




# ***WETR 2009/1A3 - Addendum - Wine equalisation tax: the operation of the wine equalisation tax system***

 This cover sheet is provided for information only. It does not form part of *WETR 2009/1A3 - Addendum - Wine equalisation tax: the operation of the wine equalisation tax system*

 This document has changed over time. This is a consolidated version of the ruling which was published on *1 August 2018*

 View the [consolidated version](#) for this notice.



## Addendum

### Wine Equalisation Tax Ruling

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

This Addendum is a public ruling for the purposes of the *Taxation Administration Act 1953*. It amends Wine Equalisation Tax Ruling WETR 2009/1 to update the changes made to quoting and wine equalisation tax (WET) credit rules.

#### WETR 2009/1 is amended as follows:

##### 1. Contents table

Omit the Contents table; substitute:

Contents	Para
<b>LEGALLY BINDING SECTION:</b>	
Summary – what this Ruling is about	Error! Bookmark not defined.
Background	6
Previous rulings	7
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Date of effect	199F
<b>NOT LEGALLY BINDING SECTION:</b>	
Appendix 1 – Approved quoting forms	199G
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##### 2. Headers

On all pages on which Appendices are located, after Page status:, omit 'legally binding'; substitute 'not legally binding'.

##### 3. Preamble

Omit the preamble; substitute:

**❗ This publication provides you with the following level of protection:**

This publication (excluding appendices) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

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A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this Ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this Ruling if it turns out that it does not correctly state how the relevant provision applies to you.

[**Note:** This is a consolidated version of this document. Refer to the Legal Database (<http://www.ato.gov.au/law>) to check its currency and to view the details of all changes.]

## 4. Paragraph 1

- (a) Omit the heading; substitute 'Summary – what this Ruling is about'.
- (b) Omit from last sentence; 'the wine tax although it is also known as the wine equalisation tax or'.

## 5. Paragraph 2

Omit 'wine tax' and 'by the wine tax'.

## 6. Paragraph 3

Omit the paragraph.

## 7. Paragraphs 5 and 5A

Omit the paragraphs (including heading and footnotes 1 and 1A).

## 8. Paragraph 6

- (a) Omit the paragraph (including heading); substitute:

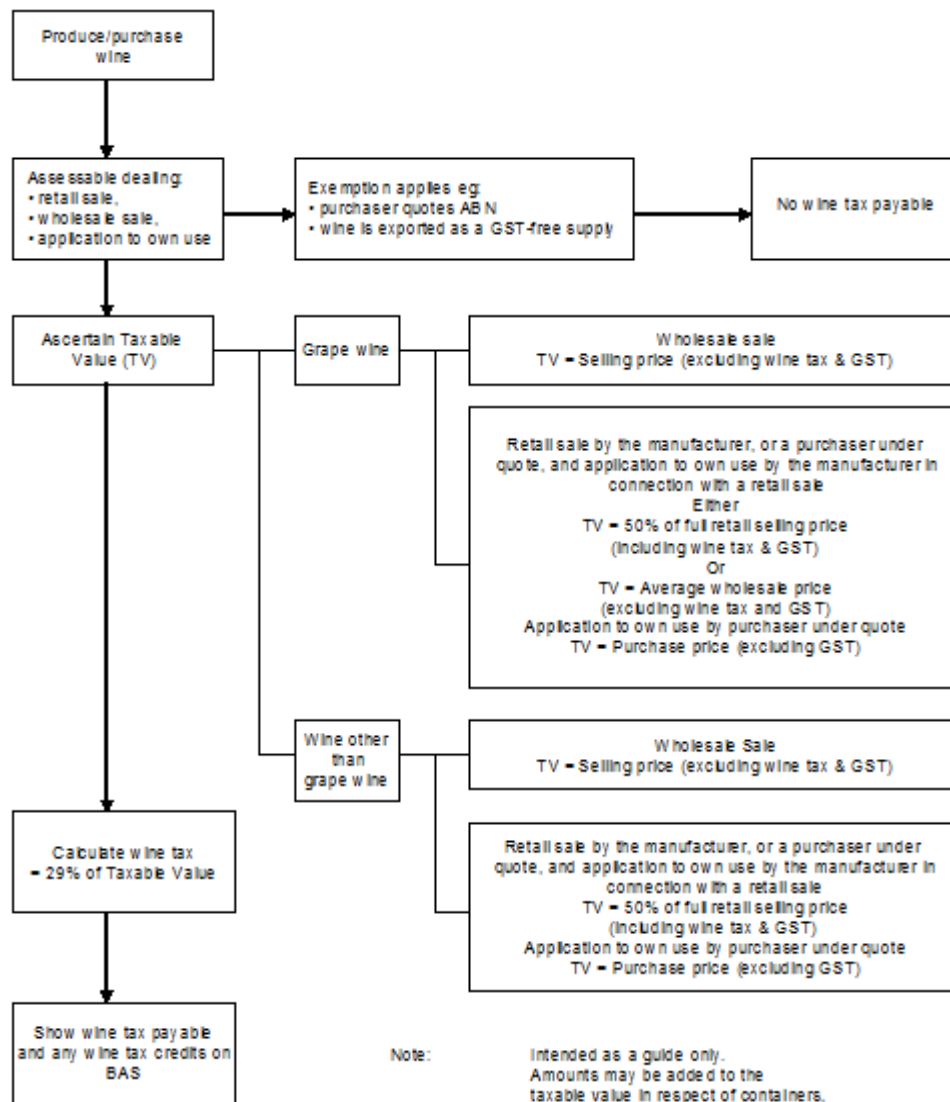
### **How does the WET work?**

6. The broad aim of the WET Act is to impose WET on dealings with wine in Australia. WET is applied to both Australian produced wine and imported wine. Dealings which attract WET are called assessable dealings and can include selling wine, using wine, or making a local entry of imported wine at the customs barrier.

- (b) After the paragraph, insert new paragraphs 6A and 6B:

6A. WET is normally a once only tax designed to fall on the last wholesale sale, and is calculated at the rate of 29% of the taxable value of the dealing. To ensure that WET ultimately falls on the last wholesale sale of wine consumed in Australia, WET incorporates a system of quoting and credits.

6B. The path for determining liability for WET is set out in the diagram below:

**How the Wine Tax Works****Determining Liability****9. Paragraph 7**

- (a) In the heading omit 'R' from the word 'Rulings'; substitute 'r'
- (b) After the paragraph insert new paragraph 7A:

7A. This Ruling reflects changes made to the WET Act by *Treasury Laws Amendment (2017 Measures No. 4) Act 2017*.

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## 10. Paragraph 8

- (a) In the heading omit 'and Explanation'.
- (b) In the sub heading omit '?'.
- (c) Omit 'Wine tax'; substitute 'WET'.
- (d) Omit the wording of footnote 2; substitute:

<sup>2</sup> Section 31-1. Refer also to Appendix 1 of WETR 2009/2.

## 11. Paragraph 9

Omit the paragraph; substitute:

9. We refer to all of these as *wine* throughout this Ruling, except when we specify *grape wine*, which is treated differently in some cases, in which case it is referred to separately in this Ruling.

## 12. Paragraph 13

Omit the paragraph and footnote 4A.

## 13. Paragraph 13A

Omit 'From 10 September 2009'; substitute 'A'.

## 14. Paragraph 14

- (a) Omit the paragraph; substitute:

14. The exclusion of the addition of ethyl alcohol from any other source means that if ethyl alcohol other than grape spirit or alcohol used in preparing vegetable extracts is added then the resulting beverage is not a grape wine product.<sup>4EA</sup>

- (b) After the paragraph, insert new paragraph 14A:

14A. There are additional and specific criteria that must be satisfied with respect to the addition of alcohol used in preparing vegetable extracts, in order for a beverage to be a grape wine product.<sup>4EB</sup>

- (c) At the end of paragraph 14, insert footnote 4EA:

<sup>4EA</sup> Section 31-3.

- (d) At the end of paragraph 14A, insert footnote 4EB:

<sup>4EB</sup> Sub-regulation 31 3.01(3) of the WET Regulations.

## 15. Paragraph 15

- (a) Omit from the first sentence 'The Commissioner considers'; substitute 'We consider'.
- (b) Omit the last sentence including footnote 4F.

**16. Paragraph 16**

Omit the paragraph (excluding footnote 5); substitute:

16. The types of beverage covered by the definition<sup>5</sup> include grape wine products such as wine cocktails, flavoured wines and Irish style cream drinks. The definition includes a minimum and maximum alcohol band to prevent low strength spirits from accessing the WET.

**16. Paragraph 16A**

(a) Omit the paragraph (including footnote 5A); substitute:

16A. A grape wine product must not have added to it the flavour of any alcoholic beverage (other than wine), whether that added flavour is natural or artificial. This is to ensure that where grape wine products mimic the taste of a spirit flavoured beverage, they are taxed at the same rate as those beverages.<sup>5AA</sup>

(b) At the end of the paragraph, insert footnote 5AA:

<sup>5AA</sup> Explanatory Statement to Select Legislative Instrument 2009 No. 234.

