the approved selling price of wine would have if expressed Australian currency.

#### **Conclusion**

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