Treasury Committee: call for evidence – the cryptoasset industry

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LITRG submitted a response to the Treasury Committee's call for evidence on the cryptoasset industry.

LITRG's submission to the Treasury Committee's call for evidence into the cryptoasset industry draws on HMRC's recently commissioned research (see tinyurl.com/2e347y4a), highlighting three key points.

First, research shows that most cryptoasset owners have relatively small holdings and are more likely to be lower-income and unrepresented taxpayers. This taxpayer profile is therefore more typical of a cryptoasset owner, with low income taxpayers perhaps being tempted to invest in cryptoassets because of the lure of high returns and the relative ease with which it is possible to invest through online platforms and apps. In particular, HMRC's research shows that the vast majority (85%) of cryptoasset owners either pay no income tax at all or pay it only at the basic rate, and nearly a quarter (23%) of cryptoasset owners earn less than the personal allowance.

Second, there is a general lack of understanding about potential tax liabilities and impacts on means-tested benefits from cryptoasset activities, especially among lower-income and unrepresented groups. For example, the majority (59%) of cryptoasset owners said that they knew 'little or nothing' about capital gains tax (CGT). An even greater proportion (81%) are not aware of the fact that buying goods or services using cryptoassets is a disposal for CGT purposes, potentially triggering a CGT liability. This misunderstanding, when combined with the relative complexity of calculating taxable gains from cryptoasset transactions, could easily result in inadvertent tax non-compliance.

The impact on means-tested benefits was not part of HMRC's research. It appears to be largely unconsidered in government policy on cryptoassets, especially for universal credit claimants. For example, such claimants need to determine whether the value of their cryptoasset holdings is considered as capital for universal credit purposes. Capital between £6,000 and £16,000 is deemed to provide a 'tariff income' of £4.35 per month for each £250 (or part thereof). There are several reasons why this may cause some difficulties, including:

- determining whether the holdings are 'business assets' (which would be disregarded)
- determining whether a disposal of beneficial interest has occurred in a lending or staking transaction;
- determining whether anti-avoidance rules on deprivation of capital apply; and
- coping with fluctuating asset values within an assessment period.

Finally, the submission points out that tax liabilities could be triggered from any amounts of cryptoasset gains and income, if the relevant tax allowances are already used against other sources. This might happen, for example, if the CGT annual exempt amount has already been used where the taxpayer has sold a property in the year which did not attract full main residence relief. Alternatively, where a person's main source of income is from self-employment, the trading allowance is likely to be unavailable on a second source of income from cryptoasset activities. Means-tested benefits, such as universal credit, can also be affected by fluctuations in cryptoasset capital and income from cryptoasset activities without any de minimis. (There is no equivalent of the trading allowance for universal credit purposes.)

The submission concludes by suggesting that cryptoasset policy in tax and means-tested benefits should be designed in such a way to minimise the risk of inadvertent non-compliance. It also points out that record keeping requirements should be reasonable. Part of the solution may be legislative reform (for example, treating cryptoassets as a separate asset class rather than shoehorning them into existing legislation), but effective guidance and efforts to raise awareness are also important.

The full LITRG submission will be uploaded shortly at: www.litrg.org.uk/latest-news/submissions.

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