**17. Paragraph 16B**

(a) Omit heading; substitute '*Example 1 – addition of the flavour of an alcoholic beverage to wine*'.

(b) After 'alcoholic cocktail', omit ','.

(c) After the paragraph, insert new paragraphs 16C to 16E (and headings):

16C. We consider that the preclusion of the addition of the 'flavour of any other alcoholic beverage' includes more than one added flavour that, when combined together, is the flavour of an alcoholic beverage (other than wine), whether such flavours are natural or artificial. We also consider that the way in which the product is named and marketed will have an impact on (but will not be determinative of) whether the beverage has had added to it flavours designed to mimic the taste of a beverage other than wine and, therefore, whether it will meet the definition of a grape wine product.

*Example 2 – addition of multiple flavours and named after a spirit-based beverage*

16D. *An entity manufactures an alcoholic beverage by adding flavours to wine. These flavours include lime, mint and sugar and the resulting product is called 'Mystic Mojito'. A traditional Mojito is a spirit-based cocktail consisting of rum, lime juice and sugar. The addition of these flavours to wine, coupled with the name, indicate the product intends to mimic an alcoholic beverage other than wine and therefore would not be a grape wine product.*

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*Example 3 – multiple flavours not named after a spirit-based beverage*

16E. *An entity manufactures an alcoholic beverage by adding pineapple and coconut flavours, and cream, to wine. The product is marketed as 'Pineapplecolada'. The ingredients, when combined, are that of a Pina Colada – a spirit-based beverage. Despite not being marketed as a Pina Colada, the product would not be a grape wine product as the combination of the flavours are that of an alcoholic beverage other than wine.*

**18. Paragraph 17**

(a) Omit the first sentence; substitute 'It is inherent in the definition of grape wine product<sup>5AB</sup>, and the further explanation in the Explanatory Memorandum to the *Excise Tariff Amendment (2009 Measures No. 1) Act 2009* that grape wine products are to be limited to beverages where the alcohol content is attributable to grape wine and/or grape spirit.'

(b) In the first sentence after 'grape wine product', insert footnote 5AB:

<sup>5AB</sup> Section 33-1 and regulation 31-3.01.

**19. Paragraph 18**

Omit from the last sentence 'However, from 10 September 2009, the'; substitute 'The'.

**20. Paragraph 19**

Omit the last sentence; substitute 'In these circumstances if the ethyl alcohol with which the flavour is combined before being added to the wine or an existing grape wine product is not grape spirit, the resulting beverage will not be a grape wine product. This is because the additional ethyl alcohol into which the flavour was incorporated was not used in the process of preparing the vegetable extract and was not essential to the extraction process.'

**21. Paragraph 20**

Omit the paragraph.

**22. Paragraph 20A**

(a) Omit 'From 10 September 2009, grape'; substitute 'Grape'.

(b) Omit 'paragraph 13A of this Ruling'; substitute 'regulation 31-3.01'.

(c) Throughout, omit 'wine based'; substitute 'wine-based'.

**23. Paragraph 21**

(a) Omit footnote 5D.

(b) In the first dot point, omit; 'paragraph 13 of this Ruling or paragraph 13A of this Ruling (whichever is relevant); substitute 'regulation 31-3.01'.

- (c) In the second dot point, omit 'paragraph 13 of this Ruling or paragraph 13A of this Ruling (whichever is relevant)'; substitute 'regulation 31-3.01'.
- (d) In the fourth dot point, omit 'Spirit'; substitute 'spirit'.

**24. Paragraph 22**

In the fourth dot point, after 'fruit or vegetable wine' omit ','; substitute ';'.

**25. Paragraph 25**

Omit heading (excluding footnote 7); substitute '*Cider or perry*'.

**26. Paragraph 29**

Omit the paragraph.

**27. Paragraph 30**

Omit from the first sentence 'From 9 June 2005, mead'; substitute 'Mead'.

**28. Paragraph 32**

Omit the paragraph.

**29. Paragraph 33**

Omit from the first sentence 'From 9 June 2005, mead'; substitute 'Mead'.

**30. Paragraph 38**

- (a) Omit the paragraph (including footnote 11); substitute:

38. Beverage is not defined in the WET Act and so takes its ordinary meaning. We consider a 'beverage' to be a drink of any kind, which is generally swallowed to quench thirst or for nourishment.<sup>11</sup>

- (b) At the end of paragraph 38, insert replacement footnote 11:

<sup>11</sup> *Bristol Myers Company Pty Ltd v. Commissioner of Taxation* 90 ATC 4553 at 4556 and 4557.

- (c) After the paragraph, insert new paragraph 38A:

38A. Generally, a beverage will be capable of being consumed through a straw and is thin enough to be consumed from a glass.

**31. Paragraph 39**

- (a) Omit the paragraph; substitute:



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39. As a matter of everyday usage and language, wine is considered to be a drink and therefore is a 'beverage' in accordance with the ordinary meaning of that term. This is reflected in the dictionary definition of wine, which refers to wine as a beverage.<sup>11A</sup>

- (b) At the end of paragraph 39, insert footnote 11A:

<sup>11A</sup> Macquarie Dictionary.

## 32. Paragraph 40

- (a) Omit the paragraph; substitute:

40. The test of whether a beverage is wine is to be applied to the finished product intended and suitable for consumption, and not to liquid that exists during the stages of production.<sup>11B</sup>

- (b) At the end of the paragraph, insert new footnote 11B:

<sup>11B</sup> *Divas Beverages Holdings Ltd v Commissioner of Taxation* [2018] FCA 576.

## 33. Paragraph 41

Omit the paragraph; substitute:

41. Raw wine is the result of the initial (primary) fermentation of grapes or other fruits or vegetables. The wine is usually finished by stabilising, fining and filtering, secondary fermentation (malolactic fermentation) if needed, maturation and racking to clarify the wine by removing unwanted solids. In these circumstances, the test of whether a beverage is wine must be applied to the finished wine (intended and suitable for consumption), and not to the raw wine.

## 34. Paragraphs 42 and 43

Omit the paragraphs.

## 35. Paragraph 44

- (a) Omit from the heading 'wine tax'; substitute 'WET'.  
(b) Omit the words 'worked out'; substitute 'calculated'.

## 36. Paragraph 45

Omit the paragraph (including heading); substitute:

### How does WET work?

45. The broad aim of the WET Act is to impose WET on dealings with wine in Australia. WET is applied to both Australian produced wine and imported wine. Dealings which attract WET are called assessable dealings and can include selling wine, using wine, or making a local entry of imported wine at the customs barrier.

**37. Paragraphs 46 and 47**

- (a) Omit the paragraphs (excluding footnotes 14 and 15); substitute:

46. WET is normally a once only tax designed to fall on the last wholesale sale. Where wine is sold by wholesale to a retailer, for example, to a distributor, bottle shop, hotel or restaurant, WET is calculated on the selling price of the wine excluding WET and Australian goods and services tax (GST).<sup>14</sup> If wine is not the subject of a wholesale sale, for example, it is sold by retail by the manufacturer at the cellar door or used by the manufacturer for tastings or promotional activities, alternative values are used to calculate the tax payable.

47. WET is imposed on assessable dealings with wine, unless an exemption applies. If an exemption does not apply, then the dealing is taxable, and WET is calculated on the taxable value of the dealing. If the wine, or some part of the wine, has already been subject to a taxable dealing<sup>15</sup>, then a credit for that earlier tax may be claimed as an offset against the tax payable on the later dealing.

- (b) In footnote 14, omit 'the wine tax'; substitute 'the WET'.

**38. Paragraph 49**

Omit all occurrences of the words 'wine tax'; substitute 'WET'.

**39. Paragraph 50**

- (a) Omit the words 'wine tax'; substitute 'WET'.
- (b) Insert 'A' after the number '182'.
- (c) Omit 'Appendix A'; substitute 'Appendix 1'.

**40. Paragraph 51**

- (a) Omit the first sentence; substitute 'Normally, for retailers (including bottle shops, hotels, restaurants and cafes), WET is included in the price for which they purchase the wine.'
- (b) Omit all occurrences of 'wine tax'; substitute 'WET'.

**41. Paragraph 52**

- (a) Omit the words 'Appendix B'; substitute 'Paragraph 6B of this Ruling'.
- (b) Omit 'wine tax'; substitute 'WET'.

**42. Paragraph 53**

Omit the paragraph and heading.

**43. Paragraph 54**

Omit the heading; substitute 'Do you need to register for WET?'

