



Australian Government

GST treatment of digital currency

Discussion Paper

May 2016

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Treasurer's foreword

I am pleased to release this discussion paper on addressing the important issue of the GST treatment of digital currency.

The current treatment of digital currency under GST law means that consumers are 'double taxed' when using digital currency to buy anything already subject to GST. The Government announced its commitment to fix this impediment to the use of digital currency in its 'Backing Australian FinTech' statement on 21 March 2016.

Financial technology – or FinTech – is bringing technological innovation into the financial system, improving efficiency and service delivery and radically changing how businesses and consumers interact.



The Hon Scott Morrison MP

Australian FinTech pioneers are creating businesses based on digital currency and related technologies for domestic use and export across the Asia-Pacific and around the world. The Government is committed to assisting these innovators to realise their potential by removing impediments to industry growth.

Through initiatives like this, the Turnbull Government is continuing to ensure that we have a modern tax system that helps Australians work, save and invest.

I invite your feedback on the questions raised in this paper and welcome your contributions to the design of this reform.

A handwritten signature in black ink, which appears to be 'Scott Morrison'. The signature is fluid and cursive, written on a light-colored background.

The Hon Scott Morrison MP
Treasurer

Consultation process

REQUEST FOR FEEDBACK AND COMMENTS

The Treasury invites interested parties to lodge written submissions on the design of the proposal to address the GST treatment of digital currencies, including interaction issues with other parts of the tax law. While submissions may be lodged by post or by facsimile, electronic lodgement is preferred.

All information (including name and address details) contained in submissions will be made available to the public on the Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain in confidence should provide this information marked as such in a separate attachment. A request made under the *Freedom of Information Act 1982* for a submission marked 'confidential' to be made available will be determined in accordance with that Act.

Closing date for submissions: Friday 3 June 2016

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Background

ECONOMIC CONTEXT

1. The Australian economy is in the midst of a major transformation, moving from growth led by investment in resources projects to broader-based drivers of growth in the remainder of the economy.
2. The Government is facilitating this transition from a mining boom to an ideas boom through policy changes that encourage bold new ideas and propel innovation. The National Innovation and Science Agenda – released on 7 December 2015 – will provide important support for the transition.
3. Central to the transition to a stronger, more diversified, and increasingly digital economy will be innovation in financial technology – or FinTech. The Government’s support is detailed in the Treasurer’s *Backing Australian FinTech* statement, released on 21 March 2016.
4. The Treasurer’s statement includes a commitment to address the ‘double taxation’ of digital currencies under the GST, thus removing an impediment to ongoing take up of digital currencies in Australia and growth and innovation by digital currency and related technology businesses in Australia.

Digital currencies

5. Broadly speaking, digital currency is a representation of value that can be digitally traded and is not denominated in legal tender. Most digital currencies use cryptographic techniques to ‘prove’ that a transaction has occurred and ensure the integrity of the system.
6. Created in 2009, Bitcoin was the first of these digital currencies and has since become the most widely used and accepted.
 - 6.1. The driving technical innovation of Bitcoin was the creation of the ‘block chain’ (or ‘distributed ledger’), a cryptography-based method of transaction validation undertaken by a network of users who are incentivised to maintain the system, and with no need for a central authority to perform this function.
 - 6.2. There are now over 600 digital currencies of a similar nature to Bitcoin, each with their own design, characteristics and distribution model, with more being constantly developed.
7. The exact definition of digital currency to be used in the GST law is discussed further below.

