

Ensuring Cryptocurrency Miners Are Not Financial Services for HST/GST Purposes

ISSUE STATEMENT

Determining who the recipient of cryptocurrency miner’s services is often not possible, forcing Canada’s miners to fall in line with existing GST regulation has created significant uncertainty and potential hardship. As such, cryptocurrency miners are uncertain around whether they have to collect GST/HST on their revenues. Such levels of uncertainty leave businesses unwilling to invest in this highly coveted market, and so economic activity and innovation suffer.

Canada must be innovative in their legislation creation to ensure that there are clear parameters and guarantees for innovative entrepreneurs especially when new technology is involved. The Chamber network must work collaboratively on issues that resist change and create gaps within the system leading to uncertainty.

The federal government is considering amending the Excise Tax Act to include a definition for virtual instruments – cryptocurrency buyers and sellers. Being a virtual instrument, as with other financial instruments, means the operation and transactions performed become non-taxable at the GST level. This means that the equipment with which the financial institution operates cannot be taxed. Additionally, depending on this proposed amendment becoming legislation, the buyer and seller of cryptocurrency must follow the rules that apply to financial institutions, which may result in the ineligibility to claim input tax credits, additional apportionment and annual reporting requirements, among other changes.

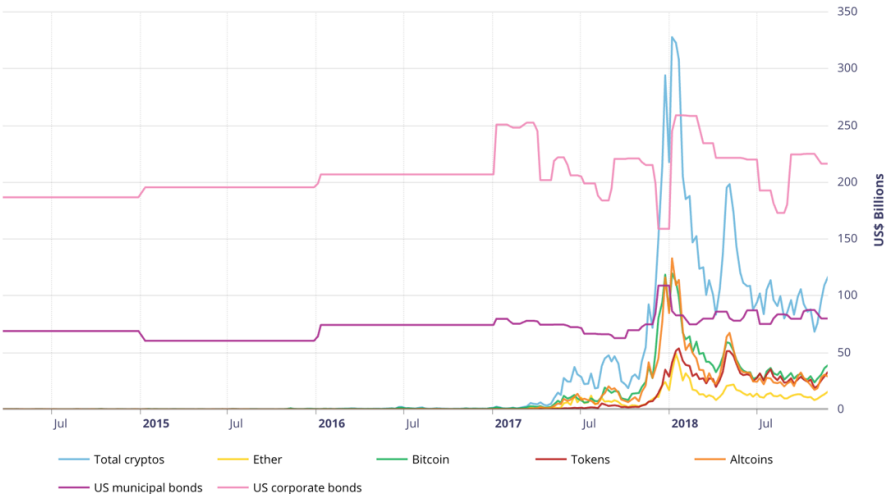
The Federal Government should clearly indicate that cryptocurrency miners operate as “zero-rated supplies”. Without certainty we may see many miners moving from Canada as a result of heavily bureaucratic processes and hard tax costs.

BACKGROUND

Cryptocurrency is a digital currency used to buy and sell commodities throughout the world. It is a multibillion-dollar industry that operates throughout the world as figure 1 illustrates. Cryptocurrency differs from government-issued legal tender in two big ways:

- 1. It is encrypted – the coins and transactions are verified by a type of cryptography
- 2. It is decentralized – there is no middle man (or bank) involved

Figure 1 Trading volumes of cryptocurrency and US municipal and corporate bonds (weekly)



Sources: Coinmarketcap.com and Securities Industry and Financial Markets Association

Crypto currency is a viable currency system separate from banks and governments, which is the appeal for utilizing cryptocurrency, and sometimes it is used for illegal transactions because of that fact. Cryptocurrency runs on a secure and anonymous data ledger known as blockchain that publicly records all transaction. Through the blockchain, many different people hold onto identical copies of the ledger on their computers – known as nodes. Each time a transaction occurs, the nodes independently update and verify it from chunks of data called blocks. Those blocks are verified by miners.

Miners confirm all transactions that take place when cryptocurrency is exchanged. They set a computer program to solve a captcha mathematical puzzle unique to each block. The solution is proof that the transaction is verified. The verification is then sent to each node along the chain of transactions. This is how cryptocurrency is tracked and confirmed so that no coins are deposited twice.

Miners receive incentive to create and run computer programs to solve the mathematical puzzles in the form of cryptocurrency – essentially a commission on their service. Miners often use their personal computers, which are located in their home for which they pay a mortgage or rent and electricity, for the purpose of creating income.

The federal government are amending the Excise Tax Act to include “virtual instruments”, the cryptocurrency buyers and sellers. Banks, as an example, are “financial instruments” defined in subsection 123(1) of the Excise Tax Act (ETA). The federal government is looking to amend subsection 123(1) of the ETA to include a definition for “virtual payment instrument”, which will be defined as:

“virtual payment instrument” means property that is a digital representation of value, that functions as a medium of exchange and that only exists at a digital address of a publicly distributed ledger, other than property that:

- (a) confers a right, whether immediate or future and whether absolute or contingent, to be exchanged or redeemed for money or specific property or services or to be converted into money or specific property or services*
- (b) is primarily for use within or as part of, a gaming platform, an affinity or rewards program or a similar platform or program, or*
- (c) is prescribed property”*

This amendment will result in the sale of a virtual payment instrument on an exchange, the use of such an instrument as a method of payment, and any similar supply qualifying as a financial service under the ETA.

Financial services are not taxable. With the new legislation those who are brokering, selling, trading in virtual currencies may become listed as a financial institution. Miners are not explicitly stated to be included in the definition of “virtual payment instrument”. If they are, the miner must follow the rules that apply to financial institutions, which will result in changes to input tax credit ineligibility, additional apportionment and annual reporting requirements, among other changes.

Additionally, miners have global customers, who are anonymous. If a miner is considered a “virtual payment instrument” they would be unable to disclose their customer base and determine whether HST or GST should be charged. This adds to the uncertainty around mining in Canada, which would then result in lost innovation and investment in the cryptocurrency mining industry.

The Federal Government should ensure that policy is in place that clearly defines that cryptocurrency miners operate as taxable ventures at a zero-rated level to encourage investment in the industry within Canada. Without certainty we may see many miners moving from Canada as a result of heavily bureaucratic processes.

RECOMMENDATIONS

The Chamber Recommends the Federal Government:

1. Clarify whether miners must collect HST/GST on their revenues by creating a system on how to report who is receiving their services by legislating that they are taxable at a zero-rated level; and,
2. Ensuring that miners are still eligible for input tax credits on costs for computers, electricity, and other necessary equipment and services to mine.

SUBMITTED BY THE SURREY BOARD OF TRADE