

QUESTIONS WE'VE BEEN ASKED > GENERAL ISSUES

Income tax – tax treatment of cryptoassets received from an airdrop

Issued: 18 June 2021

Publication number QB 21/06

The use of cryptoassets and distributed ledger technology (e.g. blockchain) is becoming increasingly common. As a result, Inland Revenue has been asked to clarify the tax treatment of various types of cryptoasset transactions and arrangements. This Question We've Been Asked addresses the income tax consequences of receiving cryptoassets from an airdrop.

General advice on the taxation of cryptoassets can be found on the Inland Revenue website at <https://www.ird.govt.nz/cryptoassets>.

All legislative references are to the Income Tax Act 2007, unless otherwise stated.

Key provisions

Income Tax Act 2007 – ss CA 1(2), CB 1, CB 3, CB 4, DA 1, DB 23, EA 2

Question

What are the income tax consequences of receiving cryptoassets from an airdrop?

Answer

The receipt of airdropped cryptoassets is taxable where a person:

- has a cryptoasset business;
- acquired the cryptoassets as part of a profit-making undertaking or scheme;
- provided services to receive the airdrop (and the cryptoassets are payment for the services provided); or
- receives airdrops on a regular basis, and the receipt has hallmarks of income.

In other cases, the receipt is not taxable.

The disposal of airdropped cryptoassets is taxable where a person:

- has a cryptoasset business;
- disposed of the cryptoassets as part of a profit-making undertaking or scheme;
- provided services to receive the airdrop; or
- acquired the cryptoassets for the purpose of disposing of them.

In many cases, the disposal will be taxable. However, in some cases outlined in this item, airdropped cryptoassets may be passively acquired and will not be acquired for the purpose of disposal.

Key terms

Airdrop is described at [1] below.

Cryptoassets are cryptographically secured digital representations of value that can be transferred, stored or traded electronically. They use some form of distributed ledger technology such as blockchain. Cryptoassets may also commonly be referred to as cryptocurrencies, digital tokens or virtual currencies.

Cryptoasset business is a business that uses cryptoassets as part of its day-to-day activities, such as an exchange, a cryptoasset dealing business or a mining business.

Disposal includes selling cryptoassets for money, exchanging them for other cryptoassets or using them to acquire goods or services.

Explanation

What is an airdrop?

1. Airdrops are “the distribution of tokens without compensation (i.e. for free), generally undertaken with a view to increasing awareness of a new token, particularly amongst ‘influencers’, and to increase liquidity in the early stages of a new token project”.¹ For example, the purpose of an airdrop may be to:
 - increase the supply of a cryptoasset in the market;
 - reward early investors or users; or
 - raise awareness of a new cryptoasset by distributing that cryptoasset to holders of other cryptoassets.

The ways a person may be entitled to receive an airdrop

2. The ways people become entitled to receive airdrops of cryptoassets differ. For example:
 - Early users of a platform may be rewarded for previous use (for example, in the Uniswap airdrop, users of a decentralised exchange received airdrops of UNI tokens if they had provided liquidity or traded on the exchange before a specified date).
 - People who hold one type of cryptoasset may receive airdrops of another type of cryptoasset (for example, in the Ontology airdrop, people who held NEO tokens at a specified date were airdropped ONT tokens).
 - Airdrops of cryptoassets may also be received by people who undertake minor tasks such as following the cryptoasset on social media, making referrals or signing up to an airdrop or newsletter (for example, Stellar Lumens (XLM) were airdropped to blockchain.com wallet holders who signed up to the airdrop and verified their identity, and ONT tokens were airdropped to people who signed up to a newsletter).

¹ OECD *Taxing Virtual Currencies, an Overview of Tax Treatments and Emerging Tax Policy Issues* (OECD, Paris, 2020) at 1.2.2. For the avoidance of doubt, this item does not apply to the receipt of new cryptoassets from a hard fork which is addressed in a related item, QB 21/07.