CURRENT AUSTRALIAN GST TREATMENT

8. In response to the development and growth in the use of digital currencies, and the need for certainty, the Australian Taxation Office (ATO) released a series of rulings on the GST and income tax treatment of Bitcoin in December 2014.
 - 8.1. These rulings were developed with the benefit of considerable consultation with industry and other interested stakeholders and can be found here: www.ato.gov.au.
9. For the GST treatment of Bitcoin, the ATO ruling outlined that Bitcoin is considered a form of 'intangible property' under the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) and the *A New Tax System (Goods and Services Tax) Regulations 1999* (GST Regulations).
 - 9.1. As a result, a domestic supply of Bitcoin, in exchange for money, is subject to GST.
 - 9.2. In addition, domestic transactions where Bitcoin is exchanged for other taxable goods and services are akin to a barter arrangement (exchanging property for property) and are also subject to GST.
10. This treatment results in transactions where consumers use Bitcoin to pay for other goods and services in effect bearing GST twice – once with the embedded GST borne on the acquisition of the Bitcoin and once again on its use in exchange for other goods and services subject to the GST. An illustrative example is below.
11. Besides disadvantaging consumers, this 'double taxation' treatment creates a competitive disadvantage for the use of digital currencies as a means of exchange, when compared to 'fiat currencies', such as the Australian dollar and foreign currencies.

Example 1: Operation of the current law*

A consumer purchases A\$4.40 of Bitcoin from a domestic Bitcoin exchange. The exchange is required to remit one-eleventh of this (40 cents) as GST on the taxable supply of Bitcoin they made in exchange for Australian dollars.

The same consumer subsequently uses this A\$4.40 equivalent in Bitcoin to purchase a coffee at a café. As coffee is a taxable supply, GST applies and the café must also remit the equivalent of one-eleventh of the value of the Bitcoin it was given (40 cents) in GST.

As a result of these two transactions, the consumer has borne a total of 80 cents in GST in relation to the purchase of a coffee worth A\$4.40. If the consumer had paid using Australian dollars, not Bitcoin, only 40 cents of GST would have been paid.

From the café's perspective it makes a taxable supply of coffee to the consumer and receives the equivalent of \$4.40 in Bitcoin. From this \$4.40 the café will need to remit 40 cents GST for the taxable supply of coffee, but will also need to remit another 40 cents GST when it subsequently makes a taxable supply of Bitcoin by either spending it on goods or services or converting it to Australian dollars.

12. This ruling resulted from the ATO's view that Bitcoin is not a form of 'money' under GST law, being neither Australian currency nor foreign currency, nor is it an input-taxed supply, a second-hand good or a voucher.
13. While the ATO's rulings were limited to clarifying the tax treatment of Bitcoin, they also provide guidance on how other digital currencies are likely to be treated to the extent they share similar characteristics to Bitcoin. Consequently, the Government's commitment is to address the GST treatment of all digital currencies, not just Bitcoin.
14. It is also worth noting that the ATO's rulings only generally affected Bitcoin supplied domestically by local suppliers. Under the current law, an exchange of currency with non-residents is generally GST-free or not a taxable supply, as it is not connected with the Australian GST system.
 - 14.1. The GST treatment of imported digital currency is expected to change from 1 July 2017, following the Government's decision (announced in the *2015-16 Budget*), to apply the GST to digital products and services imported by consumers. This measure will require overseas business to register for, collect and remit the GST on supplies of digital products or services (including digital currency) made to Australian consumers.
 - 14.1.1. Following Royal Assent, this would result in equivalent GST treatment for domestic and imported supplies of digital currency from 1 July 2017.
 - 14.2. There is no change proposed for the export of digital currency, which is GST free.
15. Subsequent to the ATO's rulings, the Senate Economics References Committee considered the issue and recommended that the 'double taxation' of digital currencies under the GST be removed, in a report entitled *Digital currency – game changer or bit player* (released 4 August 2015). The Productivity Commission's *Inquiry into Business Set Up, Transfer and Closure* (released 7 December 2015) subsequently recommended similar changes.
 - 15.1. These reports suggested that the removal of 'double taxation' should occur by treating digital currencies as 'money' for GST purposes.
 - 15.2. The Government is still considering its response to these reports.

CURRENT INTERNATIONAL TAX TREATMENT

16. Due to the relatively recent development of digital currencies, there is no global consensus on the best consumption tax – including GST, value added tax (VAT) and retail sales tax – treatment, nor are there any developing norms. As a result, digital currencies are treated in a variety of different ways under different tax jurisdictions, depending on the objectives of the relevant local authorities and the unique ways that other consumption tax systems operate.
 - 16.1. Example treatments from a range of relevant countries are outlined below, noting that other consumption tax systems often operate quite differently to Australia's GST.

