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Alcohol Stakeholder Group

Access information from meetings of the Alcohol Stakeholder Group.

Alcohol Stakeholder Group key messages 30 July 2024



Key topics discussed at the Alcohol Stakeholder Group meeting 30 July 2024.

Alcohol Stakeholder Group key messages 25 July 2023



Key messages from the Alcohol Stakeholder Group meeting held 25 July 2023.

Alcohol Stakeholder Group key messages 2 November 2022



Summary of the key topics discussed at the Alcohol Stakeholder Group meeting 2 November 2022.

QC 28444

Alcohol Stakeholder Group key messages 30 July 2024

Key topics discussed at the Alcohol Stakeholder Group meeting 30 July 2024.

Published 21 October 2024

On this page

Group governance

2023–24 reflections and 2024–25 compliance focus areas

Deregulation new measures

ATO technical advice

Industry updates – roundtable

Other business

Attendees

Apologies

Group governance

Integrity declaration

Members were advised of the introduction of an integrity declaration for all consultation groups., A copy of the declaration will be provided to members by email and will need to be completed and returned prior to the first meeting in 2025.

Integrity declarations are required to be signed annually by primary members of the group, as well as by proxy members at meetings. They are not required to be completed by Commonwealth members, who are covered by other Australian Public Service guidelines.

Annual review

An annual review is currently being conducted as required for all consultation groups to ensure relevant representation of industry organisations and associations. Ongoing engagement is a factor in membership consideration.

Charter

The Alcohol Stakeholder Group (ASG) charter has been updated to include the integrity declaration, formatting updates and a draft was provided with the meeting papers.

Action item	ASG Charter
Responsibility	Rowena Troth, Secretariat
Description	Rowena Troth to liaise with Annalisa LoBasso regarding feedback on the draft charter. Following consultation, an updated draft charter will be circulated to members for endorsement out of session.

2023–24 reflections and 2024–25 compliance focus areas

Wine equalisation tax

The wine equalisation tax (WET) system is operating largely as intended. Over \$1 billion was collected in 2022–23 with approximately 3,600 clients and this number has been stable over time. The 2020–21 tax gap estimate was 2.8% or \$31 million which is consistent with previous years and suggests a high level of compliance. The 2023–24 period is reasonably stable in terms of the WET system, however we are interested to hear feedback from industry. Compliance focus areas for 2024–25 will be like 2023–24 which included monitoring for potential business activity statement (BAS) fraud using WET labels, aiding 'New to WET' clients, targeted compliance work based on data-based insights and testing compliance with the 2018 legislative amendments.

Alcohol excise

The system is largely operating as intended, however illicit alcohol behaviour continues to pose a risk to revenue collection and community confidence in relation to health effects of drinking unsafe, illicit products. Alcohol excise collections for 2022–23 was approximately \$7.5 billion, with around 3,500 alcohol excise clients. The 2021–22 Alcohol Net Tax Gap, comprising excise and customs

duty, is approximately 9.1% and \$745 million. Large value illicit alcohol activities in the shadow economy is the key contributor to the tax gap making up approximately 88%, or \$660 million. The overall tax gap trend has been steady at around 9% for the last 5 years.

The ATO's implementation of the Contemporary Excise Experience project was a significant change for alcohol excise clients, enabling online lodgments and visibility of accounts, as well as built-in checks for example, to cap claims for the Alcohol Manufacturers' Remission (AMR). Automated lodgment reminders for monthly and quarterly lodgers commenced in March 2024. Two draft legislative determinations were recently published.

Action item	Online lodgment
Responsibility	Nathan Lindemann, Excise Experience
Description	Excise Centre to examine online lodgment for a potential resolution of issues where a weekly return is lodged before the end of the period.

Compliance focus areas for 2024–25 will include continued web content updates and provision of education to 'New to Excise' clients. This program ensures that clients are aware of obligations in setting up their business, and a later contact in relation to the running of their business. The Excise Client Manager (ECM) program will be expanded, which provides assurance for our largest payers to provide one-on-one support and engagement. Excise Centre continues to monitor AMR claims to identify trends and patterns of non-compliance, particularly where there are shared premises with other licensed manufacturers. A firmer risk-based approach will continue in relation to assessment of authorisations, including periodic settlement permissions and greater use of financial securities. Where more complex matters are involved, there will be targeted review and audit activities. Insolvencies are occurring in the alcohol excise industry, as with other industries, and the Excise Centre is proactively contacting administrators to ensure that excise obligations are considered. Issues for administrators include how they deal with stock on hand and equipment. Excise Centre works with other areas of the ATO to manage debts and insolvencies. The ATO will continue to provide updates to the ASG and direct email contact to assist clients to meet their obligations.

Illicit alcohol

Illicit alcohol remains a priority risk. We have continued the 'retailer visits' program, which was expanded to include clubs, nightclubs and hospitality venues. These visits provided an opportunity to educate retailers about illicit alcohol risks and to collect intelligence about potentially illicit alcohol products being supplied to retailers and venues. In addition to under-reporting of excise duty, we have seen instances of improper manufacturing processes, as well as issues around the use of concessional or denatured spirit being diluted or flavours added. To treat the illicit alcohol risk, we have worked with other government agencies, including state and territory law enforcement. For example, members were reminded of the recent media commentary on an enforcement activity on a distiller conducted by Victoria Police, where Excise Centre staff attended as subject matter experts.

An issue in lodgment of returns was noted, where a second return was incorrectly lodged for the same week, with the second return defaulting to the next period. Excise Centre staff will investigate this.

Deregulation new measures

Royal Assent for the *Excise and Customs Legislation Amendment (Streamlining Administration) Act 2024* was received on 28 June 2024, with amendments to respective regulations registered on 20 June 2024.

Members were advised by email on 4 July of updated ato.gov.au content. The **Excise guidelines for the alcohol industry** will be updated soon and members will be advised of their completion.

