

## The Compliance Corner

By Mary Beth Williams

### The Taxman Cometh

...but maybe he knocks a little softer now. You can't write off the value of land in a purchase price, but Section 197 of the Internal Revenue Code allows a 15-year amortization of goodwill and other intangibles such as trade names. The IRS has always taken the position that an American Viticultural Area ("AVA") designation was part of the value of the land, and therefore couldn't be part of the amortized assets allowed under §197. Last week, the IRS issued a Chief Counsel Memorandum specifically stating that for purposes of §197, an AVA designation is a right granted by a government unit and is not an interest in land, so it can be amortized over 15 years. In layman's terms, on your income taxes, you can't write off the value of the land, but you can write off the part of the price you paid for your vineyard which can be attributed to an increased value of being located in an AVA.

So, how much is that designation worth? That depends on how recognized your AVA is. The more recognizable the AVA is, the higher the value, and the more you can write off. It makes sense to start thinking of not only your winery's reputation, but also the reputation of the other wineries in your AVA. Better reputations in your AVA mean more value to that designation.

How do you take advantage of this change? Talk to your accountant and make sure he or she knows about this memorandum. Any vineyard owner that purchased their property, or a portion of their property, after August 10, 1993 (the date Congress approved §197), can apply for a change in accounting methods to be able to deduct the cumulative amortization allowed for their AVA designation.

So, if your vineyard isn't located inside an AVA, are you out in the cold? Not necessarily. You can apply to TTB to have your area designated as an AVA. There are qualifications to have a new AVA designated, such as common geographic features, name recognition of the area, and specific boundaries, which we'll discuss in more detail at the VWA Annual Meeting on November 15<sup>th</sup>. In the meantime, you can start talking to the neighboring vineyards to drum up support for the creation of an AVA in your area. See you at Prince Michel on November 15<sup>th</sup>!