

EXPOSURE DRAFT

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Inserts for
**Treasury Laws Amendment (Measures
for a later sitting) Bill 2017: Wine
equalisation tax**

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Schedule#, Part 1	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	

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Schedule#—Wine equalisation tax producer rebate

Part 1—Producer rebate changes applying from 1 January 2018

A New Tax System (Wine Equalisation Tax) Act 1999

1 At the end of Division 5

Add:

5-50 Purchaser quoting on purchase from manufacturer—failure to deal according to quote

(1) This section applies if:

- (a) you *purchased wine under quote from the *producer of the wine; and
- (b) in your *quote you stated that you have the intention of dealing with the wine in none of the following ways:
 - (i) a way described in paragraph 13-5(1)(c) or (d); or
 - (ii) by sale to an entity that will quote for the sale; and
- (c) you cause an *assessable dealing with the wine that is a dealing in a way described in subparagraph (b)(i) or (ii).

(2) Sections 7-5 (Exemption for dealings that are GST-free supplies etc.) and 7-10 (Exemptions based on quoting) do not apply to the *assessable dealing mentioned in paragraph (1)(c).

(3) For the purposes of this Division:

- (a) disregard paragraph (g) of the definition of *application to own use* in section 33-1; and
- (b) treat the matter referred to in that paragraph as being an application to own use.

2 Section 13-30

Omit “or a ground for a *CR6 wine tax credit”.

3 After section 13-30

Insert:

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1 **13-32 Quote not effective if entity to whom quote is made purchased**
2 **the wine for a price that included wine tax**

3 A *quote is not effective for the purposes of applying
4 subsection 7-10(1) to a particular sale, if the entity to which the
5 quote is made purchased the wine for a *price that included wine
6 tax.

7 **4 Subsection 17-5(3) (table items CR2, CR3, CR5, CR6, CR10,**
8 **CR11 and CR13)**

9 Repeal the items.

10 **5 Section 17-37**

11 Repeal the section.

12 **6 Section 19-5**

13 Repeal the section, substitute:

14 **19-5 Entitlement to producer rebates**

15 (1) You are entitled to a *producer rebate for *rebatable wine for a
16 *financial year if:

17 (a) you are the *producer of the wine; and

18 (b) either:

19 (i) you are liable to wine tax for an *assessable dealing in
20 the wine during the financial year; or

21 (ii) you would have been liable to wine tax for an assessable
22 dealing in the wine during the financial year had the
23 purchaser not *quoted for the sale at or before the time
24 of the sale; and

25 (c) you satisfy the requirements in subsection (3) (ownership of
26 source product) for at least 85% of the wine (measured by
27 volume); and

28 (d) the wine is in a *container that meets the requirements in
29 subsection (5) at the time of the assessable dealing.

30 (2) You are entitled to a *producer rebate for *rebatable wine for a
31 *financial year if:

32 (a) you are approved as a *New Zealand participant; and

33 (b) the wine was *produced by you in *New Zealand and
34 exported to the indirect tax zone; and

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- 1 (c) you, or another entity, paid wine tax for an *assessable
2 dealing in the wine during the financial year; and
3 (d) you satisfy the requirements in subsection (3) (ownership of
4 source product) for at least 85% of the wine (measured by
5 volume); and
6 (e) the wine is in a *container that meets the requirements in
7 subsection (5) at the time of the assessable dealing.
- 8 (3) You satisfy the requirements in this subsection for wine if you own
9 the *source product for the wine throughout the period:
10 (a) starting:
11 (i) if that source product is covered by paragraph (4)(a),
12 (b), (c) or (d)—immediately after the crushing of that
13 source product; or
14 (ii) if that source product is covered by paragraph (4)(e) or
15 (f)—immediately before the initial fermentation of that
16 source product; and
17 (b) ending when the wine is placed in a *container that meets the
18 requirements in subsection (5).
- 19 (4) The *source product* for wine is the product that is or is made from:
20 (a) for *grape wine—the fresh grapes from which the grape wine
21 is produced; or
22 (b) for *grape wine products—the fresh grapes from which the
23 grape wine products are produced; or
24 (c) for *fruit or vegetable wine—the fruit or vegetables from
25 which the fruit or vegetable wine is produced; or
26 (d) for *cider or perry—the apples or pears from which the cider
27 or perry is produced; or
28 (e) for *mead—the honey from which the mead is produced; or
29 (f) for *sake—the rice from which the sake is produced.
- 30 (5) A *container in which wine is placed meets the requirements in this
31 subsection if:
32 (a) any of the following requirements are satisfied:
33 (i) the container is suitable for retail sale and the volume of
34 the container does not exceed 5 litres;
35 (ii) if the wine is *cider or *perry—the container is suitable
36 for retail sale of portions of the contents of the container
37 and the volume of the container does not exceed 51
38 litres; and
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- 1 (b) a trademark owned by the *producer of the wine is applied to
2 the container in which the wine is placed at the time of the
3 *assessable dealing; and
4 (c) the trademark is any of the following:
5 (i) a registered trade mark (within the meaning of the
6 *Trade Marks Act 1995*);
7 (ii) a common law trademark established in Australia that
8 cannot become a registered trade mark mentioned in
9 subparagraph (i);
10 (iii) if paragraph (2)(b) applies—a registered trade mark
11 (within the meaning of the *Trade Marks Act 2002* of
12 New Zealand);
13 (iv) if paragraph (2)(b) applies—a common law trademark
14 established in New Zealand that cannot become a
15 registered trade mark mentioned in subparagraph (i) or
16 (iii).

