

Submission: Minimum tax on discretionary trusts – exposure draft legislation

Australian Grape & Wine
September 2026

Summary of recommendations:

Recommendation 1: Clarify that processing equipment integrated into a primary production enterprise qualifies as a primary production asset, thereby ensuring the income derived from its use retains its character as exempt primary production income.

Recommendation 2: Consider alternative approaches that reduce the impact on genuine family business, while maintaining integrity rules that address artificial or aggressive income-splitting practices.

Recommendation 3: Ensure minimum tax credits are available to corporate beneficiaries controlled by the same family business, preventing the double taxation of profits retained for legitimate business purposes.

Recommendation 4: Given the potential scale of restructuring costs, prepare and publish comprehensive economic modelling and a Regulation Impact Statement before the design of the measure is finalised.

Recommendation 5: Federal Treasury must coordinate with State and Territory Treasuries through National Cabinet to guarantee full stamp duty, transfer duty, and landholder duty exemptions for all restructures executed under the federal rollover relief provisions.

Recommendation 6: Expand the list of exemptions to cover other significant family events such as births, adoption of a new family member, retirement, incapacity and other circumstances that materially affect family business succession and ownership arrangements.

Australian Grape and Wine Incorporated (AGW) welcomes the opportunity to respond to the exposure draft legislation regarding the proposed minimum tax on discretionary trusts. While the draft incorporates several improvements from the initial discussion paper, the lack of relief for primary producers who invest in value-adding activities remains a major disappointment. As the vast majority of Australia's approximately 2100 wine producers and 5400 grape growing businesses are family owned, it is the expectation that a significant proportion would be adversely impacted by this costly measure. This response builds upon AGW's original submission to the July 2026 discussion paper, which details our broader sector-wide concerns regarding the proposed minimum tax framework.

The Australian grape and wine sector is a major contributor to Australia's economy and to rural and regional communities. The grape and wine sector:

- Supports 203,392 direct and indirect full- and part-time jobs.
- Generates $15 billion in income from direct and flow-on employment.
- Contributes $51.3 billion to Australia's gross output.
- Adds $25.4 billion in value-added to the Australian economy. [1]

Australian Grape & Wine is recognised as the representative organisation for winegrape and wine producers under the *Wine Australia Act 2013* and is incorporated under the *SA Associations Incorporation Act 1985*.

[1] https://www.wineaustralia.com/getmedia/813bfd73-955c-40f5-aae2-c6a8c14d3d4a/MI-AgEconPlus-Gillespie-Economic Contribution-Aust-Wine-Sector-2025-report.pdf

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Primary Production and Downstream Processing

Recommendation 1: Clarify that processing equipment integrated into a primary production enterprise qualifies as a primary production asset, thereby ensuring the income derived from its use retains its character as exempt primary production income.

The exposure draft appropriately excludes primary production income from the proposed minimum tax regime. However, further clarification is required where a primary producer undertakes downstream processing or value-adding activities using products substantially derived from its own primary production operations. Similarly, where the fact sheet mentions an exception for primary production assets, whether this includes processing equipment associated with a primary production enterprise is unclear. Ensuring that processing equipment associated with primary production is recognised presents an opportunity to better align with the Government's broader objectives to encourage value-adding, regional investment, advanced manufacturing, export growth and improvements in agricultural productivity. Without clarification, the proposal risks creating a tax system that encourages businesses to remain commodity producers while penalising investment in value-adding, advanced manufacturing and export-oriented processing activities undertaken by primary producers.

This issue is particularly relevant to the grape and wine sector, where it is often difficult to identify a clear commercial boundary between the growing of grapes and the production of wine. Many family-owned businesses operate integrated vineyard and winery enterprises in which wine production is a direct extension of the primary production activity. Wineries remain fundamentally exposed to agricultural risk even where they purchase a proportion of their grapes. Under the current definition, the primary production income exclusion should be broadened to avoid actively discouraging regional innovation and value-adding. For example, if a grape grower sells their fruit to a corporate, 100% of their income is exempt from the trust tax. However, if that same grower decides to invest in regional infrastructure, employ local winemakers, and add value to their crop at the farm gate, they are penalised with a 30% minimum tax rate. This directly contradicts broader government objectives to boost domestic manufacturing and regional employment.

This important issue extends equally to other agricultural enterprises that process, manufacture, or market products originating from their own farms. Treasury must also clarify that the primary production exclusion extends to capital gains arising from assets used in, or held for the purposes of, a primary production business (e.g. vineyard land, water entitlements, or processing plants). Without clarification, taxpayers undertaking genuine agricultural business activities risk facing uncertainty regarding the operation of the primary production exclusion and inconsistent outcomes between economically similar farming structures.

