

11 March 2026

Tax Counsel Office
Inland Revenue

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

Tēnā koe,

Re: [IRRUIP18 Income tax – wrapping, bridging, lending, borrowing and staking cryptoassets](#)

1. The New Zealand Law Society Te Kāhui Ture o Aotearoa (**the Law Society**) welcomes the opportunity to comment on the Tax Counsel Office's issues paper *IRRUIP18 Income tax – wrapping, bridging, lending, borrowing and staking cryptoassets* (**Issues Paper**).
2. This feedback has been prepared with input from the Law Society's Tax Law Committee. It addresses, as requested in the Issues Paper:
 - Whether Inland Revenue's initial interpretation of the relevant tax laws is correct.
 - Alternative views on when there is a disposal of a cryptoasset in these transactions.
 - Practical concerns that arise from Inland Revenue's initial interpretation.
 - Whether the outcome is correct from a tax policy perspective.
 - Administration of the tax laws.

Whether IRD's initial interpretation of the relevant tax laws is correct

3. The Law Society broadly agrees with Inland Revenue's initial interpretation of the relevant tax laws applicable to the decentralised finance (**DeFi**) transactions outlined in the Issues Paper. In particular, the Law Society agrees that:
 - a) It is reasonable to regard a person as "owning" a cryptoasset when it is held in their wallet and they hold the private key. Equally, it is reasonable to regard a person as alienating a cryptoasset when it is no longer in their wallet and they no longer hold the private key.
 - b) The DeFi transactions detailed in the paper involve a series of acquisitions and disposals of the relevant cryptoassets (notwithstanding that this may not reflect commonly held understandings regarding the nature of those transactions).
 - c) In many cases, cryptoassets acquired for use in DeFi transactions will be acquired with a purpose of disposal, such that any gain arising on disposal is taxable under section CB 4. However, this is fact-dependent.

4. The Law Society also broadly agrees with Inland Revenue's interpretation of how various DeFi protocols operate, subject to the following comments (which are minor in nature and do not materially affect the application of tax laws):
 - a) At paragraph 58, the Issues Paper states that "DeFi transactions generally involve disposals of the cryptoassets and amounts are received as the result of the relevant arrangement entered into (not as a consequence of ownership of a cryptoasset)." The Law Society queries whether this accurately reflects most DeFi transactions. For example, a person lending to a liquidity pool will typically receive a receipt token in consideration for disposing of their cryptoassets into the pool. Rewards accrue to the holder of the receipt token (which is itself a cryptoasset). If the lender loses the receipt token (for example, through a wallet hack), they lose their ability to claim rewards. The entitlement to rewards is a consequence of cryptoasset ownership, in the form of the receipt token, rather than of any underlying arrangement.
 - b) At paragraph 71, the Issues Paper states that cryptoassets that are native to one blockchain can be wrapped so that they can be used on a different blockchain. However, wrapping can also occur within the same blockchain (for example, Ether may be swapped for Wrapped Ether on the Ethereum blockchain).
5. The Law Society also notes the following issues arising from the Issues Paper, that may merit further consideration by Inland Revenue:
 - a) If a person "owns" a cryptoasset when it is held in their wallet and they hold the private key, this raises the question of whether they continue to "own" it if they lose the private key and can no longer use it. If the person is genuinely and permanently deprived of access, it may be reasonable to treat the person as having disposed of the asset. The Law Society recognises that permitting a deduction in this scenario may give rise to integrity concerns. That said, wallet addresses can be monitored without the key, and the absence of on-chain activity over time could support a conclusion that the key is no longer available.
 - b) At paragraph 22, the Issues Paper states that rewards that have accrued, but that have not yet been claimed, have not been derived for tax purposes. This offers cryptoasset investors an opportunity to manipulate taxable income by electing to claim rewards when the token's value is depressed. Whilst this manipulation is not ideal, it is difficult to identify a practical alternative for determining when rewards are derived for tax purposes. Further, this opportunity is not unique to cryptoassets (the same opportunity arises in relation to options).

Alternative views on when there is a disposal of a cryptoasset in these transactions

6. The Law Society agrees with Inland Revenue's initial interpretation of the situations in which the disposal of a cryptoasset may occur in the DeFi transactions detailed in the Issues Paper.

Practical concerns arising from IRD's initial interpretation

7. The Law Society expresses concern regarding the significant compliance costs that are likely to be imposed upon New Zealand taxpayers, and the difficulties unsophisticated taxpayers may face in understanding and voluntarily complying with their tax obligations

under the current law. The importance of these considerations is expressly recognised in section 6A(2) of the Tax Administration Act 1994 (**TAA**).