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## 44. Paragraph 55

- (a) Omit the paragraph (including footnote 16); substitute:

55. You do not have a liability to pay WET on any assessable dealing with wine (other than a customs dealing) unless you are registered or are required to be registered for GST.<sup>16</sup>

- (b) At the end of the paragraph, insert replacement footnote 16:

<sup>16</sup> Subsection 5-5(2). A customs dealing occurs when either, a person who is a passenger or crew on an international flight or voyage takes wine purchased from an inwards duty-free store, from a customs clearance area at an airport or port; or a transaction listed in the Local Entry Table in section 5-30 occurs.

## 45. Paragraph 56

Omit the paragraph.

## 46. Paragraph 57

- (a) Omit the second sentence (excluding footnote 17); substitute 'You make a wholesale sale where you sell wine to an entity which purchases the wine for the purposes of resale.'<sup>17</sup>
- (b) In footnote 19, omit 'Wine Tax'; substitute 'WET'.

## 47. Paragraph 60

In the heading, omit '1'; substitute '4'.

## 48. Paragraph 63

Omit the paragraph (excluding footnote 22, 23 and 25); substitute:

63. The following retail sales are examples of the most common situations where retail sales of wine are assessable dealings:

- cellar door sales by the winery which produced the wine;<sup>22</sup>
- retail sales of wine which were obtained by the seller WET-free under quotation of the seller's ABN;<sup>23</sup>
- retail sales of wine by a retailer (for example, a bottle shop, hotel or restaurant), which purchased the wine from a winery which was not registered and was not required to be registered for GST and did not include WET in the price to the retailer. These sales by the retailer are referred to as untaxed sales;
- retail sales by a grape grower of wine made on their behalf by a contract winemaker from grapes supplied by the grape grower (where the grape grower retains ownership throughout the winemaking process). These sales by the grape grower are also referred to as untaxed sales<sup>25</sup>; and

- retail sales of wine by a retailer, for example, a bottle shop, that purchased bulk wine at a price which included WET and then placed the wine in bottles or other containers (not including placing packaged wine into a paper bag, carry bag or similar container at the time of the retail sale or placing unpackaged wine into a container supplied by a customer).

**49. Paragraph 64**

Omit the paragraph (excluding footnotes 27, 28 and 29); substitute:

64. Indirect marketing sales<sup>27</sup> are a type of retail sale that are assessable dealings even though the purchaser of the wine may have borne WET. These arrangements are assessable dealings to ensure that the wine is taxed on the full wholesale value.<sup>28</sup> In accordance with section 5-20, you make an indirect marketing sale.<sup>29</sup> if you are not the manufacturer of the wine and the sale occurs in either of the following circumstances:

- you make the sale through another entity, other than your employee, who is acting for the seller under an arrangement to that effect; or
- you make the sale from premises that are:
  - used by an entity, other than you, mainly for making retail sales of wine; and
  - are held out to be premises of, or premises used by the other entity or entities.

**50. Paragraphs 65 to 70**

Omit the paragraphs and headings (including footnotes 30 and 31).

**51. Paragraph 71**

- Omit the heading.
- Omit the paragraph; substitute:

71. These types of sales usually involve an agency arrangement. Whether or not a retailer is acting as your agent requires an examination of the facts and circumstances in each case. General principles of agency are relevant and, in most cases, relevant documentation about the business relationship (for example a written agency agreement), the description used by the parties and the conduct of the parties will determine whether or not an agency arrangement exists. An agreement under Subdivision 153-B of the GST Act, although on its own may not be conclusive, may be indicative of an agency arrangement between parties.<sup>31A</sup>

- At the end of the paragraph, insert footnote 31A:

<sup>31A</sup> See Goods and Services Taxation Ruling GSTR 2000/37 *Goods and services tax: agency relationships and the application of the law* for a discussion on general principles of agency arrangements and the operation of Division 153B of the GST Act.

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**52. Paragraphs 72 and 73**

Omit the paragraphs including heading.

**53. Paragraph 74**

Omit 'wine tax'; substitute 'WET'.

**54. Paragraph 75**

Omit the paragraph (excluding footnote 34); substitute:

75. Royalty<sup>34</sup> is a defined term in the WET Act.

**55. Paragraphs 76 to 79**

Omit the paragraphs and headings (including footnotes 35 to 37).

**56. Paragraph 80**

- (a) In the first dot point, omit 'cellar door'.
- (b) Omit the second and third dot points.
- (c) In the sixth dot point, omit 'to retailers, restaurants and so on,'.

**57. Paragraph 81**

Omit the third sentence; substitute 'This means that you will not have a liability for WET where you use wine, which has not previously been taxed, in this way.'

**58. Paragraph 82**

Omit the first sentence; substitute 'We consider that wine included as bonus wine with the sale of other wine as part of a contract of sale is not applied to the seller's own use.'

**59. Paragraph 83**

Omit the paragraph (excluding footnotes 39 to 41); substitute:

83. You will have a WET liability for wine that you apply to your own use, if you are registered or are required to be registered for GST purposes, and you:

- are the manufacturer of the wine;<sup>39</sup>
- obtained the wine under quote (see paragraphs 174 to 199A of this Ruling);<sup>40</sup> or
- obtained the wine as untaxed wine (for example purchased wine from a manufacturer who is not registered and is not required to be registered for GST).<sup>41</sup>

**60. Paragraph 84**

- (a) Omit from the first sentence 'wine tax'; substitute 'WET'.
- (b) Omit from footnote 42 '5-15'; substitute '5-25'.

**61. Paragraph 85**

In the fourth dot point, after 'to own use', omit the comma.

**62. Paragraph 87**

- (a) In the first sentence, after 'Removal', omit ','.
- (b) Omit 'duty free'; substitute 'duty-free'.
- (c) Omit the second sentence; substitute 'You are a relevant traveller if you are a person (whether passenger or crew member) who has alighted from an international flight.'

**63. Paragraph 88**

- (a) Omit from the heading 'wine tax'; substitute 'WET'.
- (b) Omit from the first sentence 'wine tax'; substitute 'WET'.
- (c) Omit the last sentence (excluding footnotes 49 and 50); substitute 'These normal taxable values may be increased, for example, where you have a transaction with wine that is not at arm's length<sup>49</sup> or to include the value of royalties or containers.<sup>50</sup>'
- (d) In footnote 50, omit '75'; substitute '74'.

**64. Paragraph 89**

- (a) Omit from the first sentence 'wine tax'; substitute 'WET'.
- (b) Omit all occurrences 'of the WET Act'.
- (c) Omit from the second sentence 'the Commissioner's view is'; substitute 'we consider'.

**65. Paragraph 94**

- (a) Omit from the first sentence 'The Commissioner considers'; substitute 'We consider'.
- (b) Omit 'of the WET Act' after 'section 33-1'.

**66. Paragraph 97**

- (a) Omit from the first sentence 'of the WET Act'.
- (b) In the first sentence, after 'Act'; insert ','.

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**67. Paragraphs 98 to 102**

Omit the paragraphs (including footnotes 57 to 59) and heading.

**68. Paragraph 103**

Omit the paragraph; substitute:

103. The reference to 'price' refers to 'consideration', which is defined very broadly in section 9-15 of the GST Act to include any payment, act or forbearance, in connection with a supply of anything.

**69. Paragraph 106**

Omit the paragraph including footnote 61.

**70. Paragraph 114**

After 'in these cases', insert ','.

**71. Paragraph 118**

In the second sentence, omit 'wine tax'; substitute 'WET'.

**72. Paragraph 120**

(a) At the end of the second dot point, omit 'and'.

(b) At the end of the third dot point, insert ';

- distributor margin payments – these are payments to a distributor and generally cover the distributors general costs like freight, administration, storage, invoicing, sales monitoring, debt collection, wastage and internet costs.'

**73. Paragraph 121**

After the paragraph, insert new paragraph 121A:

121A. Payments provided by the purchaser for the specific benefit of the producer's product or brand do not reduce the selling price of wine. Such services include positioning wine in a prime position in a bottle shop. so it is marketed in a way that is better than the marketing of other wines in the shop or advertising the wine as 'wine of the month' in a retailer's sales catalogue.

**74. Paragraph 122**

In the first sentence, insert 'also' before the word 'include'.

**75. Paragraph 123**

- (a) At the end of the first sentence, insert footnote 61A:

<sup>61A</sup> Refer to paragraphs 64 to 71 of this Ruling – for example, indirect marketing sales.

- (b) In the third sentence, after 'However', insert ','.

**76. Paragraph 124**

In the heading, omit '*11– Commission*'; substitute '*11 – commission*'.

**77. Paragraph 129**

Omit '75'; substitute '74'.

**78. Paragraph 130**

Omit 'hand made'; substitute 'handmade'.

**79. Paragraph 132**

- (a) Omit the first sentence; substitute 'If you package and sell wine and other goods together for one inclusive price, then the other goods will be treated separately for the purpose of calculating the amount for which the wine was sold.'
- (b) Omit 'wine tax'; substitute 'WET'.

