

## Investing in Bitcoin? Know the tax implications

A bit confused about Bitcoin? What is it and what does tax have to do with it?

Here, we share a few key facts and the tax consequences that may arise if you are thinking about investing (or have already invested) in Bitcoin.

### **Note!**

Any reference to Bitcoin in this article refers to cryptocurrency, or other crypto or digital currencies that have the same characteristics as Bitcoin.

## Cryptocurrency (and Bitcoin) explained

Bitcoin was the first cryptocurrency but now, it is just one of many types of cryptocurrencies. As at 2017, there were

around 1,100 different cryptocurrencies in existence.

Cryptocurrencies are a type of global digital currency that uses encryption techniques to buy or sell items. Where traditional currencies are regulated by a central bank, Bitcoin is an unregulated currency. Each transaction is registered on a shared public ledger called a 'blockchain'.

**Tip!** Be aware of tax scammers impersonating the ATO and demanding Bitcoin or other cryptocurrency as a form of payment for fake tax debts. Cryptocurrency operates in a virtual world, and once the scammers receive payment, it is virtually impossible to get it back.

## Is Bitcoin money or an asset?

The ATO's view is that Bitcoin is neither money nor Australian or foreign currency. Rather, it is property and is treated as an asset for capital gains tax (CGT) purposes.

Other cryptocurrencies that have the same characteristics as Bitcoin will also be assets for CGT purposes and will be treated similarly for tax purposes.

## Capital gains tax implications

CGT 'events' are the different types of transactions that may result in a capital gain or capital loss. A CGT event happens when you dispose of your cryptocurrency.

Disposing of your cryptocurrency means:

- selling, trading or exchanging your cryptocurrency;
- converting it to Australian dollars; or
- using it to obtain goods or services.

If you make a capital gain on the disposal of a cryptocurrency, some or all of the gain may be taxed.

If the disposal is part of a business you carry on, the profits you make on disposal will be assessable as ordinary income and not as a capital gain.

## What if you acquire Bitcoin as a personal use asset?

Personal use of cryptocurrency is not subject to income tax or GST in Australia.

Cryptocurrency may be a personal use asset if it is acquired and kept or used mainly to purchase items for personal use or consumption.

Some capital gains or losses that arise from the disposal of cryptocurrency that is a personal use asset may be disregarded.

### **Note!**

- Only capital gains you make from personal use assets acquired for less than \$10,000 are disregarded for CGT purposes.
- All capital losses you make on personal use assets are disregarded.

## What if you acquire Bitcoin as an investment?

If you acquire Bitcoin as an investment, it means you have kept or used your cryptocurrency in a profit-making scheme or in the course of carrying on a business.

The tax consequences are:

- you may have to pay tax on any capital gain you make on disposal of the cryptocurrency;
- you will not be entitled to the personal use asset exemption;
- if you held the cryptocurrency for 12 months or more, you may be entitled to the CGT discount.

**Tip!** You must keep records of:

- the date of transactions
- the value of the cryptocurrency in Australian dollars at the time of the transaction
- what the transaction was for and who the other party was.

## Claiming deductions if you're carrying on a business?

Examples of businesses that involve cryptocurrency include:

- cryptocurrency traders
- cryptocurrency mining businesses
- cryptocurrency exchange businesses (including ATMs).

In the context of carrying on a business, funds or property you receive through the acquisition and disposal of cryptocurrency are likely to be ordinary assessable income where you receive money or property in the ordinary course of your business.

If these gains or profits are ordinary income, you may be able to claim deductions. Any capital gains you make are reduced to the extent that they are also ordinary income.

**Note!**

Proceeds from the sale of cryptocurrency held as trading stock in a business are ordinary income.

## A reminder to SMSF trustees investing in Bitcoin

While self-managed superannuation funds (SMSFs) are not prohibited from investing in Bitcoin and other cryptocurrencies, trustees are reminded that the investment must:

- be allowed for under the fund's trust deed
- be in accordance with the fund's investment strategy
- comply with regulatory requirements concerning investment restrictions. ■



## ATO cracking down on your work-related expenses!

Did you know that the ATO scrutinises every tax return?