Changes to legislation because of the new measures from 1 July 2024 included:

- Excise and Customs licence holders will no longer need to renew licences or pay a licence fee. Due to the late passage of the law, some excise equivalent goods warehouse (EEG) licence fees were paid for the 2024–25 financial year however, these have since been refunded.
- From 1 July, clients can apply for entity-level licences. Previously, multiple licences were required where an entity had multiple premises. Changes now mean that these can be consolidated into one licence with an attached schedule providing details of the

various premises. Clients will be required to apply as these will not be automatically issued.

- General Movement Permission (GMP) is available to allow clients to move goods from any of your licensed premises to any other premises that are licensed to receive goods of that kind. These are optional and can be in addition to other permissions. Previously the law focussed on movement permissions specifying details of both premises. A consideration of granting a GMP will be that there are adequate controls in place to account for goods being moved.
- We will be publishing a public register of licence holders providing the name and Australian business number (ABN) of all clients holding an excise or EEG licence. The register will be updated monthly to provide clients with a reference point for potential engagement for movement and storage of goods. A link to the register will be provided to members.
- The entitlement to claim excise refunds for excise duty paid on or after 1 July 2024 has been extended from 12 months to 4 years to align with customs duty and other indirect taxes.

Implementation of the measures will continue over the coming months. The package is the result of many years of advocacy from the ATO and industry and members were thanked for their support and engagement through the process.

Further details of the entity level licensing and GMPs was provided. As the legislation has only recently been passed, members noted that they would now consider optional licensing changes.

Members raised several queries and the following were confirmed:

- Controls currently required for licences would still be required for each entity under entity level licensing, for example, in relation to key personnel or site changes.
- The public register would provide enough information for clients to make initial contact with other licence holders.
- Entity level licences relate to entities under one ABN.
- To be considered for a GMP, the client is required to hold a licence. Further, if granted a GMP only allows the client to move goods from premises covered by their licence to any other premises that are licensed to receive goods of that kind.

Members were generally supportive of the introduction of new measures. Any member queries relating to the implementation of the new measures should be directed by email excise.experience@ato.gov.au

Action item	Alcohol excise licence population
Responsibility	Michael Hughes, Excise Experience
Description	Excise Centre to provide further detail, if available, to members regarding the number of clients in different categories of alcohol excise licences in the excise system.

Action item	Public register
Responsibility	Jill Tanner, Excise Experience
Description	Excise Centre to advise members of the likely timing that the public register will be updated each month to allow for clients to include in their governance processes.

ATO technical advice

Members were notified of changes in the Alcohol Excise Technical team.

A paper from the 2022 ASG meeting gave a view on the addition of water to beer, cider or perry. This has been redrafted as, **Draft Excise Determination ED 2024/D1W Alcohol excise: the addition of water to beer** and **Draft Wine Equalisation Tax Determination WETD 2024/D1 Wine equalisation tax: the addition of water to cider or perry**.

The drafts were issued to members for consultation on 12 June 2024, with a due date for submissions of 12 July 2024. Several submissions were received and the ATO is working through the feedback. A concern was raised relating to the proposed date of effect and members were advised that the ATO will be taking a prospective compliance approach, with compliance resources not allocated until after December 2024.

At this stage, there is no set date of effect, but members will be informed about potential timeframes. Members expressed disappointment at the short timeframe between consultation dates and the proposed date of effect and the potential unintended consequences of the drafts on alcohol treatment. Members were encouraged to provide feedback to the ATO to ensure that all aspects associated with the ATO view were considered and investigated.

Members were advised that the Class of Persons Legislative Instrument was due to sunset in April 2025. This related to section 77FE of the *Excise Act 1901* regarding entities entitled to obtain spirits at a free rate of duty for specific purposes. The draft instrument is expected to issue for public consultation in mid to late August 2024. Potential changes may include the introduction of limits on the amount that is able to be obtained by each Class of Person, which is currently unlimited.

Industry updates – roundtable

The Independent Brewers Association (IBA) advocated for industry relief from biannual indexation rate increases. The IBA appreciated the introduction of deregulation new measures but noted that there continues to be a growing number of insolvencies and liquidations in the craft brewing industry.

Vok Beverages expressed interest in more regular updates, particularly in relation to illicit alcohol.

The Australian Distillers' Association (ADA) thanked the Excise Centre staff who attended the annual ADA conference and acknowledged the assistance provided to members over many years by Margaret Whelan. They also expressed disappointment in the upcoming excise rate indexation, with Australia now the third highest taxing country of alcohol products. Members were advised that the ATO is happy to present on excise matters at conferences or national conventions, where staff are available.

A member queried the ATO's resourcing in illicit alcohol activities and was advised that the Excise Centre currently has approximately 6 staff solely working on illicit alcohol risk mitigation, with support from other areas in the ATO, as well as leveraging off work with other areas of the government and state and territory organisations. Mitigating the illicit alcohol risk is a priority for the ATO and other government agencies. Interest in other measures raised during earlier deregulation

consideration was expressed and whether they would be introduced was queried. Members were advised that a large package of measures was introduced, and Treasury continues to review all taxation settings for consideration however, any policy changes are a matter for government and subject to prioritisation.

A member expressed interest in bi-annual meetings. Also noted was a reduction in alcohol sales with one product down by 35% and a move to cask sales and cheaper alcohol as well as an increase in ready to drink products was mentioned. Another member noted the reduction in alcohol sales as well and expressed disappointment with the issue and date of proposed effect of the draft determinations.

Support was expressed for deregulation measures and the potential introduction of limits relating to Class of Persons, an issue that Wilmar has advocated for.

The work over the last year on deregulation new measures was noted by Treasury and they expressed interest in ongoing feedback from the alcohol industry. Members showed appreciation for this significant work carried out by Treasury, ATO and Australian Border Force colleagues in relation to the introduction of deregulation new measures.

Action item	Frequency of ASG meetings
Responsibility	ASG members
Description	Members to advise the secretariat of interest in the potential introduction of biannual ASG meetings.