**80. Paragraph 133**

Omit the first sentence; substitute 'Sometimes where you package wine with other goods and sell them together for one inclusive price, that sale price is less than the sum of the individual prices of the goods.'

**81. Paragraph 134**

- (a) Omit all occurrences of 'wine tax'; substitute 'WET'.
- (b) In the first sentence omit the words 'corkscrew' and 'glass'; substitute 'key ring' and 'pen' respectively.

**82. Paragraph 135 and 136**

Omit all occurrences of 'wine tax'; substitute 'WET'.



**83. Paragraph 137**

Omit the paragraph; substitute:

137. As discussed at paragraphs 104 and 105 of this Ruling, the price for which you sell wine will include delivery charges where it is sold under a contract that includes delivery. In these circumstances, when calculating the taxable value of the wine, it is not appropriate for you to apportion the price between an amount for the wine and an amount for the delivery. The delivery is an integral and ancillary part of the sale of the wine and is not separately identifiable from the sale of the wine. Similarly, a price that comprises a finance charge that is required to be paid in order for your customer to obtain good title to the wine from you (see paragraphs 111 to 117 of this Ruling) should not be apportioned between an amount applicable to the wine and an amount attributable to the finance charge for the purposes of calculating the taxable value of the wine.

**84. Paragraph 139**

- (a) In the third sentence omit 'given'; substitute 'provided'.
- (b) In the third sentence, insert 'the' before 'cellar'.
- (c) In footnote 66, omit '80'; substitute '80 to 83'.

**85. Paragraph 140 and 141**

Omit 'wine tax'; substitute 'WET'.

**86. Paragraph 142**

- (a) In the first sentence, omit 'working'; substitute 'you to work'.
- (b) In the first sentence, omit 'wine tax'; substitute 'WET'.

**87. Paragraph 143 to 145**

Omit all occurrences of 'wine tax'; substitute 'WET' (including in associated heading).

**88. Paragraph 146**

- (a) Omit 'An entity'; substitute 'You'.
- (b) Omit 'wine tax'; substitute 'WET'.

**89. Paragraph 147**

- (a) Omit the paragraph (including footnote 76); substitute:

147. You work out the average wholesale price using the weighted average of the prices (excluding WET and GST) for your wholesale sales (including exports) of grape wine that fall into the above category for the tax period.<sup>76</sup> When calculating the average wholesale price, you are able to take into account any discounts, incentives, rebates and other payments that reduce the price for which your wine is sold.

- (b) At the end of the first sentence, insert replacement footnote 76:

<sup>76</sup> Section 9-40. See paragraphs 57 to 61 of this Ruling for a discussion of wholesale sales.

**90. Paragraph 148 to 150**

Omit all occurrences of 'wine tax'; substitute 'WET' (including in associated heading).

**91. Paragraph 152**

Omit the paragraph; substitute:

152. If you are a wine producer who sells grape wine by the glass, you can calculate the taxable value of the wine:

- using the half retail price method: the taxable value of a glass of wine is 50% of the price (including WET and GST) for which the wine is sold by the glass; or
- using the average wholesale price method: ascertain the number of bottles used to sell wine by the glass and use a taxable value per bottle equal to the average wholesale price for a bottle of the same wine (that is, of the same vintage and produced from the same grape varieties or blend of grape varieties). **Note:** you can only use this method if you satisfy the requirements set out in paragraph 146 of this Ruling.

**92. Paragraph 153**

Omit the paragraph (excluding footnote 77); substitute:

153. You must use the half retail price method as the notional wholesale selling price if you have a taxable dealing with wine that is not grape wine, and the dealing is either a retail sale, or an application to own use connected with retail sales.<sup>77</sup>

**93. Paragraph 154**

Omit the paragraph; substitute:

154. If you are a producer of wine that is not grape wine, and you sell that wine by the glass, you must calculate WET using a taxable value of 50% of the price (including WET and GST) of the glass of wine.

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## 94. Paragraphs 155 to 158

Omit all occurrences of 'wine tax'; substitute 'WET'.

## 95. Paragraph 159

Omit the paragraph; substitute:

159. Where you make sales to staff, shareholders and grape growers at discounted prices, these sales are considered to be non-arm's length sales. Accordingly, you must pay WET on these sales based on prices that would be used in a similar arm's length transaction. For example, you may charge your staff \$100 (including WET and GST) per dozen for a quantity of wine while the normal retail price for the same wine sold in the same quantity is \$150 (including WET and GST) per dozen. WET on the staff sale should be calculated by reference to the normal retail price of \$150 per dozen (WET payable is \$21.75 per dozen using the half retail price method).

## 96. Paragraph 160

Omit the paragraph; substitute:

160. We consider that sales to related companies or other related entities are also non-arm's length transactions.

## 97. Paragraph 161

Omit the paragraph (including heading but excluding footnote 83); substitute:

### **Do you need to specify the amount of WET on invoices?**

161. Where you sell wine by wholesale for a price that includes WET, you must specify the amount of the WET on the invoice you give to the purchaser.<sup>83</sup> WET can be specified as a separate amount for each item of taxable wine on the invoice on a line by line basis or as a total amount for all the taxable wine on the invoice.

## 98. Paragraph 162

Omit the paragraph; substitute:

162. You do not have to specify the amount of WET where you sell the wine by retail, that is, to the end user, even if WET is payable on that transaction.

## 99. Paragraph 163

(a) Omit all occurrences of 'wine tax'; substitute 'WET'.

(b) In the second dot point, insert 'A' after '199'.

**100. Paragraph 164**

Omit 'wine tax'; substitute 'WET'.

**101. Paragraph 165**

- (a) In the heading, omit 'GST free and wine tax free'; substitute 'GST-free and WET-free)
- (b) Omit 'wine tax'; substitute 'WET'.

**102. Paragraph 166**

Omit the paragraph (excluding footnote 94); substitute:

166. If you are an overseas traveller, you may be entitled to a refund of the WET and GST under the Tourist Refund Scheme at the point of departure from Australia if you still have the wine with you.<sup>94</sup> The Tourist Refund Scheme is administered by the Department of Home Affairs (DHA).

**103. Paragraph 167**

Omit the paragraph (excluding footnotes 95 to 99); substitute:

167. If you are an overseas traveller, you may be eligible for a refund under the Tourist Refund Scheme if you:

- have borne WET on the wine;<sup>95</sup>
- purchase at least \$300 (including WET and GST) of eligible goods from the one registered person (the purchase does not have to be entirely of wine);<sup>96</sup>
- hold tax invoices for the goods;<sup>97</sup>
- export the goods as accompanied baggage within 60 days after the day on which they were acquired;<sup>98</sup> and
- leave Australia at an airport or seaport that has a Tourist Refund Scheme facility.<sup>99</sup>

**104. Paragraph 168**

Omit the second sentence; substitute 'A refund is also not available if you are leaving Australia in the course of your employment as either the person in charge or command of an aircraft or ship, or as a member of the crew of an aircraft or ship.'

## 105. Paragraph 168A

Omit the paragraph (excluding footnote 102A); substitute:

168A. In addition to being able to claim a refund of WET through the Tourist Refund Scheme for accompanied baggage, if you are a resident of an Australian external Territory, you can purchase wine and claim a refund of WET when you export the wine back to your home territory as unaccompanied baggage, provided you are not registered or required to be registered for GST at the time the wine is purchased.<sup>102A</sup>

## 106. Paragraph 168B

Omit the second sentence; substitute 'You are a resident of an Australian external territory if you are an individual:'.

## 107. Paragraph 168C

Omit the paragraph (excluding footnotes 102C to 102I); substitute:

168C. If you are a resident of an Australian external Territory, you may be eligible for a refund under the Tourist Refund Scheme for wine exported as unaccompanied baggage if you:

- have borne WET on the wine;<sup>102C</sup>
- purchase at least \$300 (including WET and GST) of eligible goods from the one registered person (the purchase doesn't have to be entirely of wine);<sup>102D</sup>
- hold tax invoices for the goods;<sup>102E</sup>
- export the goods as unaccompanied baggage to an external Territory within 60 days after the day on which they were acquired;<sup>102F</sup>
- have sufficient documentary evidence to show that the wine has been exported or that arrangements have been made to export the goods to the external Territory within 60 days of purchasing the goods;<sup>102G</sup>
- leave Australia at an airport or seaport that has a Tourist Refund Scheme facility;<sup>102H</sup> and
- are entitled to a payment equivalent to the amount of GST payable, or a proportion of the GST payable, on the taxable supply of the wine to them under subsection 168-5(1A) of the GST Act.<sup>102I</sup>

## 108. Paragraph 169

Omit all occurrences of 'wine tax'; substitute 'WET'.

## 109. Paragraph 170

- (a) In the heading and in the first sentence, omit 'duty free'; substitute 'duty-free'.

