Clare Valley Winemakers Inc.
The Heart of Australian Riesling

Clare Region Winegrape Growers Association

This paper is prepared by the joint Tax Reform Committee made up of The Clare Valley Winemakers Inc and Clare Region Wine Grapegrowers Association.

Summary of recommendations:

1. The CVWI and CRWGA strongly supports the removal of WET from bulk and unbranded wine however, recommends that a phase out date commence as at July 1st 2018. The immediate flow on impact of removing WET on bulk and unbranded as of July 1st 2017 would create a significant financial impact to the region and business need time to plan and adjust.

2 Maintain the current Rebate cap at $500k for the foreseeable future to give industry a chance to adjust. To reduce the Rebate at this stage of the Industry recovery cycle would do irreparable damage to the economic viability of fine wine regions such as the Clare Valley.

3 Apply the simplest possible definition of an 'Eligible Producer' such that it does not cause unnecessary or additional administration at either Government or business level at any stage of the process.

4 Ongoing dialogue is critical between Government and Industry in order to fine tune, review and modify the Wine Industry Tax regime into the foreseeable future. The Industry is dynamic and continually evolving in terms of its strategic aspirations and needs constant surveillance and macro management to ensure the tax regime remains equitable for all legitimate participants and meets industry and community expectations.

Andrew Pike
Chair
Clare Valley Winemakers Inc

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BRIEFING NOTE: prepared by Jeffrey Grosset on behalf of the Clare Valley Tax Reform Committee.

TO:	**Senator Anne Ruston**
	Senator for the State of South Australia
FROM:	**CVWI and CRWGA**
DATE:	**7 October, 2016**
SUBJECT:	**Amendments to the Wine Equalisation Tax (WET)**

1. Issue

1.1 Proposed changes to the WET rebate scheme announced by the Federal Government in the 2016 Federal Budget would have a significant detrimental effect on genuine wine producers in the Australian wine industry.

1.2 Those who rort the WET system should not benefit from the WET rebate. However, the proposed changes go far beyond countering rorting. They will adversely affect genuine wine producers. This presents a clear risk to the viability of premium wine producing areas such as South Australia.

2. Background

2.1 Australia's bottled wine is taxed higher than any other wine-producing country.

2.2 The Federal Government introduced WET in 2000. The rate of WET is 29% (plus GST).

2.3 By 2004 it was clear that WET was damaging high quality wine producing regions such as those in South Australia. The WET rebate was introduced to rebate a portion of the WET back to genuine wine producers offering cellar door sales in wine regions.

2.4 Unfortunately the WET rebate system has been subject to rorting. The Government estimates $150 - $200 million per annum is rorted by claimants without any genuine commitment to wine regions.

2.5 Part of the Government's proposal to address this is by a phased reduction of the rebate cap for all producers. This will have a significant adverse effect on legitimate wine producers, including many in South Australia, who are committed to investment in the South Australia wine industry through vineyards, wineries and cellar doors.

2.6 Most astoundingly, this proposed measure will not eliminate those rorting the system. They will be able to continue to sell wine and pay no WET, while having no, or negligible, capital investment in wine regions.

2.7 A more detailed explanation is set out in the Schedule to this memo.

3. Recommendations

3.1 Maintain the WET rebate cap at $500,000. This provides stability to genuine wine producers in South Australian wine regions operating in a fragile environment.

3.2 Remove WET rebates for bulk and unbranded wine. This will provide a substantial saving for the Government and remove much of the gross inequality currently distorting the market.

3.3 Introduce a general anti-avoidance mechanism to eliminate rorting:

(a) A single, simple definition of “producer” to overcome contrived legal structures designed to obtain WET rebates despite lack of genuine wine producing activity (artificial leasing/licensing arrangements etc).

(b) Proof of genuine business commitment and activity in order to qualify for WET rebate. Similar regimes already exist in the income tax legislation and could be easily adapted for WET.

(c) Prevention of artificial “splitting” of a single enterprise into separate divisions to claim multiple WET rebates.