European Union

17. In October 2015 the European Court of Justice ruled that Bitcoin traders exchanging fiat currencies (such as euros or Swedish krona) into Bitcoin are exempt from having to charge and remit VAT, due to European Union (EU) rules barring such taxes on transfers of 'currency, bank notes and coins used as legal tender', although they cannot claim related input tax credits. As such, Bitcoin is now effectively input taxed for EU VAT purposes.

17.1. It is not clear how this applies to digital currencies other than Bitcoin.

United Kingdom

18. In March 2014 HM Revenue and Customs outlined that when Bitcoin and other similar 'cryptocurrencies' are exchanged for sterling or foreign currencies, no VAT is due on the value of the cryptocurrencies themselves, as they are recognised as 'other negotiable instruments'. This effectively treats most digital currencies as input taxed for United Kingdom VAT purposes.

United States

19. The United States does not have a single, federal consumption tax regime, with most states instead levying retail sales tax on transactions within their state. As such, the treatment of digital currencies varies widely among the 50 states.

Japan

20. Guidance issued by the Japanese Government in March 2014 outlined its view that digital currencies are a tradable asset for taxation purposes, subject to full consumption taxes, similar to Australia's GST treatment. In March 2016 updated guidelines were adopted, recognising digital currencies as having the same functions as legal tender for regulatory purposes, but not changing their tax treatment.

Singapore

21. 'Virtual currency' (such as Bitcoin) transactions are treated similarly to their current treatment in Australia, as a barter exchange. The supply of the 'virtual currency' is treated as a supply of services, with Singaporean GST payable on the supply, as well as payable on any subsequent trade of 'virtual currency' for other goods or services.
 - 21.1. Some concessions for 'virtual currencies' exist within the gaming world, where GST is not charged until the currency is exchanged for other currencies, goods or services.

Canada

22. In December 2013 the Canadian Revenue Agency issued guidance relating to digital currencies, outlining their view that digital currencies are an intangible good for tax purposes. As a result, where digital currencies are used to pay for goods or services, the rules for barter transactions apply in Canada, similar to in Australia.

Purpose

23. The policy outcome that the Government is seeking to achieve is to address the 'double taxation' of digital currencies under the GST by ensuring the supply of digital currency is no longer a taxable supply.
24. More broadly, the Government's objective is to encourage innovation in the Australian economy, particularly in the FinTech sector, by removing impediments to the development and use of digital currencies and related technology in Australia.
25. This will assist Australian digital currency related FinTech to be internationally competitive, noting that exports of digital currency will continue to be GST-free.
26. This discussion paper forms an initial basis for consultation on the design of the proposed changes to the GST treatment of digital currencies. The purpose of this paper is to provide interested parties with an opportunity to comment on the merits of the different approaches outlined, as well as to suggest their own alternatives.
27. The ATO and the Government will continue to monitor developments in the digital currency industry in order to consider the most appropriate income tax (including capital gains tax and fringe benefits tax) treatment of digital currencies, with no changes to the income tax treatment currently being proposed.

