



## GST News

### Expanding perspectives and possibilities

#### New e-Tax Guide for GST on Digital Payment Tokens

The Inland Revenue Authority of Singapore (IRAS) has recently released a new e-Tax Guide for Goods and Services Tax (GST) on Digital Payment Tokens (DPTs).

The new guide sets out changes to the GST treatment of DPTs, which will take effect from 1 January 2020.

The guide also confirms that utility tokens—which ceased to function as a medium of exchange after they have been redeemed for goods or services—shall be subject to the same GST treatment as vouchers.

We have summarised the important points of the new guide below.

#### What are DPTs?

A digital token refers to any cryptographically-secured digital representation of value that can be transferred, stored, or traded electronically.

DPTs are digital tokens that encompasses all of the following characteristics:

- a) It is expressed as a unit.
- b) It is designed to be fungible.
- c) It is not denominated in any currency, and is not pegged by its issuer to any currency.
- d) It can be transferred, stored, or traded electronically.

- e) It is, or is intended to be, a medium of exchange accepted by the public, without any substantial restrictions on its uses as consideration.

DPTs however do not encompass the following:

- 1) Money.
- 2) Anything which, if supplied, would be an exempt supply under Part I of Fourth Schedule to the GST Act for a reason other than being a supply of a digital token(s) having the DPT characteristics of (a) to (d).
- 3) Anything that gives an entitlement to receive or direct the supply of goods or services from a specific person(s) and ceases to function as a medium of exchange after the entitlement has been used.

Examples provided by the IRAS of DPTs are Bitcoin, Ether, and Litecoin.

Generally, digital tokens such as game credits and/or loyalty points are not considered DPTs. Such tokens would usually have restrictions on their use as a medium of exchange by the issuer. Similarly, tokens attributable to a private permissioned blockchain would not constitute DPTs.

### **Changes to the GST treatment**

The use or supply of DPTs is currently treated as a supply of services and is subject to GST. Consequently, under current rules—where DPTs are used in exchange for a supply of goods or services—a barter trade transaction will crystallise and take into consideration both providers of the DPTs. The counterparty supplier of goods or services will then need to account for GST.

Starting from 1 January 2020, the use of DPTs in exchange for any goods or services will no longer be considered as a supply of services. Instead, the provision of DPTs as consideration in a transaction will neither be treated as a supply of goods nor services under the GST (Excluded Transactions) Order.

However, the following services in relation to DPTs will be treated as exempt supplies:

- The supply of DPTs in exchange for fiat currency or other DPTs.
- The provision of any loan, advance, or credit of DPTs.

While stablecoins pegged to fiat currencies or other assets will not comprise of DPTs, the IRAS has confirmed in the new guide that a supply of such tokens would in any case comprise of an exempt supply of a derivative. However, algorithm-based stablecoins may benefit from the new exemption if they comprise of a DPT.

A supply of DPTs can be zero-rated if the supply fulfils the conditions under Section 21(3)(j) of the GST Act (and it should be borne in mind that zero-rating takes priority over the application of any exemption).

In the e-Tax Guide, the IRAS listed the following proxy indicators for determining the customer's belonging status:

- Payment Proxy such as credit card information based on BIN number and bank account details.
- Residence Proxy such as billing address or home address.
- Access Proxy such as the name of the internet service provider or the Internet Protocol (IP) address.

A supplier of DPTs is required to obtain and maintain at least **two** pieces of non-conflicting evidence based on the above categories in order to support zero-rating.

The above list of proxy indicators is non-exhaustive, and a supplier of DPTs may use other commercially available information to verify the belonging status of its counterparty, subject to approval by the IRAS.

### **Value of supply**

For suppliers that receive DPTs as consideration for any supply of goods or services, the value of the supply will be the open market value.

On the other hand, for suppliers that supply DPTs in exchange for fiat currency or other DPTs, the value of the exempt supply will either be the realised gain/loss from the exchange or the proceeds received.

