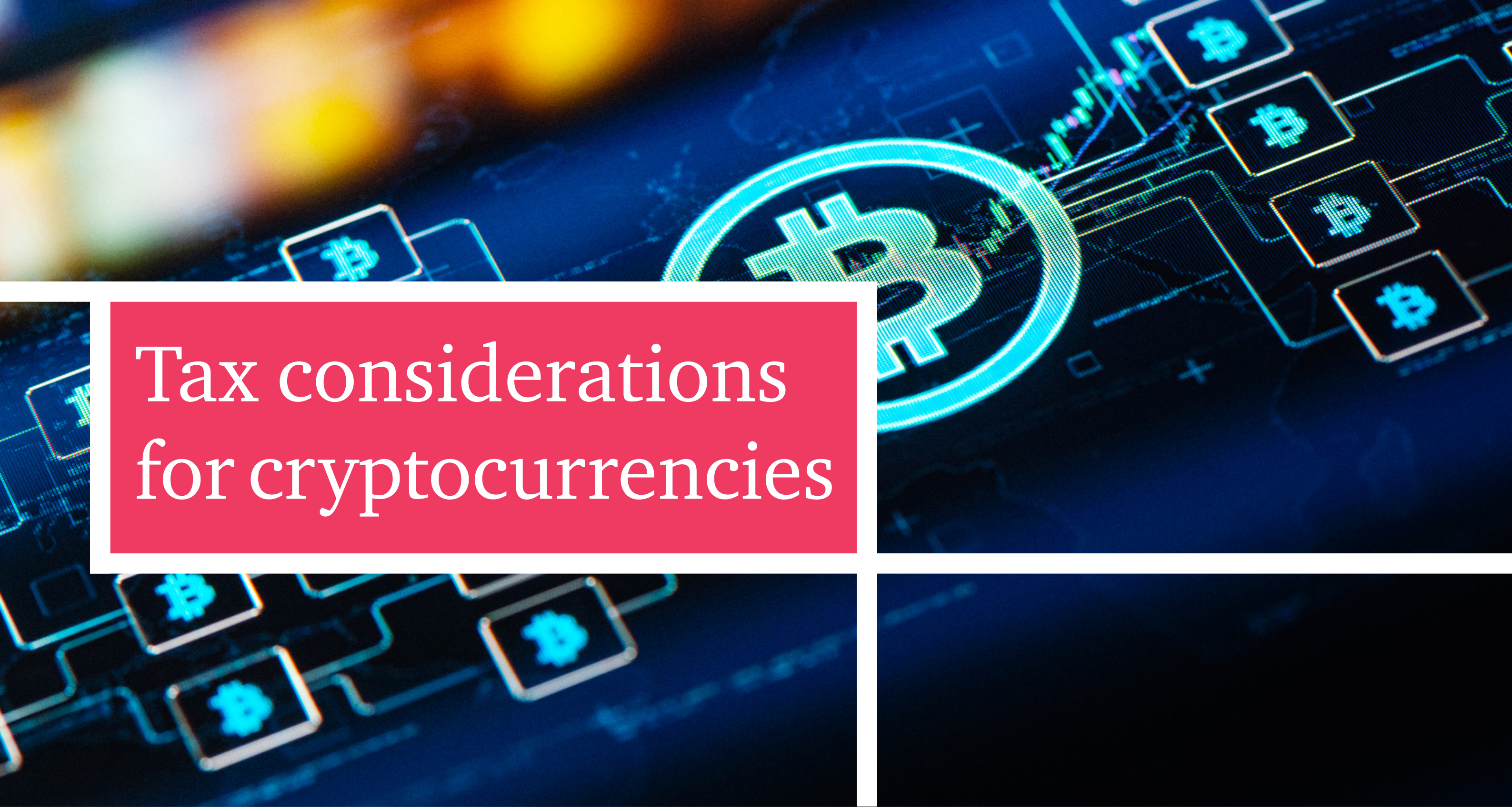

Tax considerations for cryptocurrencies

When considering the tax implications of holding, trading or transacting with cryptocurrency, it is important for you to be aware of the rules and regulations as put forward by the Australian Taxation Office (ATO).

In determining taxable events for cryptocurrency, a key initial step for you is to determine whether you are a trader or an investor.

Trader

Traders are generally subject to income tax on cryptocurrency transactions

You are a 'trader' if you have set up a business with the intention and purpose to generate profit from the purchase and sale of cryptocurrency. Traders treat disposal events as occurring during the ordinary course of business and as such, need to treat disposals as business income taxable at marginal income tax rates and not relevant for capital gains purposes.

