

# 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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