

Submission to the Australian Federal Government consultative process on reform to the WET rebate eligibility criteria.

Saturday September 16, 2016

Dear Sir or Madam:

As a wine producer concerned with the future of our industry, I feel it important to participate in the consultation process regarding proposed changes to the Wine Equalisation Tax rebate, and in particular the definitions of 'eligible producer' under the act. My response to the Government's discussion questions are as follows:

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

Yes, the definition of packaged and branded wine is appropriate.

If a trademark approach is used, what types of trademarks should be permitted (e.g. exclusively licensed trademarks) and what would be the impact?

Common law and registered trademarks should be permitted, licenced trademarks permitted unless they entitle one business or associated businesses access to multiple rebates.

2. For eligible producers, how should a winery ownership and leasing test be applied? What should be the nature and extent of investment in the wine industry required to access the rebate, and how can this be implemented?

No asset tests, 'significant interest' or 'skin in the game' tests should be required. See below for further explanation. Any eligibility criteria based on asset levels introduces unnecessary complexity and regulation, will be difficult to implement and administer, will be easily circumvented, and will exclude some legitimate producers.

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?

If eligibility criteria must be tightened, the transition period should allow time for businesses to effectively restructure their operations to minimise disruption and to reflect the long lead times from production decision to commercial sale.

While questions 1 and 3 are important issues, for my business and livelihood question 2 in particular is critical. I offer the following supporting information:

As the government's discussion paper has noted, there are many successful non-traditional business models operating in the Australian wine Industry today. The government's discussion paper goes some way to acknowledging this, but under any of these proposed alternative definitions my particular business model would still be ineligible.

In my case a friend and myself, who both at the time worked full time in the wine industry and lived in the Yarra Valley, bought a ton of fruit from an independently owned vineyard in 2012 and made a wine by renting space & equipment in a larger winery. The wine was well received and sold out quickly so the following year we purchased 6 ton from three different independent growers in Victoria. We invested our own money, started acquiring equipment and have now built the business up to 30 ton (2,000 cases), along the way buying a grape press, multiple fermenters, tanks, barrels etc. All up our equipment investment has run well over \$100,000 now, not to mention all the money (approx. \$150,000) we have spent on buying grapes from independent regional growers (usually family run businesses), transportation, rental fees paid to larger wineries for space & equipment, labels, bottles, boxes etc.

The wines are now sold Australia wide, receive consistently great reviews from well-respected media and are generally considered to be on the more “exciting” end of the spectrum. The business is now poised to start paying us wages after 5 years of self funded slog & to then expand further. Yet as we rent “dead space” in a larger winery to produce our wines and don’t own or have a long term lease on our own space or a vineyard we would be ineligible for the WET rebate under eligibility criteria that is based around “bricks & mortar” or the ownership or long term lease on a vineyard. This ineligibility would kill our fledgling regionally based business & prevent us from ever attaining our longer term goals such as establishing a production space &/or buying or leasing a vineyard etc.

The Government is ignoring state regional and national industry bodies, all of whom agree that there is no need for asset based eligibility criteria for the WET rebate.

Independent financial modelling undertaken by PWC for the Winemakers Federation of Australia has clearly demonstrated that almost all of the so called ‘roting’ of the rebate and recuperation of lost taxation revenue can be remedied by simply eliminating the rebate for bulk and unbranded wine, and by tightening the rules regarding ‘associated entities’ claiming multiple rebates.ⁱ I, my regional association, state association and national industry body are all supportive of these measures.

I do not support the recommendation of the Government’s Consultative group (Oct 2015) that

“The business owns or leases one out of three of a vineyard, winery (production facilities or fermentation facilities) or cellar door outlet”ⁱⁱ

Any imposition of ‘skin in the game’ or asset based eligibility criteria unfairly penalises younger and new entrants to the industry, who do not have the financial capacity to secure major leases and asset purchases.

Furthermore, the WET rebate has enabled many quality brands to emerge and contribute positively to the Australian wine landscape. These are the innovators, the ones who have been able to take risks with new styles, new varieties and new packaging. They have helped create a fertile and vibrant wine market that is necessary to capture the imagination of the next generation of educated wine consumers. Many of these producers could never have survived beyond the first few vintages given the ‘perfect storm’ of adverse market conditions seen in the wine industry over the past five years. Several of these young producers are now among Australia’s brightest stars, championed by domestic and international wine journalists and the world’s hottest restaurants and bars. They are the future of our wine industry, and if nurtured they will invest back in the industry, in vineyards, wineries, and other links in the supply chain.

Innovation in the wine industry should be encouraged and supported, particularly at a time when the industry desperately needs to shed its 'commodity' image and instead be known for quality, uniqueness, and driving new wine trends. Other agricultural industries are being actively encouraged to develop low-asset business models, and to utilise existing infrastructure. This is fundamentally efficient. The government however appears to be encouraging the wine industry to do the opposite.

As a long-term, committed wine producer, I implore you to remove the 'lease or own a winery' provisions and any associated physical asset-based criteria for eligibility for the WET rebate. Such changes will likely cause significant collateral damage to my business and to the future of our industry.

Sincerely,

David Chatfield
Winemaker/Director
Out of Step Wine Co Pty Ltd
6 McKenzie Ave
Healesville Vic 3777
Email: dave@outofstepwineco.com
Mob: 0419 681 577

ⁱ PWC report to WFA, Appendix F: *Returning WET Rebate to Fairness and Original Policy Intent - Supporting Advice on the Impact to Government Revenue*, 2015, pp iii-vi

ⁱⁱ *Wine Equalisation Tax Rebate Consultative Group report* October 2015, p 5.