This year, the ATO is cracking down on taxpayers claiming incorrect 'other' work-related expenses. It's important to make sure you don't claim more than you are entitled to!

The ATO uses real-time data to compare taxpayers with others in similar occupations and income brackets, to

identify higher-than-expected claims related to expenses including vehicle, travel, internet and mobile phone, and self-education.

## 4 quick points to remember when claiming work-related expenses

To claim work-related expenses, keep in mind these 4 points:

1. You must have spent the money yourself.
2. You were not reimbursed for the money spent.
3. The expense must be directly related to earning your income.
4. You must have a record to prove it.

Work expenses reimbursed to you by your employer are not deductible in your personal income tax return. The ATO can seek information from your employer if it suspects you have claimed as a deduction an expense for which you have already been reimbursed.

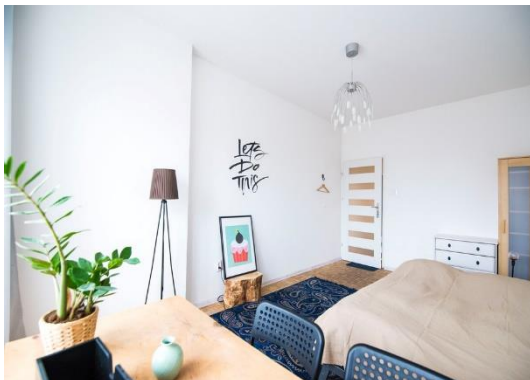
Importantly, there is no such thing as a standard deduction. This appears to be a point of confusion arising largely as a result of the broad legislative principle that if the total work-related expenses do not exceed \$300, substantiation of the expenses is not required. Even if no substantiation is required you must have spent the money and can still be asked to prove it.

Tip! If the expense was for both work and private purposes, you can only claim a deduction for the work-related portion.

## 11 deductions you (probably) can't claim

1. Trips between home and work. Generally, you can't claim a deduction for these because they're considered private travel.
2. Car expenses for transporting bulky tools or equipment, unless:

- you need to use your bulky tools to do your job
  - your employer requires you to transport this equipment
  - there is no secure area to store the equipment at work.
3. Car expenses that have been salary sacrificed.
  4. Meal expenses for travel, unless you were required to work away from home overnight.
  5. Private travel, so if you take a work trip that includes personal travel you can only claim the work-related portion.
  6. Everyday clothes you bought to wear to work (e.g. a suit), even if your employer requires you to wear them.
  7. A flat rate for cleaning eligible work clothes without being able to show how you calculated the cost.
  8. Higher education contributions charged through the HELP scheme.
  9. Self-education expenses when the study doesn't have a direct connection to your current employment – your future or dream jobs don't count.
  10. Private use of phone or internet expenses – only the work-related portion counts.
  11. Upfront deductions for tools and equipment that cost more than \$300. However, you can spread your deduction claim over a number of years, which is called depreciation. ■



## Claiming the cost of repairs on a rental property? What you can and can't claim

Need to do some repairs on your rental property? You may be able to deduct these repairs and maintenance costs.

The first thing to remember is that the repairs and maintenance costs must relate directly to 'wear and tear' or other damage that occurred as a result of you renting out the property.

### Repairs vs maintenance

Repairs mean work to make good or remedy defects in, damage to or deterioration of the property. It generally involves a replacement or renewal of a worn out or broken part (e.g. replacing guttering damaged in a storm, fixing a fence damaged by a falling tree branch).

Maintenance is preventing or fixing existing deterioration (e.g. painting the property, oiling the deck).

#### **Tip!**

- If you conduct a project that includes both repairs and improvements to your property, you can only claim an income tax deduction for the cost of your repairs if you can separate the cost of the repairs from the cost of the improvements.
- If you hire a builder or other professional to carry out these works for you, we recommend you ask for an itemised invoice to help work out your claim.

### Expenses that you can immediately deduct

You can generally claim an immediate deduction (that is, in the income year that

you pay for the costs) for your expenses related to the repairs and maintenance of your property, including interest on loans.