Other business

Excise Client Management – Tier 2

Members were reminded of discussions at the 2023 ASG meeting regarding the expansion of the current ECM program to a wider group of clients. The next tier of client management would not be on a one-to-one basis as with Tier 1 but would instead provide for a small team of Adelaide-based staff to be a single point of contact for selected clients. Excise Centre will be contacting those clients for further discussion about the proposed detail of that expansion which would

provide a level of service but more importantly, improved confidence and assurance in relation to revenue protection.

Attendees

Attendees list

Organisation	Attendee
ATO	Tony Poulakis (Chair), Small Business
ATO	Anthony Barnard, Small Business
ATO	Bennett Sandhu, Small Business
ATO	Brian Geovanovich, Small Business
ATO	Caroline Hill, Small Business
ATO	Claudia Bianco, ATO Corporate
ATO	Jill Tanner, Small Business
ATO	Lyn Nilsson, Small Business
ATO	Michael Brooks, Small Business
ATO	Michael Hughes, Small Business
ATO	Nathan Lindemann, Small Business
ATO	Paul Macklin, Small Business
ATO	Rufina Maurovic, Small Business

ATO	Sally Fonovic, Small Business
Accolade Wines	Annalisa LoBasso
Aldi Stores	Adam Willacy
Angove's Proprietary Ltd	Bob Smart
Asahi Group Holdings	Paul Jackson
Australian Border Force	Alex May
Australian Border Force	Kimberlee Clydesdale
Australian Border Force	Nikki Doan
Australian Distillers' Association	Paul McLeay
Australian Grape and Wine Incorporated	Lee McLean
Brewers' Association of Australia	John Preston
Campari Australia Pty Ltd	Ruth Golden
Cider Australia	Jane Anderson
Coca Cola Amatil	Karen McCoy
Coles Financial Services	George Nikolaou
Coopers Brewery	Brad Grunert
Endeavour Group Limited	Priyanka Nagpaul-West
Good Drinks Australia Ltd	Matt Morrisey
Independent Brewers' Association	Kylie Lethbridge
Lion	Jenny Tse

Metcash	Paul Onley
Pernod Ricard	Diane Cooper
Samuel Smith and Son	Vanessa George
Spirits and Cocktails Australia	Greg Holland
Taylor Ferguson Pty Ltd	Frank Ciampa
Treasury	Caitlin Payne
Treasury	Isaac Rosser
Treasury	Liz Jaspers
Treasury	Zoe Chalmers
Treasury Wine Estates	Catherine Dishon
Vok Beverages	Rebecca Tolhurst
Wilmar BioEthanol	Trevor Barr

Apologies

Apologies list

Organisation	Member
ATO	Margaret Whelan, Small Business
ATO	Naomi Schell, Small Business
Angove's Proprietary Ltd	Victoria Angove
Brown-Forman Australia Pty Ltd	Jorge Jiminez
Cider Australia	Warwick Billings

Diageo Australia Ltd	Rebecca Carter
Good Drinks Australia Ltd	Phil McClintock
Lion	Sonja Icanovski
Mainfreight Warehousing	Andrew Robinson
Manildra Group	Debbie Forster
Pernod Ricard	Stuart Wood
Samuel Smith and Son	Georgina Staker
Tarac Technologies	Robert Pelton
The Drinks Association	Georgia Lennon
Wine Australia	Ned Hewitson

QC 103224

Alcohol Stakeholder Group key messages 25 July 2023

Key messages from the Alcohol Stakeholder Group meeting held 25 July 2023.


Last updated 30 August 2023

On this page

Welcome and introductions

Reflections of 2022–23 and Compliance Focus Areas for 2023–24

Contemporary excise experience (CEE) project



Deregulation new measures

Industry updates – Roundtable

Other business

Meeting close

Attendees

Apologies

Welcome and introductions

Tony Poulakis opened the meeting with an Acknowledgment of Country, welcomed members and called for conflicts of interest, noting that Alcohol Stakeholder Group (ASG) discussions were not of a confidential basis, with minutes of meetings published on the ATO website. No conflicts of interest were declared.

The ASG 2 November 2022 meeting key messages have been published on ato.gov.au

There is one action item from the November 2022 meeting which is finalised with advice provided out of session on 17 November 2022.

Reflections of 2022–23 and Compliance Focus Areas for 2023–24

Michael Hughes noted that the current Wine Equalisation Tax (WET) program risk is considered low, with the system generally operating as intended. The current WET tax gap is 3%, or \$30 million, which suggested a high level of compliance. An updated WET tax gap will be published in the ATO Annual report due October 2023. During 2021–22, overall revenue collections were \$1.1 billion, which was made up of \$1.4 billion in collections and \$379 million returned in rebates and refunds. The New Zealand rebate scheme paid approximately \$13 million, which had been trending down over recent years. WET collections have been growing since 2019 however the client population has been stable over the past decade at 3,600 clients. While there has been significant churn in the industry, this included new producers taking over existing facilities.

Compliance focus areas for 2023-24 will reflect a similar approach to 2022-23. There have been instances of fraudulent behaviour by non-genuine clients on all labels of the BAS, including the WET labels, which was being addressed by the ATO in tightening up pre-issue checking to maintain system integrity. The New-to-WET program will continue. This targeted client program assists clients to confirm they should be registered for WET and that new clients are setting up appropriate systems and processes to meet their obligations. Further targeted compliance will relate to identifying trends that seem unusual as well as where credits or producer rebates exceeded the \$350,000 threshold. Work will be undertaken to ensure that legislative changes made in 2018 are effective and being applied correctly and to check current structures/other changes occurring in the industry.

In relation to alcohol excise, the legitimate industry was working well. The alcohol excise tax gap is currently 9.2%, or \$629 million, which is considered out of tolerance, however this was mostly attributed to a particular element of the industry not complying. This is being addressed as part of the illicit alcohol project.

The ATO continues to have a focus on education of clients with regularly updated web content and the New to Excise program to assist new entrants to the alcohol excise industry to understand their obligations. The Excise Client Manager (ECM) program continued to engage and assist large payers. The ATO used 'nudge' campaigns to follow up clients who have not lodged excise returns or paid excise duty on time. The ATO will be contacting clients exceeding the \$350,000 Alcohol Manufacturers Remission scheme threshold to understand where errors were being made.

