

**WINEMAKERS' FEDERATION OF AUSTRALIA**  
**SUBMISSION TO THE REVIEW ON BUSINESS TAXATION**

*A Platform for Consultation*

**i) CONTACT DETAILS**

Mr Ian Sutton  
Chief Executive  
Winemakers' Federation of Australia  
PO Box 647  
MAGILL SA 5072  
Phone: 08 8364 1122  
Fax: 08 8364 4489

Mr Tony Battaglione  
General Manager  
Canberra Wine Bureau  
GPO Box 1322  
CANBERRA ACT 2601  
Phone: 02 6249 7162  
Fax: 02 6249 8653

**ii) INTRODUCTION**

This submission to the Review of Business Taxation arrangements chaired by Mr John Ralph, AO, has been prepared by the Winemakers' Federation of Australia.

The submission outlines the views of the Winemakers' Federation of Australia on matters addressed in the discussion paper *A Platform for Consultation*. The industry strongly supports the need for a simplification of the tax system and the adoption of a 30% company tax rate. In this submission we would like to address five issues of particular importance to the wine industry.

For more details on the credentials of the Australian wine industry, you are referred to the December 1998 Submission to the Review of Business Taxation.

**iii) WINEMAKERS' FEDERATION OF AUSTRALIA**

The Winemakers' Federation of Australia is the Australian wine industry's peak voluntary national body. The Federation's members in total produce around 90% of Australian wine.

It is comprised of two electoral colleges – the Australian Wine & Brandy Producers' Association, and the Australian Regional Winemakers' Forum.

Due to the high level of vertical integration in the wine industry, the Federation represents members on a wide range of issues, from primary production (grapegrowing) to manufacturing (winemaking), distribution and marketing.

## 1. Valuation of Trading Stock

### *Discussion*

Taxpayers currently have three options for valuing each item of stock on hand at year end (cost, market selling value or replacement price). The law provides taxpayers with an annual option of choosing which method to adopt, allowing flexibility to adjust timing of income for tax purposes;

### *Proposal*

The report proposes that stock be valued on a more consistent basis. The following alternative methods are proposed:

- (i) adopt an accounting approach – i.e. lower of cost and net realisable value (NRV) [paragraph 3.11];
- (ii) all stock to be valued at NRV [paragraph 3.12];
- (iii) select one of the current methods of valuation and apply it to all stock with limitations on the ability to change between methods [paragraph 3.13].

### *Recommendation*

The current flexibility and alternative valuation methods be maintained.

### *Reasons*

- The alternatives proposed do not reduce complexity of the trading stock issues, rather, they reduce flexibility
- The maintenance of flexibility is important for many reasons;
  - for example, the utilisation of losses, particularly where there is a change in ownership. In such circumstances, it is only appropriate that the people who bear the economic risks and burdens, should obtain any benefit
- Depending on the method adopted, a taxpayer may be taxable on unrealised gains and/or losses
- Option 3 may create problems in the valuation of obsolete stock because the option involves the taxpayer applying one of the current valuation options to *all* stock

## 2. “Cost” of Trading Stock

### *Discussion*

For tax purposes, the meaning of “cost” for trading stock is not consistently applied to all industries. Fruit growers endure inconsistent application of trading stock rules when compared with other primary producers (for example, special valuation rules for livestock).

### *Proposal*

The Ralph report makes no reference to special valuation rules for particular items of stock, nor does it provide any guidance as to what constitutes “cost”. In particular, no reference is made to whether direct or full absorption costing should be used.

### ***Recommendation***

The wine industry be allowed to adopt direct (rather than full absorption) costing, or a suitable alternative, to put them in a more comparable position to other primary producers with slow moving stock.

### ***Reasons***

- While full absorption costing may be appropriate for a manufacturer, who has a high turnover and low overall investment in stock (compared to other balance sheet items), a similar treatment may be inappropriate for winemakers who have lower stock turnover and higher overall investment in stock
- Winemakers should not be put at a disadvantage compared to other primary producers
- An alternative methodology would not reduce the tax paid – it would delay the tax more appropriately to the time when the income is realised.  
**[See Full Submission Attached – Appendix 1]**

## **3. Taxing Trusts as Companies**

### ***Discussion***

Under the current tax rules, various entities, (such as trusts, limited partnerships and co-operatives), are treated differently. It is argued that this inconsistent treatment leads to complexity and increased compliance costs.

