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2010 POSITION PAPER – TAXES

Estate Taxes

Conservation Easement

Association Health Care Plans

Current estate tax laws are extremely complicated and place many family-owned vineyards and wineries in jeopardy by requiring large cash payments when that business is passed to the next generation. Estate tax law should be modified in order to preserve and grow the equity in these farms and family businesses. An expanded conservation easement donation tax credit will stimulate more participation and protect land for agricultural production. The tax credit should be permanently extended.

Small businesses like the typical American vineyard and winery desperately need a way to provide health care insurance for their employees. Proposals to allow trade associations to provide health insurance would greatly improve the ability of vineyards and wineries to provide health care benefits for their employees.

ESTATE TAX

Vineyards and wineries are long term commitments requiring sustained reinvestment to develop adequate size and production for long term stability. The period required to accomplish this task usually spans more than one generation. Almost all new vineyard or winery developments are "start-ups" created by families or partnerships.

These businesses take many years to develop, in most cases exceeding the working lifetime of one generation. Very serious liquidity problems, driven by estate or gift taxation, arise when the business must be passed to the next generation. The government requires cash payment to satisfy estate tax obligations while these businesses usually have all their cash resources tied up in growing the business. Banks are extremely reluctant to make loans to wineries secured by inventory, or to vineyards secured by vineyard development. These conditions jeopardize the very survival of many businesses our members have built, over many years, through toil and sweat equity. While Congress passed some relief as part of the 2001 tax reduction act, these provisions change every year and will eventually expire. Congress should remove the succession burden from family farms and businesses.

CONSERVATION EASEMENT

A conservation easement is a voluntary and legally binding agreement that limits certain uses of land and prevents certain development from taking place on the property in the future. This issue is of critical importance to the agricultural community as it allows farmers to remain in agriculture, rather than selling their land to developers – often the more profitable option.

Two years ago, legislation was approved to expand the caps on charitable deductions for donating a conservation easement on their land to 100% of donor income for farmers and ranchers and 50% of donor income for all others. The previous cap was 30%. The legislation also extended the carry-forward period for such deductions to 16 years from six years. That provision expired at the end of 2007.

Legislation will be introduced this year by Representative Mike Thompson (D–CA) and Representative Eric Cantor (R–VA) to permanently extend this helpful tax credit which allows moderate income donors to get a significant tax benefit from their valuable charitable gift. This tax reform is supported by WineAmerica and the Winegrape Growers of America as a necessary step to ensuring that agricultural lands remain in the hands of farmers and not developers.

SMALL BUSINESS HEALTH PLANS

Legislation should be passed to allow trade associations to offer health insurance to their small-business members through adoption of national standards. These plans should be exempt from costly state mandates, as the ones for large corporations and labor unions currently are.

BONUS DEPRECIATION FOR PERMANENT CROPS

The Economic Stimulus Act of 2008 provided for an additional first year depreciation deduction equal to 50 percent of the basis in the property for capital assets placed in service. Unfortunately, permanent crops, such as trees and vines producing fruits and nuts, were not included in this provision. These crops are not considered "placed in service" in the year planted but rather the year of their first commercially harvestable crop. It was an oversight and not intentional that permanent crops were not included in the bonus depreciation provision.

Farmers can control only when they plant their permanent crops. They cannot control when the crops are commercially harvestable and many of these crops take several years before a harvest. Rep. Mike Thompson (D–CA) and Rep. George Radanovich (R–CA) are introducing legislation to provide fair treatment for permanent crop growers to receive 50% bonus depreciation. Grape growers join with tree fruit, citrus and nut crop groups to support a proposal that would change – for purpose of bonus depreciation – the placed in service date for permanent crops to the date on which the crop is planted. This adjustment would grant the farmers of orchards and vineyards equal treatment as other assets of similar capitalization life that were allowed in the stimulus package.

Many lenders are increasing requirements for equity investment in financing new orchard and vineyard development making investment in promising market opportunities even more difficult. This bonus depreciation incentive will offset some of the distress from the overall financial crisis and allow farmers to respond to market needs, such as changing varieties to better match consumer demand, replacing older varieties to adapt to changing water quality and water availability and updating orchards to more efficient, productive plantings. The bonus depreciation is an incentive that compliments free market investment decisions to stimulate orchard and vineyard development with its associated local buying and job creation in rural communities.

WineAmerica is the national trade association of American wine producers with more than 800 wineries in 48 states. Questions should be directed to Bill Nelson, President of WineAmerica, at (202) 783-2756 Extension 123.

Winegrape Growers of America is a federation of state winegrape grower organizations representing America's production of grapes for wine. For more information contact Fowler West at Clark and Weinstock, (202) 261-4000..