



Treasury Laws Amendment (2017 Measures No. 6) Act 2017

No. 118, 2017

**An Act to amend the law relating to taxation, and
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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An Act to amend the law relating to taxation, and for related purposes

[Assented to 30 October 2017]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (2017 Measures No. 6) Act 2017*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|---|--|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 30 October 2017 |
| 2. Schedule 1 | 1 July 2017. | 1 July 2017 |
| 3. Schedule 2 | The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent. | 1 January 2018 |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—GST treatment of digital currency

A New Tax System (Goods and Services Tax) Act 1999

1 Subsection 9-10(4)

Repeal the subsection, substitute:

- (4) However, *supply* does not include:
- (a) a supply of *money unless the money is provided as *consideration for a supply that is a supply of money or *digital currency; or
 - (b) a supply of digital currency unless the digital currency is provided as consideration for a supply that is a supply of digital currency or money.

2 Subsection 9-85(2)

Repeal the subsection, substitute:

- (2) In working out the *value of a *taxable supply, any amount of the *consideration for the supply that is expressed in:
- (a) a currency other than Australian currency; or
 - (b) *digital currency;
- is to be treated as if it were an amount of Australian currency worked out in the manner determined by the Commissioner.

3 Transitional—preserving existing determinations

An instrument made under subsection 9-85(2) of the *A New Tax System (Goods and Services Tax) Act 1999* that is in force immediately before the commencement of this Schedule continues in force (and may be dealt with) as if it had been made under that subsection as amended by this Schedule.

4 Subsection 11-10(3)

Repeal the subsection, substitute:

- (3) However, *acquisition* does not include:
- (a) an acquisition of *money unless the money is provided as *consideration for a supply that is a supply of money or *digital currency; or

- (b) an acquisition of digital currency unless the digital currency is provided as consideration for a supply that is a supply of digital currency or money.

5 Subsection 78-10(1)

Repeal the subsection, substitute:

- (1) An insurer has a *decreasing adjustment* if, in settlement of a claim under an *insurance policy, the insurer makes one or more of the following:
 - (a) a payment of *money;
 - (b) a payment of *digital currency;
 - (c) a supply.

6 Subsection 78-15(4) (method statement, step 1, paragraph (a))

After “*money”, insert “, or *digital currency,”.

7 Subsection 78-20(1)

Repeal the subsection, substitute:

- (1) If, in settlement of a claim under an *insurance policy, an insurer makes one or more of the following:
 - (a) a payment of *money;
 - (b) a payment of *digital currency;
 - (c) a supply;the payment or supply is *not* treated as *consideration for an acquisition made by the insurer.

8 Subsection 78-35(1)

Repeal the subsection, substitute:

- (1) If, in settlement of a claim made by an insurer in the insurer’s exercising of rights of subrogation in respect of an *insurance policy, an entity that is not insured under the policy makes one or more of the following:
 - (a) a payment of *money;
 - (b) a payment of *digital currency;
 - (c) a supply;

the payment or supply is *not* treated as *consideration for a supply made by the insurer (whether or not the payment or supply is made to the insurer) or by the entity insured.

9 Subsection 78-45(1)

Repeal the subsection, substitute:

- (1) If, in settlement of a claim under an *insurance policy, an insurer makes one or more of the following:

- (a) a payment of *money;
- (b) a payment of *digital currency;
- (c) a supply;

the payment or supply is *not* treated as *consideration for a supply made by the entity insured, or by any entity (other than the entity insured) that was entitled to an input tax credit for the premium paid for the insurance policy.

10 Subsection 78-75(1)

Repeal the subsection, substitute:

- (1) If, in settlement of a claim made by an insurer in the insurer's exercising of rights of subrogation in respect of an *insurance policy, an entity that is not insured under the policy makes one or more of the following:

- (a) a payment of *money;
- (b) a payment of *digital currency;
- (c) a supply;

the payment or supply is *not* treated as *consideration for an acquisition made by the entity.

