

EXPOSURE DRAFT



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A New Tax System (Wine Equalisation Tax) Regulations 2019

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2019

David Hurley
Governor-General

By His Excellency's Command

Michael Sukkar [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Treasurer

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Preliminary **Part 1**

Section 1

Part 1—Preliminary

1 Name

This instrument is the *A New Tax System (Wine Equalisation Tax) Regulations 2019*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

| Column 1 | Column 2 | Column 3 |
|---------------------------------|-----------------|----------------|
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | 1 October 2019. | 1 October 2019 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *A New Tax System (Wine Equalisation Tax) Act 1999*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) indirect tax zone;
- (b) wine;
- (c) wine tax.

In this instrument:

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

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Part 1 Preliminary

Section 5

Comptroller-General of Customs has the same meaning as in the *Customs Act 1901*.

GST Regulations means the *A New Tax System (Goods and Services Tax) Regulations 2019*.

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Part 5—Payments and refunds of wine tax

Division 25—Tourist refund scheme

Subdivision 25-A—Purchase, departure and export

25-5.01 Purchases

For the purposes of paragraphs 25-5(1)(b) and (1A)(b) of the Act, a purchase of wine is specified if the purchase is an acquisition, or a part of an acquisition, that meets the requirements in Subdivision 168-A of the GST Regulations.

Note: Part of a person's eligibility for the tourist refund scheme in section 25-5 of the Act involves making a purchase that is of a kind specified in this instrument.

25-5.02 Departure and export as accompanied baggage

For the purposes of paragraph 25-5(1)(c) of the Act:

- (a) the circumstances in which a purchaser of wine must leave the indirect tax zone are the circumstances in which an acquirer must leave the indirect tax zone specified in Subdivision 168-B of the GST Regulations; and
- (b) the circumstances in which a purchaser of wine must export the wine from the indirect tax zone as accompanied baggage are the circumstances in which goods must be exported from the indirect tax zone as accompanied baggage specified in Subdivision 168-C of the GST Regulations.

Subdivision 25-B—Working out amount to be paid

25-5.03 Amount

For the purposes of subsection 25-5(2) of the Act, the amount of wine tax borne on wine is 29% of half of the GST inclusive price paid for the wine by the purchaser of the wine.

Subdivision 25-C—Proportion of amount of wine tax for payment in cash

25-5.04 Cash payment

- (1) For the purposes of paragraphs 25-5(1)(e) and (1A)(e) of the Act, this section applies if:
 - (a) an amount of wine tax is to be paid in cash to a purchaser of wine; and
 - (b) the amount of wine tax is not an exact multiple of 5 cents.
- (2) The amount of wine tax is to be rounded up or down to the nearest exact multiple of 5 cents (rounding up if the amount is an exact multiple of 2.5 cents). The result of the rounding is the proportion of the amount of wine tax that is to be paid to the purchaser.

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Part 5 Payments and refunds of wine tax

Division 25 Tourist refund scheme

Section 25-5.05

Subdivision 25-D—Period and manner of payment

25-5.05 Payment authority in relation to export as accompanied baggage

- (1) For the purposes of subsection 25-5(3) of the Act, this section applies if:
 - (a) a purchaser of wine presents the tax invoice relating to the wine to an officer of Customs (within the meaning of subsection 4(1) of the *Customs Act 1901*) as mentioned in subsection 168-5.10(1) of the GST Regulations; and
 - (b) the officer is satisfied that the purchaser is entitled to be paid an amount under subsection 25-5(1) of the Act.
- (2) The officer must give the acquirer a payment authority that includes:
 - (a) information identifying the purchaser; and
 - (b) the amount to which the purchaser is entitled.
- (3) Sections 168-5.14 to 168-5.16 of the GST Regulations apply in relation to a payment authority given under subsection (2) of this section as if it were a payment authority given under section 168-5.12 of the GST Regulations.

25-5.06 Payment claim in relation to export as accompanied baggage

- (1) For the purposes of subsection 25-5(3) of the Act, this section applies if:
 - (a) a purchaser of wine lodges a claim for payment as mentioned in subsection 168-5.10(2) of the GST Regulations; and
 - (b) the purchaser includes with the claim instructions for paying an amount to the purchaser by:
 - (i) crediting the amount to a credit card account or an Australian bank account; or
 - (ii) posting a cheque for the amount to a nominated address; and
 - (c) the Comptroller-General of Customs is satisfied that the purchaser is entitled to be paid an amount under subsection 25-5(1) of the Act.
- (2) The purchaser must be paid the amount in accordance with the instructions given with the claim.
- (3) The payment must be made within 60 days after whichever is the later of the following:
 - (a) the day the Comptroller-General of Customs receives the claim;
 - (b) if the Comptroller-General of Customs asks the purchaser to give information relating to the claim for payment—the day the Comptroller-General receives the information.

