

7 June 2016

To Division Head
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

digitalcurrency@treasury.gov.au

Dear Sir

Submission in response to the “GST treatment of digital currency - discussion paper”

Thank you for the opportunity to make submissions in response to the “GST treatment of digital currency – discussion paper” (“**Discussion Paper**”).

Our submission addresses the 2 main points raised in the discussion paper:

- how should digital currency be defined; and
- what GST treatment should digital currency have?

1 Defining digital currency

We consider that the most suitable approach for defining digital currency is through the use of a basic defined term coupled with a power for the Commissioner of Taxation to make legislative determinations to include or exclude particular products.

If there were new digital currencies which did not satisfy the basic definition, the Commissioner of Taxation would be able to make a legislative determination to ensure that that particular digital currency should have the same treatment as digital currencies which fall within the definition. We do not consider that a decision to propose to make such a legislative determination would need to be a GST reviewable decision under Subdivision 110-F of the *Taxation Administration Act 1953* (Cth).

Likewise, where a new digital product falls within the definition in circumstances where it is not appropriate that it do so, the Commissioner of Taxation would have the power to exclude that product from the definition by means of a legislative determination. If the Commissioner of Taxation proposed to make such a legislative determination, the Commissioner would be required to notify the issuer of the digital product concerned. Such a decision should be a reviewable GST decision for the purposes of Subdivision 110-F of the *Taxation Administration Act 1953* (Cth). This would enable a person who is dissatisfied with the decision to make the proposed legislative determination to pursue objection and appeal rights under Part IVC of the *Taxation Administration Act 1953* (Cth).

Paragraph 30 of the Discussion Paper refers to the approach of a decision maker such as the Treasurer or the Commissioner of Taxation "listing" a product in order for it to qualify for GST treatment as a digital currency.

In the first sentence of paragraph 31 of the Discussion Paper, another approach is identified. Under that approach, a particular digital currency product would only qualify for GST treatment as a digital currency if the Commissioner of Taxation must first "list" the product if it satisfies an established definition.

We consider that these approaches are too restrictive. When new products emerge, the process of obtaining a "listing" of the product will add to the length of the time before the new product can be brought to the market.

2 How should digital currency be treated for GST purposes?

In our view, digital currency should be treated in the same way as money is treated for GST purposes. Since digital currency is used as a medium of exchange just like money, it should receive the same GST treatment as money.

We consider that input taxed treatment as discussed in paragraphs 36 and following of the Discussion Paper should not be the preferred option. This is because digital currency traders would be denied input tax credits in respect of acquisitions which relate to making supplies of digital currencies. This would operate as a disincentive to the development of new digital currencies and would also adversely impact on existing suppliers of digital currency.

The Discussion Paper notes that merchants who accept digital currency and later convert the digital currency into money should not, generally speaking, be denied input tax credits in respect of acquisitions which relate to making those supplies. Although that may be so, it does theoretically impose an additional compliance burden on the merchant (especially larger merchants) in that they need to monitor whether they have, or have not, exceeded the financial acquisitions threshold.

We agree that treating supplies of digital currency as GST-free is not appropriate for the reasons mentioned in the Discussion Paper.

Please do not hesitate to contact either of us if you would like to discuss any aspect of this submission.

Yours sincerely


Stuart Courtney | Special Counsel
King & Wood Mallesons
T +61 3 9643 4078 | M +61 409 460 762
stuart.courtney@au.kwm.com


Scott Farrell | Partner
King & Wood Mallesons
T +61 2 9296 2142 | M +61 409 042 883
scott.farrell@au.kwm.com

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