8. These concerns arise because:
- a) Due to the proliferation of investment platforms and crypto exchanges, even relatively unsophisticated investors can acquire and utilise cryptoassets, including for DeFi transactions. These investors may include individuals who have never previously derived a material amount of “income other than reportable income” (as defined in the TAA). The Law Society anticipates that such investors are more likely to be unaware of their tax obligations; but if aware, they may lack the resources to ensure they are compliant.
 - b) Newly developed applications may provide a more user-friendly experience for DeFi protocols, with many disposal effects (wrapping, bridging, etc.) occurring without visibility to the user. Such users may not appreciate the various disposal events triggered by the application.
 - c) The nature of DeFi transactions means investors may undertake a very high number of transactions. If each transaction is regarded as a taxable disposal, investors will need to track potentially thousands of transactions annually, which is likely to be burdensome. Additionally, investors must determine the New Zealand dollar value of each disposed cryptoasset. This may be particularly challenging because:
 - i. cryptoassets are a highly volatile investment, meaning that the precise timing of a transaction may have a material impact on the amount of income (or loss) that an investor derives from the transaction; and
 - ii. if the investor holds cryptoassets that fall outside of the ‘mainstream’, it may be very difficult to ascertain the value of those cryptoassets in New Zealand dollars. This may be particularly problematic where such cryptoassets are acquired by way of rewards (i.e., they are not acquired in consideration for a cryptoasset with a readily ascertainable value).
9. The Law Society is aware of third-party programmes that purport to assist investors in tracking cryptoasset transactions for tax compliance purposes. However, anecdotal evidence suggests these programmes do not produce reliable results. The Law Society also questions whether it is reasonable for investors to rely on such programmes for determining their New Zealand tax obligations, given that:
- a) the investor may have no or limited visibility over the programme's methodology;
 - b) the investor cannot verify the outputs other than by independently undertaking the same exercise (negating any time saving);
 - c) the investor is unlikely to have recourse against any party if the outputs prove incorrect, leaving them liable to penalties and/or interest on underpaid tax; and
 - d) there is no certainty that such programmes are updated with sufficient regularity to capture transactions on new blockchains or emerging transaction types such as new token standards and DeFi protocols.

Whether the outcome is correct from a tax policy perspective

10. The Law Society acknowledges there is a reasonable argument that, in the interests of horizontal equity amongst taxpayers, investors who derive profits or gains from cryptoassets should be taxed on the same basis as investors in other assets. This is a factor that weighs in favour of requiring investors to consider, on a case-by-case basis, whether they have taxable income (or loss) from a particular transaction. However, there is equally a reasonable argument that cryptoassets and cryptoasset transactions have unique characteristics and that, as a result, cryptoasset investors may face unusually high compliance costs, compared with other investors. This heightened burden may justify departing from the ordinary taxation principles that apply to off-chain investments.
11. The Law Society considers there may be merit in exploring whether a simplification or safe harbour mechanism should be legislated for cryptoasset investors who derive immaterial amounts of income from their investments. We would be happy to engage further with officials if the Commissioner wishes to consider this further.

Administration of the tax laws

12. The Law Society would support efforts by Inland Revenue to address the practical concerns outlined in section 3 through administrative measures, where possible and appropriate. However, the Law Society appreciates that opportunities to do so may be limited under current law.
13. One way in which Inland Revenue may support cryptoasset investors to comply voluntarily with their tax obligations is to provide further guidance on converting cryptoassets to New Zealand dollars for reporting purposes. Subpart YF of the Income Tax Act 2007 provides rules for currency conversion, which permit taxpayers to utilise Commissioner-approved methods where appropriate. However, subpart YF does not apply when converting cryptoassets into New Zealand dollars. Inland Revenue could explore whether, by analogy to subpart YF and in exercise of the Commissioner's care and management powers, the Commissioner could identify approved methods for undertaking such conversions. The approved methods would ideally assist in overcoming the challenges inherent in making such conversions, to at least some extent. For example, the approved methods might permit a taxpayer to use a single "exchange rate" for all transactions on a particular day (noting that cryptoasset values may vary substantially within a single day).

Next steps

14. Should you wish to discuss any aspect of this feedback, please contact Aimee Bryant, Manager Law Reform and Advocacy (aimee.bryant@lawsociety.org.nz).

Nāku noa, nā



Jesse Savage
Vice President