



30 September 2022

Mr Anthony Klein
Ms Tanya Titman
Board of Tax
Digital Assets Tax
By Email: TaxDigitalAssets@taxboard.gov.au

Dear Mr Klein and Ms Titman

Review of the Tax Treatment of Digital Assets and Transactions in Australia

The Australian Banking Association (**ABA**) welcomes the opportunity to comment on the Board of Taxations' review of the Tax Treatment of digital assets and transactions in Australia.

The ABA advocates for a strong, competitive and innovative banking industry that delivers excellent and equitable outcomes for customers. We promote and encourage policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.

Our view

The ABA supports efforts to ensure the tax treatment of crypto assets enable a more transparent, fairer and robust tax system that ensures Australian consumers are protected from risks and supports regulators to provide taxpayers with a clearer understanding of their obligations.

We note there continues to be uncertainty over the tax treatment of digital assets, stemming from the characterisation of these assets as currency, assets or other types of value. A further difficulty in characterising digital assets is they can often take on multiple roles at the same time. A crypto currency can be a means of exchange, a store of value and an asset simultaneously, and the challenges from a tax perspective are exacerbated by the need to carefully evaluate the context in which the assets required to be taxed.

Below, we touch on a few key observations that we think will ensure greater clarity and consistency in the taxation treatment of digital assets.

Key observations

Defining digital assets

As a first step, there should be clarity on what digital assets are so they can be characterised from a taxation perspective. Currently, all digital representations of value and native digital assets that use cryptography and distributed ledger technology are classified as crypto assets. The classification should clarify the criteria that will be used to characterise crypto assets (for example, will crypto assets be characterised depending on how they are used, who has control, or what the asset is designed to do/rights and obligations), how these criteria will be applied for the purposes of crypto regulatory policy and the implications for tax purposes.

The classification should consider different characteristics, types and use of crypto assets so that they can be clearly characterised for tax purposes. It is recommended that the definition aligns with the announced Treasury "token mapping" exercise, as part of their review of crypto assets.

We ask the Board of Taxation to closely engage with Treasury to ensure token mapping is undertaken with a clear understanding of the multiple regulatory objectives that the exercise needs to meet. For example, consumer protection or prudential regulation may seek to identify a subset of higher risk products or conduct (like a heat map), while the policy objective for tax may be to apply clear and



consistent taxation to the spectrum of crypto assets (more like a catalogue).

Examples of different type of crypto assets to be considered in this exercise should include tokenised traditional assets (e.g. bank deposits), crypto assets with a stabilisation mechanism (e.g., stable coins), unbacked crypto assets, potential Central Bank Digital Currencies, security tokens, utility tokens.

Regulator guidance

The ABA notes that accompanying this token mapping exercise, tax-specific guidance should be provided to cover

- tax consequences including rationale behind the adopted tax treatment based on the characterisation of the crypto assets, the roles performed by each player and the nature of transaction, which coherent with existing tax treatment of other assets. The guidance should include specific case studies to make taxable outcomes clear, developed in consultation with industry,
- the risks of tax avoidance related to crypto assets that are decentralised and/or can be transacted anonymously
- how to value digital assets that change in price over short periods of time, including who should be responsible for the calculation of the value and what record-keeping requirements should be retained, and
- how to evaluate the tax treatment on the costs associated with digital assets, particularly the significant technology and energy costs.

We note that guidance in this area needs to be reviewed periodically due to the rapidly evolving landscape of digital assets. Alternatively, the guidance should be principles based so that industry can flexibly apply the guidance to rapidly changing developments.

Ensuring consistency with international approaches

We further note that the approaches to token mapping or guidance should be done so consistently with international approaches, to minimise burdens for industry and to reduce the risks of regulatory arbitrage. Several jurisdictions have undertaken crypto token mapping exercises, and the OECD paper in 2020 on taking virtual currencies is a good starting point that should form the basis of further work.

We also note that revenue authorities in different jurisdictions have taken up these questions on tax treatment of digital assets and there are important lessons that could be learnt and applied.

Retaining existing tax frameworks

Finally, while there is a need to clarify the taxation treatment of digital assets, we do not consider there is a need for a bespoke set of taxation arrangements, and that digital assets should be taxed using existing frameworks. Creating a separate form of taxation would add further to the complexities in law, and result in additional regulatory uncertainties and burdens for industry.

Thank you for the opportunity to provide feedback. If you have any queries, please contact me at Prashant.ramkumar@ausbanking.org.au

Yours sincerely,

Prashant Ramkumar
Associate Policy Director,
Australian Banking Association