Similar to receipts in a foreign currency, any DPT valued by reference to a foreign currency would need to be converted to Singapore Dollars (SG\$) using an acceptable exchange rate at the time of supply.

Where DPTs are exchanged for other DPTs, the following exchange rates can be used:

- Any bona fide digital payment token exchange.
- Any bona fide provider of digital payment token exchange rates.
- The agreed exchange rate stated in any written agreement (if the above two sources are not available).

### **Time of supply**

The general time of supply rule will apply to the DPTs. As such, the time of supply for a relevant transaction will either be the earlier date of the invoice, or the date on the receipt of consideration. The date upon which payment is validated on the blockchain will be regarded as the date of receipt of consideration for DPTs (presuming that "validation" refers to the specific blockchain concerned and the number of confirmations commonly accepted for a transaction written to the distributed ledger to be considered immutable).

### **Application of voucher rules to Utility Tokens**

In addition to explaining the scope of the forthcoming GST exemption, the new e-Tax Guide contains a definition of "Utility Token" (viz. a digital token that represents a right to a good or a service). It also states the IRAS's view for the first

time, that supplies of utility tokens will be treated as supplies of vouchers.

Very broadly, this means that supplies of utility tokens—which qualify as Multi-use Vouchers (MRV)—may be outside of the scope of GST. GST in this case will only be applicable to a supply of goods or services upon redemption of such tokens, taking into consideration the supply of goods or services is by a GST-registered/registerable person. GST in respect would remain chargeable to the supplies of non-MRVs at the time of sale (in such cases, the supply of the non-MRVs and the corresponding supply of goods or services will be treated as a single composite supply).

### **Deloitte Singapore's view**

The change in the GST treatment towards DPTs by the IRAS appears to be a clear step to align its function with the use of money. The change should also give a boost to businesses dealing in and offering cryptocurrencies, strengthening Singapore as a financial hub and a centre for digital innovation.

While we welcome the forthcoming exemption, one concern raised by stakeholders through the consultation process was the administrative burden arising from incongruous treatments of different types of digital tokens. Hence, the IRAS's confirmation to the application of voucher rules to Utility Tokens was also note-worthy.

Together, the exemption in respect of DPTs and the application of the voucher rules to Utility Tokens should, in many cases, mean that the supplies of digital tokens are either exempt or outside of the scope, taking into consideration that no output tax need be collected/accounted for by the supplier. However, characterisation of specific tokens will remain relevant for input tax recovery purposes.

As the changes will only apply from 1 January 2020 onwards, it is important for companies to monitor the transitional supplies that occur so as to ensure that the GST treatment is correctly applied. Furthermore, companies should determine whether the information captured in their systems is sufficient to satisfy the proxy requirements for zero-rating a supply of DPT. They should also determine whether approval from the IRAS is required for the use of an alternative proxy (particularly given that transaction hashes invariably do not capture specific party identification data and that additional steps may need to be taken to reconcile transactions against customer accounts, etc.).

Moving forward, companies that are currently GST registered due to their supplies of DPTs being regarded as "taxable supplies" would need to reassess their GST registration status and determine whether they can apply for deregistration. In

addition, as the companies that supply DPT would be making exempt supplies, they should also consider the requirement to account for imported services via reverse charge that will be effective on the same date, 1 January 2020.

One remaining area of uncertainty that stakeholders should be mindful of is that the definition of Utility Token contained within the e-Tax Guide is entirely separate from the definition of DPTs. Due to the infinite characteristics digital tokens may carry, it is conceivable that some tokens may comprise neither DPTs nor Utility Tokens, subject to the voucher rules. In such cases, unless supplies of the tokens may be exempted on another basis (e.g., on the basis the supply comprises an exempt supply of a security or derivative), such supplies may fall into a gap and by default retain their current treatment as barter transactions. This is implicitly contemplated in the new e-Tax Guide as the IRAS notes that the barter transaction treatment currently applicable to tokens will be unchanged in respect of supplies of such tokens. Therefore, stakeholders are advised to seek professional advice concerning the treatment of particular types of tokens in the event of any uncertainty.

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