

The Senate

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Economics Legislation Committee

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Provisions of the Tax Laws Amendment (Wine  
Producer Rebate and Other Measures) Bill 2004

August 2004

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# CHAPTER 1

## INTRODUCTION

### Background

1.1 The Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004 was introduced into the House of Representatives on 24 June 2004 by Mr Ross Cameron MP, Parliamentary Secretary to the Treasurer. The bill was agreed to by the House of Representatives on 3 August 2004.

### Purpose of the bill

1.2 The bill amends the *A New Tax System (Wine Equalisation Tax) Act 1999* (the 'WET' Act) to implement a new wine producer rebate and to address certain compliance and administrative issues arising from the legislation.<sup>1</sup>

1.3 In particular, the amendments:

- introduce a wine producer rebate to off-set wine equalisation tax up to a maximum amount of \$290,000;
- improve compliance; and
- abolish accelerated depreciation of grapevines.<sup>2</sup>

1.4 The main thrust of the amendments is to reduce the tax burden for small and medium sized businesses, to reduce incidences of tax minimisation and to align depreciation rules for grapevines with those applicable to horticultural plants.<sup>3</sup>

### Reference of the bill

1.5 On 4 August 2004, the Senate adopted Selection of Bills Report No.10 of 2004 and referred the provisions of the bill to the Senate Economics Legislation Committee for inquiry and report by 11 August 2004.

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1 Explanatory Memorandum, Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004, p.3.

2 Bills Digest No.9 2004-05, *Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004*, 28 July 2004, p.1.

3 Bills Digest No.9 2004-05, *Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004*, 28 July 2004, p.1.

## **Submissions**

1.6 The Committee advertised its inquiry into the bill on the internet. In addition, the Committee contacted a number of organisations alerting them to the inquiry. A list of submissions received appears at **Appendix 1**.

## **Hearing and evidence**

1.7 The Committee held a public hearing in Canberra on Monday 9 August 2004.

1.8 Witnesses who appeared before the Committee at that hearing are listed in **Appendix 2**.

1.9 Copies of the Hansard transcript are tabled for the information of the Senate. They are also available through the internet at <http://aph.gov.au/hansard>.



## CHAPTER 2

### INQUIRY INTO THE BILL

2.1 The Selection of Bills Committee Report No.10 directed the Committee to examine only the Government's costing of the wine producer rebate introduced by the bill. The Committee accordingly focused directly upon this question.

#### **Background**

2.2 A wine producer rebate measure was announced by the government in the 2004-05 Budget to provide a wine equalisation tax (WET) rebate of \$290,000 each year to every wine producer. This effectively exempts from WET \$1 million of the wholesale value of each producer's domestic wine sales per financial year.

2.3 At present, there is a cellar door rebate scheme which provides a maximum WET rebate to licensed producers of up to \$42,000. The new rebate scheme, which is not linked exclusively to cellar door sales, replaces the cellar door rebate scheme and the accelerated depreciation provisions for grapevine plantings. The bill provides that it takes effect from 1 October 2004.

2.4 Around 90% of wine producers will be able fully to offset their WET liability by accessing the new rebate. In particular, according to the Explanatory Memorandum, 'small wine producers in rural and regional Australia will benefit significantly, receiving around 85% of rebate benefits'.<sup>1</sup>

#### **Costing of the measures**

2.5 In the Budget Papers 2004-05, the cost of providing the wine equalisation tax producer rebate was estimated as follows:

Revenue (\$m)				
	2004-05	2005-06	2006-07	2007-08
ATO	-58.0	-90.0	-90.0	-100.0

2.6 The revenue to be gained by removing the accelerated depreciation for grapevine plantings was estimated as follows:

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1 Explanatory Memorandum,

Revenue (\$m)				
	2004-05	2005-06	2006-07	2007-08
ATO	2.0	6.0	11.0	17.0

2.7 Subsequent government amendments to the bill altered the definition of 'rebateable wine' in the *A New Tax System (Wine Equalisation Tax) Act 1999* to include cider, perry and sake.<sup>2</sup> These inclusions increased the cost of the wine producer rebate by a further \$1 million per year.

