

# EXPOSURE DRAFT

EXPOSURE DRAFT
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Inserts for  
**Treasury Laws Amendment (Measures  
for a later sitting) Bill 2017: GST  
treatment of digital currency**

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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>

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1.

2. Schedule #      The day after this Act receives the Royal Assent.

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3.

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## Schedule #—GST treatment of digital currency

### *A New Tax System (Goods and Services Tax) Act 1999*

#### **1 Subsection 9-10(4)**

Repeal the subsection, substitute:

(4) However, *supply* does not include:

- (a) a supply of \*money unless the money is provided as \*consideration for a supply that is a supply of money or \*digital currency; or
- (b) a supply of digital currency unless the digital currency is provided as consideration for a supply that is a supply of digital currency or money.

#### **2 Subsection 9-85(2)**

Repeal the subsection, substitute:

(2) In working out the \*value of a \*taxable supply, any amount of the \*consideration for the supply that is expressed in:

- (a) a currency other than Australian currency; or
- (b) \*digital currency;

is to be treated as if it were an amount of Australian currency worked out in the manner determined by the Commissioner.

#### **3 Transitional—preserving existing determinations**

An instrument made under subsection 9-85(2) of the *A New Tax System (Goods and Services Tax) Act 1999* that is in force immediately before the commencement of this Schedule continues in force (and may be dealt with) as if it had been made under that subsection as amended by this Schedule.

#### **4 Subsection 11-10(3)**

Repeal the subsection, substitute:

(3) However, *acquisition* does not include:

- (a) an acquisition of \*money unless the money is provided as \*consideration for a supply that is a supply of money or \*digital currency; or

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- 1 (b) an acquisition of digital currency unless the digital currency  
2 is provided as consideration for a supply that is a supply of  
3 digital currency or money.

## 4 **5 Subsection 78-10(1)**

5 Repeal the subsection, substitute:

- 6 (1) An insurer has a *decreasing adjustment* if, in settlement of a claim  
7 under an \*insurance policy, the insurer makes one or more of the  
8 following:  
9 (a) a payment of \*money;  
10 (b) a payment of \*digital currency;  
11 (c) a supply.

## 12 **6 Subsection 78-15(4) (method statement, step 1, 13 paragraph (a))**

14 After “\*money”, insert “, or \*digital currency,”.

## 15 **7 Subsection 78-20(1)**

16 Repeal the subsection, substitute:

- 17 (1) If, in settlement of a claim under an \*insurance policy, an insurer  
18 makes one or more of the following:  
19 (a) a payment of \*money;  
20 (b) a payment of \*digital currency;  
21 (c) a supply;  
22 the payment or supply is *not* treated as \*consideration for an  
23 acquisition made by the insurer.

## 24 **8 Subsection 78-35(1)**

25 Repeal the subsection, substitute:

- 26 (1) If, in settlement of a claim made by an insurer in the insurer’s  
27 exercising of rights of subrogation in respect of an \*insurance  
28 policy, an entity that is not insured under the policy makes one or  
29 more of the following:  
30 (a) a payment of \*money;  
31 (b) a payment of \*digital currency;  
32 (c) a supply;

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1 the payment or supply is *not* treated as \*consideration for a supply  
2 made by the insurer (whether or not the payment or supply is made  
3 to the insurer) or by the entity insured.

## 4 **9 Subsection 78-45(1)**

5 Repeal the subsection, substitute:

6 (1) If, in settlement of a claim under an \*insurance policy, an insurer  
7 makes one or more of the following:

- 8 (a) a payment of \*money;
- 9 (b) a payment of \*digital currency;
- 10 (c) a supply;

11 the payment or supply is *not* treated as \*consideration for a supply  
12 made by the entity insured, or by any entity (other than the entity  
13 insured) that was entitled to an input tax credit for the premium  
14 paid for the insurance policy.

## 15 **10 Subsection 78-75(1)**

16 Repeal the subsection, substitute:

17 (1) If, in settlement of a claim made by an insurer in the insurer's  
18 exercising of rights of subrogation in respect of an \*insurance  
19 policy, an entity that is not insured under the policy makes one or  
20 more of the following:

- 21 (a) a payment of \*money;
- 22 (b) a payment of \*digital currency;
- 23 (c) a supply;

24 the payment or supply is *not* treated as \*consideration for an  
25 acquisition made by the entity.

## 26 **11 Paragraph 78-110(a)**

27 Repeal the paragraph, substitute:

- 28 (a) an entity makes one or more of the following:
  - 29 (i) a payment of \*money;
  - 30 (ii) a payment of \*digital currency;
  - 31 (iii) a supply;

32 in compliance with a judgment or order of a court relating to:

- 33 (iv) a claim under an \*insurance policy; or
- 34 (v) a claim by an insurer in exercising rights of subrogation  
35 in respect of an insurance policy; or

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(vi) a claim for compensation under a \*statutory compensation scheme; and

## 12 Paragraph 79-65(1)(c)

Repeal the paragraph, substitute:

- (c) an entity makes one or more of the following in settlement of the operator's claim:
  - (i) a payment of \*money;
  - (ii) a payment of \*digital currency;
  - (iii) a supply;

## 13 Paragraph 79-90(1)(a)

Repeal the paragraph, substitute:

- (a) a judgment or order of a court relates to a claim for compensation under a \*compulsory third party scheme; and
- (aa) an entity makes one or more of the following in compliance with the judgment or order:
  - (i) a payment of \*money;
  - (ii) a payment of \*digital currency;
  - (iii) a supply; and

## 14 Paragraph 79-90(2)(a)

Repeal the paragraph, substitute:

- (a) a judgment or order of a court relates to a claim by an \*operator of a compulsory third party scheme exercising rights to recover from an entity in respect of a settlement made under the scheme; and
- (aa) an entity makes one or more of the following in compliance with the judgment or order:
  - (i) a payment of \*money;
  - (ii) a payment of \*digital currency;
  - (iii) a supply; and

## 15 Paragraph 79-90(2)(b)

Omit "another entity", substitute "an entity".