- (b) In the first sentence, omit 'Store'; substitute 'store'.
- (c) Omit 'Overseas travellers'; substitute 'If you are an overseas traveller, you'.
- (d) Omit 'wine tax'; substitute 'WET'.
- (e) In footnote 103, omit 'of the WET Act'.

**110. Paragraph 171 (including heading)**

Omit the paragraph (including heading, but excluding footnotes 104 and 105); substitute:

***Is an export subject to WET where you export the wine on behalf of a purchaser?***

171. Where you export wine on behalf of a purchaser (including overseas travellers) and you do not reimport the wine, exemption from WET and GST applies provided you export the wine within 60 days<sup>104</sup> after the earlier of:

- the day on which you receive any consideration for the supply of the wine; or
- the day on which you provide an invoice for the supply of the wine.<sup>105</sup>

**111. Paragraph 172**

- (a) Omit the paragraph (excluding footnotes 106 and 107); substitute:

172. Where the consideration is provided in instalments, exemption from WET and GST applies provided you do not re-import the wine and you export the wine within 60 days<sup>106</sup> after the earlier of:

- the day on which the entity receive any of the final instalment of the consideration for the supply of the wine; or
- the day the entity gives an invoice for the final instalment for the supply of the wine.<sup>107</sup>

- (b) In footnote 107, omit 'of the WET Act'.

**112. Paragraph 173**

Omit the paragraph, substitute:

173. You should retain evidence of the export in your records to support treating the wine as WET exempt.

**113. Paragraph 174**

Omit all occurrences of 'wine tax'; substitute with 'WET'.

**114. Paragraph 175**

- (a) In the first sentence, omit 'wine tax'; substitute 'WET'.

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- (b) In the last sentence, after the word 'Commissioner', insert: 'as set out in Appendix 1 of this Ruling'.

## 115. Paragraph 176

- (a) Omit the first sentence.
- (b) In the second sentence, omit 'wine tax'; substitute 'WET'.

## 116. Paragraph 177

Omit the paragraph (excluding footnote 109 and 110); substitute:

177. There are four standard grounds for quoting an ABN. You have a quoting ground if, at the time of quoting, you intend to:

- sell the wine by wholesale or indirect marketing sale while the wine is in Australia;
- sell the wine by any kind of sale while it is in Australia and you are, at the time of quoting, mainly a wholesaler (see paragraphs 180 and 181 of this Ruling for an explanation of when you are mainly a wholesaler);
- use the wine as a material in manufacture or other treatment or processing, whether or not it relates to or results in other wine; or
- make a supply of wine that will be GST-free.<sup>109</sup>

However, you are not entitled to quote unless you are registered for GST.<sup>110</sup>

## 117. Paragraph 178

Omit the paragraph (excluding footnote 111); substitute:

178. You have no grounds for quoting if you purchase or import the wine with the intention of applying the wine to your own use. Application to own use does not include using the wine as a material in manufacture or other treatment or processing of wine or other goods. If you purchase the wine for these purposes it can still be purchased under quote.<sup>111</sup>

## 118. Paragraph 179

Omit the paragraph; substitute:

179. You also have no grounds for quoting if you intend to place the wine in containers and sell it by retail, unless you are mainly a wholesaler.

## 119. Paragraph 180

Omit the paragraph (excluding footnote 112); substitute:

180. You are mainly a wholesaler at the time of quoting only if.<sup>112</sup>

- wholesale sales and indirect marketing sales account for more than half the total value of all sales of assessable wine you made during the 12 months ending at the time of quoting; or
- you have an expectation (based on reasonable grounds) that wholesale sales and indirect marketing sales will account for more than half of the total value of all of your sales of assessable wine during the 12 months starting at the time of quoting.

**120. Paragraph 181**

- (a) Omit 'an entity is'; substitute 'you are'.
- (b) Omit 'wine tax'; substitute 'WET'.

**121. Paragraph 182**

- (a) Omit 'A registered entity'; substitute 'You'.
- (b) Omit 'the entity has'; substitute 'you have'.
- (c) After the paragraph, insert new paragraph 182A:

182A. If you purchased wine for a price which included WET, you cannot on-sell the wine under quote. Any quote given to you for WET-paid wine will be ineffective and you will be liable for WET on the sale of the wine.<sup>114A</sup> However, where you have a subsequent dealing with the wine for a price that includes WET, you may be able to claim a WET credit for the WET you bore when you purchased the wine.<sup>114B</sup>

- (d) At the end of the second sentence of new paragraph 182A, insert footnote 114A

<sup>114A</sup> Section 13-32.

- (e) At the end of new paragraph 182A, insert footnote 114B.

<sup>114B</sup> Refer to paragraphs 199B and 199C of this Ruling.

**122. Paragraph 184**

- (a) Omit the paragraph (including footnote 116); insert:

184. From 1 July 2018 (and for 2018 vintage wine, from 1 January 2018)<sup>116</sup>, where you purchase wine from a producer, you must state in the quotation whether you intend to have a taxable dealing with the wine. That is, you must indicate whether:

- you intend to have a taxable dealing with the wine; or
- you intend to do any of the following:
  - make a GST-free supply of the wine;
  - use the wine as a material in manufacture or other treatment or processing; or
  - on-sell the wine under quote.

- (b) After '(and for 2018 vintage wine, from 1 January 2018)', insert replacement footnote 116:



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<sup>116</sup> Subsection 19(2) *Treasury Tax Laws Amendment (2017 Measures No. 4) Act 2017*. 2018 vintage wine is wine where at least 50% of the total volume of the wine resulted from source product that was crushed on or after 1 January 2018. Refer to paragraphs 97 to 98 of WETR 2009/2.

(c) After the paragraph, insert new paragraphs 184A to 184F:

184A. Where you provide a quote to an entity that is not the producer of the wine, there is no requirement to state whether or not you intend to have a taxable dealing.

184B. Where you state in the quote that you will have a taxable dealing with the wine you purchase, you will be liable to pay WET on your subsequent dealing, whether or not it would be otherwise taxable. This is because no exemption or exclusion from WET applies for wine if you state in the quote that you will have a taxable dealing with the wine, and you:

- make a GST-free supply of the wine;
- use the wine as a material in manufacture or other treatment or processing; or
- on-sell the wine under quote.<sup>116A</sup>

*Example 17 – wine subsequently sold under quote – exemption does not apply*

184C. *Dan's Dynamic Distributors purchases wine from the Howling Fog Winery. In the quote, Dan indicates an intention to have a taxable dealing with the wine.*

184D. *A week later, Dan's Dynamic Distributors receives a purchase order from Jose's Wholesalers to purchase the Howling Fog's wine. Jose's provides a quote to Dan's and Dan's sells the wine free of WET for \$350 (exclusive of GST).*

184E. *As Dan's had indicated to the Howling Fog that it would have a taxable dealing with the wine, Dan's is liable to remit WET on the sale of the wine on its business activity statement (BAS) as it is not covered by the exemption for quoting in section 7-10.<sup>116B</sup> Dan's must include the amount of \$101.50 at label 1C (29% of \$350) on its BAS.*

184F. *As Dan's will have a WET liability when it sells the wine to Jose's, Dan may choose not to accept the quote from Jose's and sell the wine to Jose's for a price that includes WET.*

(d) At the end of the last dot point in new paragraph 184B, insert footnote 116A

<sup>116A</sup> Section 5-50.

(e) At the end of the first sentence in new paragraph 184E, insert footnote 116B

<sup>116B</sup> Subsection 5-50(2).

## 123. Paragraph 185

Omit the paragraph.

**124. Paragraph 186**

Omit the paragraph; substitute:

186. If you are importing wine, and you are both entitled and wishing to obtain it free of WET under quote, you must quote your ABN to DHA. You can authorise your customs broker to quote your ABN on your behalf.

**125. Paragraph 187**

Omit the paragraph (excluding footnote 117); substitute:

187. If you are a purchaser and you are permitted to quote, you can quote on each purchase or, where appropriate, give a periodic quote to each supplier to cover your purchases of wine for periods up to one year.<sup>117</sup>

**126. Paragraph 190**

Omit the paragraph.

**127. Paragraph 191**

Omit the paragraph (excluding footnotes 119 and 120); substitute:

191. If you have given your supplier a periodic quotation and you make a purchase of wine from the supplier during the period covered by the quote in respect of which you are not entitled to quote, you must notify the supplier that you are not quoting for that purchase at or before the time of the purchase.<sup>119</sup> Failure to do so is an offence.<sup>120</sup>

**128. Paragraph 192**

(a) Omit the paragraph (including footnote 121); substitute:

192. If you have given a producer a periodic quotation which indicates you intend to make a taxable dealing of the wine, and for a particular purchase you do not intend on making a taxable dealing, you must notify the producer of your intention. Provided it is in the approved form (see Appendix 1 of this Ruling), you can provide the notification on any document (for example a purchase order) provided to the producer at or before the time of the sale. Failure to do so will give rise to a WET liability for you on your subsequent dealing, as no exemption will apply.<sup>121</sup>

(b) At the end of paragraph 192, insert replacement footnote 121:

<sup>121</sup> Section 5-50.