4. Further information

4.1 A more detailed explanation is set out in the Schedule to this memo.

4.2 We are of course happy to meet with you to discuss this issue in more detail and answer any questions you may have.

SCHEDULE

1. **Removal Of Rebate To Bulk And Unbranded Wine**

1.1 The WET rebate was intended to protect genuine wine producers with investment in vineyards, wineries and cellar door in wine regions. WET rebate was never intended to apply to bulk and unbranded wine.

1.2 Presently, the effect of the WET rebate going to bulk and unbranded wine is to seriously distort the market.

1.3 The Federal Government is leaning towards phasing out the WET rebate for bulk and unbranded wine sooner than the July 2019 date originally proposed.

1.4 Many businesses have modelled their structure around receipt of the bulk and unbranded rebate (such as former grape growers; bulk wine traders).

1.5 WFA (Winemakers Federation of Australia) is in favour of phasing out the WET rebate for bulk and unbranded wine as soon as possible (Battaglene, Acting CEO WFA Fri Sept 16 2016). The CVWI and CRWGA strongly supports the removal of WET from bulk and unbranded however, recommends that a phase out date commences as at July 1st 2018. The immediate flow on impact of removing WET on bulk and unbranded as of July 1st 2017 would create a significant financial impact to the region and business need time to plan and adjust.

1.6 The Federal Government (Senator Anne Ruston, Wed Sept 21, 2016 personal comm) has estimated this would save $150mill-$200mill per year. Our estimate is in the middle of this range. Treasury has, surprisingly, advised that an accurate figure is impossible to determine due to insufficient information from BAS statements.

1.7 At the lower level, the saving to Government is 2 - 2.5 times more than the saving estimated to be achieved from reducing the rebate cap which we estimate would be NOT more than $70 mill per annum.

2. Proposed reduction of the rebate cap

2.1 There is substantial information indicating the proposed cap reduction will damage regional areas. It will result in a direct income loss of $3 mill per annum in the Clare Valley region alone and affect jobs in the region.

2.2 Given the limited benefit to Government compared to the savings offered above, this proposed cap reduction seems counterproductive.

2.3 We understand the latest proposal is to consider reducing the WET rebate to $290,000 and to make a further $210,000 available only to those meeting certain direct sales criteria (Anne Ruston personal comm Wed Sept 21 2016). While we know nothing of the detail, and also acknowledging that this is purely a proposal, the added complexity would require administration and surely divert Government resources potentially from tax avoidance to tax administration.

3. Redefining Eligible Wine Producer

3.1 The latest proposal (Tony Battaglene Acting CEO, WFA personal comm Wed 21 2016) suggests not only that the producer must own the grapes at the point of crushing, but that it must own the packaged wine ready for sale (and, one would hope, in between). A percentage of blending leeway is proposed. The Government is proposing to insist on the packaged goods being trade-marked. We are focussing only on the introduction of ownership at crushing and of packaged goods, as this is simple and critical to an enforceable definition.

3.2 It is, however, to be applied not just to bottled wine, but also to cask wine up to 5 litres. There is substantial support for it to be on bottled wine only, as originally intended and there is an important principle that would be upheld if it were limited to bottled wine only (the WET rate was set at 29% to ensure that wine sold in casks was not a form of alcohol that was ‘too cheap’).

3.3 The Government has indicated it will require an asset test to be passed (Battaglene). However, in order to placate the ‘Artisan movement’; specifically those producers with no financial commitment other than that mentioned above (own the fruit through to finished product), an alternative category allowing a claim up to say $100,00, could be established. (Ruston Wed Sept 21 2016 personal comm).

3.4 We do not support 3.3. This would add further administration to an already extraordinarily complex and resource-demanding system. Rather, we support maintenance of the $500,000 cap while recovering $150-200 mill. asap from bulk and unbranded claims and apply a simple definition of a wine producer.

4. Finally, we endorse the need for further discussion of wholesale or complete wine tax reform in the future.

   As a fine wine region, while we acknowledge that an alternative and more effective method of taxation requires open and frank discussion, our focus now is on reforming the existing WET and associated rebate system, such that our region can function and have stability to plan and grow in the medium term.

Jeffrey Grosset
Clare Valley Tax Reform Committee