

15 August 2019

Public Consultation
Inland Revenue
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By email: PublicConsultation@ird.govt.nz

Public Ruling BR PUB 19/X4: Income Tax – Application of the employee share scheme rules to employer issued crypto-assets provided to an employee

Introduction

1. The New Zealand Law Society welcomes the opportunity to comment on Public Ruling BR PUB 19/X4: *Income Tax – Application of the employee share scheme rules to employer issued crypto-assets provided to an employee* ('exposure draft').

Comments on the Exposure Draft

2. The Law Society broadly agrees with the exposure draft's technical analysis and is pleased that Inland Revenue wishes to provide guidance on when a crypto-asset will be a "share" for tax purposes. It would, however, be useful if Inland Revenue could make it clearer that the exposure draft only applies to equity tokens (perhaps in the title of the Public Ruling).
3. Further, the description of what constitutes an equity token could be more tightly defined in the exposure draft. While general guidance is provided in the exposure draft on what constitutes an interest in the capital of a company, it would be useful if that could be related back to equity tokens in more detail. We appreciate that the particular terms of equity tokens will be fact specific, but greater guidance should be possible given the already active crypto-asset industry in New Zealand.
4. As previously submitted, the Law Society is concerned that commentary on crypto-assets is being released on a piecemeal basis, as there is a risk that inconsistent treatment by taxpayers (and Inland Revenue practice) will develop as a result. It would be valuable for Inland Revenue to release, for comment, the draft commentary on the general nature of crypto-assets for tax purposes. Once a cohesive and coherent general approach has been developed, it could then be applied to specific areas.

We hope you find these comments helpful. If you wish to discuss them further, you can contact the convenor of the Law Society's Tax Law Committee, Neil Russ, via Law Reform Adviser Emily Sutton (Emily.Sutton@lawsociety.org.nz).

Yours faithfully



Tim Jones, Vice President