

28 June 2019

Public Rulings
Inland Revenue Department
Wellington

By email: public.consultation@ird.govt.nz

Public Ruling BR PUB 19/X3: Income Tax – Employer issued cryptocurrency provided to an employee

1. The New Zealand Law Society welcomes the opportunity to comment on Public Ruling *BR PUB 19/X3: Income Tax – Employer issued cryptocurrency provided to an employee* (the **exposure draft**).

Comments on the exposure draft

2. The Law Society refers to its recent submissions on related Public Rulings concerning cryptocurrency, *Public Ruling BR PUB 19/X1: Income Tax – Salary and Wages Paid in Cryptocurrency*, and *Public Ruling BR PUB 19/X2: Income Tax – Bonuses Paid in Cryptocurrency*. Those submissions will not be repeated here but are relevant to Inland Revenue's consideration of the New Zealand tax treatment of cryptocurrencies generally.
3. The Law Society broadly agrees with the exposure draft's conclusions and notes that in practice most cryptoassets are not convertible into fiat currency so therefore it is likely that FBT would apply to most payments of cryptoassets (other than shares) to employees.
4. It would be useful if Inland Revenue could confirm that employees who receive cryptoassets as payment do not automatically hold those cryptoassets on revenue account.

Process for developing items relating to cryptocurrency

5. While the Law Society broadly agrees with the conclusions in the exposure draft, we are concerned that the draft commentary on cryptoassets is being released on a piecemeal basis and there is a risk that inconsistent treatment by taxpayers (and Inland Revenue practice) will develop as a result. The Law Society considers that before specific issues (such as the treatment of employer issued cryptocurrency provided to an employee) are finalised, it would be valuable for Inland Revenue to first release draft commentary on the general nature of cryptoassets for tax purposes for comment. Once a cohesive and coherent general approach has been developed, it could then be applied to specific areas.
6. We hope these comments are useful to Inland Revenue in finalising the exposure draft. If you would like to discuss the comments, please contact the Tax Law Committee convenor, Neil Russ, through the Law Society's Law Reform Adviser Emily Sutton (emily.sutton@lawsociety.org.nz, (04) 463 2978)

Yours faithfully



Herman Visagie, **Vice President**