(c) After the paragraph, insert new paragraph 192A:

192A. If you have given a producer a periodic quotation which indicates that you do not intend to make a taxable supply of the wine, and for a particular purchase during the period covered by the periodic quote you do intend making a taxable supply of the wine, you can notify the producer of your intention. Provided it is in the approved form (see Appendix 1 of this Ruling) and is made at or before the time of the purchase, the notification can be made on any document (for example a purchase order) provided by you to the producer.

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## 129. Paragraph 193

- (a) Omit 'case'; substitute 'of the cases above'.
- (b) Omit 'Appendix A'; substitute 'Appendix 1'.
- (c) After the paragraph, insert new paragraphs 193A and 193B:

193A. We acknowledge that there may be times where you purchase wine from a producer under quote and you may not know whether the wine will, or will not, be the subject of a subsequent taxable dealing. Your quote must indicate your *intention at the time of making your quote*. As explained in paragraph 175 of this Ruling, if your quote states an intention to make a taxable dealing, and you subsequently do not have a taxable dealing, you will nonetheless be liable to WET on that subsequent dealing.

193B. Where you do not deal with the wine you have purchased in accordance with the statement you made in your quote to the producer, there is no mechanism for you to retrospectively amend your quotation.

## 130. Paragraph 195

Omit the first sentence; substitute 'In practice, where you are purchasing wine, this will allow you to claim exemption over the telephone, and provide the signed written quotation when paying the account.'

## 131. Paragraph 196

Omit the paragraph; substitute:

196. Where you order wine by facsimile, the full form of quotation should be used.

## 132. Paragraph 197

Omit the paragraph; substitute:

197. Where you purchase wine from a supplier by means of electronic data interchange, (for example, email) a quote can be sent electronically, providing that:

- you include all of the information as set out in the approved form in Appendix 1 of this Ruling; and
- the supplier agrees to accept the quote electronically.

## 133. Paragraph 198

- (a) Omit the first sentence; substitute 'Quotations of an ABN by a purchasing entity should be made by a person authorised to act for the entity.'
- (b) Omit 'wine tax'; substitute 'WET'.

**134. Paragraph 199**

(a) Omit the paragraph (excluding footnotes<sup>122</sup> to <sup>125</sup>); substitute:

199. The following are examples of situations where you are entitled to quote if you are purchasing wine (in all cases it is assumed that you are registered for GST and that if you are quoting to the producer of the wine, you indicate your intention as to whether you will make a taxable dealing with the wine, as explained by paragraph 184 of this Ruling).<sup>122</sup>

- You intend to sell the wine by wholesale.
- You intend to sell the wine by indirect marketing sales.
- You are a wine wholesaler (who sells exclusively or mainly by wholesale)<sup>123</sup> and intends to sell the wine.
- You are a winemaker who intends to blend the purchased wine with other wine.
- You are a winemaker who intends to use the wine for analysis and comparison with wine you are manufacturing.
- You are mainly a wine retailer, but you intend to sell the wine being purchased exclusively by wholesale.
- You intend to export the wine as a GST-free supply. An example of an export of wine being a GST-free supply is where it is exported (and is not re-imported) within 60 days (or such further period allowed by the Commissioner) after the earlier of the day any of the consideration is received or an invoice is issued for the sale of the wine.
- You are a duty-free store which sells to travellers who export the wine as accompanied baggage, and you operate under the sealed bag system (these sales are GST-free supplies by the duty-free store).
- You are a hospital which provides the wine to patients as part of a hospital meal (supply of the wine to patients as part of their meals is a GST-free supply by the hospital as provision of the wine is directly related to hospital treatment).
- You are a religious organisation which intends to supply the wine as an integral component of a religious service (this is a GST-free supply by the religious organisation).<sup>124</sup>
- You are a University/TAFE College which will supply the wine to students as part of course materials for a winemaker's course (where the students will consume or transform the wine this is a GST-free supply by you).<sup>125</sup>

(b) After the paragraph, insert new paragraphs 199A to 199F and signature block:

199A. Even if you have an entitlement to quote, if the supplier to whom you provided your quote purchased the wine for a price that included WET, your quote will be ineffective to exempt the supplier's sale to you from WET and the supplier cannot accept your quote. In this situation, the supplier will be liable for WET on the sale to you. However, you may be entitled to a credit for the WET where you have a further taxable dealing with the wine.<sup>125A</sup>

## WET credits

199B. There are five broad grounds for WET credits available under the WET Act:

- credits for overpaid WET;
- credits to avoid wine being taxed twice;
- producer rebates;
- import related credits; and
- credits for bad debts.<sup>125B</sup>

199C. Examples of common situations where you may be entitled to claim a WET credit include:

- You purchase wine to sell by wholesale and, although satisfying the requirements to quote, you do not quote your ABN and WET is included in the purchase price. You then sell the wine for a price including WET. You are entitled to a credit for the WET borne when you purchased the wine at the time of the subsequent assessable dealing.<sup>125C</sup>
- You are a retailer/wholesaler that sells wine by wholesale from stock you purchased at prices which included WET. You are required to pay WET on the wine sold by wholesale, but you are entitled to a credit for the WET borne on the wine when you purchased it.<sup>125D</sup>
- You sell wine by wholesale in taxable circumstances and pay WET on the sale. Subsequently, you allow a settlement discount on the sale. You are entitled to a credit for the amount of WET included in the discount allowed.<sup>125E</sup>
- You sell wine by wholesale and pay WET on the sale. Part or all of the amount of the sale is later written off as a bad debt. You are entitled to a credit for a proportion of the WET paid equal to the proportion of the debt written off.<sup>125F</sup>
- You are a retailer and you purchase bulk wine at a price which includes WET. You bottle the wine, and sell the bottled wine by retail. You have a liability to pay WET on the bottled wine when it is sold by retail<sup>125G</sup> and you are entitled to a credit of the WET previously borne on the wine.<sup>125H</sup>

***Agreement with Commissioner on amount of credit***

199D. Section 17-40 provides that the Commissioner may enter into an agreement with you regarding the manner of calculating and claiming the WET credits to which you are entitled. This allows for methods of calculating the amount of credit where you are not able to or would have difficulty in determining the amount of credit. It does not allow for credits in circumstances other than those listed in the WET Credit Table in section 17-5.

199E. We are aware of the following scenario where an entity may be unable to establish the amount of credit available. An entity in one of these situations can utilise the method stated. Alternatively, they may seek to enter into an agreement with the Commissioner.

- An entity purchases wine from a wine retailer and the invoice for the wine purchased does not specify the amount of WET borne. The entity then on sells the wine as a wholesale sale on which they are liable to WET. The entity is entitled to a credit of WET<sup>125I</sup> for the amount of WET borne. Where the entity is not in a position to know the amount of WET they have actually borne on the wine, they may calculate the amount borne as follows:

*29% of half the purchase price of the wine (including WET and GST) less any WET included in the price that has been refunded or credited to the entity.*

**Date of effect**

199F. This Ruling applies both before and after its date of issue. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

**Commissioner of Taxation**

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- (c) At the end of new paragraph 199A, insert footnote 125A:  
<sup>125A</sup> See paragraphs 199B to 199E of this Ruling on credits.
- (d) At the end of new paragraph 199B, insert footnote 125B:  
<sup>125B</sup> The WET Credit Table in section 17-5.
- (e) At the end of the first dot point in new paragraph 199C, insert footnote 125C:  
<sup>125C</sup> Credit Ground CR4 in the WET Credit Table in section 17-5.
- (f) At the end of the second dot point in new paragraph 199C, insert footnote 125D:  
<sup>125D</sup> Credit Ground CR4 in the WET Credit Table in section 17-5.
- (g) At the end of the third dot point in new paragraph 199C, insert footnote 125E:  
<sup>125E</sup> Credit Ground CR1 in the WET Credit Table in section 17-5.
- (h) At the end of the fourth dot point in new paragraph 199C, insert footnote 125F:

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<sup>125F</sup> Credit Ground CR15 in the WET Credit Table in section 17-5.

- (i) In the fifth dot point in new paragraph 199C, after 'sold by retail', insert footnote 125G:

<sup>125G</sup> Assessable Dealings AD2f and AD12f in the Assessable Dealings Table in section 5-5.

- (j) At the end of the fifth dot point in new paragraph 199C, insert footnote 125H:

<sup>125H</sup> Credit Ground CR4 in the WET Credit Table in section 17-5.

- (b) After the new signature block, insert Appendix 1 and new paragraph 199G:

## Appendix 1 – Approved quoting forms

199G. The approved quoting forms as referred to in paragraphs 183 to 197 of this Ruling are provided.

