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JOSEF CHROMY
TASMANIA

7th October 2016

Department of Treasury

wetrebate@treasury.gov.au

RE: Tightened WET rebate eligibility criteria

To whom it may concern,

I am writing this submission on behalf of Josef Chromy Wines (JCW) to express our views on the current taxation system for wine and the proposed tightened eligibility criteria for the WET rebate. Josef Chromy Wines is a vertically integrated agribusiness situated in the Tamar Valley in Northern Tasmania, comprising 61 hectares of vineyard, a winery capable of processing up to 2000 tonnes of grapes for both our own brands and several contract customers and a cellar door and restaurant with a strong tourism focus. Across the entire operation from vineyard through to hospitality, sales and administration we employ approximately 48 full time equivalents, with almost half of those being permanent positions and the remainder made up of seasonal casual labour. It is our belief that this is exactly the type of business (i.e. strong regional employer), which was the intended recipient of the WET rebate, when it was initially introduced.

Before addressing the specific points in the discussion paper, I feel it is important to point out that no significant changes to the structure of wine tax should be made without first considering the entire taxation method of wine; and, whether the current system is the most efficient and effective approach to taxing the industry, and having the impact of any proposed changes modelled in detail by treasury. As part of this review, due regard needs to be given to how other international competitors tax and support their own industries, as Australia must ensure that its key export industries are internationally competitive; especially given the increasing concentration of powers in the domestic retail and on-line market. Any system that includes a rebate has the effect of artificially distorting the market and is open for potential rorting no matter how tight the eligibility criteria. Several reports (such as the Henry Review) have highlighted the inadequacy and inequity of the WET system and proposed alternative models.

JCW supports the general intent of the proposed changes to reduce the rebate claimable by artificial business structures and stop the claiming of the WET rebate by producers of bulk and unbranded wines.

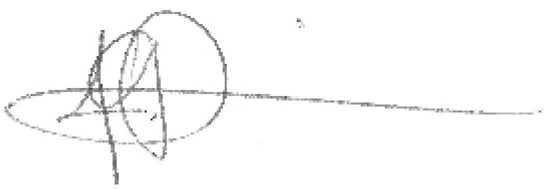
The reduction of the overall WET rebate cap is not supported by JCW. Listed below are our comments and observations regarding several of the proposed changes to the eligibility criteria:

- Reduction of $210,000 rebate from a business that already has a low return on capital means that equivalent savings must be found elsewhere. Given the current oversupply of grapes and wine nationally; and the well documented retail duopoly, increasing price is not an option. Therefore we will need to reduce our cost of doing business. For Josef Chromy Wines that is essentially the equivalent of removing four FTE employees from our payroll.
- Rebatable wine:
  - Packaged wine should include containers of 51 litres or less to recognise the move toward alternative and more sustainable methods of delivery to consumers such as wine in keg.
  - Registered and common law trademarks are more problematic and open to rorting. What is to stop a large retailer developing a brand and letting a grape grower or winemaker own the trademark as long as the brand is sold exclusively through that retailer? The grower can then claim the rebate and the retailer still receives the benefit of lower priced wine.
- Eligible producers: Owning or leasing a winery
  - Tying the rebate to demonstrable investment in regional and rural Australia is a positive idea, but complex and difficult to administer. How will this work for businesses that share a processing facility? Will the rebate be claimable by only one of the entities; or will it be split according to ownership percentage?
  - Ownership of the grapes at the crusher is a more simple and sensible approach but still open to rorting through the creation of artificial business structures.
- Definition of branded wine:
  - As outlined above, only offers small protection and is still able to be rorted by clever business structures.
- Definition of a winery:
  - How is this to be policed? This also does not recognise that some companies may have many millions of dollars invested in their vineyards and production facilities, yet another with only a few thousands of dollars investment will be eligible to claim the same rebate.
- Definition of owing and leasing:
  - Using the existing income tax legislation still leaves many possible loopholes and introduces further complexities for compliance and anti-avoidance measures.
  - If only 40% ownership or leasing is required, what is to stop existing wineries leasing out a portion of their facility to allow another entity to claim the rebate?

- Significant interest in a winery or significant investment in the winemaking industry
    - Josef Chromy Wines currently crushes and bottles for seven Tasmanian brands that own vineyards and cellar door outlets but have no winery facility of their own. These are all legitimate businesses with significant financial investment in their region and all employ local staff for grape growing and cellar door sales. Ownership of a winery is not an option for many of these businesses and hence the definition of investment needs to be extended to vineyards and cellar door outlets.
    - Ownership of grapes (or a significant percentage of the grapes in the final product) at the crusher; and, ownership of either a vineyard, or winery would seem to be an acceptable compromise. Definition of a cellar door would need to be strictly defined (e.g. linked to a vineyard and/or winery) to stop anyone with a restaurant in a major CBD rebranding as a cellar door and claiming the rebate.
- Were the WET rebate cap to be reduced to $290,000, the WET rebate should to be extended a further $210,000 to a maximum of $500,000 total rebate for eligible producers with respect to sales made directly to customers via an eligible cellar door outlet, mail order club or website sales.

Josef Chromy Wines appreciates the consultation opportunities made available by Senator Rusden, Treasury and the ATO to date and would welcome any further opportunity to comment and provide our views or further details on any of the proposed changes to the wine taxation system.

Sincerely,



Jeremy Dineen
Chief Winemaker / General Manager