

# Submission to the Australian Federal Government consultative process on reform to the WET rebate eligibility criteria.

October 7, 2016

Alex McKay, Collector Wines Pty Ltd/Pinhooker Pty Ltd

As a wine producer concerned with the future of our industry, I feel it important to participate in the consultation process regarding proposed changes to the Wine Equalisation Tax rebate, and in particular the definitions of 'eligible producer' under the act. My response to the Government's discussion questions are as follows:

**1. For rebatable wine, is the proposed definition of packaged and branded wine appropriate?**

Yes, the definition of packaged and branded wine is appropriate.

**If a trademark approach is used, what types of trademarks should be permitted (e.g. exclusively licensed trademarks) and what would be the impact?**

Common law and registered trademarks should be permitted, licenced trademarks permitted unless they entitle one business or associated businesses access to multiple rebates.

**2. For eligible producers, how should a winery ownership and leasing test be applied? What should be the nature and extent of investment in the wine industry required to access the rebate, and how can this be implemented?**

No asset tests, 'significant interest' or 'skin in the game' tests should be required. See below for further explanation. Any eligibility criteria based on asset levels introduces unnecessary complexity and regulation, will be difficult to implement and administer, will be easily circumvented, and will exclude some legitimate producers.

**3. What is the impact from a 1 July 2019 start date of the tightened eligibility criteria? How might this change from an earlier transition period?**

If eligibility criteria must be tightened, the transition period should allow time for businesses to effectively restructure their operations to minimise disruption and to reflect the long lead times from production decision to commercial sale.

While questions 1 and 3 are important issues, for my business and livelihood question 2 in particular is critical. I offer the following supporting information:

As the government's discussion paper has noted, there are many successful non-traditional business models operating in the Australian wine industry today. The government's discussion paper goes some way to acknowledging this, but under any of these proposed alternative definitions my particular business model would still be ineligible.

- Collector Wines was established in 2007 with approx. \$200K of personal savings. The money was used to purchase some equipment and invest in inventory.
- Collector Wines purchases grapes from up to 12 grapegrowers in the Canberra District and Tumbarumba . The purchase of these grapes constitutes a significant part of the farm income for many of these growers. We have endeavoured to pay at, or better than, market prices for these grapes, but for many of the growers profit margins are very thin.
- We are working on creating a strong and respected brand and a sustainable business. Since starting the business, we have employed people in vineyard, winery and cellar door roles. Our wine helps to provide income for wine distributors in NSW, Victoria and Tasmania, and has been exported to The Netherlands, Japan and Thailand. During the last six years we have:
  - o Leased a previously unused vacant rural premises to use as a winery,
  - o Leased a vineyard (and made capital improvements to it) that would otherwise have been bulldozed to return to pasture,
  - o Leased and made capital improvements to an unused building in our town (pop. 220) in order to open a Cellar Door, which together with the adjacent café business, has breathed life into the town, built a tourism product that is drawing significant visitation, and is helping to create jobs for local people.
- For Collector Wines, the WET rebate has been critical in allowing us to make these investments in our region. This is entirely consistent with the original intent of the WET rebate, which recognised the contribution of wine businesses to regional economies and communities.
- Although our business helps earn export income, and returns revenue to the Australian Government in the form of GST and Company Tax, the WET tax rebate has been absolutely vital in helping us survive not only the variable agricultural conditions, as well as the tough macro-economic and industry conditions during the last decade, but also the significant barriers to entry and difficulties in trading with a small scale. The WET rebate has helped us build the durability that will one day see us not only as a stronger contributor to our regional economy, but also returning WET to government revenue.
- Many small and emerging wine producers are driving the resurgence of overseas and domestic interest in Australian wine. Not by their own choice, most have few or no substantial assets or 'significant interests'. For Collector Wines and other similarly scaled businesses, it is a fine line between success and failure. However, from this group of wine businesses will emerge the next medium and large Australian wine businesses. Imposing asset tests, 'significant interest' or 'skin in the game' tests on WET rebate eligibility will choke this important category of producer, critically impacting regional economies, and set the Australian Wine Industry back decades, robbing it of diversity, vitality, colour and a generation of future leaders and revenue earners.

The Government is ignoring state regional and national industry bodies, all of whom agree that there is no need for asset based eligibility criteria for the WET rebate.

Independent financial modelling undertaken by PWC for the Winemakers Federation of Australia has clearly demonstrated that almost all of the so called 'robbing' of the rebate and recuperation of lost taxation revenue can be remedied by simply eliminating the rebate for bulk and unbranded wine, and by tightening the rules regarding 'associated entities' claiming multiple rebates.<sup>1</sup> I, my regional association, state association and national industry body are all supportive of these measures.

I do not, however, support the recommendation of the Government's Consultative group (Oct 2015) that

*"The business owns or leases one out of three of a vineyard, winery (production facilities or fermentation facilities) or cellar door outlet"* <sup>ii</sup>

Any imposition of 'skin in the game' or asset based eligibility criteria unfairly penalises younger and new entrants to the industry, who do not have the financial capacity to secure major leases and asset purchases.

The WET rebate has enabled many quality brands to emerge and contribute positively to the Australian wine landscape. These are the innovators, the ones who have been able to take risks with new styles, new varieties and new packaging. They have helped create a fertile and vibrant wine market that is necessary to capture the imagination of the next generation of educated wine consumers. Many of these producers could never have survived beyond the first few vintages given the 'perfect storm' of adverse market conditions seen in the wine industry over the past five years. Several of these young producers are now among Australia's brightest stars, championed by domestic and international wine journalists and the world's hottest restaurants and bars. They are the future of our wine industry, and if nurtured they will invest back in the industry, in vineyards, wineries, and other links in the supply chain.

Innovation in the wine industry should be encouraged and supported, particularly at a time when the industry desperately needs to shed its 'commodity' image and instead be known for quality, uniqueness, and driving new wine trends. Other agricultural industries are being actively encouraged to develop low-asset business models, and to utilise existing infrastructure. This is fundamentally efficient. The government however appears to be encouraging the wine industry to do the opposite.

As a long-term, committed wine producer, I implore you to remove the 'lease or own a winery' provisions and any associated physical asset-based criteria for eligibility for the WET rebate. Such changes will likely cause significant collateral damage to my business and to the future of our industry.

Sincerely,



Alex McKay  
Director/Winemaker  
Collector Wines Pty Ltd/Pinhooker Pty Ltd  
93 Breadalbane Rd.  
COLLECTOR NSW 2581  
E: [alex@collectorwines.com.au](mailto:alex@collectorwines.com.au)  
T: 0417 810 594

---

<sup>i</sup> PWC report to WFA, Appendix F: *Returning WET Rebate to Fairness and Original Policy Intent - Supporting Advice on the Impact to Government Revenue*, 2015, pp iii-vi

<sup>ii</sup> *Wine Equalisation Tax Rebate Consultative Group report* October 2015, p 5.