Taking into account June 2018

Inside

Cryptocurrency

Tax treatment of cryptocurrencies

The term cryptocurrency is generally used to describe a digital asset in which encryption techniques are used to regulate the generation of additional units and verify transactions on the blockchain. Cryptocurrency generally operates independently of a central bank, central authority or government.

The creation, trade and use of cryptocurrency is rapidly evolving. If you are involved in acquiring or disposing of cryptocurrency, you need to be aware of the tax consequences. These vary depending on the nature of your circumstances. Everybody involved in acquiring or disposing of cryptocurrency need to keep records in relation to their cryptocurrency transactions. One example of cryptocurrency is Bitcoin. The view of the Tax Office is that Bitcoin is neither money nor Australian or foreign currency. Rather, it is property and is an asset for capital gains tax (CGT) purposes. Other cryptocurrencies that have the same characteristics as Bitcoin will also be assets for CGT purposes and will be treated similarly for tax purposes.

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Transacting with cryptocurrency

A CGT event occurs when you dispose of your cryptocurrency. Examples include when you sell, trade or exchange your cryptocurrency, convert it to a fiat currency like Australian dollars, or use it to obtain goods or services. If you make a capital gain on the disposal of a cryptocurrency, some or all of the gain may be taxed. Certain capital gains or losses that arise from the disposal of cryptocurrency that is a personal use asset may be disregarded.

If the disposal is part of a business you carry on, the profits you make on disposal will be assessed as ordinary income and not as a capital gain.

Cryptocurrency as an investment

If you acquire cryptocurrency as an investment, you may have to pay tax on any capital gain you make on disposal of the cryptocurrency.

You will make a capital gain if the capital proceeds from the disposal of the cryptocurrency are more than its cost base.

If you acquire cryptocurrency as an investment, you will not be entitled to the personal use asset exemption. However, if you held the cryptocurrency for 12 months or more, you may be entitled to the CGT discount.

If the capital proceeds from the disposal of the cryptocurrency are less than its cost base, you will make a capital loss. A capital loss can be used to reduce capital gains made in the same year or a later year. Net capital losses cannot be offset against other income.

Example: cryptocurrency investment

Terry has been a long-term investor in shares and has a range of holdings in various public companies in a balanced portfolio of high and low risk investments. Some of his holdings are income producing and some not, and he adjusts his portfolio frequently at the advice of his adviser.

Recently, Terry's adviser told him that he should invest in cryptocurrency. On that advice Terry purchased a range of cryptocurrency which he has added to his portfolio. Terry doesn't know much about cryptocurrency but, as with all of his investments, he adjusts his portfolio from time to time in accordance with appropriate investment weightings.

If Terry sells some of his cryptocurrency the proceeds would be subject to CGT. He has acquired and held his cryptocurrency as an investment.

Personal use asset

Some capital gains or losses that arise from the disposal of cryptocurrency that is a personal use asset may be disregarded. Cryptocurrency may be a personal use asset if it is acquired and kept or used mainly to purchase items for personal use or consumption.

Cryptocurrency is not a personal use asset if it is acquired, kept or used:

- as an investment
- in a profit-making scheme
- in the course of carrying on a business.

Only capital gains you make from personal use assets acquired for less than $10,000 are disregarded for CGT purposes. However, all capital losses you make on personal use assets are disregarded.

Example: a personal use asset

Michael wants to attend a concert. The concert provider offers discounted ticket prices for payments made in cryptocurrency. Michael pays $270 to acquire cryptocurrency and uses the cryptocurrency to pay for the tickets on the same day. Having regard to the circumstances in which Michael acquired and used the cryptocurrency, the cryptocurrency is a personal use asset.

Example: not a personal use asset

Peter has been regularly acquiring cryptocurrency for over six months with the intention of selling at a favourable exchange rate. He has decided to buy some goods and services directly with some of his cryptocurrency. Because Peter acquired the cryptocurrency as an investment, the cryptocurrency is not a personal use asset.

Record keeping

You need to keep the following records in relation to your cryptocurrency transactions:

- the date of the transactions
- the value of the cryptocurrency in Australian dollars at the time of the transaction (which can be taken from a reputable online exchange)
- what the transaction was for and who the other party was (even if it's just their cryptocurrency address).

Carrying on a business

In the context of carrying on a business, funds or property you receive through the acquisition and disposal of cryptocurrency are likely to be ordinary assessable income where you:

- receive money or property in the ordinary course of your business.

If these gains or profits are ordinary income, you may be able to claim deductions, and any capital gains you make are reduced to the extent that they are also ordinary income.

Proceeds from the sale of cryptocurrency held as trading stock in a business are ordinary income. Examples of businesses that involve cryptocurrency include:

- cryptocurrency traders
- cryptocurrency mining businesses
- cryptocurrency exchange businesses (including ATMs).

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Not all people acquiring and disposing of cryptocurrency will be carrying on businesses. To carry on business, you need to:

- carry on your activity for commercial reasons and in a commercially viable way
- undertake activities in a business-like manner. This would typically include preparing a business plan and acquiring capital assets or inventory in line with the business plan
- prepare accounting records and market a business name or product
- intend to make a profit or genuinely believe you will make a profit, even if you are unlikely to do so in the short term.
- There's usually repetition and regularity to your business activities, although one-off transactions can amount to a business in some cases.

Whether you are carrying on a business and when the business commences are important pieces of information. If you're still setting up or preparing to go into business, you might not yet have started the business.

Money received (or property received) prior to a business being carried on is not generally assessable income. Likewise, you cannot claim deductions incurred prior to the business being carried on.