Importantly, you may fall into the trader or business category if:

- **You entered into the transaction with a purpose or intention of making a profit**
- **The transaction is part of a business operation or commercial in character**

Other relevant considerations the ATO has noted for determining whether a transaction has such a character, include:

- The nature of the entity undertaking the transaction
- The nature, scale and complexity of the transaction
- The nature and scale of other activities undertaken by the entity
- The length of time over which the transaction occurs
- The amount of money involved and the scale of the profit sought or obtained
- Whether the property, in this case the cryptocurrency, had any other use other than as an object of trade (e.g. Is it used as a medium of exchange or to buy services only available on the blockchain?)

Personal use asset

Investors, where their cryptocurrency holding is considered a 'personal use asset', are not generally subject to tax on transactions

The ATO indicates that if the cryptocurrency you transact with is a personal use asset a capital gain/loss can be avoided. Cryptocurrency will be regarded as a personal use asset when it is used to purchase items for personal use or consumption. Below are situations in which cryptocurrency is NOT regarded as a personal use asset:

- Where it is held as an investment
- Where it is used as part of a profit-making scheme (i.e. carrying on a business)

The ATO also provides guidance on how long a currency can be held before it is no longer a personal use asset. This guidance, unfortunately, is vague but does state that where cryptocurrency is held for only for a short period of time, it may not be regarded as an investment. When disposed of, the date of disposal is when the cryptocurrency is exchanged for either a fiat currency or the relevant 'goods'.

The way the cryptocurrency is used during that period of time will ultimately determine the personal use asset distinction and determine if the cryptocurrency constitutes an investment or not. For example, if you kept a portion of a cryptocurrency on hand to facilitate the ad hoc purchase of personal use items (e.g. a new bike), similar to other functional currencies, this is unlikely to be considered an investment.

Investor

Investors are generally subject to capital gains tax on cryptocurrency transactions

An investor is an individual who holds cryptocurrency for the purpose of capital appreciation and as a store of value. The majority of individuals buying, selling and holding cryptocurrency fall into this category.

If this is you, then the sale or disposal of your cryptocurrency will trigger a taxable event and you will be liable to pay tax on any subsequent capital gains. You may also be able to claim or carry forward a capital loss where relevant, depending on the outcome of the sale.

So, when exactly does a taxable event for cryptocurrency occur if you are an investor?

For investors, a capital gains tax (CGT) event occurs when you dispose of your cryptocurrency. The ATO describes a disposal as follows:

- Sell or gift cryptocurrency;
- Trade or exchange cryptocurrency;
- Convert cryptocurrency into fiat currency (a currency established by government regulation or law); or
- Use cryptocurrency to obtain goods or services.

Importantly, similar to other CGT assets, if you hold onto your cryptocurrency at least for 12 months, you may be eligible for the 50% CGT discount.

As mentioned above, when exchanging any cryptocurrency for one another, a taxable event may still occur. The ATO will deem that the capital gain will be assessed as the value of the cryptocurrency you receive in exchange for the offering of your cryptocurrency held prior to the exchange less any amounts paid to acquire the original cryptocurrency. The cost base (i.e. the cost against which any proceeds should be compared to calculate a capital gain/loss) of the new cryptocurrency should be the market value of the cryptocurrency on the date of exchange.

Unfortunately, there are some situations where you may actually lose your cryptocurrency private key or your cryptocurrency is stolen. If this is the case, there is the potential for you to be able to claim a capital loss on the value of your currency.

Importantly, the first step is to determine whether the cryptocurrency is lost, whether you have lost evidence of your ownership, or whether you have simply lost access to the cryptocurrency.

Generally where an item can be replaced it is not lost. A lost private key cannot be replaced. The ATO provides detailed information on what proof you may need to justify claiming a tax loss when you lose access to your cryptocurrency or it is stolen:

- when you acquired and lost the private key;
- the wallet address that the private key relates to;
- the cost you incurred to acquire the lost or stolen cryptocurrency;
- the amount of cryptocurrency in the wallet at the time of loss of private key;
- that the wallet was controlled by you (e.g. transactions linked to your identity);
- that you are in possession of the hardware that stores the wallet; and
- transactions to the wallet from a digital currency exchange for which you hold a verified account or is linked to your identity.

There may be specific tax consequences where you are impacted by 'Forking' or 'Airdrop' events. Where this is the case, we recommend that you seek further guidance on the taxability of this event relevant to your situation.

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