

WETR 2002/1A - Addendum - Wine equalisation tax: the WET rulings system

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Addendum

Wine Equalisation Tax Ruling

Wine equalisation tax: the WET rulings system

This Addendum amends Wine Equalisation Tax Ruling WETR 2002/1 as a consequence of the repeal of section 22, section 23, section 37, section 62 and section 63 of Part VI of the *Taxation Administration Act 1953* (TAA 1953) and the replacing of those provisions respectively in section 105-5, section 105-10, section 105-60, section 115-50 and section 356-5 of Schedule 1 to the TAA 1953 and to take into account other minor changes to the Ruling.

WETR 2002/1 is amended as follows:

1. Preamble

Omit the first sentence of the preamble; substitute:

This document is a public ruling for the purposes of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953*.

If a statement in this ruling is later found to be incorrect or misleading and you make a mistake as a result of relying on this ruling, you will not have to pay any resulting underpaid tax nor will you have to pay any penalty. In addition, if you have relied on this ruling reasonably and in good faith you will not have to pay interest charges.

2. Paragraph 1

Omit the paragraph; substitute:

1. This Ruling sets out the Commissioner's interpretation of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953) in regard to the Wine Equalisation Tax (wine tax).

3. Paragraph 4

Omit the paragraph; substitute:

4. This Ruling explains the Commissioner's view of the law as it applied from 1 July 2006, the date from which the amendments to Schedule 1 have effect. You can rely upon the Ruling on and from its date of issue for the purposes of section 105-60 of Schedule 1.

5. Paragraph 6

Omit the paragraph; substitute:

6. Although the WET rulings system has a legislative basis, the procedures are administratively based. Section 105-60 of Schedule 1 sets out the binding nature of rulings. However, it does not provide a mechanism for the release of WET public rulings or the procedures for applying for a WET private ruling. The WET rulings procedures outlined in this Ruling have their basis in section 356-5 of Schedule 1 that gives the Commissioner the general administration of each indirect tax law.

6. Paragraph 7

Omit the paragraph; substitute:

7. A 'ruling' for the purposes of section 105-60 of Schedule 1 means any ruling or advice given or published by the Commissioner including one that has been previously altered, but not including one given orally or by an assessment.

7. Paragraph 10

Omit the fourth sentence; substitute:

The Commissioner considers that these documents are not 'rulings' for the purposes of section 105-60 of Schedule 1 because they do not constitute 'advice given or published by the Commissioner'.

8. Footnote 1

Omit the text; substitute:

Practice statements do not contain interpretative advice (see Law Administration Practice Statement PS LA 1998/1), and ATO Interpretative Decisions (ATO IDs) are an indication only of the Commissioner's view on a particular issue (see Law Administration Practice Statement PS LA 2001/8). ATO IDs are instructions to Tax Office staff that the *Freedom of Information Act 1982* requires are circulated to the public and in the interests of transparency the Commissioner makes them available to the public through the Legal Database on the Tax Office website www.ato.gov.au.

9. Paragraph 13

Omit the first sentence; substitute:

A draft WET ruling identified on the Public Rulings Program is not a ruling for the purposes of section 105-60 of Schedule 1 as it is not a 'ruling' or 'advice'.

10. Paragraph 14

Omit the paragraph; substitute:

14. The whole of the public ruling identified on the Public Rulings Program is binding under section 105-60 of Schedule 1, not just the 'Ruling' part.

11. Paragraph 15

Omit the first sentence; substitute:

A list of all WET rulings and publications are available on the Tax Office's website at www.ato.gov.au.

12. Paragraph 16

(a) Omit the comment under the heading *Specific advice private ruling*; substitute:

This advice is a private ruling for the purposes of section 105-60 of Schedule 1 of the *Taxation Administration Act 1953*. You (the entity to which this advice relates) can rely on this ruling unless you have misstated or suppressed a material fact.

(b) Omit the second sentence under the heading *General advice private ruling*; substitute:

This advice is a private ruling for the purposes of section 105-60 of Schedule 1 of the *Taxation Administration Act 1953* and to the extent that this general view of the law applies to your circumstances, the Commissioner will be bound by that advice.

13. Paragraph 23

Omit the second sentence; substitute:

Where a change occurs, the Tax Office will take steps to alert taxpayers to that change.

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14. Paragraph 29

Omit the third dot point; substitute:

- it relates to a 'reviewable wine tax decision' under section 111-50 of Schedule 1;

15. Paragraph 33

Omit the paragraph; substitute:

33. A WET ruling cannot be reviewed under the TAA 1953 as it is not a reviewable decision under subsection 111-50(2) of Schedule 1. Nor can it be reviewed under the *Administrative Decisions (Judicial Review) Act 1977*.

16. Paragraph 34

Omit the paragraph; substitute:

34. However, where you carry out a transaction that results in a net amount for a tax period, you can, under section 105-10 of Schedule 1, request the Commissioner to make an assessment under section 105-5 of Schedule 1 of your net amount for that tax period. Under section 111-50 of Schedule 1, you may object to the making of that assessment in the manner set out in Part IVC.

17. Legislative references

Omit:

- TAA 1953 Part IVC
- TAA 1953 22
- TAA 1953 23
- TAA 1953 37
- TAA 1953 62
- TAA 1953 62(2)

Substitute:

- TAA 1953 Pt IVC
- TAA 1953 Sch 1 105-5
- TAA 1953 Sch 1 105-10
- TAA 1953 Sch 1 105-60
- TAA 1953 Sch 1 111-50
- TAA 1953 Sch 1 111-50(2)
- TAA 1953 Sch 1 356-5

Insert:

- FOI 1982

Other references

- PS LA 1998/1
- PS LA 2001/8

This Addendum explains the Commissioner's view of the law as it applies on and from 1 July 2006. You can rely upon this Addendum on and from its date of issue for the purpose of section 105-60 of Schedule 1 to the *Taxation Administration Act 1953*.

Commissioner of Taxation
23 December 2009

ATO references

NO: 1-1QX3P8G

ISSN: 1832-3197

ATOlaw topic: Wine Equalisation Tax ~~ Excise ~~ Alcohol