

CHAIN  
OF  
PONDS



## **Submission to Treasury regarding the reform of the WET rebate eligibility criteria**

I have followed the debate on proposed changes to the Wine Equalisation Tax Rebate with interest and great concern, at the direction the changes are heading and am making this submission to provide some feedback from a small Adelaide Hills producer's perspective.

Chain of Ponds Wines was established in 1985 and was one of the pioneers of the industry in the Adelaide Hills. We remain a relatively small privately owned business, but produce approximately 25,000 cases of wine annually. We have our own team which handles sales in South Australia and have distributors in NSW, ACT, Victoria, Queensland Tasmania and the Northern Territory who handle sales in those states and territories. We also sell our wines in a number of export markets including China, Japan, Philippines and the UAE and are currently in negotiations to re-enter the UK market.

Chain of Ponds Wines originally had a substantial investment in vineyards, but over the years we have seen the merit in outsourcing that activity to specialist grape growers and hence have divested the vineyards and now source grapes from a number of contracted vineyards across the Adelaide Hills. This gives us greater flexibility in grape sourcing, allowing us to smooth out peaks and troughs in demand and also gives us access to different micro-climates and terroir which enhances the quality of our wine.

Over the years we have had various small batch processing facilities but two years ago entered into a strategic alliance with another winery which allows us to use their facilities. We still employ our own winemaker and he oversees the production of our wines, but this occurs in a winery not owned or leased by us.

I have read the **Wine Equalisation Tax Rebate: Tightened Eligibility Criteria** Implementation Paper dated September 2016 and provide the follow responses to the questions raised.

### **1. For rebatable wine, is the proposed definition of packaged and branded wine appropriate?**

Yes the definition of packaged and branded wine is appropriate. However, I do not support the removal of the WET rebate on bulk and unbranded wine.

The proposal to remove the producer rebate from bulk wine will have a massive detrimental impact on many growers and wine producers in the Adelaide Hills and I imagine across Australia. I know many growers have legitimately secured a liquor licence and are converting surplus fruit into bulk wine, which they then sell to other wine producers. There is a market for this wine, they are legitimately making wine and participating in the market, so why should they be denied the producer rebate on these sales? The Wine Equalisation Tax is applied to assessable dealings in wine and wine products, which obviously include sales of bulk and unbranded wine and the WET rebate should be available on those products.

In restricting the producer rebate to branded, bottled wine I imagine the intention is to cut out the "operators" who have been buying parcels of bulk wine, blending them together (to satisfy the ATO's "manufacturing" requirement), bottling and selling the wine and then claiming the producer rebate. I think everyone would agree that this represents a rort on the system and that these people should be denied the producer rebate. However, the way to achieve that is by changing the ATO's "manufacturing" definition, rather than by denying the producer rebate to a licensed wine producer, who is legitimately entitled to claim that rebate.

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The legislative changes in late 2012 which introduced the concept of “Earlier WET” have largely removed the incentive for such ventures and will also have eliminated the double dipping which was prevalent. If there is a need to go further, then change the ATO’s “manufacturing” definition, so it limits eligibility to the producer which crushes and ferments the grapes to make the wine, in much the same way as the SA legislation does (ref Liquor Licensing Act 1997 Sec 39(2)(c)).

**2. For eligible producers, how should a winery ownership and leasing test be applied?**

No winery ownership or leasing test tests should be required. Imposing such an eligibility criteria will undoubtedly have a massive detrimental impact on many small wineries and others legitimately engaged in the wine industry.

There are possibly 3,000 wine businesses in Australia, the vast majority of which would describe themselves as being a “winery”, but I would be surprised if there were more than say 500 proper wineries in the whole of Australia. The other 2,500 so called “wineries” crush, ferment and mature their wines at the various contract winemaking facilities, which have been established around the wine regions of Australia. If such an eligibility criteria is to be introduced, then these “wineries” will be denied eligibility to claim the WET rebate. The numbers in the Adelaide Hills are a lot smaller, but equally marked; there are currently 88 wine producers in the region (*ref* <http://www.adelaidehillswine.com.au/wine/producers>), but probably only 15 real wineries.

The loss of the WET rebate for these disenfranchised wineries will have a huge detrimental impact on these businesses. Indeed in many instances it will lead to the failure of those businesses, with consequential negative impacts on employment and economic activity in the regional areas where these businesses are located.

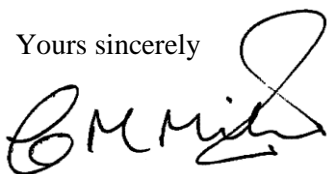
I must declare a vested interest, in that Chain of Ponds is a virtual winery, of the type that may be denied eligibility to the producer rebate. We own neither a winery nor vineyards, but I do not believe anyone would see us other than as a legitimate wine producer, with a well established brand. I find the concept of linking eligibility to claim the producer rebate to the ownership of winery somewhat bizarre. Why should Chain of Ponds be denied access to the producer rebate simply because we chose to gain access to winery and indeed vineyard assets by paying an “economic rent” to a contract winery and to a number of vineyard owners for their grapes?

Chain of Ponds has chosen to invest in the brand, rather than in the hard assets of wineries and vineyards which underpin winemaking, but which are accessible by means alternative to ownership; and I fail to see why that should disqualify us from claiming the producer rebate.

**3. What is the impact from a 1 July 2019 start date of the tightened eligibility criteria? How might this change from an earlier transition period?**

I do not believe the eligibility criteria should be tightened. However, if eligibility is to be constrained in some way then there should be a sufficiently long transition period to allow businesses to restructure operations and minimise disruption. I would have thought five years a more appropriate time frame given the long production lead times and long term supply contracts (often 5 to 10 years) which are common in the wine industry.

Yours sincerely



**Chris Milner**  
Director

3 October 2016