The ways a person may claim airdropped cryptoassets

3. The steps required to claim an airdrop once a person is entitled to it depend on the circumstances. For instance, a person may need to:
 - click to claim the airdropped cryptoassets and pay a transaction fee (for example, UNI);
 - download a new wallet and pay a transaction fee (for example, ONT); or
 - do nothing further (for example, blockchain.com wallet holders who received XLM).

Is the receipt of airdropped cryptoassets taxable?

4. When a person receives airdropped cryptoassets, the first question is whether that receipt is taxable. As explained below, in most cases the receipt of airdropped cryptoassets is unlikely to be taxable.

Business income

5. An amount a person derives from a business is their income unless the amount is of a capital nature (s CB 1). An “amount” includes money’s worth. Cryptoassets, while not money, are money’s worth, so the receipt of cryptoassets could be an amount derived from a business. The question is whether the amount is derived from the current operations of the business, in the ordinary course of the business, or as an ordinary incident of the business.² The answer to this question depends on the nature of the business and its relationship with the cryptoassets.
6. The receipt of airdropped cryptoassets is likely to be in the ordinary course, or an ordinary incident, of cryptoasset businesses (such as mining or dealing businesses) but would not generally be an ordinary incident of other types of businesses. Whether receipt occurs in the ordinary course, or as an ordinary incident, of a business will depend on the type of business and the way in which it earns income. The receipt of airdropped cryptoassets would be taxable if the receipt could be said to be part of the way in which the business earns its income.

² *CIR v City Motor Service Ltd; CIR v Napier Motors Ltd* [1969] NZLR 1,010 (CA) and *AA Finance Ltd v CIR* (1994) 16 NZTC 11,383 (CA).

7. Airdropped cryptoassets may form part of the trading stock of a cryptoasset business if they are held for sale or exchange in the ordinary course of the business.

Profit-making undertaking or scheme

8. An amount a person derives from a profit-making undertaking or scheme is income of the person (s CB 3). An undertaking or scheme is a series of steps directed to an end result. There needs to be a plan or purpose that is coherent and has some unity of conception. The undertaking or scheme must be carried out for the dominant purpose of making a profit.³
9. The receipt of airdropped cryptoassets could be income from a profit-making undertaking or scheme if the person has a plan directed at acquiring airdropped cryptoassets with the dominant purpose of making a profit.

Income under ordinary concepts

10. An amount may also be taxable if it is income under ordinary concepts (s CA 1(2)). Income is commonly described as something that “comes in” to a person. Factors relevant for deciding whether something is income include whether payments are regular or recurrent, the relationship between the payer and payee, and the purpose of the payment.⁴
11. Where airdrops are not regular and where no relationship exists between the payer and recipient (for example, the recipient has not performed services to receive the airdropped cryptoassets), the receipts would not generally be ordinary income.

Summary

12. The receipt of airdropped cryptoassets will be taxable where the cryptoassets are received:
 - by a cryptoasset business (if received as an ordinary incident of the way in which the business earns its income);
 - as part of a profit making undertaking or scheme; or

³ *Investment & Merchant Finance v FCT* (1970) CLR 177 (HCA); *Vuleta v CIR* [1962] NZLR 325 (SC); *Duff v CIR* (1982) 5 NZTC 61,131 (CA) and *Case S86* (1996) 17 NZTC 7,538 (TRA).

⁴ See *Tennant v Smith* (1892) 3 TC 158 (HL); *CIR v Grover* (1988) 10 NZTC 5,012 (CA) and *Reid v CIR* (1985) 7 NZTC 5,176 (CA).

- by a person who has provided services or receives airdrops on a regular basis such that the airdrops have the hallmarks of income.
13. In other cases, the receipt is not taxable.

Is the disposal of airdropped cryptoassets taxable?

14. The second question is whether a disposal of airdropped cryptoassets is taxable. As discussed below, whether a disposal is taxable will depend on the person's circumstances.