It is not possible to get industry unanimity on this issue. In principal the Winemakers' Federation of Australia does acknowledge the arguments for a fairer and more consistent taxation treatment of entities. However, blanket adherence to this principal will have a resounding negative impact on a number of small businesses currently, and legitimately, operating as Trusts. The viability of small business operators should not be threatened because of a desire to achieve uniform taxation treatment of entities.

On a practical level, a more stringent taxation treatment of Trusts will encourage some entities to redefine as sole proprietors or partnerships. Such an outcome would be clearly inefficient, as no benefit would accrue to Government revenue, and considerable transitional costs and additional liability would apply to the entity.

### ***Proposal***

Consistent treatment of the calculation of taxable income for entities covered by the new tax system, by taxing entities (such as trusts and co-operatives, unless specifically excluded), in a manner consistent with that for companies **[paragraph 21.4]**.

### ***Recommendation***

For closely held entities, the existing tax treatment apply: to allow appropriate and targeted concessions (vis a vis companies); and to limit the implications a uniform tax treatment would have on small business.

All other entities currently taxed as trusts to be treated in a manner consistent with that for companies

**Reasons**

- Indemnifies legitimate small business against a significant tax impost
- Demonstrates a commitment to small business and regional development
- Improves on the current system by applying streamlined tax treatment across most entities

**4. Accelerated Depreciation****Discussion**

Some wasting assets are eligible for accelerated depreciation. Different depreciation regimes apply to differing classes of those eligible assets. Where accelerated depreciation does apply, the rate of acceleration is not uniform. In general, the longer the life of an asset, the higher the loading.

In some circumstances, accelerated depreciation is applied as a legitimate policy tool. For instance, the accelerated depreciation rate on capital expenditure on irrigation (75B) has a legitimate environmental policy objective of reducing water use.

**Proposal**

That the current accelerated depreciation regime be replaced with a consistent and more uniform depreciation regime, based on either effective life or effective life with a loading.

**Recommendation**

That a more unified depreciation treatment be applied, and that in general, accelerated depreciation be discouraged in favour of lower entity tax.

That the use of accelerated depreciation be retained as a legitimate policy tool of government, and that the use of accelerated depreciation be targeted at government policy outcomes (e.g. environmental policy) only.

**Reasons**

- the trade-off for lower entity tax assists profitability and international competitiveness
- Transparency
- Efficient resource allocation

**5. Expenditure on R&D****Discussion**

The tax law presently allows a deduction equal to 125% of the amount expended by a company on qualifying R&D activities. Until 20 August 1996 the allowable deduction was 150% of the R&D expenditure. For most manufacturing companies,

the effect of the R&D concession is to increase the allowable deduction by 25% (previously 50%).

At a 36% corporate tax rate, the R&D concession reduces the after tax cost of every dollar of R&D expenditure from 64 cents to 55 cents. When the concession was provided at 150% the after tax cost of R&D expenditure was 46 cents.

### ***Recommendation***

That the R&D concession should not be included in the package of tax preferences which are to be removed to fund a reduction in the corporate tax rate. As the table below shows, removal of the R&D concession – when coupled with a reduction in the corporate tax rate to 30% - would increase the after tax cost of R&D to 70 cents, an increase of more than 27% from the current position and more than 52% up on the position which existed when the concession was at 150%.

The table also shows that, at a 30% tax rate, the R&D concession should be restored to 150% to maintain the current after tax cost of R&D.

