

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 234

Issued by authority of the Assistant Treasurer

A New Tax System (Wine Equalisation Tax) Act 1999

A New Tax System (Wine Equalisation Tax) Amendment Regulations 2009 (No. 1)

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 or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the proposed Regulations is to amend the *A New Tax System (Wine Equalisation Tax) Regulations 2000* to alter the definition of 'grape wine product' to ensure that where grape wine products mimic the taste of a spirit flavoured beverage, they are taxed at the same rate as those beverages.

The Regulations would alter the definition of grape wine product to preclude the addition, at any time, of the flavour of any alcoholic beverage (other than wine), whether the flavour is natural or artificial and whether the flavour contains alcohol or not. Where a domestically produced grape wine product contains such a flavour it would no longer be taxed as wine under the *A New Tax System (Wine Equalisation Tax) Act 1999* but would be taxed as an 'other excisable beverage' under the *Excise Tariff Act 1921*. This would generally result in such products being subject to a higher tax rate.

Supporting this change, other changes to the definition would act to provide certainty as to the circumstances where ethyl alcohol can be added to a grape wine product.

The definition of grape wine product would be changed so that alcohol (other than grape spirit) used in the preparation of a vegetable extract must not add more than one percentage point to the final alcohol strength by volume of the beverage. Without such a limit, additional amounts of alcohol (other than grape spirit) could be added to a grape wine product, potentially to provide a spirit flavour.

The amendments to the definition of grape wine product would also ensure that the alcohol used in the preparation of vegetable extracts must be used to extract the flavours of the vegetable matter and must be essential to the extraction process.

The change to the definition of grape wine product is an important complement to the changes approved by Parliament in the *Excise Tariff Amendment (2009 Measures No. 1) Act 2009* and *Customs Tariff Amendment (2009 Measures No. 1) Act 2009*.

Such Acts increased the rate of excise and excise equivalent customs duty on beverages commonly referred to as 'alcopops' from \$39.36 per litre of alcohol content to \$66.67 per litre of alcohol content, with effect on and from 27 April 2008.

The Acts also altered the taxation definition of beer in the *Excise Tariff Act 1921* and *Customs Tariff Act 1995* and grape wine product in the *Customs Tariff Act 1995* to ensure beer and imported grape wine products that attempt to mimic spirit based products in relation to their taste are taxed as a spirit product. These changes in the *A New Tax System (Wine Equalisation Tax) Amendment Regulations 2009 (No. 1)* ensure that domestically produced grape wine products are subject to an equivalent definition as imported grape wine products as established in the Acts.

The lead wine industry group and various wine importers were consulted and such parties were supportive of the regulatory changes.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The proposed Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.