2.8 In the second reading debate in the House of Representatives, the Assistant Shadow Treasurer, Mr David Cox MP, questioned the costings for the rebate. He noted that the new rebate is intended to replace the Commonwealth and state rebate arrangements for the first \$1 million of wholesale value. However, he said, it was not clear whether the costing for the rebate in the budget papers is a gross figure or a net figure, reflecting the removal of the current Commonwealth rebate and that part of the state rebates under the \$1 million of wholesale value.<sup>3</sup>

2.9 At its hearing, the Committee clarified these matters. The Treasury advised that the figures in the budget papers are net figures that take into account the cessation of the existing Commonwealth cellar door rebate. The figures do not include as an offset, however, the value of any rebate that may be reclaimed by the federal government from the cessation of state rebate arrangements.

### Other issues

2.10 Questions were asked about three further issues that go indirectly to the cost of the rebate measure.

2.11 The first issue relates to concerns expressed by New Zealand that the rebate may violate Australia's obligations under the CER (Closer Economic Relationship) and the GATT (General Agreement on Tariffs and Trade).<sup>4</sup> Treasury was asked what the cost implications might be if New Zealand's objections to the measure were upheld, and Australia were obliged to pay a like subsidy to New Zealand producers selling wine in Australia.

2 Supplementary Explanatory Memorandum, Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004, p.1.

3 House of Representatives, *Hansard*, Cox, 3 August 2004, p.31820.

4 Bills Digest No.9 2004-05, *Tax Laws Amendment (Wine Producer Rebate and Other Measures) Bill 2004*, 28 July 2004, p.7.

2.12 Treasury advised that it was involved in discussions on this matter with the Department of Foreign Affairs and Trade, and with relevant officials in New Zealand. The issue is not yet resolved but, at this stage, Treasury considered that it was unlikely to affect the cost estimates provided in the budget papers.

2.13 The second issue concerns the possibility that foreign wine producers may import wine in bulk to Australia, blend it with a small amount of Australian wine and bottle it for sale on the domestic market, thereby becoming eligible for the wine producer rebate for wine manufactured in Australia. Treasury indicated that it was not the intention of the legislation that the rebate would be available under such circumstances and that the legislation as drafted should prohibit such a claim being made successfully. However, Treasury undertook to clarify and confirm that advice in a question on notice.

2.14 Finally, Treasury was asked about whether consideration had been given to excluding large producers from eligibility for the rebate and making it available primarily as a regional assistance measure to small and medium sized producers. Treasury advised that the Government decided to apply the measure on an industry-wide basis. It also noted that, from a tax design point of view, exempting a particular segment of the industry from eligibility for the rebate would create complexities in the administration of the measure.

## **Conclusion**

2.15 The Committee recommends that the Senate pass the bill.

SENATOR GEORGE BRANDIS  
**Chair**



# Appendix 1

## SUBMISSIONS RECEIVED

<b>Submission Number</b>	<b>Submittor</b>
1	Haig Fitzgerald, Indirect Taxation Specialists
2	Ernst & Young
3	Confidential



## **Appendix 2**

### **PUBLIC HEARING AND WITNESSES**

**MONDAY, 9 AUGUST 2004 - CANBERRA**

BROWN, Mr Colin Leslie, Manager, Costing and Quantitative Analysis Unit  
Department of the Treasury

COLMER, Mr Patrick Joseph, General Manager, Indirect Tax Division  
Department of the Treasury

FREE, Mr Anthony John, Manager, Excise Unit, Indirect Tax Division  
Department of the Treasury

TILLEY, Mr Paul, General Manager, Tax Analysis Division  
Department of the Treasury