Business income

15. Amounts received from disposing of airdropped cryptoassets will be taxable income of cryptoasset businesses (such as mining and dealing businesses) as the disposal will likely be the sale of their trading stock or otherwise income from a business.
16. The disposal of airdropped cryptoassets by other types of businesses is unlikely to be taxable under s CB 1, unless disposing of cryptoassets is something that occurs in the ordinary course of the business. However, the disposal may still be taxable under other provisions such as s CB 4.

Profit-making undertaking or scheme

17. There may be instances where the disposal of airdropped cryptoassets is part of a profit-making undertaking or scheme, in which case the amount derived from the disposal will be income under s CB 3. This will be fact specific.

Acquired for the purpose of disposal

18. An amount derived from disposing of personal property is income if the person acquired the property for the purpose of disposing of it (s CB 4). The decision in *Ruscoe* clarified that cryptoassets can be property.⁵
19. For s CB 4 to apply, disposal must be the person's dominant purpose for acquiring the property.⁶ The Commissioner's general position is that, in most cases, cryptoassets will

⁵ *Ruscoe v Cryptopia Ltd (in liq)* [2020] NZHC 728 (HC).

⁶ *CIR v National Distributors Ltd* (1989) 11 NZTC 6,346 (CA).

be acquired for the purpose of disposal and a person will need to provide clear and compelling evidence to show otherwise.⁷

20. Where a person passively acquires property, for example, by inheritance or gift, they generally do not have a purpose when acquiring that property. However, a person will not be regarded as a passive recipient where they have turned their mind to the acquisition or provided consideration.⁸
21. A person acquires cryptoassets from an airdrop when the person has possession and control of the cryptoassets and can deal with them. This is when the person holds the private key (or otherwise holds the cryptoassets on an exchange). Accordingly, all steps and actions of the person up until that time are relevant for determining what the person's purpose was when that cryptoasset was acquired. At that time, the person generally has had to turn their mind to completing an action to become entitled to receive an airdrop.

Situations where a person turns their mind to acquiring airdropped cryptoassets

22. As previously stated, a person may receive an entitlement to an airdrop for performing various small tasks such as signing up to airdrops, opting in, making referrals and mentioning the cryptoasset on social media. They may also need to acquire particular types of cryptoassets or download wallets in order to be eligible for an airdrop.
23. When a person has had to take these types of steps, whether by acquiring cryptoassets or wallets to be eligible for an airdrop, or performing small tasks or signing up to something, they have turned their mind to the acquisition of the cryptoassets and will have a purpose in acquiring the cryptoassets. Section CB 4 will apply if the person acquired the airdropped cryptoassets for the purpose of disposal.
24. As noted at [21], because a cryptoasset is acquired for tax purposes when a person has control over it, all the steps taken up to that time are relevant for determining whether they have a purpose at the time of acquisition. A purpose can be determined where the person has had to turn their mind to acquiring the cryptoassets in some way. This includes situations where the person:
 - acquires cryptoassets in advance of an airdrop, in order to be entitled to the airdrop;

⁷ See Inland Revenue, *Cryptoassets* (<https://www.ird.govt.nz/cryptoassets>).

⁸ *Case F41 74 ATC 227* (Board of Review); *FCT v Miranda 76 ATC 4180* (NSWSC); *Tikva Investments Pty Ltd v FCT 72 ATC 4,231* (HCA).

- uses a platform with the expectation or knowledge that they might receive an airdrop;
- transfers their cryptoassets to a supporting wallet to ensure they are eligible for an airdrop;
- signs up, opts in, joins a newsletter, mentions the cryptoasset on social media or does other minor tasks in order to be eligible to receive the airdrop.

In these cases, s CB 4 will apply where the person's purpose in acquiring the airdropped cryptoassets is to dispose of them.