Issues for discussion

IDENTIFYING DIGITAL CURRENCIES

28. Changing the treatment of digital currency in the GST law requires identifying precisely what a 'digital currency' is, in order to determine what the new treatment applies to.
 - 28.1. While Bitcoin and many similar digital currencies are intended to be included within the scope of the new GST treatment, it is not the Government's intention to change the GST treatment for all internet-based currency-like products, due to the potential for unintended outcomes. This creates a need to differentiate between some or all of the more than 600 digital currencies that are similar to Bitcoin, as well as distinguish these currencies from the multitude of other internet-based currency-like products that are not intended to be in scope, due to their diverse characteristics and intended uses.
 - 28.2. Examples of internet-based currency-like products that are not intended to be in scope of the Government's commitment include in-game currencies, loyalty scheme points, frequent flyer points and digital vouchers.
29. One way to identify digital currencies intended to be in scope would be by creating a definition of 'digital currency' in the GST law. This definition would be based on a set of relevant factors and be applied to each currency to see if it meets the definition.
 - 29.1. This approach results in the automatic application of the GST treatment to new digital currencies, reducing the tax advantage that an incumbent currency may have.
 - 29.2. However, creating a definition also makes establishing a precise set of criteria that avoids unintended outcomes important. This is particularly the case in the context of rapidly evolving technology, where an imprecise definition may mean that innovative new currencies may not meet the definition. A principles-based definition focused on effects and activities, rather than specific technology or processes, may assist with mitigating unintended consequences.
30. An alternative approach is that digital currencies covered by the amendments could be identified through empowering a decision maker (such as the Treasurer or the Commissioner of Taxation) to specify and list the individual currencies that would be digital currency for the purposes of the GST law.
 - 30.1. This approach avoids difficulties with establishing a precise definition but leads to a competitive advantage for established currencies, due to the time lag required to get a new currency added to the list. There would also be a time lag and administrative costs associated with removing old currencies where their inclusion on the list is no longer appropriate, due to changed circumstances (such as if a digital currency is subject to fundamental changes in its character).

31. These approaches to identifying digital currencies could also be combined into one mechanism. A combination approach could take one of a number of forms. For example, it could involve giving more limited power to a decision maker to list a digital currency but only if it first satisfies an established definition. Alternatively, it could involve adopting a principled definition, but also allowing a decision-maker to include or exclude specific currencies.
32. If it is possible to specify an appropriate definition that is relatively simple to understand and apply, this would provide greater certainty to new digital currencies, as well as make the GST treatment of digital currencies clearer for those who interact with them on a day-to-day basis.
 - 32.1. Besides being simple, this definition should also be flexible enough to cover the rapidly developing technology, but not so broad as to capture other synthetic financial instruments that share some of the characteristics of digital currencies, but which are beyond the scope of the reforms.
 - 32.2. Even under a definitional approach, a body of precedence for digital currencies that meet the definition will form over time, through the issuance of ATO rulings and guidance.
33. A definition could potentially include requirements based on the following criteria:
 - a) A digital or non-tangible unit of account.
 - b) Not being denominated in units of other currencies, making it a unique currency.
 - c) A commonly used medium of exchange.
 - i. This could be tested by some objective measure, such as by having a minimum threshold for the total value of the currency in circulation in Australian dollars. However, a test like this may create competitive difficulties for new currencies, as well as uncertainty for currencies near the threshold, where the value in circulation may fluctuate above and below the threshold.
 - d) Two-way convertibility to real-world goods, services and fiat currency, outside of a centralised exchange.
 - i. This would involve the ability to exchange digital currency for real-world goods, services and fiat currency, as well as change it back again. It could also be contingent on this not having to occur through a centralised entity (such as through a game platform for in-game virtual currencies).
 - e) Reliance on cryptographic techniques to validate transactions.
 - f) Lack of centralised control or centralised validation of the currency, such as through the 'distributed ledger'.
 - i. This could include decentralisation of: the issuance and redeemability of the digital currency; the mechanisms to implement, enforce and validate transactions with the currency; and the payment and settlement process. Hybrid schemes exist, where some functions are performed by a central authority, while others are distributed among market participants.

Discussion questions:

1. Should digital currencies be identified for GST purposes by defining them or listing them? If a combination or alternate approach should be used, please describe how it would work.
2. Assuming digital currencies are to be defined for GST purposes, what criteria should be included? Should specific types of other currencies be explicitly excluded in the definition? Would all criteria be given equal weight?
3. Regardless of how digital currencies are identified for GST purposes, should a decision-maker have the capacity to exclude one or more of them under certain circumstances, such as if a currency was being used predominantly for illegal purposes?
4. Regardless of how digital currencies are identified for GST purposes, what can be done to ensure the provisions remain relevant as technology advances?

ADDRESSING 'DOUBLE TAXATION'

34. In addition to identifying a digital currency, implementing the Government's commitment requires determining what changes to the GST law would be most appropriate to prevent 'double taxation'.
35. There are two main options and a possible alternative option that would achieve the objective of removing the 'double taxation' of digital currencies. The two main options are to either treat digital currencies as input taxed or to treat them as equivalent to 'money' for GST purposes. The alternative option is to treat digital currencies as being GST free.