Recommended Alternatives and Integrity Measures

The Government's objective to curb aggressive income splitting among high-wealth individuals could be achieved far less obtrusively through targeted enforcement or specific amendments to existing integrity rules such as Section 100A of the *Income Tax Assessment Act 1936*. Before this design is finalised, alternative approaches that protect family enterprises that do not meet the definition of primary production income must be considered.

Recommendation 2: Consider alternative approaches that reduce the impact on genuine family business, while maintaining integrity rules that address artificial or aggressive income-splitting practices.

AGW continues to oppose the measure in its current form, specifically highlighting the need for ongoing flexibility for primary-production processing activities that face the same seasonal economic risks as agricultural production. Notwithstanding that position, should the Government proceed, the targeted alternatives proposed by the Family Business Association (FBA) provide a far more proportionate approach. A precise, targeted approach would neutralise the specific policy concern without imposing systemic compliance burdens, double taxation risks, and massive restructuring costs on genuine family enterprises.

For example, AGW would support the proposal that where a trust that runs a family business that does not meet the primary-production carve out definition distributes to the family members working in it, and does so in broadly the same proportions year after year, it falls outside the intended scope of the integrity rules.

With a key objective of this policy being to remove the ability to use income splitting to reduce tax liabilities, the Government should address this issue rather than implement a costly sweeping change without fully understanding the economic impact. The Government should also consider whether amendments to existing integrity rules such as Section 100A of the *Income Tax Assessment Act 1936* could meet its key objective without harming businesses using discretionary trusts for genuine purposes.

Recommendation 3: Ensure minimum tax credits are available to corporate beneficiaries controlled by the same family business, preventing the double taxation of profits retained for legitimate business purposes.

While the design intent of the draft legislation is to enforce a 30% tax floor across discretionary trust distributions, structural gaps in how credits pass through corporate entities create an effective double taxation of retained business profits.

Comprehensive Assessment of the Costs

Recommendation 4: Given the potential scale of restructuring costs, prepare and publish comprehensive economic modelling and a Regulation Impact Statement before the design of the measure is finalised.

The proposal continues to neglect the substantial cost of transition. The requirement to restructure will incur massive professional advice costs, predicted to be between $2 billion and $2.8 billion. [2] Furthermore, while federal tax relief is proposed, there is no absolute certainty that states and territories will not impose stamp duties on these trust restructures.

A complete Regulation Impact Statement (RIS) should be published incorporating modelling to assess the true costs to family businesses and the agricultural sector. The RIS should also assess the impacts on regional economies, including projected compliance costs, restructuring costs, revenue impacts, and the potential consequences for investment, succession planning and business reinvestment decisions.

[2] CPA Australia 2026, Submission to the Treasury: Discretionary trust tax reforms, CPA Australia, Melbourne.

Recommendation 5: Federal Treasury must coordinate with State and Territory Treasuries through National Cabinet to guarantee full stamp duty, transfer duty, and landholder duty exemptions for all restructures executed under the federal rollover relief provisions.

While AGW acknowledges the provision of federal income tax and CGT rollover relief, this relief is effectively unworkable if states and territories impose transfer duty or landholder duty on asset transfers. For primary producers holding high-value vineyard and processing real estate, restructuring out of a discretionary trust into a company or fixed trust could trigger millions of dollars in state duty liabilities. Without an explicit, binding commitment from all States and Territories to mirror federal rollover relief with state duty exemptions, taxpayers face an impossible choice between paying an uncredited minimum tax or incurring devastating upfront duty costs.

Acknowledgement of improvements and further considerations

Notwithstanding our lack of support for the current proposal for the reasons listed above, AGW acknowledges and supports several elements of the exposure draft that represent genuine improvements:

- **Exempt Entities:** AGW supports the carve-out for beneficiaries of the trust estate that are exempt entities, such as sporting clubs and charities.
- **Roll-over Relief:** AGW supports the concept of a commercially viable roll-over relief to assist taxpayers that wish to restructure from a discretionary trust into other arrangements, however this support is contingent on relief that is actually commercially viable and on receiving a guarantee that state duty and other tax consequences will be fully exempted
- **Nominated Beneficiaries:** Permitting nominated beneficiaries to be added or changed later due to the passing of a beneficiary or a family breakdown is a necessary inclusion. However this list of exceptions should be expanded.

Recommendation 6: Expand the list of exemptions to cover other significant family events such as births, adoption of a new family member, retirement, incapacity and other circumstances that materially affect family business succession and ownership arrangements.

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