Decentralised finance (cryptoassets): HMRC call for evidence

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The CIOT has responded to the recent government consultation on Decentralised Finance in relation to cryptoassets, addressing the future tax treatment of lending and staking.

The joint CIOT-ATT working group has recently been giving some thought to the call for evidence 'The taxation of Decentralised Finance involving the lending and staking of cryptoassets', which closed at the end of August and to which the CIOT responded.

In the document, the government acknowledge that the current legislation does not properly accommodate the unique nature of cryptoassets, particularly with regard to Decentralised Finance (or 'De-Fi'), whereby assets are dealt with on something akin to a brokerage platform, which can offer the services of a traditional financial institution. Through De-Fi, investors can also buy, sell and trade cryptocurrencies, crowdfund, and insure crypto investments, as well as manage and grow them. As well as allowing investors to lend and borrow cryptoassets, these De-Fi platforms can also allow assets to be 'staked', where they are used to provide liquidity in exchange for rewards – akin to payments of interest.

HMRC currently treat the staking and lending of cryptoassets within De-Fi as giving rise to a capital gain tax (CGT) charge, but options put forward within the consultation include the introduction of a no-gain/no-loss treatment, or bringing cryptoassets into the existing repo and/or stock lending rules. A third option put forward was to legislate to create an entirely new set of rules for lending and staking, along similar lines to those for repo/stock lending.

Whilst any of these options would remove actual CGT charges on De-Fi transactions, the CIOT's response raised concerns about the continuing administrative burdens

surrounding the compliance requirements in reporting transactions. Within CIOT's response, the third option was put forward as the preferred choice; however, prompted by some of the document's questions, the response went a little further by urging the government to not only start with new legislation aimed specifically at De-Fi, but to reconsider the tax rules surrounding cryptoassets as a whole.

Specifically on De-Fi, and along the lines of the third option put forward, the CIOT's final recommendation was to remove De-Fi transactions from the scope of CGT entirely, such that both CGT charges and reporting requirements did not arise. There can be a huge number of transactions involved within De-Fi, and the work required to keep track of and report these can be incredibly time-consuming for advisors. As well as making life much easier for investors and their advisors, by bringing the UK's treatment of cryptoassets more in line with that of other nations, such changes might help to attract more investment onto UK platforms, which the government is keen to promote.

The cryptoassets industry is developing rapidly, and the current tax rules are in danger of not being able to keep up with and develop alongside them. CIOT is keen to ensure continued liaison with HMRC and the government to ensure that this does not happen.

The CIOT recently submitted another response to HMRC calling for a universal, statutory definition of cryptoassets to be adopted for tax purposes. Such is the recent development of these assets that no single definition is currently in place within the tax legislation.

The full CIOT response to the De-Fi call for evidence is available here: www.tax.org.uk/ref973

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