Where the reminders to lodge and pay are unsuccessful, consideration of a firmer administrative approach will be considered. Where lodgment and payment requirements are not met, this may result in removal of PSPs or certain conditions being attached.

Naomi Schell noted that the alcohol excise tax gap continues to be one of the largest tax gaps for the ATO in percentage terms. An updated tax gap will be published in October 2023. Large scale illicit alcohol activities continue to be responsible for over 90%, or \$577 million, of the most recent tax gap published for the 2019-20 year.

Updates about the Illicit Alcohol project have been provided at previous ASG meetings. To date an ongoing intelligence component of the program has been undertaken and as part of the ongoing

education and prevention component, a range of communications have been published (Taxpayer Alert, updated web content and an illicit alcohol flyer designed for retailers). With COVID-19 restrictions lifting, there has been a shift in compliance in late 2022 to field activities being undertaken forming part of the correction component. These are ongoing, with initial results expected in late 2023.

A retailer visit program has recently been undertaken by ATO officers to approximately 250 alcohol retailers around Australia. Retail outlets were selected based on both a random basis and because of intelligence holdings. The visits were designed to gather information to inform compliance activities and to educate retailers on key indicators of illicit alcohol activity and risks, including penalties, in dealing in illicit alcohol product. ATO officers spoke to store managers and participation in the visits was on a voluntary basis. Suspected illicit alcohol product had been identified in approximately half of the stores visited, which reflected accurate intelligence. Retailers were encouraged to discuss these issues with their suppliers. ASG member feedback on the initial program was acknowledged. Follow up visits will be undertaken to assess the effectiveness of those initial visits.

During 2023–24, the ATO will continue to focus on illicit alcohol compliance, strengthening activities working with Australian Border Force and other state and federal agencies.

E-commerce is another area that will be investigated in relation to online sales of alcohol to better understand and, if necessary, treat that risk. Over 2023–24, excise centre staff may consult with ASG members to gain a better understanding from industry on any insights in relation to online sales.

Contemporary excise experience (CEE) project

Nathan Lindemann advised members that over the weekend of 25–27 August, excise data will be moved from legacy systems into the same accounting system used by the ATO for other taxes. This will enable clients to lodge and amend excise returns and make excise claims online for the first time. The ATO will advise clients when they can commence accessing the new online system.

Current processes used in relation to licence authorisations and permissions will not be changing. System updates will have no effect

on the way that taxpayers lodge customs remission claims.

Action item	25072023-4-1
Due date	August 2023
Responsibility	Rowena Troth, ASG secretariat
Action item details	A copy of the presentation used at the meeting to be distributed to ASG members.

Action item	25072023-4-2
Due date	September 2023
Responsibility	Rowena Troth, ASG secretariat
Action item details	A webinar is to be arranged for interested ASG members to go through various system changes occurring in relation to CEE updates.

Deregulation new measures

Liz Jaspers advised that there has been progress on the excise deregulation package with 2 measures legislated as part of the *Treasury Laws Amendment (Refining and Improving our Tax System) Act 2023*, which received Royal Assent on 28 June 2023 and took effect from 1 July 2023. This included a measure to align excise and customs reporting with other indirect taxes for businesses with an aggregated annual turnover under \$50 million; and allowing small-scale repackaging of duty-paid beer into smaller containers.

The government announced in the 2023–24 Budget that there would be a delay in the start date for the remaining measures, which is now 1 July 2024. These measures related to licensing, a uniform business experience and other items relating to streamlining fuel excise arrangements.

Treasury continue to work with the Department of Home Affairs to progress the remainder of the package and will follow standard processes and consult with stakeholders and industry on draft legislation. The timing of consultation will be dependent on government decisions and legislative processes. The standard consultation period for draft legislation is usually 2 to 4 weeks and invitations for submissions will appear on both the Department of Treasury and Department of Home Affairs websites, providing key dates and deadlines.

Treasury noted lead time for industry is important to implement changes on a practical level, including any requirement for system changes.

Anthony Barnard provided further information about the 2 measures taking effect on 1 July 2023. The small-scale repackaging measure relates to the alcohol industry and removes the requirement for an excise manufacture licence when repackaging duty-paid beer in certain circumstances. He noted that this mainly relates to small brewers, bars, clubs, and pubs as retail sale is required immediately after repackaging. Amendments have been made to public advice and guidance and industry alcohol guidelines are being updated. This measure is similar in effect to the administrative concession the ATO provided to industry during COVID-19 to assist businesses. The ATO are keen for any industry feedback.

The other measure aligns excise and customs reporting with other indirect taxes for businesses; those with an aggregated annual turnover under \$50 million. Where these entities previously lodged weekly or monthly, applications could be made to the ATO to report on a quarterly basis. Anthony noted that there are approximately 1,800 alcohol clients as well as a small number of fuel clients that are under the \$50 million threshold. Applications to report on a quarterly basis will be risk-assessed by the ATO to ensure compliance obligations such as lodgments and payments are up to date.

Anthony noted that the ATO will continue to support Treasury on implementation of the remaining 3 measures, which may include consultation through the ASG.

Members noted significant investment by industry to date in consultation on deregulation and expressed a strong interest in being involved in future consultation. Members also strongly advocated for changes in relation to ad valorem, particularly in relation to cost to

business. Industry noted the revised start date of 1 July 2024 provided a tight timeframe, particularly where material work in system changes may be required, however it was also noted the extent of changes required by industry would be determined by the draft legislation.

Members queried whether the aligning reporting measure would be extended to larger businesses. This had been considered by the Deregulation Taskforce, however the issue of aggregate deregulation benefit versus deferred revenue were a deciding factor in the final decision.

Joe Limongelli reiterated that applications for a change from monthly to quarterly reporting would take into consideration compliance with existing PSP obligations such as lodgment and payment and asked industry associations to remind their members to ensure their obligations were on track before applying.

Industry updates – Roundtable

Kylie Lethbridge, Independent Brewers' Association (IBA), noted that increasing energy and other costs are impacting the industry and the IBA will be increasing advocacy efforts.

