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Under US Treasury Rules issued in 2005, we must inform you that any advice in this communication to you was not intended or written to be used, and cannot be used, to avoid any government penalties that may be imposed on a taxpayer.

Date: October 31, 2012

To: The Vines of Mendoza

From: Greg Hintz and Tammy Finch

Re: U.S. Income Tax Issues for U.S. resident owning an interest in an Argentina Vineyard

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THE FOLLOWING IS ONLY A SUMMARY DISCUSSION OF BASIC TAX RULES BASED ON THE FACTS OUTLINED. IT IS NOT A FORMAL TAX OPINION AND THEREFORE MAY NOT CONTAIN A COMPLETE ANALYSIS OF ALL RELEVANT TAX AUTHORITY. THIS SUMMARY IS BASED ON THE TAX LAWS IN EFFECT FOR 2012, HOWEVER IT CANNOT BE USED TO AVOID ANY PENALTY THAT MAY BE ASSESSED BY THE IRS.

THERE CAN BE MANY EXCEPTIONS TO THESE GENERAL RULES AND THE APPLICATION OF THESE RULES ARE VERY FACT SPECIFIC. IN ADDITION, AN INDIVIDUAL'S SPECIFIC FACTS MAY REQUIRE THE APPLICATION OF ADDITIONAL RULES NOT DISCUSSED. PROFESSIONAL TAX ADVICE SHOULD BE OBTAINED IN ORDER TO PROPERLY APPLY THESE RULES.

Facts and Assumptions

This memo addresses the United States Income Tax issues when a U.S. resident individual living in the United States makes a direct investment into an Argentina Vineyard. It does not address investments made through legal entities – foreign or domestic.

The following assumptions are made:

- An individual purchases a private vineyard estate ("PVE") from The Vines of Argentina International, LLC.
- As part of the PVE purchase, the individual engages Vines of Argentina Vineyard Services, Ltd.("VAVS") to maintain the PVE as a vineyard.
- The individual is treating the vineyard as an active trade or business.
- The individual is considered to own the land, grape vines, trellis system, and the irrigation system but does not own other assets.
- The vineyard will have a preproduction period and a production period.
- During the production period, there may be some revenue generated from grape sales.
- In some cases, the individual may choose to engage VAVS to make and bottle wine in order to generate additional revenue.
- The vineyard will be sold in the future for a profit.

General Discussion of Taxation and Forms to Use

The United States generally taxes an individual on their worldwide income. As a result, assuming an individual owns the vineyard directly and not through any type of legal entity, the income generated by the vineyard will be included in the U.S. individual's income tax return. However, if income is also taxed in Argentina, this foreign tax might be allowed as a credit on the individual's U.S. return. Any loss generated by the vineyard may also be included in the individual's return, but most likely subject to certain limitations discussed below. While the business may be located in a foreign country and subject to local tax laws, it will also be subject to U.S. tax rules.

For tax purposes, vineyards and winemaking are considered two separate businesses. Vineyards are considered a farming activity, while winemaking is considered a manufacturing activity. As a result, these businesses are reported differently. The vineyard activity would be reported on Schedule F of Form 1040 and the winemaking activity reported on Schedule C of Form 1040. In addition to these forms, the vineyard owner may be required to file Form TD F 90-22.1 Report of Foreign Bank and Financial Accounts and /or Form 8938 Statement of Foreign Financial Assets.

For either business, the timing of when revenue and expenses will be recognized will generally be determined based on the overall accounting method chosen. Taxpayers reporting on the cash method of accounting must include revenue from the sale of grapes or wine in the year in which the cash is actually or constructively received, whichever is earlier. An expense is recorded only when it is actually paid. Under the accrual method of accounting, revenue from the sale of grapes or wine will be recorded when the right to receive the income is fixed and the amount can be determined, even if no cash is actually received. An expense is recorded when all of the events have occurred to determine the fact of the liability, the amount can be determined and "economic performance" has occurred, regardless of when cash is actually paid. Generally, "economic performance" is most commonly considered to have occurred when goods are actually delivered or services are actually provided. Regardless of the accounting method chosen, certain rules will apply that could delay the timing of deductions, as discussed more fully below.

As a farming activity in a preproductive period, the uniform capitalization rules ("UNICAP") will generally apply. UNICAP requires that most costs incurred during the pre-productive period be capitalized as part of the cost of the vines. Thus, virtually all costs will be capitalized until the first commercially harvestable crop. At that time, the costs that have been capitalized will be eligible for depreciation. However, it may be possible to make an election out of the UNICAP rules which could allow for more immediate deduction of costs. Preproduction expenditures include costs that are incurred so that the plant's growing process can begin. Some of these costs include, but are not limited to, the cost of fumigation, setting stakes and rootstocks, planting of the vines and related labor and supervision.