	<b>No Concession</b>	<b>125%</b>	<b>150%</b>	<b>180%</b>
<b>36% Tax Rate</b>	64 cents	55 cents	46 cents	
<b>30% Tax Rate</b>	70 cents	63 cents	55 cents	46 cents

### ***Reasons***

Restoration of the 150% concession would:

- signal a strong commitment by Australia to investment in R&D as a key driver of innovation and longer term competitive advantage
- increase the commitment by Australian companies to R&D thus enhancing opportunities for new products and/or processes to be sold internationally; and
- provide an internationally competitive regime which would attract new international R&D investment in Australia

## Appendix 1: Valuation of Trading Stock

### Background

The application of full absorption costing for the purposes of valuing wine trading stock is inequitable as it does not have regard to the relatively long stock holding period peculiar to the Australian wine industry. The negative impact on cash flow resulting from full absorption costing will, if not addressed by legislative amendment, be instrumental in denying the Australian wine industry the opportunity to achieve its projected growth to \$4.5 billion in sales revenue by the year 2025 and its desired penetration into export markets as a premium wine producer.

Furthermore, the wine making industry is closely related to the grape growing industry but neither winemakers, nor grape growers, are afforded stock valuation methods available to other primary production activities such as the prescribed minimum valuation of natural increase for livestock and direct costing.

Prior to 1973 in recognition of the peculiar nature of the Australian wine industry, minimum values for valuing wine stock were adopted. The need for minimum values similar to the regime introduced in 1953 is now more acute and is now exacerbated by the required increase in wine stock investment to meet industry demand. The wine stock valuation provisions were removed by the Whitlam Government in 1973. The absence of an appropriate method to recognise the industry's current stock investment requirements puts it in an unsatisfactory state to achieve market growth and the Government fiscal objective of a long term increase in national revenue.

### Trading stock of manufacturer - Absorption Costing

In calculating the profits of a business for income tax purposes, the excess of the value of trading stock on hand at the end of the year of income over the value at the start of the income year is included in assessable income pursuant to section 70-35(2) of the *Income Tax Assessment Act 1997* ("ITAA 1997").

For such purposes, the law provides that trading stock may be valued at cost, market selling value or replacement price.

The decision in *Philip Morris Ltd v FCT* (79 ATC 4352) concludes that the absorption cost method is the appropriate method of determining the cost of manufactured stock on hand at year-end. The Commissioner of Taxation considers that full absorption costing is appropriate for wine trading stock (refer IT 2001).

For the reasons noted below, it is submitted that whilst full absorption may be the accepted method for valuing inventory for accounting purposes and may provide a method that reflects the true gains of a manufacturing business of stable growth and high stock turnover (similar to *Philip Morris case*), it is without doubt inappropriate to the survival and growth of the Australian wine industry from a tax point of view.

### Negative cash flow impact on Australian wine industry

The following analysis illustrates the negative impact of full absorption costing on the cash flow of winemakers generally and, accordingly, the industry's capacity to invest and participate in the Australian wine industry's key strategies of accelerated market growth (increased wine production) and market placement as a quality wine producer (involving increased stock holding periods).

An analysis of turnover across a broad range of manufacturing industries (study conducted by Coopers & Lybrand) indicates that, on average, stock is turned over in most manufacturing industries between 4 and 15 times per annum. In the Australian wine industry, wine stock is turned over on average once every 1.6 years. For premium wine producers, turnover is significantly lower - for example, premium red wine stock may be turned over only once every 4 years on average.

The following tables at Appendix I provide a summary of the cash flow projections of a hypothetical premium wine producer and a general manufacturer with similar industry characteristics. The only differences between the two manufacturers are the rate of stock turnover and the rate of growth in demand for the manufactured product.

For the premium wine maker, turnover ranges between 1.25 and 0.37 times per annum and industry growth are in accordance with the reasonable projections for the Australian wine industry of 7% per annum. For the general manufacturer, the rate of stock turnover is 10 times per year (being a reasonable estimate in accordance with the Coopers and Lybrand survey) and market growth is 2% per annum.

For both manufacturers, after tax profits are largely retained by the business with only 5% dividends being paid to its owners. This is typical of the Australian wine industry which in addition to funding low stock turnover, must retain profits to fund a business that is capital intensive.

Given the year 2025 projections for the Australian wine industry, establishment and maintenance of vineyards will require significant cash outlay. This factor has not been built into the detailed cash flow projections.

