



NEW ZEALAND COUNCIL OF TRADE UNIONS  
*Te Kauae Kaimahi*

**Submission of the  
New Zealand Council of Trade Unions  
Te Kauae Kaimahi**

to the

**Inland Revenue Department**

on

**Rulings**

**BR Pub 19/01: Income tax – salary and wages paid in crypto-assets**

**BR Pub 19/02: Income tax – bonuses paid in crypto-assets**

**P O Box 6645**

**Wellington**

**5 September 2019**

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- 1.1. This submission is made on behalf of the 30 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With 320,000 members, the CTU is one of the largest democratic organisations in New Zealand.
- 1.2. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.
- 1.3. These rulings have only recently come to our notice, so we apologise for making this submission after the 6 August 2019 deadline. However we believe the issue we raise is important and these rulings should be reconsidered.
- 1.4. The two rulings concern the payment of remuneration to an employee in crypto-assets under certain circumstances. The first concerns “salary and wages” the second concerns “bonuses”.
- 1.5. We are very concerned at any suggestion that wages and salaries (henceforth “wages”) can be paid in a form other than New Zealand dollars, in that it can transfer risk to the employee and may not be a legal form of exchange accepted for all purchases and financial transactions. In many cases, the employee is not in reality in a position to negotiate with an employer over such matters should the employer insist. It should therefore be an absolute right for payment to be in New Zealand dollars. The issue of risk is particularly notable with crypto currencies.
- 1.6. This is recognised in New Zealand law in the Wages Protection Act 1983 (“WPA”), which states unequivocally in s.7:

Wages to be payable in money: Subject to sections 8 to 10, an employer shall pay the wages of every worker in money only.
- 1.7. There is flexibility in that with the written consent or request of a worker it can be paid

by postal order, money order, specified cheque, or lodgement at a financial institution to the credit of an account”.
- 1.8. In other words, it can be paid only in a different form of “money”.

1.9. “Money” is defined in s.2 as follows:

money, in relation to any wages, means any New Zealand coin or New Zealand banknotes, or combination of both, the tender of which in respect of the payment of those wages is legal tender.

1.10. “Financial institution” is also defined in s.2:

financial institution means a financial institution within the meaning of section 2 of the Reserve Bank of New Zealand Act 1989; and includes the Post Office Savings Bank and the Reserve Bank of New Zealand.

1.11. “Money” therefore does not include payment in Bitcoin, even if this were construed as depositing the wages to the credit of a Bitcoin account.

1.12. Wages also include bonuses. Again under s.2:

wages means salary or wages; and includes time and piece wages, and overtime, bonus, or other special payments agreed to be paid to a worker for the performance of service or work; and also includes any part of any wages.

1.13. The Wages Protection Act is not referred to in the ruling or the commentary. In particular it is not referred to in the discussion of the meaning of “wages”, “salaries” and “money” where it would be helpful.

1.14. The rulings therefore risk dealing with an illegal situation. Employees cannot be paid in Bitcoin except as an agreed deduction from their pay (ss 4, 5, 5A and 6 of the WPA).

1.15. That is not made sufficiently clear.

1.16. While we may understand the motivation of IRD in wanting to tax Bitcoin payments on an equivalent basis to other remuneration and benefits, we do not wish to see this done in a way that appears to encourage the uninformed use of Bitcoin in unlawful wage payments.

1.17. The ruling in any case only deals with a limited subset of such use of Bitcoin as set out in the rulings, including that

the crypto-assets being paid:

- are not subject to a “lock-up” period;
- can be converted directly into a fiat currency (on an exchange); and either:

- a significant purpose of the crypto-asset is to function like a currency; or
- the value of the crypto-asset is pegged to one or more fiat currencies.

- 1.18. Payment in crypto-assets purporting to be part of wages is therefore not covered by this Ruling in other circumstances, such as where the asset is not intended to primarily function as a currency. On the other hand it is covered where it is listed on an obscure exchange and subject to great variability in value.
- 1.19. We would like to discuss with you what your interpretation of the WPA is with regard to these Rulings, and what steps can be taken to clarify the rights of employees in these situations.