11 Paragraph 78-110(a)

Repeal the paragraph, substitute:

- (a) an entity makes one or more of the following:
- (i) a payment of *money;
 - (ii) a payment of *digital currency;
 - (iii) a supply;

in compliance with a judgment or order of a court relating to:

- (iv) a claim under an *insurance policy; or

- (v) a claim by an insurer in exercising rights of subrogation in respect of an insurance policy; or
- (vi) a claim for compensation under a *statutory compensation scheme; and

12 Paragraph 79-65(1)(c)

Repeal the paragraph, substitute:

- (c) an entity makes one or more of the following in settlement of the operator's claim:
 - (i) a payment of *money;
 - (ii) a payment of *digital currency;
 - (iii) a supply;

13 Paragraph 79-90(1)(a)

Repeal the paragraph, substitute:

- (a) a judgment or order of a court relates to a claim for compensation under a *compulsory third party scheme; and
- (aa) an entity makes one or more of the following in compliance with the judgment or order:
 - (i) a payment of *money;
 - (ii) a payment of *digital currency;
 - (iii) a supply; and

14 Paragraph 79-90(2)(a)

Repeal the paragraph, substitute:

- (a) a judgment or order of a court relates to a claim by an *operator of a compulsory third party scheme exercising rights to recover from an entity in respect of a settlement made under the scheme; and
- (aa) an entity makes one or more of the following in compliance with the judgment or order:
 - (i) a payment of *money;
 - (ii) a payment of *digital currency;
 - (iii) a supply; and

15 Paragraph 79-90(2)(b)

Omit "another entity", substitute "an entity".

16 Subsection 79-95(3) (method statement, step 1, paragraph (a))

After “*money”, insert “, or *digital currency”.

17 Subsection 80-30(2) (method statement, step 1, paragraph (a))

After “*money”, insert “, or *digital currency”.

18 Subsection 80-70(2) (method statement, step 1, paragraph (a))

After “*money”, insert “, or *digital currency”.

19 Subsection 126-10(1) (paragraph (b) of the definition of *total monetary prizes*)

After “*money”, insert “or *digital currency”.

20 Subsection 126-32(1)

Omit “money”, substitute “*money or *digital currency”.

21 Subparagraph 134-5(1)(c)(i)

Omit “money”, substitute “*money or *digital currency”.

22 Subparagraphs 134-5(1)(c)(ii) and (iii)

After “money”, insert “or digital currency”.

23 Subparagraph 134-10(1)(c)(i)

Omit “money”, substitute “*money or *digital currency”.

24 Subparagraphs 134-10(1)(c)(ii) and (iii)

After “money”, insert “or digital currency”.

25 Paragraph 188-22(a)

After “*money”, insert “or *digital currency”.

26 Section 188-35

After “*money”, insert “or *digital currency”.

27 Section 195-1

Insert:

digital currency means digital units of value that:

- (a) are designed to be fungible; and
- (b) can be provided as *consideration for a supply; and
- (c) are generally available to members of the public without any substantial restrictions on their use as consideration; and
- (d) are not denominated in any country's currency; and
- (e) do not have a value that depends on, or is derived from, the value of anything else; and
- (f) do not give an entitlement to receive, or to direct the supply of, a particular thing or things, unless the entitlement is incidental to:
 - (i) holding the digital units of value; or
 - (ii) using the digital units of value as consideration;

but does not include:

- (g) *money; or
- (h) a thing that, if supplied, would be a *financial supply for a reason other than being a supply of one or more digital units of value to which paragraphs (a) to (f) apply.

28 Section 195-1 (paragraph (a) of the definition of *monetary prize*)

After “*money”, insert “or *digital currency”.

29 Section 195-1 (paragraph (b) of the definition of *monetary prize*)

Repeal the paragraph, substitute:

- (b) if the prize is given at a casino—any prize, or part of a prize, in the form of:
 - (i) money or digital currency; or
 - (ii) gambling chips that may be redeemed for money or digital currency.

30 Application of amendments etc.

- (1) The amendments made by this Schedule apply in relation to supplies or payments made on or after 1 July 2017.
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- (2) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply in relation to regulations made for the purposes of subsection 40-5(2) or 70-5(1) of the *A New Tax System (Goods and Services Tax) Act 1999*, if the regulations:
- (a) relate to digital currency; and
 - (b) are made within 6 months after the day this Act receives the Royal Assent.

Schedule 2—Deductible gift recipient

Income Tax Assessment Act 1997

1 In the appropriate position in subsection 30-40(2) (table)

Insert:

| | | |
|--------|--|--|
| 3.2.15 | Centre For Entrepreneurial Research and Innovation Limited | the gift must be made after 1 January 2017 and before 31 December 2021 |
|--------|--|--|

2 Section 30-315 (after table item 29)

Insert:

| | | |
|-----|--|-------------|
| 29A | Centre For Entrepreneurial Research and Innovation Limited | item 3.2.15 |
|-----|--|-------------|

*[Minister's second reading speech made in—
House of Representatives on 14 September 2017
Senate on 18 October 2017]*

(200/17)