17 **7 Subsection 19-10(1)**

18 Repeal the subsection, substitute:

- 19 (1) You are not entitled to a *producer rebate because of
20 subparagraph 19-5(1)(b)(ii) for a dealing in wine if the purchaser's
21 *quote stated an intention of dealing with the wine in a way
22 described in subparagraph 5-50(1)(b)(i) or (ii).

23 **8 Subsections 19-10(2) and (3)**

24 Repeal the subsections.

25 **9 Section 19-17**

26 Repeal the section.

27 **10 Section 19-28**

28 Repeal the section.

29 **11 Section 19-30**

30 Repeal the section.

31 **12 Paragraph 31-15(4)(b)**

32 omit “quote; or”, substitute “quote.”.

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13 Paragraph 31-15(4)(c)

Repeal the paragraph.

14 Section 33-1 (definition of *CR1*)

Omit “CR2, CR3”, substitute “CR4, CR7”.

15 Section 33-1 (definition of *earlier producer rebate*)

Repeal the definition.

16 Section 33-1 (definition of *producer*)

Repeal the definition, substitute:

producer, of wine, means an entity that *manufactures the wine.

17 Section 33-1

Insert:

source product has the meaning given by subsection 19-5(4).

18 Application

- (1) The amendments made by this Part apply to assessable dealings in wine in the 2018-19 financial year and later financial years.
- (2) The amendments made by this Part also apply to assessable dealings in wine if:
 - (a) in a case where the source product for the wine is covered by paragraph 19-5(4)(a), (b), (c) or (d) of the *A New Tax System (Wine Equalisation Tax) Act 1999*—the crushing of the source product for more than 50% of the wine (measured by volume) occurred on or after 1 January 2018; or
 - (b) in a case where the source product for the wine is covered by paragraph 19-5(4)(e) or (f) of that Act—the initial fermentation of the source product for more than 50% of the wine (measured by volume) occurred on or after 1 January 2018.

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1 **Part 2—Producer rebate changes applying from**
2 **2018-19 financial year**

3 *A New Tax System (Wine Equalisation Tax) Act 1999*

4 **19 Subsections 19-15(2) and (3)**

5 Omit “\$500,000”, substitute “\$350,000”.

6 **20 Subsection 19-25(2)**

7 Omit “\$500,000”, substitute “\$350,000”.

8 **21 Subsection 31-3(a)**

9 Omit “700”, substitute “850”.

10 **22 Application**

11 The amendments made by this Part apply to assessable dealings in wine
12 in the 2018-19 financial year and later financial years.

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1 **Part 3—Other amendments**

2 *A New Tax System (Wine Equalisation Tax) Act 1999*

3 **23 Subsection 19-20(1)**

4 Omit “the end of”, substitute “any time during”.

5 **24 Application**

6 (1) The amendment made by this Part applies to assessable dealings in wine
7 in financial years that start on or after the commencement of this item.

8 (2) For the purposes of subsection 19-20(1) of the *A New Tax System (Wine*
9 *Equalisation Tax) Act 1999*, treat a producer as an associated producer
10 of another producer for a financial year if:

11 (a) the financial year:

12 (i) started at a time prior to the commencement of this Part;
13 and

14 (ii) ended at a time after the commencement of this Part;
15 and

16 (b) the requirements in paragraphs (a), (b) or (c) of that
17 subsection are satisfied at any time during the period:

18 (i) starting on the day of commencement of this Part; and

19 (ii) ending on the last day of the financial year.