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De BORTOLI

FAMILY WINEMAKERS

FOUR GENERATIONS OF WINEMAKING

Email: **wetrebate@treasury.gov.au**

Submission on response to:

Wine Equalisation Tax Rebate: Tightened Eligibility Criteria Implementation Paper September 2016

Please find below our submission addressing the discussion questions:

1. Definition of packaged or branded wine

a. Trademarks

Trademarks must be owned by the winery. Exclusive licensing could be open to abuse in the fact that a major retailer may hold many different trade marks and may exclusively licence the trade marks (at a relatively low rate or even a "pepercorn" rental) to a wine supplier so they may qualify for a rebate. The major retailer would then be able to use their market power and demand a significant portion of the rebate be handed back to the retailer.

b. Packaging Size

The container size not exceeding 5 Ltrs appears reasonable however it should not extend to kegs for cider as the logic is inconsistent. There is now a trend towards house wines on tap which may be in vessels of up to 20 litres. The limit needs to be low to stop artificial blending arrangements but must be consisted across all products subject to WET.

c. Cider, Perry and Mead

Similar criteria must be applied to other products subject to WET as is applied to wine. Cider and perry must be produced from Australian fresh fruit and not from concentrate. Likewise mead must be produced using Australian honey.

2. Eligible producer test

a. Definition of a winery

The definition of a winery needs to be very tight. The proposed definition is loose and could be achieved easily. Clarification, blending or aging are very easy criteria to achieve in isolation. The criteria should involve as a minimum fermentation of fresh fruit and then at least one of the other criteria should apply.

If a winemaker leases a premises then the lease must be an exclusive long term lease (a minimum of 3 years). Any sub leasing arrangements would dilute the intention of “investment in the industry” as many winemakers would be able to utilise a single winery. If sub leasing were to be permitted then there would be a logical progression from ownership to leasing arrangements.

b. Investment in the wine industry

The investment criteria in a winery must be at least 51%. A 40% criteria is subjective and would potentially allow 2 parties to claim the rebate with an investment in a single winery. 2 parties holding 40% shareholding each in a winery would be able to each in their own right claim control. There would be no ambiguity using a 51% control test.

To further demonstrate investment in the wine industry at least 85% of the fruit that go into a wine claiming the rebate must be estate grown. This criteria is consistent with the Label Integrity Program Guidelines.

As a final step a winery must only be entitled to claim the rebate on products they have sold directly by a retail channel ie Cellar door, mail order or internet sales. This would then nearly completely remove any foreign entity (including New Zealand) from accessing the rebate.

All of these conditions indicate a significant investment in the wine industry and contribute to employment and investment in regional communities and remove any potential for abuse/rorting of the WET rebate. The current structure is seriously undermining the integrity and profitability of the entire wine industry as the rorts continue to grow pushing down wine prices and hence grape prices to independent grape growers not accessing the rebate.

3. Start date of eligibility criteria

The biggest issue with the rebate are the organisations that are “rorting” the rebate and not the size of the rebate. As such the eligibility should be addressed before the size of the rebate is addressed. The changed criteria should happen at the commencement of a financial year. The next available opportunity would be 1 July 2017.

This is more than sufficient time as the people who would be impacted by the change should not have been claiming the rebate. They have been abusing the system and not acting within the spirit of the legislation for years so it seem contrary to the goals of the proposed changes to allow them to keep abusing the rebate for another 2 years.

The rebate being claim on bulk wine should be removed immediately as this is a major distortion as is easily rectified however you would expect a significant movement to packaged product but this would be addressed in time by the tightened rules.

Please address and queries to:

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