Costs to purchase and install tangible property must be capitalized and depreciated over the property's useful life regardless of the period acquired. Thus, the cost of a trellis system and irrigation system will be capitalized and depreciated. Similarly, any costs related to the purchase of land will be capitalized but are not depreciable. For assets that are subject to depreciation, the Alternative Depreciation System (ADS) must be used rather than the Modified Accelerated Cost Recovery System (MACRS). ADS is required because the vineyard assets will be used outside of the United States. ADS requires that the asset be depreciated over a longer life than MACRS. It also requires the use of straight-line depreciation methods rather than accelerated methods. Any depreciation expense during the preproductive period will be included with other preproductive costs and capitalized as part of costs of the vines as part of the UNICAP rules discussed previously.

As a manufacturing process, wineries are also subject to the UNICAP rules. For manufacturers, these rules require that direct and certain indirect costs associated with the manufacturing of the product be capitalized as inventory. The applicable costs must generally be capitalized until the end of the production period which is generally considered to be the date at which the wine is officially offered to the distribution chain. These costs are then deducted when the product is sold. Costs incurred after the production period may be deducted as period costs unless required to be capitalized under other provisions (for example costs to acquire equipment). While the PVE will not directly engage in the wine making (or "manufacturing") process, the most basic UNICAP rules will still apply because the PVE will be holding inventory for resale. For example, the production process includes aging of the wine. As a result, in addition to the cost of actually making the wine, the costs incurred in holding the wine while it ages would generally be capitalized as part of the cost of inventory. However, as long as the PVE is engaging VAVS to actually "manufacture" the wine, the overall application of the UNICAP rules should be less complex.

The tax deductions discussed above are only allowed for ordinary and necessary expenses paid or incurred while carrying on a trade or business. Maintaining accurate and concise business documentation is essential to the

management of any business. A thorough record keeping system should be employed and include detail of every business transaction along with documentation supporting that every expenditure was ordinary and necessary.

Tax Treatment of Specific Items

The following provides the general treatment of some of the more common expenses that may be incurred:

- Start-Up and Organizational Costs - Costs incurred in starting or organizing a business must be capitalized. An election can be made to amortize these costs but some limitations may apply.
- Land - The purchase of land and all related acquisition costs are capitalized and no depreciation is allowed. These costs will be deducted against any sale proceeds when the property is sold.
- Land Clearing Costs - Costs such as removal of trees, rocks, etc. are capitalized as part of the land.
- Land Improvements - Fences, roads, and similar land improvements are capitalized and can be depreciated over 20 years using ADS.
- Irrigation Systems - These costs are capitalized and can be depreciated over 20 years using ADS.
- Trellis Systems - These costs are capitalized and can be depreciated over 10 years using ADS.
- Foreign Income Taxes - An individual can choose to take a credit or an itemized deduction for taxes paid that are imposed on income by a foreign government. The credit directly reduces the tax liability, while the itemized deduction reduces the income base on which the liability is calculated. The itemized deduction is taken on Schedule A of the 1040, while the credit may be calculated on Form 1116. If the full credit cannot be claimed in a particular year, the unused credit may be carried back to a previous year or carried over to future years. Unused credits may not be claimed as a deduction.
- Other Foreign Taxes - Generally, non-income based taxes can be deducted if they directly relate to trade or business. For example, VAT paid in Argentina is a value added tax based on consumption (not income) and is generally deductible as a business expense to the extent ultimately born by the vineyard.
- Travel - Costs of travel including meals, hotel, and airfare may be deductible if they are ordinary and necessary business expenses. Any deduction for meals or entertainment is limited to 50% of the amount incurred and specific documentation should be maintained to show that the costs are related to the conduct of a trade or business.
- Vineyard Maintenance and other ongoing costs - General expenses related to the maintenance and upkeep of the vineyard will generally be capitalized or deducted currently depending on whether UNICAP applies. If UNICAP applies and the vineyard is no longer in the preproductive period, it may still be necessary to capitalize certain costs depending on the type and whether they were incurred in a field cost period, pre-bud period, etc.

Please keep in mind that any amounts that are generally considered to be "deductible" may still be subject to various capitalization rules such as the UNICAP rules discussed previously. As a result, all expenses must be closely scrutinized to determine the proper tax treatment.

