The complex world of cryptoassets

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01 September 2018

With the growing number and variety of cryptoassets such as cryptocurrencies and digital tokens, the tax treatment can be complex and there is increasing need for clear guidance on the tax and accounting issues.

It is now almost ten years since the public launch of Bitcoin. Once a niche area, the number and variety of cryptocurrencies and similar digital tokens has exploded. Increasing numbers of individuals and businesses are now interested in buying, selling, creating and holding such cryptoassets. While the assets may be virtual, there can be very real tax issues to contend with.

In terms of guidance, HMRC are aware that their current guidance in HM Revenue & Customs Brief 9/2014 needs to be updated to reflect subsequent developments. Over the last few months HMRC have been in listening mode as they consider the areas of uncertainty arising as a result of this new asset class and how they should be dealt with under existing tax laws. Following on from this, HMRC is intending to, produce updated guidance. HMRC are aware that many agents would appreciate guidance in time for 2017-18 self-assessment returns. While it is not possible to give a precise date, we are hopeful of updated guidance in autumn 2018.

ATT and CIOT representatives attended an informal cryptoassets working group session with HMRC and HMT at the end of July to discuss the technical challenges arising from the taxation of cryptoassets and the areas where guidance would be appreciated. Areas of uncertainty can broadly be split between those issues relevant to individuals acquiring cryptoassets and the businesses issuing cryptoassets (commonly referred to as ‘tokens’).

These areas include:

- ***Consistency***: Practitioners and HMRC are currently seeking to apply existing tax and accounting principles to what is essentially a new asset class. This

means that there can be a range of tenable interpretations for any given transactions, leading to uncertainty.

- ***Compliance***: the nature of the assets makes compliance a challenge for HMRC, but also for taxpayers, particularly in terms of record keeping; for example, on some crypto-asset exchanges, transaction records are only available for six months.
- ***Situs***: Where the cryptoasset is considered to be located has a significant bearing on the tax position, particularly for non-resident individuals.
- ***Initial coin offerings (ICOs)***: The rights attached to coins or tokens issued as part of an ICO can vary hugely, making it difficult to determine the correct treatment of new coins/tokens.

It is unlikely that any guidance will address all the issues seen in practice, because this is an evolving area. However, we welcome HMRC's willingness to engage with interested parties to discuss the technical challenges arising from cryptoassets and also their open approach to tackling the problem of adequate guidance.

It should also be noted that in March 2018 a Cryptoassets Taskforce was created by the Chancellor as part of the government's Fin Tech Sector Strategy. This Taskforce is considering the potential impact of cryptoassets, focussing on the risks and benefits of the new technology and assessing what, if any, regulation is required in response. While the taskforce does not specifically have tax within its terms of reference, it is expected that the report, due in September, will have an influence on future government, and potentially therefore HMRC, policy.

We would welcome any practical examples of tax issues members come across while dealing with cryptoassets which we can take to any future meetings.