Input taxed treatment

36. Under the GST, many financial supplies – including share trading, loans and exchange of foreign currency – are input taxed. In general, this means that the supply is not subject to GST and the supplier is therefore not required to charge and remit the GST on the value of the supply. It also means that the supplier cannot claim input tax credits for any GST it may have borne on the inputs used to provide the financial supply.
 - 36.1. The rules for financial supplies include a *de minimis* threshold on the denial of input tax credits, referred to as the financial acquisitions threshold. An entity making financial supplies below this threshold (where related acquisitions do not exceed 10 per cent of total acquisitions or a maximum value of \$1.5 million) will be entitled to claim all of their input tax credits.

- 36.2. The rules for financial supplies also specify that certain supplies are excluded from being financial supplies, including supplies of a payment system. Many digital currencies, such as Bitcoin, have features of a payment system as well as a currency. Any amendments to treat such currencies as an input-taxed financial supply would need to ensure that this exclusion did not prevent such currencies from being financial supplies.
37. Making the supply of digital currencies an input taxed financial supply would mean that no GST is required to be collected and remitted on their supply, eliminating the 'double taxation' of consumers. Digital currency suppliers (such as a digital currency trader) and financial institutions would likely not be entitled to full input tax credits for acquisitions related to these supplies.
- 37.1. In practice, this treatment results in digital currency traders not having to collect and remit the GST on supplies of digital currency to consumers or other businesses, but also generally not being able to claim full input tax credits for acquisitions in relation to the supply.
- 37.2. Businesses that only incidentally dealt with digital currency, such as merchants who accepted digital currency as a (non-dominant) form of payment for goods or services and who, in turn, used digital currency to pay for their business inputs, would be able to claim full input tax credits associated with the supply of digital currency as they would routinely not exceed the financial acquisitions threshold.
38. Although digital currency suppliers who made related acquisitions above the financial acquisition threshold would not be eligible for full input tax credits, there may be certain acquisitions they make, referred to as reduced credit acquisitions, for which they would be eligible to obtain reduced input tax credits (RITCs), generally at a rate of 75 per cent of the value of the 'full' input tax credits.
- 38.1. RITCs are intended to address concerns that financial institutions would otherwise face a bias to insource these acquisitions, distorting market structures.
- 38.2. Where acquisitions relevant to the supply of digital currency are not currently included in the list of RITCs in the GST Regulations, consideration could be given to including them.
39. An illustrative example of the input-taxed treatment is below.

Example 2: Input taxed treatment*

A consumer purchases A\$4.40 of digital currency from a domestic digital currency trader. As supplies of digital currency are input-taxed, the trader is not required to remit any GST on the supply of digital currency they made, but is also not able to claim any input tax credits related to acquisitions they made to enable the supply.

The same consumer subsequently uses this A\$4.40 equivalent in digital currency to purchase a coffee at a café. As coffee is a taxable supply, GST applies and the café must remit the equivalent of one-eleventh of the digital currency it was given (40 cents) in GST.

As such, the consumer has paid a total of 40 cents in GST to purchase a coffee worth A\$4.40, the same as if the consumer had paid using Australian currency.

From the café's perspective, it makes a taxable supply of coffee to the consumer and receives the equivalent of \$4.40 in digital currency. From this \$4.40 the café will need to remit 40 cents GST for the taxable supply of coffee.

As the digital currency is input taxed, nothing further will need to be remitted when the café subsequently uses the digital currency to purchase goods or services or convert it to Australian dollars. As the café is below the financial acquisitions threshold, it would get full access to input tax credits.

40. Input taxed treatment would align the treatment of digital currency with other synthetic financial instruments (such as securities and derivatives), and would involve no amendments to the definition of 'money' under the GST Act.
41. Input taxed treatment is also broadly similar to the treatment provided to Bitcoin in the European Union and the United Kingdom, noting the different GST (or value-added tax) systems that operate in those jurisdictions.
42. As financial supplies are prescribed in the GST Regulations, extending input taxed treatment to digital currencies would only involve amendments to the GST Regulations (including for any newly specified RITCs), rather than to the GST Act.
 - 42.1. As a result, these amendments would be likely to be considerably faster to implement than changes to the GST Act.