### A) One-off quote

A quotation of an ABN should be in the following form:

#### Quotation under the *A New Tax System (Wine Equalisation Tax) Act 1999*.

The entity named below hereby quotes Australian Business Number (insert number)

The entity hereby notifies you that it:

- ☐ intends to have a taxable dealing with the wine\*
- ☐ intends to\*
  - use the wine as an input into manufacture or other treatment or processing, or
  - make a GST-free supply of the wine, or
  - sell the wine to an entity quoting its Australian Business Number

\* If the entity is purchasing the wine from a wine producer it must indicate which of the above is applicable to it by placing a cross in the relevant box. Only one box should be completed

Name of entity to whom quote is made

Australian Business Number of entity to whom the quote is made

Name of entity quoting

Name of individual authorised to quote

Signature of individual authorised to quote

Date

**B) Periodic quote**

A periodic quotation of an ABN should be in the following form:

**Quotation under the *A New Tax System (Wine Equalisation Tax) Act 1999*.**

The entity named below hereby quotes Australian Business Number (insert number) \_\_\_\_\_ in respect of all wine purchased during the period \_\_\_\_\_ to \_\_\_\_\_ inclusive, except wine in respect of which a separate one-off quotation has been provided, and wine in respect of which the entity notifies you to the contrary at or before the time of the relevant assessable dealing with that wine.

- ☐ The entity declares that at the time of making this periodic quote it intends to have a taxable dealing with all the wine it purchases, however, it undertakes to notify you at or before the time of the relevant assessable dealing if this intention changes for a particular purchase.\*
- ☐ The entity declares that at the time of making this periodic quote it intends to:
- use the wine as an input in manufacture or other treatment or processing, or
  - make a GST free supply of the wine
  - sell the wine to an entity quoting its Australian Business Number

for all the wine it purchases, however, it undertakes to notify you at or before the time of the relevant assessable dealing if this intention changes for a particular purchase.\*

**\*If the entity is purchasing the wine from a wine producer it must indicate which of the above is applicable to it by placing a cross in the relevant box. Only one box should be completed.**

Name of entity to whom quote is made

\_\_\_\_\_

Australian Business Number of entity to whom quote is made

\_\_\_\_\_

Name of entity quoting

\_\_\_\_\_

Name of individual authorised to quote

\_\_\_\_\_

Signature of individual authorised to quote

\_\_\_\_\_

Date

\_\_\_\_\_

Note: The maximum period that can be covered by a periodic quotation is one year.



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## C) Not entitled to quote for a purchase covered by periodic quote

Where an entity has a periodic quotation in place but it is not entitled to quote on a particular transaction it should provide the supplier with a notification in the following form:

### **Notification for the purposes of subsection 13-15(3) of the *A New Tax System (Wine Equalisation Tax) Act 1999*.**

The entity named below hereby notifies you that it is not quoting for the purchase of the following wine:

Description of the wine

\_\_\_\_\_

Date of transaction

\_\_\_\_\_

Australian Business Number of entity to whom periodic quote was made

\_\_\_\_\_

Name of entity which made the periodic quote

\_\_\_\_\_

Australian Business Number of entity which made the periodic quote

\_\_\_\_\_

Name of individual authorised to make this declaration

\_\_\_\_\_

Signature of individual authorised to make this declaration

\_\_\_\_\_

Date

\_\_\_\_\_

## D) Quotation to Department of Home Affairs

A quotation to the Department of Home Affairs should be in the following form:

### **Quotation under the *A New Tax System (Wine Equalisation Tax) Act 1999*.**

Australian Business Number (insert number) \_\_\_\_\_ is hereby quoted in relation to the importation of wine as described above at line number(s)

\_\_\_\_\_

(insert relevant line numbers)

### **Note:**

- The Customs Broker **must** enter the client's Australian Business Number in the space provided in the quotation form.
- The Customs Broker **must** specify in writing (in the space provided in the quotation form), the particular wine for which they are quoting their client's Australian Business Number.

**135. Paragraph 200**

- (a) Omit the heading; substitute:

**Appendix 2 – Compliance guide**

**!** This Appendix contains information to assist taxpayers in complying with relevant tax laws. Provided you follow the advice in this appendix in good faith and consistently with the ruling section, the Commissioner will administer the law in accordance with this guide.

**How do you pay the WET?**

- (b) Omit the paragraph (excluding footnotes 126 and 126A); substitute:

200. Where you have a taxable dealing with wine (other than the local entry of imported wine), your net amount<sup>126</sup> for a tax period includes the sum of all amounts of WET payable by you that are attributable to that tax period less the sum of all amounts of WET credits to which you are entitled that arise during that tax period.<sup>126A</sup> This is done by entering the total amount of WET payable against Label 1C on your activity statement. The total of any WET credits is entered against Label 1D on your activity statement.

**136. Paragraph 201**

Omit the paragraph; substitute:

201. If you import wine you are required to pay the WET to DHA at the time of the customs dealing unless you quote your ABN. This is so even where you have received approval from the Commissioner to defer the payment of GST on taxable importations.

**137. Paragraph 202 to 206**

Omit the paragraphs (excluding footnotes 127 and 128) and heading; substitute:

**When do you pay the WET?**

202. For a taxable dealing with wine that is a supply for GST purposes, the WET payable is attributable to the same tax period or tax periods as the GST payable on the taxable supply.<sup>127</sup> However, if the time of the dealing occurs after the end of that tax period or periods, the WET payable may be treated as being attributable to the tax period in which the time of the dealing occurs.<sup>128</sup>

203. In the case of assessable dealings which are types of sales, the Assessable Dealings Table in section 5-5 specifies that the time of the dealing is the 'time of sale'. As discussed at paragraphs 92 to 96 of this Ruling a sale takes place when property passes from the seller to the purchaser. For example, a contract for a wholesale sale of wine may be subject to a *Romalpa* or retention of title clause whereby the title in the wine passes when payment is made. If you sell wine under a contract containing a Romalpa clause, and you do not account for GST on a cash basis, the GST would commonly be attributed to the tax period in which you issue an invoice. However, the sale, which is the taxable dealing, does not occur until a later period and the WET is attributable to the tax period in which the sale occurs.

204. Furthermore, in circumstances where an assessable dealing consists of a sale, and the purchaser uses the wine after the time when the contract is made but before the time when title passes to the purchaser, section 5-10 specifies that it is the time the purchaser uses the wine that is taken to be the time of the sale. In these circumstances the WET is attributable to the tax period when the use occurs.

205. The term 'use' is not defined in the WET Act. In addition to the on-selling of wine by a purchaser, we consider that 'use' for the purposes of section 5-10 would include:

- consuming the wine;
- giving the wine away;
- transferring the property in the wine under a contract that is not a contract for sale;
- granting another person any right or permission to use the wine; or
- using the wine as part of the manufacturing or processing of other wine or other goods.

206. For a taxable dealing that is not a supply for GST purposes (for example, an application to own use), the WET payable is attributable to the tax period in which the time of the dealing occurs.

## **138. Paragraphs 207 to 210**

Omit the paragraphs including headings and footnotes 130 to 144.

## **139. Paragraph 211**

Omit the paragraph including heading (but excluding footnote 145); substitute:

### **How do you claim WET credits?**

211. Where you are registered for GST, you can claim WET credits as a reduction in your net amounts due under the GST Act.<sup>145</sup> This is done by entering the total amount of WET credits being claimed against Label 1D on your business activity statement. There is no monetary limit for credits claimed as reductions in a registered entity's GST liability.

**140. Paragraph 212**

Omit paragraph; substitute:

212. If you are not registered or required to be registered for GST, you can claim credits as a direct refund from the Commissioner.<sup>146</sup> Direct refunds are not available for amounts totalling less than A\$200.<sup>147</sup> However, individual claims may be aggregated to reach the A\$200 minimum amount.

**141. Paragraph 213**

Omit the paragraph (including footnote 148).

**142. Paragraph 214**

Omit 'wine tax'; substitute 'WET'.

**143. Paragraph 215**

Omit the paragraph; substitute:

215. If you are registered or required to be registered for GST, claims for WET credits are subject to a time limit, generally 4 years from the date you lodged your return for the tax period.