25-5.07 Payment in relation to resident of external Territory sending wine home

For the purposes of subsection 25-5(3) of the Act, an amount payable under subsection 25-5(1A) of the Act in relation to a purchase of wine is payable within the same period and in the same manner as the amount payable under subsection 168-5(1A) of the GST Act for the taxable supply corresponding to the purchase.

Part 7—Interpreting the Act

Division 31—Meaning of some important concepts

Subdivision 31-A—Wine

31-2.01 Grape wine

For the purposes of paragraph 31-8(1)(a) of the Act, it is a requirement that grape wine does not contain more than 22% by volume of ethyl alcohol.

31-3.01 Grape wine products

- (1) For the purposes of paragraph 31-8(1)(b) of the Act, this section specifies requirements for grape wine products.
- (2) A grape wine product must not have added to it the flavour of any alcoholic beverage (other than wine), whether the flavour is natural or artificial.
- (3) Ethyl alcohol used in preparing vegetable extracts, mentioned in subparagraph 31-3(b)(ii) of the Act:
 - (a) must only be used to extract flavours from vegetable matter; and
 - (b) must be essential to the extraction process; and
 - (c) must not add more than one percentage point to the strength of alcohol by volume of the beverage.

31-4.01 Fruit or vegetable wine

- (1) For the purposes of paragraphs 31-4(b) and 31-8(1)(c) of the Act, this section specifies requirements for fruit or vegetable wine.
- (2) Ethyl alcohol, from grape spirit or neutral spirit, may be added to fruit or vegetable wine.
- (3) If ethyl alcohol, from grape spirit or neutral spirit, is added to fruit or vegetable wine, the resulting beverage must contain at least 15% by volume of ethyl alcohol.

Note 1: The process of adding ethyl alcohol in this way produces a beverage known as fortified fruit wine or fortified vegetable wine.

Note 2: Fruit or vegetable wine must not contain more than 22% by volume of ethyl alcohol: see paragraph 31-4(d) of the Act.

31-6.01 Mead

- (1) For the purposes of paragraphs 31-6(b) and (c) and 31-8(1)(e) of the Act, this section specifies requirements for mead.
- (2) Ethyl alcohol, from grape spirit or neutral spirit, may be added to mead only if the resulting beverage contains:

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Part 7 Interpreting the Act

Division 31 Meaning of some important concepts

Section 31-6.01

- (a) not less than 15% by volume of ethyl alcohol; and
- (b) not more than 22% by volume of ethyl alcohol.

Note: The process of adding ethyl alcohol in this way produces a beverage known as fortified mead.

- (3) Herbs or spices may be added during or after the production of mead.
- (4) Caramel may be added to mead after the fermentation process is complete.
- (5) Fruit, or a product derived entirely from fruit, may be used in the production of mead only if:
 - (a) the fruit or product has not been fermented; and
 - (b) the fruit or product is added to the mead before fermentation of the mead; and
 - (c) after the addition of the fruit or product, and before fermentation, the mead will contain not less than 14% by volume of honey; and
 - (d) after the addition of the fruit or product, and before fermentation, the fruit or product will constitute not more than 30% by volume of the mead; and
 - (e) after the addition of the fruit or product, and after fermentation, the mead will have an ethyl alcohol content by volume of not less than 8%, and not more than 22%.
- (6) For the purposes of subsection (5), if:
 - (a) fruit or a product derived from fruit is added to mead; and
 - (b) the fruit or product contains concentrated fruit juice or concentrated fruit pulp;the proportion of fruit or product in the mead is to be worked out by assuming that the concentrated fruit juice or pulp has been reconstituted according to the recommendations of the manufacturer of the concentrated fruit juice or pulp.

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Application, saving and transitional provisions **Part 8**
Application provision in relation to the commencement of this instrument **Division 35**

Section 35-1.01

Part 8—Application, saving and transitional provisions

Division 35—Application provision in relation to the commencement of this instrument

35-1.01 Application provision in relation to the commencement of this instrument

Despite the repeal of Part 5 of the *A New Tax System (Wine Equalisation Tax) Regulations 2000*, that Part continues to apply in relation to wine purchased before the commencement of this instrument, as if the repeal had not happened.

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Schedule 1 Repeals

Schedule 1—Repeals

A New Tax System (Wine Equalisation Tax) Regulations 2000

1 The whole of the instrument

Repeal the instrument.