

Webcast: CryptoCurrency and SMSFs



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Disclaimer



- The government is in the process of considering and developing responses to various crypto asset issues.
- The views in this presentation may therefore not be the final position of the regulators.
- Members must make clients aware that the legal positions are uncertain and subject to change.

The fundamentals



Capital Gains Tax Basics



- What is CGT and how is it calculated?
- What are CGT assets?
- What is a CGT event and when do they occur?
- When and how do I report CGT?
- What is the 50% CGT discount and how do I get it?

Core Tax Issues



- **Coin to Coin – myth or reality?**
 - Usually a CGT event but its not that easy.
 - Investor vs Trader.
 - Income vs Capital Gains.
 - Complex transactions like wrapping, bridging, LP tokens, rebases.
 - Tornado Cash, Monero and proof of funds.
- **Gas**
 - Goes on the cost base – but which side?
 - In coin-to-coin transactions technically eligible for placement on both assets - common sense should apply though.
 - Wallet signing fees (inbound and outbound) – lost expenses? Doesn't fit into the cost base.
- **Compliance**
 - Nightmare for Govt and for participants both, software is truly the only answer.
 - Manual reconciliations are almost impossible to do accurately and cost-effectively.
 - Remember that all data is on-chain, everyone can see your entire history, including the ATO.
 - All Australian exchanges participate in the ATO data matching program, though exact details of the data shared are not publicly known.

The ATO's current stance



The ATO's current stance on crypto and SMSFs



- SMSFs may invest in crypto provided it is allowed under the funds deed and in accordance with its investment strategy.
- SMSF must have clear ownership of the crypto. Legal documentation is critical, especially for non-exchange wallets which have no ownership details by default.
- SMSFs must invest in crypto in accordance with ATO valuation guidelines.
- Cryptocurrency is not a 'listed security' so doesn't fall within the related party transaction rules.

The ATO's current stance on crypto and SMSFs



- Sole purpose test: SMSF must be for the sole purpose of providing retirement benefits.
- SMSFs could make a lump sum payment by way of transfer of crypto. Pension payments must be made in cash though.
- CGT applies to crypto transfers, disposals and investments and 33% CGT discount for holding for more than 12 months.
- We expect this space to get much bigger and change, as listed investments now track crypto indexes like Greyscale, or DeFi alternatives like \$DPI (DeFi Pulse Token).
- ETF's for Bitcoin and Ethereum are impending which should make it easier to be exposed to those assets.

The present challenges



The present challenges



- If your client is interested in investing in cryptocurrency as part of their SMSF, you will need to confirm that the investment is:
 - Allowed for under the fund's trust deed
 - Be in accordance with the fund's investment strategy
 - Comply with SISA and SISR regulatory requirements concerning investment restrictions.
- The SMSF must be able to prove the ownership and existence of the crypto for the independent audit of the fund - i.e. account **MUST** be in the name of the SMSF - some exchanges don't enable SMSF accounts to be registered
- While a trustee can choose to invest all their retirement savings in one asset or asset class, certain risks such as return, volatility and liquidity risks may be minimised if a trustee considers diversifying their portfolio.

The present challenges



- In situations where concentration risk is a real issue, we expect that the fund's investment strategy should document that the trustees have considered the risks associated with a lack of diversification.
- SMSF professionals will need to carefully manage including ensuring the appropriate valuation of crypto assets and satisfying the sole purpose test.
- For SMSF auditors, evidence of proof of asset ownership for the purposes of being satisfied that contravention of Reg 4.09A of the SISR hasn't occurred can be tricky territory.
- A fund must have its own digital wallet, separate to one used by trustees for personal or business purposes. The wallet will have a transaction listing for each separate crypto which can be provided as evidence
- <https://www.ato.gov.au/misc/downloads/pdf/qc69927.pdf>

How to accurately maintain records



How to accurately maintain records



- SMSF trustees have extensive administrative, reporting, and record-keeping obligations to ensure their fund complies with superannuation and taxation regulations
- If done manually, cryptocurrency record-keeping can be an absolute nightmare.
- You'll need to keep track of your client's:
 - receipts when you buy or transfer crypto assets
 - exchange records
 - records of agent, accountant and legal costs
 - digital wallet records and keys
- You can use a crypto tax software like CryptoTaxCalculator. This software will give you and/or your client the ability to:
 - import data from any relevant source, and will
 - automatically track and categorise cost base, fees, any gains or losses made

Questions?



Contact Us



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