Explanatory Statement

Goods and Services Tax: Digital Currency Conversion Determination 2019

General outline of determination

1. This determination is made under subsection 9-85(2) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

2. This determination sets out the method to convert amounts of consideration that are expressed in digital currency into Australian currency for the purposes of working out the value of a taxable supply.

3. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

4. This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Date of effect

5. This determination commences on the day after it is registered.

What is this determination about

6. Subsection 9-85(1) of the GST Act requires that the value of a taxable supply be expressed in Australian currency. An entity must report the GST payable for taxable supplies in Australian currency on its activity statements. Under subsection 9-85(2) of the GST Act Commissioner can determine a method that an entity must use to work out the value of its taxable supplies in Australian currency where those taxable supplies are expressed in a currency other than Australian currency or digital currency.

7. In this determination, the Commissioner sets out the method an entity must use to convert digital currency to Australian currency when working out the value of a taxable supply.

What is the effect of this determination

8. In working out the value of a taxable supply, an entity must convert any amount of consideration expressed in digital currency using the following formula:

    Amount of digital currency x your particular exchange rate on the conversion day

    where,

    your particular exchange rate is:

    If the exchange rate is quoted in Australian currency, the rate from a digital currency exchange rate obtained from a digital currency exchange, or digital currency website,

or the agreed rate between the supplier and the recipient, whichever you have chosen.

If the exchange rate for a particular digital currency is only quoted in foreign currency:

Use that exchange rate in foreign currency, and then convert that foreign currency amount into Australian currency following the method outlined in *Goods and Services Tax: Foreign Currency Conversion Determination 2018.*

conversion day is the date that the digital currency is converted into Australian currency as set out in section 5 of the determination.

9. Compliance cost impact: minor. There will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

Background

10. This determination explains the method that entities must use to convert an amount of consideration expressed in digital currency into Australian currency. Under subsection 9-85(1) of the GST Act the value of a taxable supply must be expressed in Australian currency for the purposes of the GST Act.

11. The method set out in the determination to convert an amount of consideration from digital currency into Australian currency, requires an entity to choose an exchange rate and a conversion day from a defined list of options.

12. The exchange rate can be a rate from a digital currency exchange, or a digital currency website that quotes exchange rates or the agreed rate. The exchange rate chosen by the entity should be used consistently for GST purposes. The rate must also reflect the market rate, unless it is an agreed rate. The exchange rate may be changed if an entity has sound commercial reasons for doing so. An entity that alternates between rates, or uses a rate that is not consistent with other quoted rates, with a view to reducing its GST liability has used its rate inconsistently and has not followed requirements in the determination.

13. This determination also applies where a particular digital currency is only quoted in foreign currency. In this situation, an entity would apply the method under the determination to convert the digital currency rate in a foreign currency into an Australian currency rate in accordance with *Goods and Services Tax: Foreign Currency Conversion Determination 2018.*

14. For example, an entity receives 200 BrandNewCoins as payment for a taxable supply. The entity is unable to locate an exchange rate quoted in Australian Dollars (AUD), but obtains the following exchange rate 1 BrandNewCoin = $6 US dollars (USD). The Reserve Bank of Australia exchange rate for US dollars on that day is $1 USD = $0.78 AUD dollars.

15. The exchange rate is only expressed in foreign currency, which is 1BrandNew Coin=$6 USD. The amount of foreign currency ($6 USD) must be converted into AUD as outlined in *Goods and Services Tax: Foreign Currency Conversion Determination 2018*. The conversion would result in a particular exchange rate being the unit of digital currency expressed in AUD. By applying the formula in the determination, the AUD exchange rate is determined as follows:

$6 USD x (1/0.78 USD) = $7.68 AUD.

16. The formula in section 4 of this determination is then applied to convert the amount of consideration received in digital currency into AUD:

> 200 Brand New Coins x 7.68 AUD=$1536. The entity would use this amount to calculate the GST payable for inclusion in its activity statement.

17. Section 5 of this determination defines conversion day to be the date that the entity converts digital currency into Australian currency. The conversion day differs for entities that account for GST on a cash basis and those that account for GST on a basis other than cash.

18. Subsections 5(c) and 5(d) of the definition of conversion day provide additional conversion day options for non-residents that are making inbound intangible consumer supplies or offshore supplies of low value goods, or both, and non-residents that are limited registration entities.

19. Subsection 5(c) applies to non-resident entities that are not limited registration entities, but who make inbound intangible consumer supplies or offshore supplies of low value goods, or both. The conversion day for the inbound intangible consumer supplies or offshore supplies of low value goods, or both, can be either a day under subsection (5)(a) or 5(b) of the definition.

20. Alternatively, in respect of all of the inbound intangible consumer supplies, all of the offshore supplies of low value goods, or both, an entity can choose a conversion day that is the final day of the relevant tax period in which GST is payable; or the earlier of the day on which an entity lodges their activity statement for a tax period or the due date for lodgement of that activity statement (paragraph 5(c)(ii)). If an entity applies paragraph 5(c)(ii) as the conversion day for all of its inbound intangible consumer supplies or all of its offshore supplies of low value goods, or both, the conversion day for all of the entity's other supplies can only be the day specified in subsections 5(a) or 5(b).

21. Subsection 5(d) of the definition of conversion day applies to non-resident entities that are limited registration entities. The conversion day for all of their supplies can be a day specified in subsections 5(a) or 5(b) or the final day of the relevant tax period in which GST is payable; or the earlier of the day on which the entity lodges their activity statement for a tax period or the due date for lodgement of that activity statement (paragraph 5(d)(ii)).

Consultation

22. Subsection 17(1) of the Legislation Act 2003 requires that the Commissioner undertake an appropriate level of consultation that is reasonably practicable to undertake before making a legislative instrument.

23. Broad consultation was undertaken on the draft determination and draft explanatory statement. These documents were published on the ATO Consultation Hub in January 2018 inviting feedback and comments within a four week period. The ATO Consultation Hub is available to the general public through ato.gov.au.

24. Targeted consultation was also undertaken for a period of two weeks. Links to the draft determination, explanatory statement and the ATO Consultation Hub were sent to the industry representatives and stakeholders inviting feedback and comments.

25. Minor feedback was received as a result of the consultation process however the feedback was rejected as it was out of scope.

Legislative references:

Acts Interpretation Act 1901
A New Tax System (Goods and Services Tax) Act 1999
Goods and Services Tax: Foreign Currency Conversion Determination 2018 F2018L00724
Human Rights (Parliamentary Scrutiny) Act 2011
Legislation Act 2003

Statement of Compatibility with Human Rights

This Statement is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Goods and Services Tax: Digital Currency Conversion Determination 2019

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011.*

Overview of the Legislative Instrument

This Legislative Instrument prescribes the manner in which consideration expressed in a digital currency must be converted into Australian currency when working out the value of a taxable supply for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999.*

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms as it sets out the method to convert amounts of consideration that are expressed in digital currency into Australian currency for the purposes of working out the value of a taxable supply.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.