The summary tables highlight the following:

- Production costs incurred by the wine manufacturer are increasing in accordance with industry projections for accelerated domestic and export growth while manufacturing costs and demand for the general manufacturer reflects steady market growth;
- Stock levels are increasing at an accelerated rate for the wine maker reflecting longer stock holding periods and accelerated demand;
- The tax benefit associated with costs of production for the wine maker is significantly lower than manufacturers in other industries. The wine manufacturer is only able to claim 85% to 89% on average of actual costs incurred in each year of production. This is compared to a 100% tax deduction for manufacturing costs of the general manufacturer where stock turnover is significantly higher.
- This illustrates that wine makers, as opposed to other manufacturers, are incurring production costs for which they are not entitled to a tax deduction in the year the costs are incurred under full absorption costing. This means that the premium wine maker must fund the cost of wine production for a longer period of time without obtaining tax relief for those costs.
- The cash flow of the wine maker after the payment of a minimal dividend is negative, even after 7 years of accelerated growth. Even if the dividend were ignored, cash flow is still negative. Cash flow will continue to be negative until the year 2025 when accelerated market growth is expected to subside.

- The wine maker must be able to fund the growth in stock levels to meet demand. The following table illustrates that the annual increase in funding requirements is greater than 25% per year.

Negative cash flow will impact not only current stock funding but also long term funding of the winery operation. Reasonable maximum debt to equity ratios presently evident in the Australian wine industry is likely to be exceeded as shown by the cash flow model projections. This means that the wine maker must: seek further capital funding, suffer the higher costs of finance to remain in operation; or release wines earlier, thereby compromising on quality.

Fixed and working capital investment in the Australian wine industry without tax relief imposes a significant burden on cash flow.

In essence, if the existing taxation position is not addressed, the negative impact on cash flow will severely limit the ability of the industry to further invest in wine stocks and to retain wines for the periods, which will maximise the value and quality of the product.

In this, the existing taxation system is distorting, and may induce the Australian wine industry to take actions that do not reflect the best economic or technical allocation of resources.

### **Impact of negative cash flow on Australia's Australian wine industry**

The present taxation requirements result in a reduction in available cash flow and hence:

- a reduced capacity of wine makers to finance debt and equity requirements;
- a reduced capacity to raise necessary capital; and
- increased pressure to release stock prior to maturity to reduce stock levels. This results in lower quality wines being sold and impairs the ability of the industry to target export sales in higher quality markets – a key strategy in the branding portfolios of most companies.

Clearly the impact of current tax policy undermines the wine industries strong commitment to stable accelerated growth in wine sales which is prefaced by the need to produce quality premium wines for both domestic and, in particular, export markets. Australia's strategy for penetration into export markets is to play a leading role in redefining the market from one with an emphasis on low priced wine (high turnover), to a market more willing to pay for quality and consistency (low turnover).

The problem is further exacerbated as grape harvest and crushing takes place in the second half of the financial year resulting in high wine stock levels as at June year end which are reduced by December. This problem is again peculiar to the Australian wine industry for which tax policy has no regard.

Failure by Government to support growth in the Australian wine industry will have a significant medium to long term impact on government revenue.

### **Historical wine stock valuations**

In recognition of the peculiar nature of the Australian wine industry, section 31A of the *Income Tax Assessment Act 1936* ("ITAA 1936") was introduced.

In introducing section 31A, Sir Arthur Fadden (the then Treasurer) in 1953 stated (in relation to the Australian wine industry):

**“Stocks held at the end of the year, as a general rule, comprise mainly wines and spirits, which have not been sufficiently advanced in maturity to be in a marketable position. It is fairly common knowledge that the whole process of maturation extends over several years and, in many cases, it involves the addition of grape spirit or blending with other types of wine before the product is ready for sale to the consumers. In other words, winemakers at the end of each income year hold considerable stocks which are not in a marketable state”**

**“It is considered that the existing provisions of the Income Tax Law do not suitably meet the peculiar conditions of this industry...”**

**“The proposed method of valuation will not, of course, vary in any way the amount of net income on which the wine maker will ultimately pay tax. When his stocks are sold the difference between the selected values and the proceeds of sale will be reflected in the taxable income. In view of the unique circumstances of the wine making industry and its close association with the grape growing industry, I commend the proposed basis of valuation to the House as a practical measure designed to preserve equity as between the revenue and the taxpayers concerned.”**

The “Fadden” basis of valuation of trading stock existed until 1973 when it was repealed, although extended phasing out arrangements were contained in section 31B of the ITAA 1936.