Situations where a person has not had to turn their mind to claim the cryptoassets

25. It is possible that a purpose may not be able to be determined in some limited cases. This includes where a person:
- receives airdropped cryptoassets to their existing wallet simply because they already held that type of wallet, or a type of cryptoasset, and did not have to do anything to be entitled to them or claim them; or
 - had previously used a platform without any knowledge of an airdrop occurring, received an airdrop because of those previous actions, and only had minimal steps to claim the cryptoassets (such as clicking to claim the cryptoassets).
26. In these types of events, whether a purpose can be established depends on the extent to which the person knew of an airdrop, and also whether they needed to do anything further to claim the cryptoassets (such as signing up or opting in, downloading new wallets or other tasks). If the person simply needs to click to claim the cryptoassets, this is not likely, in and of itself, to be enough for the person to have turned their mind to the acquisition.⁹ For completeness, if a person starts actively undertaking tasks (such as using platforms) hopeful for an airdrop, they have likely done enough for their acquisition to be considered active.

Summary

27. Whether the disposal of airdropped cryptoassets is taxable depends on the circumstances. The disposal will be taxable where the person:
- has a cryptoasset business;

⁹ See for example *Case F41 74 ATC 227* (Board of Review) where the taxpayer did not "exercise his mind in any way to acquire rights".

- disposed of the cryptoassets as part of a profit-making undertaking or scheme;
- provided services to receive the airdrop; or
- acquired the cryptoassets for the purpose of disposing of them.

Are any deductions available?

28. The third question is whether deductions are available if any amounts are taxable. As discussed below, generally no deductions are available as no expenditure is usually incurred in acquiring airdropped cryptoassets. However, deductions will be available where cryptoassets are taxed on receipt and also on disposal.

The cost of the cryptoassets

29. Where the receipt or disposal of cryptoassets is taxable, deductions for expenditure incurred may be available (s DA 1 or s DB 23). However, other than transaction fees, no other expenditure is incurred when a person receives cryptoassets from an airdrop. Therefore, no deduction (other than for transaction fees) will generally be available.
30. However, when a person is taxed on both the receipt and disposal of a cryptoasset then a deduction for the cost of the cryptoasset is available at the time of disposal (ss DB 23 and EA 2). Where a person is taxed on receipt and disposal, the cost of acquiring that cryptoasset can take into account the value of the cryptoasset at the time of receipt (which the person paid tax on). Allowing a cost for this amount ensures the person is not effectively taxed twice on the initial value of the cryptoasset.¹⁰

Trading stock rules

31. Airdropped cryptoassets that form trading stock of a business may also be taxable on receipt and on disposal. For the same reasons as above, a person who holds trading stock that is taxable both on receipt and on disposal may claim a deduction for the cost of those cryptoassets, relating to the value on receipt (which the person paid tax on). This deduction may be claimed in the year the receipt is returned as income. The person must then value the trading stock at the end of each income year under the trading stock rules (in Part E of the Act).

¹⁰ This is considered consistent with comments made in *Tasman Forestry Ltd v CIR* (1999) 19 NZTC 15,147 (CA), *Sharkey v Wernher* [1956] AC 58 (HL); *Halliwell v CIR* (1991) 13 NZTC 8,197; and *Rangatira Ltd v CIR* (1996) 17 NZTC 12,727.

32. Standard valuation methods apply to the valuation of trading stock. There are no special rules for cryptoassets, so a person may use whatever method is available to them. However, the value of any trading stock that is an excepted financial arrangement must be valued at cost.¹¹ If a person uses a different method, they must satisfy all the requirements of the method. There may be difficulties in satisfying methods that refer to a normal value of property (or an amount that would be expected to be received) due to the volatility of cryptoasset prices.

Examples

Example 1: Beth signs up for airdrops

Beth had been following some recent airdrops. She started signing up to upcoming airdrops that she read about online, hoping she could make some money from them.

Beth received small airdrops from signing up online to projects, but the transaction fees were too expensive, so she never took any steps to acquire them. The cryptoassets from those airdrops have not been acquired and there are no tax consequences.