**144. Paragraph 216**

Omit the paragraph (excluding footnote 151); substitute:

216. If you are not registered and not required to be registered for GST, claims for WET credits must be made within 4 years of the time when the WET credit arises.<sup>151</sup>

**145. Paragraph 217 including heading**

Omit the paragraph (excluding footnote 152) and heading; substitute:

**What records do you need to keep and for how long do you need to keep them?**

217. You must keep records of all transactions that relate to the dealing or credit claim for the longest of:

- 5 years after the completion of the transactions or acts to which they relate;
- the period of review for any assessment of a net amount to which those records, transactions or acts relate. In practical terms this means:

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- 4 years from the day after you lodge your GST return that takes into account the WET payable or WET credit entitlement unless the period of review is extended in the circumstances set out in section 155-35 of Schedule 1 to the TAA;
- for a customs dealing, 4 years from the day after Customs gives you an import declaration advice or a self-assessed clearance declaration advice unless the period of review is extended in the circumstances set out in section 155-35 of Schedule 1 to the TAA; and
- where an assessment has been amended under Subdivision 155-B of Schedule 1 to the TAA, the refreshed period of review that applies to the latest amendment. That is, 4 years after the day on which the Commissioner gave notice of the last of the amendments.<sup>152</sup>

## 146. Paragraph 218

Omit the paragraph (excluding footnote 153); substitute:

218. The records must be in English or readily accessible and convertible into English. The WET liability must also be able to be readily determined from your records.<sup>153</sup>

## 147. Paragraphs 219 and 220

Omit the paragraphs (excluding footnotes 154 and 155) including heading; substitute:

### **Are there anti-avoidance provisions for WET?**

219. Division 165 of the GST Act applies in relation to WET in the same way that it applies to GST.

220. This is because:

- WET payable on taxable dealings (other than custom dealings) is included in the net amount under Division 17 of the GST Act.<sup>154</sup>
- Amounts of WET payable on customs dealings are treated as if they were amounts payable under the GST Act.<sup>155</sup>

**148. Paragraph 221**

Omit the paragraph, Detailed contents list and signature block; substitute:

221. The following is a detailed contents list for this Ruling:

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<b>Previous rulings</b>	<b>7</b>
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## 149. References, Appendices A and B

Omit the References and Appendices A and B; substitute:

## References

### *Previous draft:*

Not previously issued as a draft

### *Related Rulings/Determinations:*

GSTR 2000/37; GSTR 2002/6; TR 2006/10;  
WETR 2009/2; WETR 2004/1

### *Legislative references:*

- ANTS(WET)A 1999
- ANTS(WET)A 1999 5-5
- ANTS(WET)A 1999 5-5(2)
- ANTS(WET)A 1999 5-5(2)(c)
- ANTS(WET)A 1999 5-5(3)
- ANTS(WET)A 1999 5-10
- ANTS(WET)A 1999 5-15
- ANTS(WET)A 1999 5-20
- ANTS(WET)A 1999 5-25
- ANTS(WET)A 1999 5-30
- ANTS(WET)A 1999 5-50
- ANTS(WET)A 1999 5-50(2)
- ANTS(WET)A 1999 Div 7
- ANTS(WET)A 1999 7-5
- ANTS(WET)A 1999 7-10
- ANTS(WET)A 1999 7-15
- ANTS(WET)A 1999 7-20
- ANTS(WET)A 1999 7-25
- ANTS(WET)A 1999 9-25
- ANTS(WET)A 1999 9-25(2)
- ANTS(WET)A 1999 9-25(3)
- ANTS(WET)A 1999 9-30
- ANTS(WET)A 1999 9-35
- ANTS(WET)A 1999 9-40
- ANTS(WET)A 1999 9-45
- ANTS(WET)A 1999 9-65
- ANTS(WET)A 1999 9-70
- ANTS(WET)A 1999 13-5
- ANTS(WET)A 1999 13-5(1)
- ANTS(WET)A 1999 13-5(1)(d)
- ANTS(WET)A 1999 13-5(2)
- ANTS(WET)A 1999 13-5(3)
- ANTS(WET)A 1999 13-10
- ANTS(WET)A 1999 13-15
- ANTS(WET)A 1999 13-15(1)
- ANTS(WET)A 1999 13-15(3)
- ANTS(WET)A 1999 13-15(4)
- ANTS(WET)A 1999 13-20
- ANTS(WET)A 1999 13-32
- ANTS(WET)A 1999 17-5
- ANTS(WET)A 1999 17-10(1)
- ANTS(WET)A 1999 17-10(2)
- ANTS(WET)A 1999 17-10(3)
- ANTS(WET)A 1999 17-15
- ANTS(WET)A 1999 17-40
- ANTS(WET)A 1999 21-5
- ANTS(WET)A 1999 21-10
- ANTS(WET)A 1999 21-15
- ANTS(WET)A 1999 23-10
- ANTS(WET)A 1999 25-5
- ANTS(WET)A 1999 25-5(1)(a)
- ANTS(WET)A 1999 25-5(1)(b)
- ANTS(WET)A 1999 25-5(1A)
- ANTS(WET)A 1999 25-5(1A)(a)
- ANTS(WET)A 1999 25-5(1A)(b)
- ANTS(WET)A 1999 25-5(1A)(c)
- ANTS(WET)A 1999 27-5
- ANTS(WET)A 1999 27-10
- ANTS(WET)A 1999 27-15(1)
- ANTS(WET)A 1999 Div 31
- ANTS(WET)A 1999 31-1
- ANTS(WET)A 1999 31-2
- ANTS(WET)A 1999 31-3
- ANTS(WET)A 1999 31-3(b)(ii)
- ANTS(WET)A 1999 31-4
- ANTS(WET)A 1999 31-5
- ANTS(WET)A 1999 31-6
- ANTS(WET)A 1999 31-7
- ANTS(WET)A 1999 31-15
- ANTS(WET)A 1999 33-1
- ANTS(WET)R 2000
- ANTS(WET)R 2000 Div 25
- ANTS(WET)R 2000 25-5.02(1)
- ANTS(WET)R 2000 25-5.02(1)(b)
- ANTS(WET)R 2000 25-5.02(2)
- ANTS(WET)R 2000 25-5.03
- ANTS(WET)R 2000 31-2.01
- ANTS(WET)R 2000 31-3.01
- ANTS(WET)R 2000 31 3.01(a)
- ANTS(WET)R 2000 31 3.01(b)
- ANTS(WET)R 2000 31 3.01(c)
- ANTS(WET)R 2000 31-3.01(2)
- ANTS(WET)R 2000 31-3.01(3)
- ANTS(WET)R 2000 31-3.01(3)(a)
- ANTS(WET)R 2000 31-3.01(3)(b)
- ANTS(WET)R 2000 31-3.01(3)(c)
- ANTS(WET)R 2000 31-4.01
- ANTS(WET)R 2000 31-6.01
- ANTS(GST)A 1999
- ANTS(GST)A 1999 9-15

- ANTS(GST)A 1999 9-75
- ANTS(GST)A 1999 13-20
- ANTS(GST)A 1999 Div 17
- ANTS(GST)A 1999 Subdiv 38-D
- ANTS(GST)A 1999 38-185(1)
- ANTS(GST)A 1999 38-185(3)(f)
- ANTS(GST)A 1999 Div 153B
- ANTS(GST)A 1999 Subdiv 153-B
- ANTS(GST)A 1999 Div 165
- ANTS(GST)A 1999 168-5(1A)
- ANTS(GST)A 1999 168-5(1A)(c)
- ANTS(GST)A 1999 168-5(1A)(d)
- ANTS(GST)A 1999 195-1
- ANTS(GST)R 1999 38-185.01
- ANTS(GST)R 1999 Div 168
- ANTS(GST)R 1999 168-5.04
- ANTS(GST)R 1999 168-5.05
- ANTS(GST)R 1999 168-5.06
- ANTS(GST)R 1999 168-5.07
- ANTS(GST)R 1999 168-5.09
- ANTS(GST)R 1999 168-5.10B
- ANTS(GST)R 1999 168-5.10C(1)(c)
- ANTS(GST)R 1999 Sch 5
- TAA 1953
- TAA 1953 Sch 1 Subdiv 155-B
- TAA 1953 Sch 1 155-35
- TAA 1953 Sch 1 382-5
- Customs Act 1901 96B

- Customs Act 1901 113
- Customs Tariff Act 1995 Sch 4
- Treasury Law Amendment (2017 Measures No.4) Act 2017 19(2)

*Case references:*

- Bristol-Myers Company Pty Ltd v. Commissioner Of Taxation (1990) 23 FCR 126; 90 ATC 4553; (1990) 21 ATR 417
- EMI (Australia) Ltd v. Federal Commissioner of Taxation (1971) 45 ALJR 349; 71 ATC 4112; (1971) 2 ATR 325

*Other references:*

- Australia New Zealand Food Standards Code
- Explanatory Memorandum to the A New Tax System (Wine Equalisation Tax) Bill 1999
- Explanatory Statement to Select Legislative Instrument 2009 No.234
- Halsbury's Law of England, 1983, vol. 41, 4<sup>th</sup> edn, Butterworths, London, paragraph 601
- The Macquarie Dictionary online

This Addendum applies before and after date of issue.

**Commissioner of Taxation**

29 June 2018

## ATO references

NO: **1-CHKFNUU**

ISSN: 2205-6173

BSL: ITX

ATOlaw topic: Excise ~~ Wine equalisation tax ~~ Other

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