Because of the increasing stock levels associated with the anticipated industry growth, the comments of Sir Arthur Fadden above are even more valid today than they were in 1953. In 1953 the arguments against full absorption costing for the Australian wine industry was based on low stock turnover. Under present and future industry growth projections, the anticipated growth further undermines the financial position of the wine maker as costs of production increase and no tax concession is made available for the costs of production incurred during the year.

With the repeal of section 31A in 1973, the Australian wine industry lost its ability to value wine stock on a simple basis but, more critically, was effectively denied a tax deduction for expenses incurred in building stock levels. Small to medium sized business which specialise in premium red and fortified wines, are hardest hit by this factor.

### **Alternative valuations of wine closing stock**

Tax treatment directed towards equity and economic efficiency of the Australian wine industry can be achieved by one of the following measures:

- minimum values as was the case under section 31A of the ITAA 1936;
- the use of direct costing rather than absorption costing;
- deferral of tax collection;
- averaging of wine stock values;
- closing stock value only included in respect of bottles held ready for sale (ie. that have matured into a saleable product).

### **Alternative valuation methods for wine trading stock**

#### **Minimum values, as was the case under section 31A of the ITAA 1936**

The adoption of a realistic nominal value was the solution introduced in 1953 with the introduction of section 31A. Section 31A allowed trading stocks of wine and spirits on hand at the end of an income year to be brought to account for income tax purposes at prescribed minimum values. This is the Federation's preferred approach as it is simple to implement and can be administered in a way to properly reflect the true costs of holding wine stocks.

This method is presently available to primary producers by way of the use of standard values for the natural increase of livestock, which are incorporated into the ITAA 1997 under section 70-55.

Minimum values will assist in alleviating the financial burden of negative cash flow from operating activities without creating a distortion in favour of holding wine stocks.

**The use of direct costing rather than absorption costing**

The courts have supported the use of absorption costing in valuing trading stock in respect of manufactured goods. Absorption costing includes not only direct costs (eg materials, direct labour and depreciation on plant and equipment used directly in manufacturing) but also an appropriate portion of variable costs (eg storage, indirect labour, fixed factory overheads including rent, insurance, depreciation).

English tax law in *Duple Motors Bodies Ltd v IRC* (1961) 39 TC 537 recognised that it was incorrect to lay down a general rule of absorption costing or direct costing for manufactured goods as a matter of law. Instead, it was considered that the facts of each case must be reviewed having regard to the particular circumstances of the industry or trade concerned to ascertain the true profit.

In Australia, the principle of full absorption costing has been adopted as set down in *Philip Morris Ltd v FCT* 79 ATC 4352. This case applied to the manufacturing and selling of tobacco products, an industry of high turnover whereby the number of finished units on hand at the end of each year was between 5% and 7% of the number manufactured during the year and always represented June production invoiced in July.

The nature of the industry decided upon in *Philip Morris Case* is easily contrasted with the Australian wine industry where turnover is much lower such that closing stock in year 1 may not be sold until year 3 or even later in relation to premium wine stock.

The application of direct costing would include the appropriate share of variable costs only in closing stock with all production overheads being claimed as deductions in the year incurred. All production overheads are treated as period costs under this option and are excluded from the cost of wine stock.

Primary producers in certain industries are presently entitled to adopt direct costing. For example, refer TD 93/47 for banana growers and TR 97/9 for wool producers. The use of direct costing for the Australian wine industry will alleviate the negative cash flow impact of the existing law by allowing a more appropriate treatment of stock valuation for taxation purposes.

In South Africa, a significant contributor to world wine exports, a partial absorption costing for valuation of wine trading stock is used. A full tax deduction is allowed for depreciation, which is not included in the absorption costing value of wine trading stock on hand at year-end.

Direct costing in Australia, would address the present discriminatory impact of the absorption costing system without providing a distortion in favour of the industry.

**Deferral of tax collection**

Deferral of current year tax liabilities of wine makers is another mechanism for alleviating the problem of negative cash flow.

