HMRC launches facility for crypto asset disclosures

Sarah Mawson and Olivia Wiggett explain how the tax authority's new disclosure scheme will work

There have been facilities to make online voluntary disclosures to HMRC for some time now. These are commonplace for clients rectifying tax irregularities and HMRC have launched a new digital disclosure service specifically for the purpose of declaring untaxed income and gains arising from crypto assets.

The Cryptoassets Disclosure Facility, which opened at the end of November 2023, allows taxpayers and their agents to declare income and gains arising on crypto assets, including (but not limited to):

- payment coins (cryptocurrency such as Bitcoin).
- exchange tokens (for example Binance Coin).
- non-fungible tokens (NFTs).
- utility tokens.

While the introduction of this dedicated disclosure facility reflects HMRC's approach to encouraging online disclosures, there are some marked differences in comparison to the more generic Digital Disclosure Service (DDS). The most significant of these is the request for the taxpayer or agent to provide a full set of computations for both the taxable income and/or gains arising from crypto assets, in addition to tax computations. It asks whether a commercial crypto asset calculator was used to compute the gain, what type of crypto assets are in question and what exchanges were used.

It is perhaps no surprise that HMRC are asking for additional information, given crypto assets have historically had a reputation for popularity amongst those wishing to undertake their financial activities in an anonymous manner and due to the complexity of calculating the tax. HMRC having access to customer data held on exchanges is relatively new, and as the crypto asset market grows, and with it the number of unregulated exchanges, it's understandable that HMRC seeks to get a firmer grip on the industry. After all, the crypto asset industry worldwide is largely unregulated.

A June 2023 study conducted by the FCA found that 9% of UK adults held crypto assets in August 2022. This is twice the level held in August 2021. The data confirms the growth of the market and increased adoption of crypto within the UK. Whilst the available information on this growing industry can still be unreliable, HMRC have been considering how to collect further information whilst encouraging disclosures under preferential penalty terms for those who make a disclosure on an unprompted basis.

As crypto assets grow in popularity it is highly likely that we see increased activity from HMRC in this area. Taxpayers with unreported income and gains arising from crypto assets should seek professional support. The taxation of crypto assets is a technically complex area, and the new targeted digital disclosure facility is by no means straightforward for the lay taxpayer.

The tax rules for the acquisition and disposal of crypto assets are broad, and it is likely many people have unknowingly not reported chargeable events. For example, a tax charge can arise on a myriad of scenarios including gifting your tokens, swapping them for another crypto asset or even using them to pay for goods or services. From a Capital Gains Tax perspective, it is especially important to bear in mind the upcoming reduction in the annual exempt amount to £3,000 in April 2024. This will almost certainly bring a greater number of unwitting taxpayers enter the fold of crypto taxation.

From a commercial standpoint, taxpayers must consider the benefits of coming forward, owning up and taking responsibility, particularly on an unprompted and voluntary basis to ensure penalties are mitigated. With all disclosures it's important to present the information to HMRC in a way that minimises any follow-up questions and further penalty exposure.

The introduction of this new disclosure facility is almost certainly a precursor to a wider HMRC and governmental crackdown on crypto assets. We are already seeing this in the regulation space after the UK government confirmed its final proposals for crypto asset regulation, published by HM Treasury in February 2023.

Furthermore, in November 2023 the UK, together with other jurisdictions, announced their joint statement regarding the implementation of the OECD's Crypto Asset Reporting Framework (CARF). The CARF reflects the framework of the Common Reporting Standard (CRS) and is a new international standard on the automatic exchange of crypto asset information between tax authorities. The CARF is expected to be fully functional by 2027. The aim of the CARF is, unsurprisingly, to 'ensure tax compliance and clamp down on tax evasion'. HMRC will be hoping that the CARF has a similar impact to the CRS, which is estimated to have netted almost £100billion in additional tax revenue since its inception in 2014.

The crypto asset market has proven to be extremely lucrative for those with the right strategy. Many investors have generated considerable sums and HMRC is pushing to recover any unpaid tax from these successful investors and traders.

If your clients are in any doubt as to whether they've paid the right amount of tax on their crypto asset transactions, HMRC's launch of a new disclosure facility means there has never been a better time to revisit their position and avoid a full enquiry.

Whilst HMRC's new facility is useful, it is vital to seek professional expertise to assess if this is the correct disclosure route for your clients. The facility allows the taxpayer to self-assess for deliberate behavior, which presents risk for criminal prosecution and alternative disclosure routes may be more appropriate. It is therefore crucial to get in touch to discuss your options to mitigate this risk.

• *Sarah Mawson, Tax Disputes Assistant Manager, Grant Thornton UK LLP*

• *Olivia Wiggett, Tax Disputes Associate Director, Grant Thornton UK LLP*