

A New Tax System (Wine Equalisation Tax) Regulations 2000 2000 No. 113

EXPLANATORY STATEMENT

STATUTORY RULES 2000 No. 113

Issued by the Authority of the Assistant Treasurer

A New Tax System (Wine Equalisation Tax) Act 1999

A New Tax System (Wine Equalisation Tax) Regulations 2000

Section 27-35 of the *A New Tax System (Wine Equalisation Tax) Act 1999* (the Act) provides that the Governor-General may make regulations prescribing matters required to give effect to the Act.

Subsection 25-5(1) of the Act provides that if.

- you have borne wine tax on wine that you purchased; and
- the purchase is of a kind specified in the regulations; and
- you leave Australia, and export wine as accompanied baggage, in the circumstances specified in the regulations;

then the Commissioner must pay you an amount equal to, or a proportion of, the wine tax that you have borne on the wine. Subsection 25-5(2) allows regulations to specify how amounts of wine tax are to be worked out and subsection 25-5(3) provides that the amount is payable within the period and in the manner specified in the regulations.

Subsection 31-8(1) of the Act provides that the regulations may specify requirements for types of wines. Paragraphs 31-4(b), (c) and (e) and 31-6(b), (c) and (d) provide that for the purposes of the meanings of fruit or vegetable wine and mead, regulations may be made relating to the methods of production.

The purpose of the Regulations is:

- to permit, under the Tourist Refund Scheme (TRS), refunds of wine tax to travellers leaving Australia who are also eligible for a refund of GST on wine they are exporting as accompanied baggage; and
- to clarify the arrangements under the Act for fortified fruit or vegetable wines and mead.

Under Division 168 of the *A New Tax System (Goods and Services Tax) Regulations 1999* (the GST Regulations), the TRS is available to both visitors and Australian residents who make a purchase of eligible goods totalling \$300 or more from a single business and export those goods as accompanied baggage when they depart Australia within 30 days of purchasing the goods. No special documentation other than a tax invoice will be required at the time of purchasing the goods and the purchaser will be eligible for a GST refund after presenting the goods, tax invoice and travel documents to a Customs Officer when the purchaser departs Australia. If the eligible purchase includes wine on which wine tax has been borne, then the wine tax can also be refunded.

The Regulations specify the criteria for eligibility for wine tax refunds under the TRS by specifying:

- the kinds of purchases for which a refund may be applied; and
- the circumstances in which people may leave Australia and export the wine.

The Regulations also specify the method of calculating the amount of wine tax to be refunded and manner and period within which refunds must be paid.

The Act specifies which alcoholic beverages will be covered by the new wine tax and therefore will not be subject to excise duty. Any alcoholic beverage not specifically covered by the Act will be subject to excise duty. The different excise treatment of alcoholic beverages can have a significant impact on the pricing and therefore commercial viability of alcoholic beverages.

Subsequent to the passing of the Act, the formulation of regulations is required to encompass what can best be described as fortified fruit and vegetable wines and fortified mead. The definitions in the Act of fruit and vegetable wine and mead do not currently allow for the addition of ethyl alcohol from any other source except as specified in the regulations (sections 31-4 and 31-6 of the Act).

In order to produce fortified fruit or vegetable wine and mead manufacturers typically add grape spirit or neutral spirit to their standard product. The fortified product has an alcohol content of between 15% and 22% alcohol by volume.

It was not the intention to exclude these beverages from the Act. As stated above, if these products were not covered by the wine equalisation tax (WET) they would have been subject to excise. An excise on these products would have made them too expensive to produce for a price that would not destroy their current market.

A further consideration is that there are certain designer drinks which use a fruit wine or grape wine base and have neutral spirit added in the course of manufacture. It was intended that these products be excisable rather than covered by the WET. These products tend to have an alcohol content of between 4% and 8% by volume.

The Regulations provide that fruit or vegetable wine and mead to which ethyl alcohol from grape spirit or neutral spirit has been added, and where the resulting beverage contains not less than 15% and not more than 22% ethyl alcohol, will be subject to the Act.

Details of the Regulations including the interaction between the Regulations and the GST Regulations are set out in the attachment.

