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

28 September, 2016

Adam Louder and Nancy Panter, SubRosa Wine

As a wine producer concerned with the future of our industry, we 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. Our 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.

1. **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.

1. **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 our business and livelihood question 2 in particular is critical. We 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 our particular business model would still be ineligible.

*We (SubRosa) are a small winery with big ambition to produce Australia’s best Shiraz, Nebbiolo and Viognier. After making wine for other people for more than 15 years and dedicating his life to making premium wine, our winemaker Adam Louder began making wine in 2013 under our own label SubRosa using the best grapes and French Oak we could get our hands on. In 2013 we made only 300 cases using Grampians fruit given to us as contra for winemaking services.*

*With this foot in the door we came up with a name, registered it, briefed a local artist to design our label, got labels printed, paid for bottling, built a website, started an Instagram account and then started to sell our wine.*

*In 2014 we didn’t make wine as we were considering staying in the USA (for 12 years our winemaker Adam has worked the Northern Hemisphere harvest to increase his experience). In 2015 we decided to make Australia home (again) and put all our efforts into producing premium wine working with the best grape growers in the Grampians and Pyrenees regions; and building our SubRosa brand.*

*At this stage of our business (three years in), we would love to own a winery and/or a vineyard, but it is cost prohibitive. It is also a blessing that our winemaker has one job – to focus on making the best quality wine. If he had to focus on growing the grapes and running a winery in addition to the added financial stress of a massive mortgage we would be in a very different place.*

*The single focus on winemaking has proven a successful strategy. All SubRosa wines have scored more than 90 points from Winefront’s Mike Bennie – a great achievement for a new winery.*

*In 2015 we produced 490 dozen (from eight tonnes of fruit). An increase in production of 60% on 2013. We aim to increase production each year until we reach 1,000 dozen (15-20 tonnes of fruit).*

*In order to support our business growth plans the business partners of SubRosa (Adam Louder and Nancy Panter) work part-time for other wine and marketing businesses in the Grampians wine region. It is expected that within five years of operation SubRosa will be able to support payment for winemaking and sales/marketing services allowing Adam and Nancy to dedicate 100% to SubRosa.*

*Should the proposed WET changes be implemented, we would have to reconsider our business. It is unlikely that we would be able to continue to operate in the proposed WET environment. We do not intend on owning a winery or leasing a vineyard until it is financially viable for our business. Until we can afford to purchase our own vineyard and/or winery we will continue to support local grape growers by buying their fruit and local wineries by paying to use their facilities.*

*If we were forced to pay WET our business model would not make sense and we would have to fold our business – an unfortunate outcome considering the passion and skill of our winemaker.*

*While we do not own a winery or vineyard we still have “skin in the game”. We have worked hard to produce premium wine, build supplier and customer relationships and build a brand. We are also dedicated to supporting the region and volunteer more than 200 hours/year to the Grampians regional wine organisation.*

*We were not born into a wine family, nor do we have financial backers. Every cent we have spent on SubRosa has come from income generated from our part-time jobs.*

*We are also dedicated to helping the region grow.*

*Nancy has had a successful global communications and marketing career in Australia, Canada and in the USA including roles such as Director Global Brand and Marketing PR for Visa.*

*Based in San Francisco, Nancy oversaw the global public relations activities for Visa’s marketing efforts including sponsorships of the Olympic Games, Paralympic Games, FIFA World Cup and the National Football League (NFL) including the annual Superbowl. Nancy also oversaw the public relations efforts for innovative Visa global financial literacy project “Financial Football”.*

*Since our relocation to regional Victoria, Adam has consulted to a number of local wineries sharing his expertise and Nancy has dedicated her time to working with the local tourism organisation (Grampians Tourism) and Grampians Grape Escape food and wine festival. Nancy has also volunteered her expertise to Grampians Winemakers, Pyrenees Winemakers, Wine Victoria (appointed to the Wine Victoria Tourism Sub Committee) and East Grampians Health Services (Board member and Chair of the Audit and Risk Committee).*

*Should the proposed WET changes be implemented, we would have to fold our business and relocate – most likely overseas again.*

We believe 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 ‘rorting’ 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.[[1]](#endnote-1) I, my regional association, state association and national industry body are all supportive of these measures.

We 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*” [[2]](#endnote-2)

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, we 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,

Adam Louder and Nancy Panter

SubRosa Wine

368 Colliers Gap Road, Eversley, VIC 3377

Contact details:

info@subrosawine.com.au

0478 072 259

[www.subrosawine.com](http://www.subrosawine.com)

1. 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 [↑](#endnote-ref-1)
2. *Wine Equalisation Tax Rebate Consultative Group report* October 2015, p 5. [↑](#endnote-ref-2)