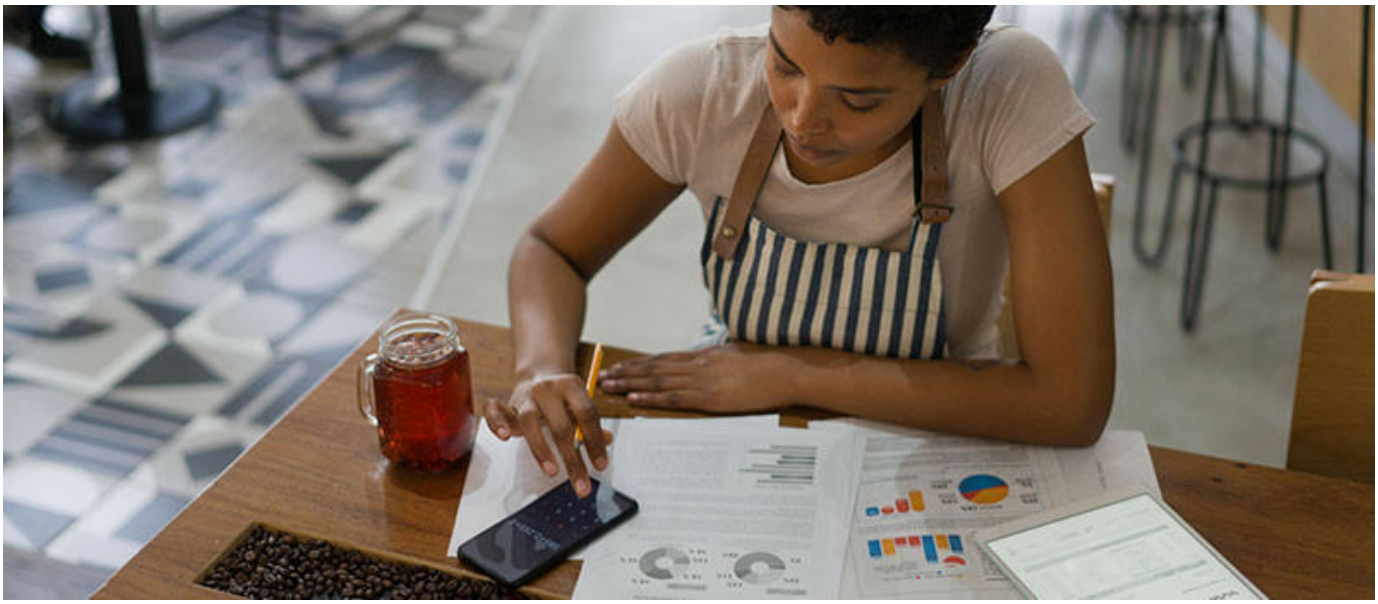
Cryptoassets decentralised finance consultation

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The CIOT and ATT have responded to the second consultation by HMRC on the tax treatment of decentralised finance lending and staking of cryptoassets.

Back in July 2022, HMRC issued a call for evidence on the tax treatment of decentralised finance (DeFi) transactions, considering if and to what extent the staking and loaning of cryptoassets should be subject to capital gains tax (CGT). Three alternative suggestions were made: applying repo and stock lending rules to these transactions; treating such transactions as ‘no-gain/no-loss’; and creating an entirely separate set of rules for DeFi transactions. The joint CIOT and ATT response was in favour of the third of these options. Whilst the other two would be an improvement, they would do little to reduce the administrative reporting burdens for taxpayers and agents. We went further by restating our view that specific legislation is needed for cryptoassets generally – not just for DeFi transactions.

In April 2023, a further consultation was released, containing draft rules proposing to disregard CGT when a cryptoasset is disposed of as part of lending or staking (or exchanged for a token representing the right to return) and where there is a right to withdraw at least the same quantity of the same type of tokens. This is more in tune with the economic reality of DeFi investment, with tax only applying once cryptoassets are converted into fiat currencies or other cryptoassets, and we were in favour of the draft proposals.

A further aspect was the tax treatment of the 'rewards' (that is the returns) from staking. The current position is rather confusing, with both capital and revenue tax treatment being a possibility. To date, our preference has been for capital treatment. This would reduce the administrative burden of having to isolate and report the rewards separately from the principal and further reflect the reality of DeFi investment which usually involves re-investment of the rewards. However, the proposal within this latest consultation is to treat these rewards as income. Whilst a definitive set of rules would be welcome, we disagree with this proposal.

We also used this second consultation response as a further opportunity to press home our call for a comprehensive and tailored set of legislation for cryptoassets beyond DeFi transactions. Cryptoassets have unique characteristics and usages beyond conventional investments, and they need their own legislation which reflects that. Given the sheer volume of transactions that can take place, we need rules which minimise the burden of the reporting requirements. Whilst the DeFi proposals will help, CIOT and ATT will continue to push for wider reform.

Our full response can be found on the CIOT (www.tax.org.uk/ref1126) and ATT (www.att.org.uk/ref430) websites.

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