Treatment as 'money'

43. Instead of input taxed treatment, digital currency could be treated as equivalent to 'money' for GST purposes, alongside items in the current definition of 'money', including Australian or foreign currency, promissory notes, bills of exchange and money orders. Treating GST equivalently to money would mean both including GST in the special rules for money and making any supplies of digital currency outside of these rules an input taxed financial supply.
 - 43.1. This aligns with the specific recommendations of the Senate Economics References Committee and the Productivity Commission reports, which suggested amending the GST definition of 'money' to include digital currencies.

44. Making digital currency equivalent to 'money' for GST purposes would mean that the payment of digital currency in exchange for goods or services would generally no longer constitute a 'supply' for GST purposes. As such, no GST would be required to be charged or remitted on the digital currency provided, although GST may still apply to the supply of the goods and services that the digital currency is exchanged for.
45. An exception to this occurs where money (including digital currency) is exchanged for other money, for example, an exchange of Australian currency for foreign currency. In this case, the special rules for money do not apply, so a 'supply' occurs for GST purposes. However, if the rules for financial supplies were extended to digital currency as they are with other currencies, this supply would generally be treated as a financial supply and input-taxed.
- 45.1. In both scenarios, no GST applies to the supply of the digital currency, eliminating 'double taxation'.
46. An illustrative example of the treatment as 'money' is below.

Example 3: Treatment as 'money'

A consumer purchases A\$4.40 of digital currency from a domestic digital currency trader. As supplies of digital currency in exchange for money are input-taxed, the trader is not required to remit any GST on the supply of digital currency they made, but is also not able to claim any input tax credits related to acquisitions they made to enable the supply.

The same consumer subsequently uses this A\$4.40 equivalent in digital currency to purchase a coffee at a café. As coffee is a taxable supply, GST applies and the café must remit the equivalent of one-eleventh of the digital currency it was given (40 cents) in GST.

As such, the consumer has paid a total of 40 cents in GST to purchase a coffee worth A\$4.40, the same as if the consumer had paid using Australian currency.

From the café's perspective, it makes a taxable supply of coffee to the consumer and receives the equivalent of \$4.40 in Bitcoin. From this \$4.40 the café will need to remit 40 cents GST for the taxable supply of coffee.

Nothing further will need to be remitted if the café subsequently uses the digital currency to purchase goods or services, as the digital currency would not be a 'supply' for GST purposes under the treatment as 'money'.

Similarly, nothing further would need to be remitted if the café converted the digital currency to Australian dollars, as this would be an input taxed supply. As the café is below the financial acquisitions threshold, it would also get full access to input tax credits.

47. While this treatment for digital currencies seems more intuitive, the end result in an overwhelming majority of cases is the same as the outcomes for input taxed treatment; the digital currency is outside the GST system when used in exchange for other goods and services, but is input taxed when used in exchange for other money.

