KPMG submission

Treasury Issues Paper

Initial coin offerings

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Submission comments

1. General

1.1 The Treasury Issues Paper (the Paper) – *Initial Coin Offerings* is a welcome step towards establishing a robust and clear regulatory and tax framework for the use of blockchain technology to enable financial transactions such as an initial coin offering (ICO). KPMG is pleased to have the opportunity to provide comments on this important issue.

1.2 Australia's regulatory and tax framework should encourage the responsible expansion of the application of blockchain technology. Blockchain can be a highly effective vehicle for processing transactions in a low-cost manner, and can therefore add to the productivity of the overall economy.

2. Key principle for a regulatory regime

Clarity is key in order to encourage responsible innovation to occur in Australia

2.1 Blockchain entrepreneurs and innovators who are focussed on compliance with regulation will seek a regime that provides clarity, so that they can understand and predict the consequences for the conduct of their activities.

2.2 If Australia's regime does not provide this clarity, then these businesses are likely to choose to base themselves and operate in other markets where regulatory clarity does exist.

2.3 Australia could then be in a situation where the remaining businesses based here place a low priority on regulatory compliance, with consequent adverse impacts on the community.

3. Recommendations for the taxation of ICO / blockchain transactions

Income tax rules

3.1 Current income tax rules should provide an adequate framework to deal with transactions involving cryptocurrency and cryptotokens, based on the specific features of those arrangements and the purpose for which the taxpayer holds them.

3.2 It is important that the Australian Taxation Office (ATO) provides comprehensive guidance to taxpayers, including case study examples, to enable taxpayers to understand the application of the current law to their situation.

3.3 It would be supportive of the innovative nature of the ICO and blockchain environment if the ATO were to take a pragmatic and purposive approach to applying the existing legislation. New varieties of cryptocurrency and token will be emerging regularly, and their tax treatment should be determined by their material features rather than by an exhaustive examination of every feature of the particular arrangement.

3.4 For example, certain tokens have features that are similar to the features of a voucher in that they carry a right to receive a certain service, or a nominated value of services. The difference in rights could potentially impact the income tax treatment, for example the timing of the deduction for expenditure on a token. A pragmatic approach would allow the same treatment for all types of blockchain token.

3.5 Other tokens may be more akin to an equity investment, where the tax treatment may be on capital account or revenue account depending on the tokens' characteristics and the intention of the holder. Where tokens encompass elements of both, the intention and purpose of the holder should be the basis for determining the taxation treatment.

Goods and services tax (GST) rules

3.6 A similar area of potential complexity occurs in the GST treatment of tokens. Tokens with a nominated value may be a digital currency whilst others may be a voucher for GST purposes with different treatment/timing consequences for the collection of GST.

3.7 As the blockchain environment becomes more sophisticated, it may become more difficult to determine the GST-status of a particular token, unless a pragmatic approach is adopted.