## 16 Subsection 79-95(3) (method statement, step 1, paragraph (a))

After "\*money", insert ", or \*digital currency,".

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1 **17 Subsection 80-30(2) (method statement, step 1,**  
2 **paragraph (a))**

3 After “\*money”, insert “, or \*digital currency.”.

4 **18 Subsection 80-70(2) (method statement, step 1,**  
5 **paragraph (a))**

6 After “\*money”, insert “, or \*digital currency.”.

7 **19 Subsection 126-10(1) (paragraph (b) of the definition of**  
8 ***total monetary prizes*)**

9 After “\*money”, insert “or \*digital currency”.

10 **20 Subsection 126-32(1)**

11 Omit “money”, substitute “\*money or \*digital currency”.

12 **21 Subparagraph 134-5(1)(c)(i)**

13 Omit “money”, substitute “\*money or \*digital currency”.

14 **22 Subparagraphs 134-5(1)(c)(ii) and (iii)**

15 After “money”, insert “or digital currency”.

16 **23 Subparagraph 134-10(1)(c)(i)**

17 Omit “money”, substitute “\*money or \*digital currency”.

18 **24 Subparagraphs 134-10(1)(c)(ii) and (iii)**

19 After “money”, insert “or digital currency”.

20 **25 Paragraph 188-22(a)**

21 After “\*money”, insert “or \*digital currency”.

22 **26 Section 188-35**

23 After “\*money”, insert “or \*digital currency”.

24 **27 Section 195-1**

25 Insert:

26 *digital currency* means digital units of value that:

27 (a) are fungible; and

28 (b) can be provided as \*consideration for a supply; and

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- 1 (c) are generally available to members of the public without any  
2 restriction on their use as consideration; and  
3 (d) are not denominated in any country's currency; and  
4 (e) do not have a value that depends on, or is derived from, the  
5 value of anything else; and  
6 (f) do not have a value solely or mainly because they give an  
7 entitlement to receive, or direct the supply of, a particular  
8 thing or things;  
9 but does not include:  
10 (g) \*money; or  
11 (h) a thing that, if supplied, would be a \*financial supply for a  
12 reason other than being a supply of one or more units to  
13 which paragraphs (a) to (f) apply.

## 14 **28 Section 195-1 (paragraph (a) of the definition of *monetary*** 15 ***prize*)**

16 After “\*money”, insert “or \*digital currency”.

## 17 **29 Section 195-1 (paragraph (b) of the definition of *monetary*** 18 ***prize*)**

19 Repeal the paragraph, substitute:

- 20 (b) if the prize is given at a casino—any prize, or part of a prize,  
21 in the form of:  
22 (i) money or digital currency; or  
23 (ii) gambling chips that may be redeemed for money or  
24 digital currency.

## 25 **30 Application of amendments**

26 The amendments made by this Schedule apply in relation to supplies or  
27 payments made on or after 1 July 2017.

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Inserts for

## **Treasury Instruments Winter 2017: GST treatment of digital currency**

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1.		
2. Schedule #	The day after this instrument is registered.	
3.		

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## Schedule #—GST treatment of digital currency

### *A New Tax System (Goods and Services Tax) Regulations 1999*

#### **1 Subregulation 40-5.09(3) (table item 9)**

Repeal the item, substitute:

- 9 Australian currency, the currency of a foreign country, digital currency or an agreement to buy or sell any of these 3 kinds of currency

#### **2 Regulation 40-5.12 (table item 4)**

After “A payment system”, insert “, except to the extent that it is digital currency”.

#### **3 Regulation 40-5.12 (table item 16)**

After “money,”, insert “digital currency,”.

#### **4 Subregulation 70-5.02(2) (at the end of the cell at table item 21, column headed “Reduced credit acquisition”)**

Add:

- ; or (c) the supply of digital currency, or an agreement to buy or sell the currency

#### **5 Subregulation 70-5.02(2) (table item 22)**

Repeal the item, substitute:

- 22 Transaction processing, account maintenance and report generation services provided to:
- (a) suppliers of derivatives; or
  - (b) suppliers of the currency of a foreign country, or an agreement to buy or sell the currency; or
  - (c) suppliers of digital currency, or an agreement to buy or sell the currency

#### **6 In the appropriate position in Schedule 15**

Insert:

## **Part 4—Amendments made by the [Treasury Laws Amendment (...) Regulations 2017]**

### **107 Operation of [Schedule #]**

The amendments of these Regulations made by [Schedule #] to the [*Treasury Laws Amendment (...) Regulations 2017*] apply in relation to supplies or payments made on or after 1 July 2017.

#### **7 Dictionary (definition of *payment system*)**

After “money”, insert “or digital currency”.