

TREASURY BRIEFING NOTE

Minute No. 20140337

14 February 2014

Assistant Treasurer

cc: Treasurer

BITCOIN:

s38, s47C

Timing: for your information.

KEY POINTS

- s38, s47C

- s47C

- We note that as the Commissioner of Taxation is an independent statutory officer responsible for administering the taxation law, which includes issuing private rulings, you do not have the ability to intervene to obtain the speedy resolution s38 seeks.

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- s47C

- The United States Law Library of Congress released a report on Bitcoin regulation on jurisdictions around the world which explains that very few jurisdictions have specific regulation applicable to Bitcoin use.

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Contact Officer:

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Ext: s22

Manager

Tax Administration Policy Unit

Consultation: Financial System Division, ATO

ADDITIONAL INFORMATION

Background

Nature of Bitcoin

- Beginning operations in 2009, Bitcoin is one of the first implementations of a decentralised virtual-currency, created by a group or individual known as ‘Satoshi Nakamoto’.
- Since 2009, Bitcoin has drastically expanded such that it has attracted the attention of regulators. Bitcoin is free open-source software, such that any developer or programmer can contribute to its development.
- In a traditional payments system, operations and transactions occur through a third-party intermediary or centralised administrator (such as PayPal or MasterCard). A key purpose that the intermediary serves is that it maintains a ledger of account holders’ balances and transactions to ensure that money is not spent twice and has a correct record of who is holding the money. The Bitcoin system is a *public ledger* removing the need for an intermediary by utilising the users who are connected to the network to provide computer processing power to verify and update the public ledger of transactions through the use of public-key cryptography. These users are then rewarded in bitcoins.
- Currently, there are approximately 12 million bitcoins on the global market with a market capitalisation growing from US \$1.5 billion in May 2013 to approximately US \$10 billion as at 14 January 2014. The price of a bitcoin is extremely volatile. Its total supply is capped at 21 million (to be reached in 2140).
- Although its decentralisation and lack of a monetary authority with the power to reduce its value has been of appeal to some sections of society, anecdotal reports indicate it is used for illicit activities due to the anonymity afforded to users.
- The volatile price of bitcoins will likely preclude its widespread adoption for legitimate purposes. Some businesses have begun accepting bitcoins, with some having done so as a gimmick. Some examples include:
 - the online retail store Bitcoinstore (www.bitcoinstore.com) sells electronics which accepts bitcoins as payment;
 - reportedly small businesses in the United States which have begun accepting bitcoins as payment and in some cases, offering discounts to those who do so;
 - in November 2013, Richard Branson, founder and Chairman of Virgin Group announced that Virgin Galactic, which provides commercial space flight services, would be accepting bitcoins as a form of payment;
 - many gambling websites such as poker and online betting sites are also accepting Bitcoin in their operations; and
 - locally, the Daily Telegraph reported on 29 September 2013 that Woolloomooloo pub The Old Fitzroy was accepting bitcoins from customers.

- The risks involved with Bitcoin include its use for illicit transactions or money laundering due to its anonymity. A briefing note was provided to the Minister for Small Business, and copied to you regarding the risks surrounding Bitcoin on 15 January 2014.

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ATO's view of Bitcoin

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: The ATO is on public record as expecting to publish a more holistic view on the taxation issues surrounding Bitcoin before the end of the financial year.

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Regulation of Bitcoin in other jurisdictions

- The United States (US) Law Library of Congress released a report which surveys forty foreign jurisdictions and the European Union, reporting on any regulations or statements from the central banks or government offices on the handling of bitcoins as well as any significant use of bitcoins in business transactions. Of those countries surveyed, only a very few have specific regulations applicable to Bitcoin use.
- In 2013, it was reported that the US financial regulators were discussing whether Bitcoin might fall under their regulatory remit. Officials from the Commodity Futures Trading Commission (CFTC) said that Bitcoin was an issue they would need to explore.
- In December 2013, the People's Bank of China (PBOC) banned financial institutions from trading in Bitcoin. The ban reflects the concern about the risk that the virtual currency may have on financial stability.
- The Reserve Bank of India (RBI) has warned the public against the use of virtual currencies such as Bitcoin, pointing out the potential financial, legal, and security related risks.
 - The RBI has indicated that it had been examining the issues associated with Bitcoins use under their country's legal and regulatory framework.