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# ***GST, Bitcoin and Digital Currencies***

*30 March 2016*

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## ***In brief***

The Government has announced that it will work together with the financial technology (FinTech) industry to reform the goods and services tax (GST) law to address the ‘double GST treatment’ of digital currencies such as Bitcoin. While the legislative options at this stage are not explicitly clear, it is expected that the Government will act on the Senate Economics References Committee’s Inquiry into Digital Currency recommendations to amend the GST law to recognise digital currencies as money.

If implemented, these reforms will remove the potential for double taxation from a GST perspective and the related administrative complexities associated with digital currencies. They will also ensure transactions carried out using traditional ‘fiat’ currencies and digital currencies have a consistent GST outcome.

Resolving the GST treatment of digital currencies is a positive step towards cryptocurrency use in Australia, and should assist Australian exchanges to compete with international exchanges. It remains to be seen whether the Government will use this opportunity to characterise digital currency as ‘money’ for other tax purposes including capital gains tax (CGT).

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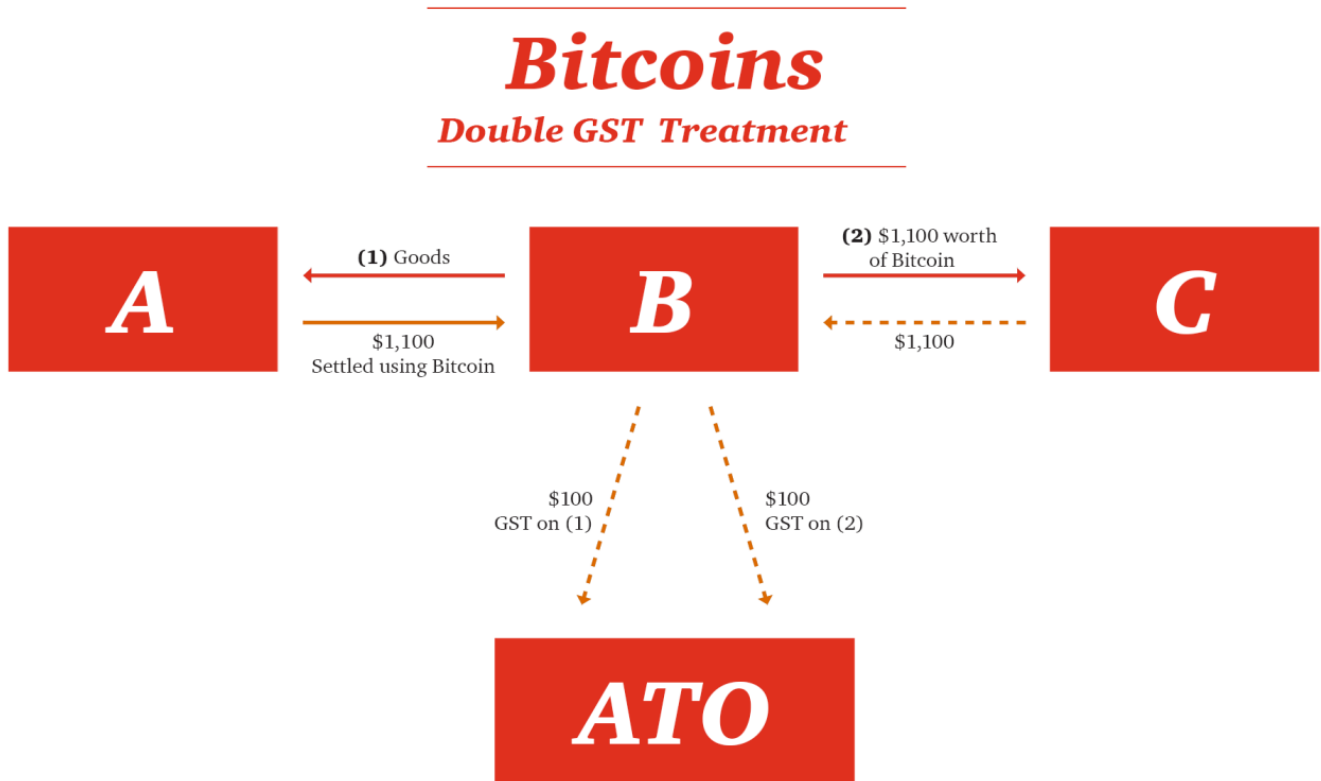
## ***In detail***

Bitcoin and other digital currencies are not currently recognised as ‘money’ for GST purposes. The effect of this is that the act of making a payment for goods and services in Australia (and potentially overseas) using Bitcoin or other digital currencies can itself attract GST.

There are a number of potentially unintended outcomes which arise if digital currencies are treated as supplies subject to GST, including valuation issues, documentation issues and GST cashflow issues (as the Australian Taxation Office (ATO) does not accept Bitcoins as payment for GST liabilities).

However, the principal outcome which seems to have attracted the attention of the Government is the potential for transactions involving digital currencies leading to an unintended ‘double GST’ outcome.

The example below illustrates how this might occur in practice:



As is evident from the above, and assuming all the other key requirements for a taxable supply are met, entity B will make two taxable supplies in respect of the same transaction and have an obligation to pay GST twice to the ATO. In particular, Entity B is required to remit GST of \$100 in respect of:

- Its taxable supply of goods valued at \$1,100 to its Australian customer, entity A, for which it accepts Bitcoin as payment; and
- Its subsequent taxable supply of Bitcoin to entity C in exchange for AUD.

In cases where the Australian customer of entity B is a consumer, the intended outcome of the GST law is that GST should attach to that transaction. However, if entity C is not GST registered, an offsetting input tax credit for the GST payable on the exchange of the Bitcoin will not be available to entity C, resulting in a further (double) non-recoverable GST cost arising on the act of Bitcoin exchange for the same transaction.

In contrast, where entity B accepts USD, the subsequent act of exchange into AUD will not be a supply under the current exemption for 'money' and will not attract GST.

Amending the GST law to recognise Bitcoin and other digital currencies will therefore restore neutrality and consistency to transactions where traditional fiat currencies and digital currencies are used as payment for goods and services in Australia.

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## ***The takeaway***

This is a positive step for Australians seeking to use digital currencies and to trade them through Australian exchanges. It remains to be seen whether the Government will carry a similar treatment across the income tax laws, where digital currency is currently treated as a CGT asset, imposing an additional compliance burden (versus taxpayers transacting in foreign currencies).

It also will be interesting to see how the Government deals with the proposed GST law reform and whether it will extend beyond this double tax issue and address some of the other related complexities, such as valuation and timing.

## ***Let's talk***

For a deeper discussion of how these issues might affect your business, please contact:

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