Rebecca Tolhurst, Vok Beverages Pty Ltd, acknowledged the work being done by the ATO on illicit alcohol to ensure a level playing field for industry. Rebecca also referred to the ECM program and advocated for a dedicated account manager to liaise with to discuss excise-related issues. Tony Poulakis indicated that aspects of the ECM program may be rolled out to the next tier of clients in the alcohol industry.

Paul McLeay, Australian Distillers' Association, reiterated industry comments about pressures on businesses and commended the ATO for continuing a compliance focus on illicit alcohol.

Paul Onley, Metcash Trading Ltd, queried the usual legislative process. Liz Jaspers clarified that the usual process involved an Exposure Draft being issued, followed by introduction of a Bill. Paul also noted a preference to 'turn off' ad valorem rather than decoupling as that may lead to 2 parties in the chain paying some impost on the same supply.

Sonja Icanovski, Lion Ltd referred to the 2 to 4 week timeframe for Treasury consultation and noted that early engagement with industry would greatly assist, particularly in relation to potential changes / system changes which may be required.

George Nikolaou, Coles, noted that following the increase in alcohol sales during COVID-19 for some entities, the market had reduced or levelled out significantly for alcohol excise and WET products.

Stuart Wood, Pernod Ricard Winemakers, also noted the tough trading environment for industry, which would be impacted by the upcoming increase in indexation.

Warwick Billings, Cider Australia, reiterated the challenging environment for industry and advised that a 2 to 4 week consultation on proposed legislation would be difficult for those ASG members who are in industry associations, requiring them to consult with their members to provide a comprehensive response to Treasury.

Trevor Barr, Wilmar BioEthanol (Australia) Pty Ltd echoed earlier comments about the value of ECM support for clients, particularly in new staff education and providing support. Trevor referred to Concessional Spirit Class of persons determination which does not impose volume limits in the sale of potable alcohol. At times the volume of sales increased significantly and may be being diverted into illicit streams. This information has been shared with the ATO in an effort to stop any criminal behaviour.

Other business

ATO technical

Margaret Whelan advised members that the final Public Ruling on the meaning of 'Legally and Economically Independent' as it pertained to the Alcohol Manufacturers Remission scheme has been published earlier in the year. Margaret thanked members for their feedback on the earlier draft.

The ATO has previously circulated a discussion paper to ASG members on a proposed Practical Compliance Guideline relating to classification of certain products, in particular alcoholic seltzers. This was a reasonably complex issue that related to definitions under the beer and spirits excise tariffs, as well as WET. Following feedback, as well as advice from the Tax Counsel Network, consideration is being given for this to instead be issued as 2 Public Rulings, which will provide more certainty for industry and clients. One ruling would cover products that might meet the definition of beer and the other ruling would cover products that might be able to be classified as subject to WET. The ATO is also consulting with the Australian Border Force as

there is equivalent legislation for imported goods. Drafts will be issued to industry for consultation.

Margaret encouraged ASG members to contact the Excise Centre's Technical Advice team for technical advice in relation to alcohol excise and WET issues.

Rowena Troth advised ASG members that a draft Charter was being finalised for the ASG and will be distributed to members for consideration and endorsement out of session.

Meeting close

Tony Poulakis thanked members for their participation and ongoing engagement throughout the year.

Attendees

Attendees list

Organisation	Attendee
ATO	Tony Poulakis (Chair), Small Business, Excise Centre
ATO	Anthony Barnard, Small Business, Excise Centre
ATO	Bennett Sandhu, Small Business, Excise Centre
ATO	Brian Geovanovich, Small Business, Excise Centre
ATO	Caraline Hill, Small Business, Excise Centre
ATO	Claudia Bianco, ATO Corporate
ATO	Joe Limongelli, Small Business, Excise Centre

ATO	Lyn Nilsson, Small Business, Excise Centre
ATO	Margaret Whelan, Small Business, Excise Centre
ATO	Michael Hughes, Small Business, Excise Centre
ATO	Naomi Schell, Small Business, Excise Centre
ATO	Nathan Lindemann, Small Business, Excise Centre
ATO	Paul Macklin, Small Business, Excise Centre
ATO	Richard Grebneff, Small Business, Excise Centre
ATO	Rowena Troth (Secretariat), Small Business, Excise Centre
ATO	Sally Fonovic, Small Business, Excise Centre
ATO	Telly Nikolakopoulos, Small Business, Excise Centre
Accolade Wines	Annalisa LoBasso
Angove's Proprietary Ltd	Victoria Angove
Asahi Group Holdings	Paul Jackson
Asahi Group Holdings	Yingchao Ma
Australian Border Force	Kimberlee Stamatis
Australian Border Force	Jo Schultz
Australian Distillers' Association	Paul McLeay

Australian Distillers' Association	Michael Sugg
Australian Grape and Wine Incorporated	Lee McLean
Brown-Forman Australia Pty Ltd	Jane Wu
Campari Australia Pty Ltd	Ruth Golden
Cider Australia	Jane Anderson
Cider Australia	Warwick Billings
Coca Cola Amatil	Karen McCoy
Coles Financial Services	Frank McNamara
Coles Financial Services	George Nikolaou
Coopers Brewery	Brad Grunert
Diageo Australia Ltd	Rebecca Carter
Diageo Australia Ltd	Tomomi Yamada
Endeavour Group Limited	Priyanka Nagpaul-West
Independent Brewers Association	Kylie Lethbridge
Lion	Sonja Icanovski
Mainfreight Warehousing	Andrew Robinson
Mainfreight Warehousing	Rowan Cooke
Metcash	Paul Onley
Pernod Ricard	Stuart Wood
Samuel Smith and Son	Bob Smart

Spirits and Cocktails Australia	Nicole Lestal
Taylor Ferguson Pty Ltd	Chris Parton
Treasury	Liz Jaspers
Treasury	Tracy Richards
Vok Beverages	Ashlee-Louise George
Vok Beverages	Rebecca Tolhurst
Wilmar BioEthanol	Kat Figiel
Wilmar BioEthanol	Trevor Barr
Wine Australia	Ned Hewitson

Apologies

Apologies list

Organisation	Member
Aldi Stores	Darren Thomas
Brewers' Association of Australia	John Preston
Manildra Group	Debbie Forster
Spirits and Cocktails Australia	Greg Holland
Tarac Technologies	Robert Pelton
Taylor Ferguson Pty Ltd	Frank Ciampa
The Drinks Association	Georgia Lennon
Treasury Wine Estates	Catherine Dishon

Alcohol Stakeholder Group key messages 2 November 2022

Summary of the key topics discussed at the Alcohol Stakeholder Group meeting 2 November 2022.