The Regulations commence on the commencement of the Act on 1 July

ATTACHMENT

A New Tax System (Wine Equalisation Tax) Regulations 2000

Part 1 names the Regulations, provides that the Regulations commence on the commencement of the *A New Tax System (Wine Equalisation Tax) Act 1999* (the Act) and defines the terms 'Act' and 'purchaser'.

Proposed Division 25 of the Regulations - Tourist Refund Scheme - (Part 5)

Subdivision **Kinds of purchases**

25-1

Regulation Paragraph 25-5(1)(b) of the Act requires purchases of wine to be of a

25-5.01: kind specified in the regulations to be eligible for a payment under the

Tourist Refund Scheme (TRS). This regulation provides that a

Purchases purchase in accordance with the requirements in this Subdivision is one

that will be eligible for a refund of wine tax under the TRS.

Regulation This regulation provides that TRS refunds of wine tax are available

25-5.02: when:

- the wine is part of an acquisition that is eligible for a TRS refund

Wine to which under Subdivision 168-1 of the *A New Tax System (Goods and*
this Subdivision *Services Tax) Regulations 1999* (the GST Regulations);

applies - the purchaser leaves Australia in the circumstances set out in

Subdivision 168-2 of the GST Regulations; and

- the wine is exported in the circumstances set out in subdivision

168-3 of the GST Regulations.

Essentially, this means that to be eligible for a TRS refund of wine tax

the wine must first be eligible for a TRS refund under Division 168 of

the GST Regulations.

Subregulation 2 provides that the Subdivision does not apply to wine

that has been partly consumed at the time when the purchaser leaves

Australia.

Subdivision **Working out amount to be paid**

25-2

Regulation Subsection 25-5(2) of the Act provides that the regulations may specify

25-5.03: how amounts of wine tax borne are to be worked out.

Amount This regulation provides that the amount of wine tax borne is to be

worked out as 29% of half the retail price. As the wine tax is levied on the wholesale sale, unlike the GST the amount of tax borne by the ultimate purchaser is not precisely identifiable from the retail price. Applying the wine tax rate of 29% to half the retail price is modelled on the method used to establish a notional wholesale price in section 9-35 of the Act.

Subdivision **Payment arrangements**

25-3

Regulation Paragraph 25-5(1)(e) of the Act provides that the Commissioner must

25-5.04: pay as a TRS refund such proportion of the amount of wine tax that was payable on the taxable supply as is specified in the regulations.

Arrangements Subregulation (1) provides for the proportion to be worked out in accordance with paragraphs 168-5.11(2)(a) and (3)(a) of the GST Regulations as if the amount of wine tax were an amount of GST. Regulation 168-5.11 of the GST Regulations provides for TRS refund paid in cash to be rounded up or down to the nearest exact multiple of 5 cents.

Subsection 25-5(3) of the Act provides that the amount of the TRS refund is payable within the period and in the manner specified in the regulations. Subregulation (2) provides that the arrangements set out

in Subdivisions 168-5 and 168-6 of the GST Regulations apply to payments of TRS refunds on wine as if the purchase of wine were an acquisition of goods under the GST Regulations. This means that TRS refunds of wine tax will be made in the same manner and within the same time as TRS refunds under the GST Regulations.

Purchasers will be able to elect to have their combined GST and wine

tax refund paid in one of the following manners:

- an on the spot cash payment of up to \$200 in Australian currency

(only available at the eight major international airports due to

the

cost of infrastructure for cash handling facilities);

- a cheque payment in Australian currency or nominated foreign

currency posted to a nominated address;

- direct credit in Australian currency to a nominated credit card

account or an Australian bank account.

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Proposed Division 31 of the Regulations - Meaning of Some Important Concepts - (Part 7)

Subdivision Wine

31-A

Regulation Subsection 31-8 of the Act provides that the regulations may

specify

31-4.01 requirements for types of wines.

Fruit or vegetable wine This regulation provides that ethyl alcohol from grape spirit or neutral spirit may be added to fruit or vegetable wine and that the resulting beverage must contain not less than 15% by volume and not more than 22% by volume of ethyl alcohol to be subject to the Act.

Regulation Subsection 31-8 of the Act provides that the regulations may specify

31-6.01 requirements for types of wines.

Mead This regulation provides that ethyl alcohol from grape spirit or neutral spirit may be added to mead and that the resulting beverage must contain not less than 15% by volume and not more than 22% by volume of ethyl alcohol to be subject to the Act.