On the withdrawal of section 31A, section 31B was introduced as a special transitional provision for wine makers whereby, the payment of tax attributable to the increase in value of wine stock on hand was deferred and apportioned over future years.

A tax deferral mechanism has the advantage of transparency and flexibility.

### **Averaging basis of stock increases**

A further alternative that partially addresses the distortion arising as a result of an increase in the value of wine stocks over future years is to “average” the increase in stock over (say) five years.

The result is to defer and “smooth” the increase in stock values over the period over which the averaging operates.

Systems of averaging are already an accepted part of our taxation system where abnormal income gives rise to the payment of tax at high marginal rates (capital gains, primary producers, authors and lump sum compensation recipients are examples).

The existing regime will ultimately lead to a decrease in Commonwealth revenue. The averaging mechanism proposed for winemakers facilitates only a deferral of a tax liability, not a permanent reduction.

### **Closing stock value only included in respect of bottles held ready for sale**

A large portion of wine stocks is in the maturation process and therefore should not be classified as “stock on hand”. Such wine stocks cannot yet be considered a marketable commodity. The maturing wine stock can be likened to a maturing agricultural commodity such as wheat before it is harvested or unpicked fruit. There is therefore a compelling case to exclude stock that is not held for sale in the following year.

It is submitted that bottled wine ready for resale should be included as trading stock on hand and be valued at full absorption cost.

Wine “not bottled” or wine stored in wooden casks (and therefore still maturing) would appropriately distinguish unmaturing wine from stock on hand ready for sale. The effect of this approach is a deferral of tax until sale. It achieves the same end as the other tax deferral mechanisms described above and varies only in the extent of the deferral.

### **Special deductions**

Alternative methods of alleviating the financial burden of holding stocks over the extended period is to provide tax relief in the form of special deductions.

As significant investment is required in terms of both working capital and fixed capital and specific investment allowances for fixed capital expenditure would address the taxation impact described above and has been used in the past by Governments that wished to support such investment. For example, an accelerated depreciation rate for fixed capital could be applied to winery operations.

In 1977 the need to reinvest current dollars into stock that produced income only in future dollar terms was addressed by a “trading stock valuation adjustment”.

Like the investment allowance, the aim is to recognise the costs of investment in current production facilities.

**Appendix I**

<b>Manufacturer - wine</b>	Year 1 2001	Year 2 2002	Year 3 2003	Year 4 2004	Year 5 2005	Year 6 2006	Year7 2007
Projected Domestic units (bottles) sold	923	962	1002	1037	1079	1122	1165
Projected Export units (bottles) sold	253	297	344	403	462	528	600
Total volume demanded	1176	1259	1346	1440	1541	1650	1765
Percentage growth in domestic and export sales		7%	7%	7%	7%	7%	7%
Production costs incurred	5,010	5,739	6,291	6,965	7,649	8,453	9,361
Stock on hand at year end (valued at cost)	10405	11243	12158	13196	14309	15537	16893
Percentage of production costs incurred for which tax benefit obtained in year incurred		89%	85%	85%	85%	85%	85%
Open cash at bank/(overdraft)	(1,178)	(1,570)	(2,086)	(2,751)	(3,585)	(4,577)	(5,772)
Percentage increase in funding required		33%	32%	30%	28%	26%	44%

<b>Manufacturer - general</b>	Year 1 2001	Year 2 2002	Year 3 2003	Year 4 2004	Year 5 2005	Year 6 2006	Year7 2007
Projected Domestic units sold	923	917	911	899	891	883	874
Projected Export units sold	253	283	313	349	382	416	450
Total volume demanded	1176	1200	1224	1248	1273	1299	1324
Percentage growth in domestic and export sales		2%	2%	2%	2%	2%	2%
Production costs	5,064	5,253	5,465	5,701	5,942	6,200	6,476
Stock on hand at year end (valued at cost)	507	526	548	571	595	620	647
Percentage of production costs incurred for which tax benefit obtained in year incurred		99%	100%	100%	100%	100%	100%
Open cash at bank/(overdraft)	(1,178)	(428)	347	1,131	1,913	2,692	3,466
Percentage increase in funding required		0%	0%	0%	0%	0%	0%