Last updated 5 December 2022

On this page

Welcome and introductions

Reflections of 2021–22 and compliance focus areas for 2022–23

ATO

Focus topic – Deregulation new measures

Industry updates –roundtable

Meeting close

Attendees

Apologies

Welcome and introductions

Tony Poulakis welcomed members and advised the minutes from the meeting held on 19 August 2021, have been published on ato.gov.au. One action item remained outstanding (19082021-6-2) and would be covered under agenda item 3.

Reflections of 2021–22 and compliance focus areas for 2022–23

Michael Hughes noted that the impacts of COVID-19 on industry and ATO treatment strategies had continued through 2021–22 and that, at a high level, focus areas would remain the same through 2022–23, with a focus on illicit alcohol activities.

Wine equalisation tax (WET)

The WET system was operating largely as intended, with 2018 amendments appearing to address previous risks. The ATO has recently published an updated WET tax gap estimate for 2019–20 that is 3%, or approximately \$31 million, which is consistent with previous years, suggesting a high level of compliance. Michael noted the impact of COVID-19 on ATO fieldwork, limiting onsite audits being carried out, although desk-based activities had been undertaken to target overclaimed rebates/credits. During 2021–22, the ATO continued to work with NZ Inland Revenue regarding WET claimed by NZ producers.

During 2022–23, work will be carried out on WET to ascertain whether any previous non-compliant behaviours are starting to reappear. There will also be a focus on 'new to WET' clients to provide help and education in meeting WET obligations for new entrants.

The ATO will continue its focus on fraudulent behaviours associated with claims in BAS, that have included the WET labels. This is being addressed as part of an enterprise response in the ATO's Operation Protego.

Alcohol excise and excise equivalent goods (EEG)

The system was largely operating as intended, particularly with legitimate clients. There is, however, a significant tax gap for 2019–20 that represented a slight increase to 9.4%, or just over \$600 million. It was noted that the trend had been static over previous years but is an area of concern for the ATO. The illicit alcohol strategy was working to address that; however the results of that strategy may not be materially reflected in a reduction in the tax gap for some years (given it is a lag measure). COVID-19 has impacted audit activity however compliance work and help and education of clients will recommence in 2022–23. Visits would also assist in gaining a better understanding of new businesses entering the system.

There has been a significant increase in new licence applications for excise manufacture following the introduction of the alcohol manufacturer remission (AMR) scheme.

Although overall debt levels have remained steady in 2021–22, work will be carried out across the ATO in 2022–23 to improve debt performance.

Michael advised that more broadly, the ATO's risk treatments will involve a staged approach of initial help and education for clients when joining the system. For those found to be not complying with tax obligations, a tailored response will then be employed depending on the client's risk profile. This response may involve nudge campaigns designed to understand reasons for non-compliance and assist clients to get back on track, phone calls for debt and lodgment issues, followed by consequences for high impact cases including changes to periodic settlement permissions (PSP) and movement permissions (MP), or in extreme cases, cancellation of licences and potential prosecution to ensure a level playing field for the market.

The compliance focus for 2022–23 will see the continuation of the 'new to excise' program with initial contact at licence application, then by staged follow ups to check in with clients. The ATO will continue to monitor AMR claims, with clients contacted if they are approaching or exceeding the threshold. Communication activities are also planned, particularly to warehouse operators to ensure appropriate records are being maintained, as well as to concessional spirits suppliers about requirements and a reminder about requirements and restrictions involved in home distillation.

Naomi Schell provided an update on the ATO's Illicit alcohol strategy. The illicit alcohol risk continues to be a priority and focus for the foreseeable future. The activity was assessed as a key contributor to the alcohol excise tax gap for unpaid excise and customs duty or EEGs. COVID-19 restrictions have impacted the ability to carry out field work, however some audit activity has been carried out, with some success. The identification / intelligence phase of the project has been completed that included information sharing across other federal and state agencies. A range of preventative strategies have been implemented, underpinned by the publishing of a taxpayer alert. For 2022–23, attention will turn to enforcement activities for correction and compliance activities. These aim to correct behaviours and remove the most egregious entities from the supply chain. A variety of products have been sourced across Australia displaying hallmarks of illicit product, including colour, labelling and price. These displayed high levels of denaturants, primarily tertiary butanol, which indicated manufacture from denatured spirit that would be sourced at a duty-

free rate and was not intended for human consumption. Further work will be carried out in this area given it is illegal to manufacture alcoholic beverages from these denatured spirits.

An analysis of the supply chain will be carried out with a view to auditing entities illegally producing alcoholic beverages and will also include further communications to retailers. Concessional spirit suppliers will be contacted to obtain purchaser information. A review of approved formulas for denaturing spirit will also be carried out and may result in the issue of a Tax Determination. Industry experts will be consulted.

Claudia Bianco advised that the annual December closedown will take place from midday Friday 23 December to 8.00 am Tuesday 3 January 2023. Communications will issue to the Alcohol Stakeholder Group (ASG) to provide advice of any potential client impacts.

The Consumer Price Index (CPI) is due to be released on 25 January 2023 and indexation will take place from 1 February. Communications will be provided to ASG members and all clients on 25 January.

The Communications team will also be providing support during 2023 in relation to the rollout of the Contemporary Excise Experience (CEE) project and potential deregulation new measures. Claudia reminded ASG members to contact her if they would like any specific communications on ATO messaging drafted to share with their members.