Possible Limitation of Losses

After recognizing all income and deductions appropriately, the vineyard may ultimately have a net loss for a given tax year. While net losses from an active trade or business may generally reduce an individual's income from other sources, there are a number of provisions that may limit the amount of loss that can be utilized. Three of the most significant provisions that could limit losses from the vineyard or winemaking operation include the "at-risk" rules, the passive activity rules, and the "hobby loss" rules.

The at-risk rules only allow the deduction of a loss to the extent an individual is personally at risk for amounts invested in the business activity. An individual is generally considered at risk for money and property contributed to the activity and for amounts borrowed by the activity for which the individual is personally liable. The amount of loss that exceeds the individual's at-risk amount is not deductible.

The passive activity rules may limit the amount of loss from any activities that are considered passive to the investor. An activity is passive if the individual does not materially participate in the activity. An individual is considered to materially participate only if they meet one of the following seven tests:

1) The individual participates in the activity for more than 500 hours during the year.
2) The individual's participation in the activity is substantially all of the participation in it by all individuals (including non-owners) for the year.
3) The individual participates in the activity for more than 100 hours during the tax year and the individual's participation is not less than that of any other individual (including non-owners) for that year.
4) The activity is a significant participation activity for the tax year, and the individual's aggregate participation in all significant participation activities that year exceeds 500 hours. A significant participation activity is one where the individual participates more than 100 hours and the activity does not meet any of the other six tests for material participation.
5) The individual materially participated in the activity for any five tax years (consecutive or nonconsecutive)during the 10 immediately preceeding tax years.
6) The activity is a personal service activity, and the individual materially participated in the activity for any three tax years (consecutive or nonconsecutive) preceeding the current tax year.
7) Based on all facts and circumstances, the individual participates on a regular, continuous, and substantial basis.

If an individual does not meet at least one of these tests, the activity is considered passive and any loss from the activity will only be allowed to the extent that the individual has income from other passive activities.

One of the most important limitations that could apply in this situation is referred to as the "hobby loss" rules. The above discussion has assumed that the vineyard (or winemaking activity) is an active trade or business with a profit motive. However, if this is not the case, the vineyard would be considered an activity that is not engaged in for profit (also known as a "hobby").   All income from a hobby must still be reported on the individual's income tax return, however, deductions are generally limited to the amount of income reported (with a few exceptions). To avoid hobby loss limitations, a profit motive must be present. There are many factors and tests to consider when proving that a profit motive exists, however, the following specific factors, at a minimum, should be considered:

1) Manner in which the taxpayer carries on the activity
2) Expertise of the taxpayer or advisors
3) Time and effort expended by the taxpayer in carrying on the activity
4) Expectation that assets used in the activity may appreciate in value (special rules apply to land used in a farming activity which may result in this factor being inapplicable)
5) Success of the taxpayer in carrying on other activities
6) Taxpayer's history of income or losses with respect to the activity
7) Amount of occasional profits earned
8) Financial status of the taxpayer
9) Elements of personal pleasure or recreation

The above factors are not the only factors that should be considered and no single factor is determinative. All facts and circumstances must be considered. All evidence of a profit motive should be well documented. If a profit motive is not established, the activity will be subject to hobby loss rules.

<u>Other Considerations</u>

The following are additional items of consideration that might be useful:

- Sale of Vineyard - When the vineyard is sold, the sales proceeds will be compared to the remaining tax basis in the property to determine if there was a gain or loss on the sale. The remaining tax basis would include the cost of land and other costs that have been capitalized and not fully depreciated.   The character

of any gain or loss (i.e. capital or ordinary) will depend on a number of factors including whether the vineyard was ultimately a trade or business with a profit motive.

- Currency Issues - If the vineyard and/or winemaking operation is treated as a trade or business, any U.S. owner will need to determine the functional currency for the business. The functional currency determination rests on a number of economic components but will generally be the currency in which the operation buys, sells, and pays expenses. If the operation has a functional currency other than the U.S. dollar (USD), U.S. owners will convert the income of the trade or business into USD at average rates, and any future remittance of earnings will trigger additional U.S. consequences related to currency.

For Additional Assistance

If you have further questions or would like assistance with how these rules might apply to your specific situation, please feel free to contact Greg Hintz (502-420-4513 / greg.hintz@crowehorwath.com) or Tammy Finch (502-420-4438 / tammy.finch@crowehorwath.com)