Beth read about an upcoming airdrop where holders of ABC tokens would receive airdrops of DEF tokens. Beth thought the DEF airdrop sounded like it could be a good deal, and so she acquired the ABC tokens and signed up to the airdrop which included filling in some personal information for Know Your Customer purposes. Beth received an airdrop of 350 DEF tokens and claimed them. This receipt is not taxable.

Several months later, the DEF tokens had increased in value, so Beth exchanged all her DEF tokens for ETH and immediately cashed out.

This disposal of the DEF tokens is taxable under s CB 4. Beth had turned her mind to acquiring the DEF tokens and did so for the purpose of disposing of them.

Example 2: Beth receives airdrops unexpectedly

A year later, a further airdrop of ABC-Z tokens was announced to all holders of ABC tokens. Beth still held her ABC tokens. She had given up on airdrops as they were not as lucrative as she had hoped.

¹¹ Cryptoassets are currently proposed to be included as excepted financial arrangements (with retrospective effect), so cost appears the most appropriate valuation method. Cost will be the only appropriate method once any legislative change is enacted.

Beth did not need to do anything to receive the ABC-Z airdrop as she already held the ABC tokens, and the ABC-Z airdrop did not require a person sign up or opt in. She only had to click a button to claim them. Beth did not acquire the ABC-Z tokens for the dominant purpose of disposal in this instance as she did not have to turn her mind in any way to receiving the ABC-Z tokens. Accordingly, any subsequent disposal of the ABC-Z tokens would not be taxable under s CB 4.

References

Legislative references

Income Tax Act 2007 – ss CA 1(2), CB 1, CB 3, CB 4, DA 1, DB 23, EA 2

Case references

AA Finance Ltd v CIR (1994) 16 NZTC 11,383 (CA)

Case F41 74 ATC 227 (Board of Review)

Case S86 (1996) 17 NZTC 7,538 (TRA)

CIR v City Motor Service Ltd; CIR v Napier Motors Ltd [1969] NZLR 1,010 (CA)

CIR v Grover (1988) 10 NZTC 5,012 (CA)

CIR v National Distributors Ltd (1989) 11 NZTC 6,346 (CA)

Duff v CIR (1982) 5 NZTC 61,131 (CA)

FCT v Miranda 76 ATC 4180 (NSWSC)

Halliwell v CIR (1991) 13 NZTC 8,197

Investment & Merchant Finance v FCT (1970) CLR 177 (HCA)

Rangatira Ltd v CIR (1996) 17 NZTC 12,727

Reid v CIR (1985) 7 NZTC 5,176 (CA)

Ruscoe v Cryptopia Ltd (in liq) (2020) 5 NZTR 30-001 (HC)

Sharkey v Wernher [1956] AC 58 (HL)

Tasman Forestry Ltd v CIR (1999) 19 NZTC 15,147 (CA)

Tennant v Smith (1892) 3 TC 158 (HL)

Tikva Investments Pty Ltd v FCT 72 ATC 4,231 (HCA)

Vuleta v CIR [1962] NZLR 325 (SC)

Other References

Inland Revenue, *Cryptoassets* (www.ird.govt.nz/cryptoassets)

OECD *Taxing Virtual Currencies, an Overview of Tax Treatments and Emerging Tax Policy Issues* (OECD, Paris, 2020). www.oecd.org/tax/tax-policy/taxing-virtual-currencies-an-overview-of-tax-treatments-and-emerging-tax-policy-issues.pdf

About this document

“Questions we’ve been asked” (QWBAs) are issued by the Tax Counsel Office. QWBAs answer specific tax questions we have been asked that may be of general interest to taxpayers. While they set out the Commissioner’s considered views, QWBAs are not binding on the Commissioner. However, taxpayers can generally rely on them in determining their tax affairs. See further [Status of Commissioner’s advice](#) (December 2012). It is important to note that a general similarity between a taxpayer’s circumstances and an example in a QWBA will not necessarily lead to the same tax result. Each case must be considered on its own facts.