ATO

Technical updates

Sally Fonovic encouraged members to provide feedback on the ASG discussion paper *'Practical guidance for manufacturers of hard seltzers and similar beer, cider or perry products'* that has been circulated prior to the meeting. Comments are due 30 November 2022. The paper is seeking industry feedback and views to enable the ATO to draft a Practical Compliance Guideline (PCG) which will provide a framework for industry with clear advice allowing them to self-assess and ensure the ATO will be comfortable with that assessment. The ATO is working with the Australian Border Force (ABF) to ensure product classifications for domestic and imported products remain aligned. Kimberlee Stamatis advised that ABF would await the publication of the final PCG prior to confirming ABF's position on whether they would

also publish corresponding advice on this issue, or just rely on the ATO advice product.

Bennett Sandhu advised the Draft Public Ruling on the definition of '*Legally and Economically Independent*' is due to publish soon, providing approximately 4 weeks for feedback from industry. The draft will be circulated to ASG members. Bennett advised this will provide a more detailed explanation of updates to Chapter 7 of the *Excise Guidelines for the Alcohol Industry* that was published in December 2021.

Contemporary excise experience

Nathan Lindemann provided an update on the CEE project, referring to the slide pack distributed in meeting papers. The project will ensure that there is a similar look and feel for online transactions for excise as for other taxes administered by the ATO.

- Phase 1 was deployed in September 2021 resulting in grants schemes being administered in the enterprise system. Relevant to this group are rebates under the International Wine Rebate Scheme (IWRS) for NZ wine producers.
- Phase 2 will move accounting functions from legacy systems into the ATO's core processing system. The timing of Phase 3, which relates to licences and permissions, is yet to be determined.
- Phase 2 related to excise duty returns, amendments and credit claims. In addition to an improved online experience, other benefits will be lodgment reminders (except for clients lodging weekly) and the ability to enter into payment arrangements online. The online form will provide an AMR cap for clients as well as visibility of the amount claimed for that year and warnings when clients are approaching the threshold. Claim adjustments will also be available. Additional slides provided screenshots of the forms that had been developed.

Tony Poulakis advised that communications would be issued to ASG members and clients as CEE progressed.

Focus topic – Deregulation new measures

Liz Jaspers of Treasury reminded members of the announcement by the previous government in the 2022–23 Budget of a package of measures in relation to excise deregulation. If the current government

agrees to proceed with these measures, the Departments of the Treasury and Home Affairs will follow standard processes and consult with stakeholders and industry on the draft legislation. The standard consultation period for draft legislation is approximately 4 weeks. Invitations for submissions will appear in the Departments of the Treasury and Home Affairs websites and will include any key dates and deadlines.

Industry members were referred to the announcement in Budget Paper No. 2 of the 2022–3 Budget and discussed the various options of those measures. Anthony Barnard referred members to the consultation paper released by the Deregulation Taskforce which provided further context to the measures considered by government at the time. It was noted that the implementation date of 1 July 2023 will provide a short period of time for drafting of legislation and implementation.

Industry raised the issue of ad valorem, noting that deregulation benefits could be achieved by decoupling of this tax, and it being triggered at the point of entry into a warehouse. If this were to be implemented, some form of transitional arrangements will be needed.

Consolidation of the dual systems of excise and customs duties onto one return is another issue raised in previous submissions by industry, which would benefit both local manufacturers and importers.

Alignment of excise returns with BAS timing is an important issue for industry to allow less frequent reporting, as well as the implementation of a licensing register for better visibility of entities holding manufacturer and storage licences. Members supported the public register including details of all entities, as opposed to an 'opt-in' system.

Treasury noted that other government processes are currently underway that may also impact the industry, for example the Simplified Trade System (STS) being led by Austrade.

Industry noted that the previously proposed implementation date could be an ambitious timeframe and members discussed the potential to opt-in over a period of time. Others noted that running dual systems for any length of time would cause concerns for them. Kimberlee Stamatis questioned whether industry would support a delay to the proposed 1 July 2023 implementation date. Members indicated a need to see the details and draft legislation before deciding.

Members also discussed issues around the timing of excise returns when implementing tariff rate changes for indexation, noting legislative requirements around the timing of indexation following the publication of the CPI.

Action item	02112022-4-1
Due date	20 November 2022
Responsibility	Anthony Barnard
Action item details	The ATO to reiterate what the recent indexation dates were and confirm how the law determines those dates generally.

Information provided post-meeting:

Excise duty rates for fuel and alcohol are indexed twice a year, based on the CPI. subsection 6A(10) of the *Excise Tariff Act 1921* defines the 'Indexation Day' to mean the 1 February and 1 August, each year.

However, the first of February and August are supplanted by subsection 6A(5) of the *Excise Tariff Act 1921* which legislates that if the statistician, Australian Bureau of Statistics (ABS) has not published the CPI figure at least 5 days before Indexation Day, then it will be pushed back to the fifth date after publication.

So the date indexation occurs is determined by law; the ATO has no discretion to determine a different day.

ABS is responsible for determining and publishing the CPI on or before the last Wednesday of the relevant quarter.

For example, the last 6 indexation dates.

Day of CPI Publication	Date of CPI Publication	Date of CPI Publication + 5 days	Indexation Day
Wednesday	27 July 2022	1 August 2022	Monday 1 August 2022

Tuesday	25 January 2022	30 January 2022	Tuesday 1 February 2022
Wednesday	28 July 2021	2 August 2021	Monday 2 August 2021
Wednesday	27 January 2021	1 February 2021	Monday 1 February 2021
Wednesday	29 July 2020	3 August 2020	Monday 3 August 2020
Wednesday	29 January 2020	3 February 2020	Monday 3 February 2020

Industry updates –roundtable

- Ned Hewitson of Wine Australia noted the increase in innovation with new products including the emergence of zero and low alcohol products, which appear to interact between the WET and alcohol excise regimes.
- Sonja Icanovski of Lion noted the current global economic situation with increasing costs and rising inflation, which impacts on industry, and advocated for a freeze on excise rates.
- Paul Jackson of Asahi Holdings supported the previously announced deregulation measures but cautioned against any potential implementation involving a rushed process.
- Phil McClintock of Good Drinks Australia noted the increasing gap between treatment of WET and alcohol excise products, particularly due to the effect of indexation on duty rates, starting to flow through to shelf prices.
- Karen McCoy of Coca Cola was also supportive of the previously announced deregulation measures, noting that pending timelines for consultation may be ambitious.