Using cryptocurrency for business transactions

If you receive cryptocurrency for goods or services you provide as part of your business, you need to include the value of the cryptocurrency in Australian dollars as part of your ordinary income. This is the same process as receiving any other non-cash consideration under a barter transaction.

One way of determining the value in Australian dollars is the fair market value which can be obtained from a reputable cryptocurrency exchange.

Where you purchase business items using cryptocurrency (including trading stock) you are entitled to a deduction based on the arm's length value of the item acquired.

Exchanging a cryptocurrency for another cryptocurrency

Where you exchange one cryptocurrency for another cryptocurrency, you dispose of one CGT asset and acquire another CGT asset.

Where you receive property instead of cash as part of a transaction, you are usually taken to have the market value in Australian dollars of the property received.

Example: exchanging a cryptocurrency for another cryptocurrency

Katrina exchanges one coin of Cryptocurrency A for five coins of a Cryptocurrency B. The market value in Australian dollars for both the one coin of Cryptocurrency A and the five coins of Cryptocurrency B is $5,000. When working out whether or not she has made a capital gain or loss on the disposal of Cryptocurrency A, Katrina's capital proceeds are $5,000.

Paying salary or wages in cryptocurrency

Where an employee has a valid salary sacrifice arrangement with their employer to receive cryptocurrency as remuneration instead of Australian dollars, the payment of the cryptocurrency is a fringe benefit and the employer is subject to the provisions of the Fringe Benefits Tax Assessment Act 1986.

In the absence of a valid salary sacrifice agreement (for example, where the employee requests that salary or wages they have already earned be paid as cryptocurrency instead), the employee is considered to have derived their normal salary or wages and the employer will need to meet their pay as you go obligations on the Australian dollar value of the cryptocurrency it pays to the employee.

Upcoming changes reminder

With another financial year end fast approaching, we thought now was a good time to remind you of some key changes that come into force from 1 July 2018. In summary, they are:

- **Super concessions for downsizers come into effect** - If you are over 65, have held your home for 10 years or more and are looking to sell, you can contribute a lump sum of up to $300,000 per person to superannuation without being restricted by the existing non-concessional contribution caps - $100,000 subject to your total superannuation balance - or age restrictions.
- **Using super to save for your first home** - The first home savers scheme will enable first-home buyers to save for a deposit inside their superannuation account, attracting the tax incentives and some of the earnings benefits of superannuation. Home savers can make voluntary concessional contributions (for example by salary sacrificing) or non-concessional contributions (voluntary after-tax contributions) of $15,000 a year within existing caps, up to a total of $30,000. When you are ready to buy a house, you can withdraw those contributions along with any deemed earnings in order to help fund a deposit on your first home.
- **GST on low value imported goods** - GST will apply to retail sales of low value physical goods ($1,000 or less) that have been imported into Australia and sold to consumers.
- **Who pays the GST on residential property & subdivisions** - Property developers will no longer manage the GST on sales of newly constructed residential properties or new subdivisions. Instead, the Government will require purchasers to remit the GST directly to the ATO as part of the settlement process.
- **Taxable payments reporting system extended to couriers & cleaners** - Businesses in the courier and cleaning industries will need to collect information from 1 July 2018, with the first annual report required to be lodged in August 2019.
- **Single Touch Payroll** – Single Touch Payroll reporting starts for employers with 20 or more employees. Employers will report payments such as salaries and wages, PAYG withholding and super information directly to the ATO from their payroll system at the same time they pay their employees. This is then extended to all employers from 1 July 2019.
- **Closing salary sacrifice loopholes to reduce super guarantee** - Loopholes that enable employers to reduce the Superannuation Guarantee (SG) contributions owed to employees by using salary sacrifice contributions will be closed.
- **Access to reduced company tax rate limited** - Limits access to the 27.5% company tax rate by replacing the existing ‘carrying on a business test’ with a passive income test. Under the new rules, a company will not be able to access the reduced company tax rate if more than 80% its assessable income is passive in nature.
- **Wine equalisation tax rebate tightened eligibility** - Wine producers will be required to own at least 85% of the grapes used to make the wine throughout the winemaking process and brand wine with a trademark.

Quote of the month

“*Never allow a person to tell you no who doesn’t have the power to say yes.*”

Eleanor Roosevelt

Are you paying more tax than you need to?

What can you do to reduce your tax and the tax paid by your business? The answer is quite a bit but it takes planning pre 30 June. Here are our top tips:

Timing is everything

Accelerate deductions

For businesses, if your cashflow is good, make the purchases you need before the end of the financial year to claim the deduction, particularly those with turnover under $10 million.

For individuals, it’s a good time for charitable giving.

Money or debts owed to private companies

It’s common for business owners to take cash out of their business or for the business to fund some personal expenses through the year – these appear in the shareholder loan account. If this has occurred, it is important that these debts are either repaid by 30 June (you can declare dividends to pay any outstanding shareholder loan accounts) or a formal loan agreement (with specific conditions) is put in place. Without taking action, the ATO will treat any outstanding amount as a deemed dividend taxable in the hands of the shareholder at their marginal tax rate.

House-keeping for business

- For Trusts, it is essential that decisions to distribute pre 30 June income are documented in writing.
- Write-off bad debts
- Review your asset register and scrap any obsolete plant
- Bring forward repairs, consumables, trade gifts or donations
- Pay June quarter employee super contributions now if cashflow allows
- Realise any capital losses and reduce gains
- Raise inter-entity management fees by June 30