- 47.1. Input taxed treatment of digital currency, when compared to treatment as 'money', only results in a different outcome where the digital currency is used by a business to pay for other goods and services. When treated as 'money', the digital currency provided is not a supply and there are no GST consequences. When treated as input taxed, the supply of the digital currency is an input taxed supply and the business may not be entitled to input tax credits on things acquired to make those supplies.
- 47.2. However, this only results in different outcomes if the business has significant acquisitions that were related to their use of digital currency to pay for other goods and services and they exceed the financial acquisitions threshold (related acquisitions do not exceed 10 per cent of total acquisitions or a maximum value of \$1.5 million). It is not apparent how frequently these circumstances occur.
 - 47.2.1. For example, a business that sells goods and services and occasionally accepts digital currencies as payment would still be able to claim input tax credits for any related costs if they are under the financial acquisitions threshold.
- 47.3. Under the treatment as 'money', businesses paying for goods and services with digital currencies that have related acquisitions would also need to undertake higher levels of compliance, as it would be more important to determine the extent to which their acquisitions relate to their payments of digital currency, rather than to their supplies of goods, services or other money.
 - 47.3.1. This will not always be clear, as it's difficult to separate the initial acquisition of the digital currency, its use as payment and the purchase of the goods or services it was exchanged for.
48. There are also significant technical difficulties and administrative complexities created by treating digital currency as equivalent to 'money'.
 - 48.1. Introducing a provision into the GST law which treats as equivalent to 'money' something that is not the subject of control of the sovereign state (whether Australia or another country) could potentially differentiate the concept of money in the GST law from other Commonwealth legislation such as the *Currency Act 1965* and other taxation legislation.
 - 48.2. Significant care would need to be exercised to quarantine the amendment to digital currency without unintentionally extending the definition of money to other types of financial instruments, such as financial derivatives and securities.
 - 48.2.1. For example, many of the features of digital currency are common to other input-taxed payment mechanisms such as synthetic financial instruments like securities and derivatives.
 - 48.3. There are also certain features of the existing definition of money – such as the exclusion of investment articles – that might result in ambiguity in their application to some digital currencies.

49. As the definition of ‘money’ is in the GST Act, treating digital currencies as equivalent to ‘money’ would require legislative amendments to the GST Act, as well as identical amendments to the GST Regulations (including for any newly specified RITCs) as required for input taxed treatment.

49.1. The need to amend both the GST Act and the GST Regulations would be likely to result in a considerably longer timeframe for implementation than input taxed treatment alone.

Alternative option

50. The following option is also possible, but comes with significant difficulties and policy concerns.

GST-free treatment

51. Supplies of digital currency could be made GST-free, similar to the exemptions for food and healthcare. This would involve no amendments to the definition of money. Consumers using digital currencies would not pay any GST in the price. Traders would always be entitled to input tax credits.

51.1. Treating supplies of currency as GST-free would place digital currency suppliers at a competitive advantage to suppliers of fiat currency, as fiat currency supplies would remain input taxed. It would also provide a preferential treatment to digital currencies over other synthetic financial products. While this would address the double taxation of consumers, this preferential treatment would distort markets in other ways, by favouring digital currencies over other mediums of exchange and financial products, including Australian currency.

Discussion questions:

5. Should digital currencies be given input-taxed treatment or be treated equivalently to ‘money’ for GST purposes, noting the limited differences in outcome and the likely compliance burdens and timeframes for implementation?
6. Are there specific examples of different outcomes between the options that would result in one option being favoured? How frequently would these circumstances arise for relevant businesses?
7. What effect does each of the options have on the regulatory burdens and compliance costs of different market participants (for example, consumers, merchants and digital currency traders/intermediaries)?
8. Are additional reduced credit acquisitions required to be specified in the GST Regulations to allow access to RITCs for the digital currency industry? If so, what types of acquisitions would they include?
9. Under input taxed treatment or treatment as ‘money’ for digital currencies, would Australia regain sufficient international competitiveness, compared to other jurisdictions?

Discussion questions (continued):

10. Does GST-free treatment have any significant advantages that haven't been considered?
11. Are there other options to address the current GST treatment of digital currencies that have not been considered and which would provide significant advantages?

Next steps

52. Following consultation on the issues for discussion in this paper, the Government will consider the feedback received and decide on a path for reform. This will include considering the impact on GST revenue from any change.
53. Exposure draft legislation or regulations would then be released for public consideration.
54. Under the *Intergovernmental Agreement on Federal Financial Relations*, final unanimous agreement to the change to the GST base would then be required from the States and Territories.
 - 54.1. This is the case regardless of which reform option is chosen.

* Notes

- In the examples which feature in this paper, a number of assumptions are made:
 - It is assumed that consumers are not registered for GST;
 - Merchants are assumed to be registered for GST and below the financial acquisition threshold (FAT), hence qualifying for full input tax credits;
 - Intermediaries are assumed to be registered for GST and above the FAT; and/or
 - For simplicity, the exchange rate of Bitcoin to Australian dollars is assumed to not change.