- Ashlee-Louise George of Vok Beverages queried the expansion of the Excise Client Manager (ECM) program that was discussed at the previous year's ASG meeting. Tony Poulakis advised that the program was considering moving to a streamlined version for the next tier of clients and members would be updated as this progressed.
- Victoria Angove of Angove's was also supportive of the expansion of the ECM program. She noted current inflationary impacts on excise and advocated for a freeze of the excise duty rates.
- Jonathan Chew of Spirits and Cocktails Australia (SCA) supported a freeze on excise duty rates and advised that SCA would be providing comments on the discussion paper about hard seltzers and other similar products.
- Paul McLeay of Australian Distillers Association (ADA) referred to the recent blockchain pilot of the alcohol excise beverage industry and advised of ADA's advocacy to government to consider ongoing support for that program. Tony Poulakis noted a reference in the STS papers that Singapore was involved in track and trace for products. Kimberlee Stamatis advised members to contact Australian Border Force if they would like further information about the STS.
- Paul Onley of Metcash referred to the illicit alcohol project update and expressed support for information sharing of known illicit products / brands of interest with industry where it could be carried out within privacy requirements. Paul also expressed support for the previously announced deregulation measures noting that an 'opt in' transitional phase would prove problematic. Members noted that further discussion depended on confirmation of the new measures and potential timelines for consultation and implementation.
- George Nikolaou of Coles raised the issue of low alcohol products and noted that advice from the ATO about the taxation of low alcoholic wines, particularly under 1.15%, and between 1.15% and 8% alcohol would be welcomed. He also noted issues associated with the difficulty in monitoring suppliers manufacturing and supplying alcohol, particularly given the number of new entrants to the market.
- Con Karatonis of Endeavour Group welcomed the discussion paper about hard seltzers and other similar products. Con was also

generally supportive of the previously announced deregulation measures, noting that consultation for Endeavour once the draft legislation was published would involve engagement with client program teams to determine what would be achievable within timeframes proposed.

- Lee McLean of Australian Grape and Wine Incorporated was represented by Victoria Angove, who welcomed clear communication for the membership cohort around WET-related issues. Victoria referred to the loss of the China market and oversupply being experienced and noted that 2022–23 would prove to be a complicated vintage due to flood conditions experienced across the country.
- Warwick Billings of Cider Australia advised that previous confusion between WET and alcohol excise appeared to be diminishing. This may be linked to the recent introduction of the AMR.
- Robert Pelton of Tarac advised that a public register of entities with bonded warehouses, one of the potential deregulation measures, would be very useful and save industry time in confirming these details. Robert opined that as the product was a controlled good, there would not appear to be any privacy issues.

Meeting close

Tony Poulakis thanked members for their continued participation and contributions throughout the year in the ASG. Meeting concluded at 3.30pm.

Attendees

Attendees list

Organisation	Attendees
ATO	Tony Poulakis (Chair), Private Wealth
ATO	Anthony Barnard, Private Wealth

ATO	Bennett Sandhu, Private Wealth
ATO	Brian Geovanovich, Private Wealth
ATO	Caraline Hill, Private Wealth
ATO	Carmen Cubias, Private Wealth
ATO	Claudia Bianco, ATO Corporate
ATO	Joe Limongelli, Private Wealth
ATO	Lyn Nilsson, Private Wealth
ATO	Margaret Whelan, Private Wealth
ATO	Michael Hughes, Private Wealth
ATO	Nathan Lindemann, Private Wealth
ATO	Naomi Schell, Private Wealth
ATO	Paul Macklin, Private Wealth
ATO	Rowena Troth (Secretariat), Private Wealth
ATO	Sally Fonovic, Private Wealth
ATO	Telly Nikolakopoulos, Private Wealth
ATO	Tim Sporne, Office of the Chief Tax Counsel
ATO	Wendee Mundy, Private Wealth
Accolade Wines Australia Limited	Annalisa LoBasso

Aldi Stores	Darren Thomas
Angove's Proprietary Ltd	Victoria Angrove
Asahi Group Holdings	Paul Jackson
Australian Border Force	Jo Schultz
Australian Border Force	Kimberlee Stamatis
Australian Distillers' Association	Paul McLeay
Australian Grape and Wine Incorporated	Lee McLean
Brewers Association of Australia	John Preston
Brown-Forman Australia Pty Ltd	Jorge Jiminez
Campari Australia Pty Ltd	Ruth Golden
Cider Australia	Warwick Billings
Coca-Cola Amatil	Karen McCoy
Coles Financial Services	George Nikolaou
Coopers Brewery	Brad Grunert
Diageo Australia Ltd	Tomomi Yamada
Endeavour Group Limited	Con Karatonis
Good Drinks Australia Ltd	Phil McClintock
Lion	Sonja Icanovski
Metcash	Paul Onley
Pernod Ricard	Stuart Wood

Samuel Smith and Son	Bob Smart
Spirits and Cocktails Australia	Jonathan Chew
Tarac Australia Pty Ltd	Robert Pelton
Treasury	Liz Jaspers
Treasury	Timothy Woltmann
Treasury	Toby Silcock
Treasury	Tracy Richards
Treasury Wine Estates	Catherine Dishon
Vok Beverages	Ashlee Louise George
Wine Australia	Ned Hewitson

Apologies

Apologies list

Organisation	Members
Independent Brewers Association	Kylie Lethbridge
Manildra Group	Debbie Forster
Taylor Ferguson Pty Ltd	Frank Ciampa
The Drinks Association	Georgia Lennon
Wilmar BioEthanol	Trevor Barr

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