If your property is negatively geared you may be able to deduct the full amount of rental expenses against your rental and other income, such as salary and wages and business income.

Expenses for which you may be entitled to claim an immediate deduction include:

- advertising for tenants
- body corporate fees and charges
- council rates
- water charges
- land tax
- cleaning
- gardening and lawn mowing
- pest control
- insurance (building, contents, public liability)
- interest expenses
- property agent's fees and commission
- repairs and maintenance
- some legal expenses.

#### **Note!**

From 1 July 2017, travel expenses relating to a residential investment property are no longer deductible. Under new laws, you are no longer able to claim any deductions for the cost of travel you incur relating to a residential rental property.

You can only claim deductions if you are carrying on a business of property investing or are a corporate tax entity, public unit trust, managed investment trust, unit trust or partnership or super fund that is not an SMSF.

## Expenses that you can't immediately deduct

You cannot claim the total costs of repairs and maintenance in the year you paid them if they did not relate directly to wear and tear or other damage occurring due to renting out your property (e.g. remodelling a bathroom or adding a pergola).

These are classified as 'improvements' and are capital expenses you may be able to claim over a number of years as capital works deductions or deductions for decline in value.

#### **Note!**

Improvement means work that:

- provides something new
- furthers the income-producing ability or expected life of the property
- changes the character of the item you have improved
- goes beyond just restoring the efficient functioning of the property.

#### **How this works!**

Sarah replaced a fibre cement sheeting (fibro) wall inside her property because it was damaged by tenants. She replaced the old wall with a brick feature wall.

The new wall is an improvement because Sarah did more than just restore the efficient functioning of the wall. This means Sarah cannot claim the cost of the new wall as a repair, but she can claim it as capital works expenditure.

However, had Sarah replaced the fibro with a current equivalent, such as plasterboard, she could have claimed her costs as a repair. This is because it would have merely restored the efficient functioning of the wall without changing its character, even though a different material was used.

**Tip!** If you invest in a rental property, you'll need to keep records right from the start, work out what expenses you can claim as deductions, and declare all your rental-related income in your tax return. ■



## Are you risking your retirement savings?

If you're planning for your retirement, don't risk your nest egg by getting involved in arrangements that are at odds with tax and superannuation laws!

The ATO has identified a range of new arrangements that are directed towards minimising or avoiding tax. They are designed to help individuals and other related entities to minimise their tax bill by channelling money inappropriately through SMSFs.

If you are involved in an illegal arrangement, you can face severe penalties under tax and super laws. You could lose your retirement savings or your rights, as a trustee, to manage your own super fund.

Often these arrangements are structured in a way so that they appear to satisfy regulatory rules while minimising tax or even providing a tax refund. You cannot claim the total costs of repairs and maintenance in the year you paid them if they did not relate directly to wear and tear or other damage occurring due to renting.

**Tip!** Seek independent advice from a trusted SMSF tax adviser before entering into 'too good to be true' arrangements! ■



## Key tax dates

Date	Obligation
15 May 2018	2017 income tax return due if lodging through a tax agent if your return not due earlier. Tax to be paid as advised on the notice of assessment.
5 June 2018 <sup>1</sup>	2017 income tax return due for individuals with a lodgement due date of 15 May 2018 if lodging through a tax agent provided you also pay any liability due by this date.

### DISCLAIMER

TaxWise® News is distributed by professional tax practitioners to provide information of general interest to their clients. The content of this newsletter does not constitute specific advice.

Any financial product advice included in this newsletter is provided by LLH Financial Services Pty Ltd AFSL No. 487699. The information provided is general in nature and is not personal financial product advice. The information provided has been prepared without taking into account your objectives, financial situation or needs and because of this you should, before acting on it, consider the appropriateness of it having regard to your objectives, financial situation and needs. You should carefully read and consider any Product Disclosure Statement that is relevant to any financial product that has been discussed before making any decision about whether to acquire the financial product.

Please contact LeCornu Lewis Hancock if you would like advice on specific matters.

<sup>1</sup> This is a concessional arrangement provided to tax agents where individuals will not pay failure to lodge on time (FTL) penalties if they lodge and pay by this date.