



**Response to the Australian Senate's  
Financial Technology & Regulatory Technology Inquiry**

*Supplementary submission to the one made by Power Ledger on 14 October 2019*

24 December 2019

Australia has a significant way to go before fully realising its potential and the Government's aspirations for Fintech usage among consumers. For example, in 2019 only 41 per cent of Sydney residents regularly used FinTech products, vs Hangzhou for example, where 92 per cent of residents use FinTech regularly.

Presently, Australia is being comprehensively outpaced by countries which many Australians would view as less developed than our own.

According to the Australian FinTech industry itself, one of the major barriers for FinTech innovation is access to capital; evidenced by the fact that only seven companies have raised more than USD 50m in Sydney, as compared to fifty eight in Beijing to date.

Increasing a startups' ability to raise capital is key to ensuring a thriving FinTech sector. Lack of capital deployed into this sector is the key factor that is holding Australia back and Australia should make a priority to enable every possible stream of capital to be accessed by a growing FinTech industry.

For blockchain enabled startups, an important means of achieving this can be through an Initial Coin offering (ICO), whereby tokens that perform a certain utility can be sold to the market, as an alternative to traditional forms of capital raising.

Blockchain Australia, an organization representing the interests of blockchain businesses in Australia, has recently released a report with RMIT Blockchain Innovation Hub titled: Australia's Blockchain Future: Recommendations for the Taxation of Initial Coin Offerings. This report highlights the problem that, because Australia's tax laws haven't contemplated this new way of capital raising, the way the laws are currently written means that the issuance of an ICO is currently taxed as income.

The report can be found here:

<https://blockchainaustralia.org/wp-content/uploads/2019/11/20191028-ICO-Tax-Report-Final.pdf>

The current tax treatment of ICOs does not acknowledge the economic development and diversification contributions from having ICOs happen in Australia. Or the associated taxation income available to Australia from these industries as they grow. Nor that fintech can be provided to Australian consumers from Australian companies as opposed to being imported. Or that the technology can provide urgently needed consumer choice and competition in the financial services sector. The report highlights that other countries have remedied or are in the process of changing their tax laws to encourage their blockchain sector. As an example, Switzerland has made ICO proceeds income tax exempt. Singapore is also adopting a proactive reform stance to encourage ICOs.

Level 6, 218 St Georges Tce  
Perth WA 6000  
Australia  
powerledger.io  
ABN: 39 612 531 218

Power Ledger



There is an urgency to address this as this taxation anomaly is costing Australia as evidenced by the fact that Australia received only 0.79 per cent of the \$26B USD funds raised internationally via ICOs.

Blockchain Australia & RMIT's report's recommendation is therefore:

*"A company's proceeds from the issuance of an ICO should not be taxed as income. ICO proceeds should be considered under an equivalent exemption as is offered to companies in respect of proceeds of capital raises. The treatment should apply retrospectively.*

*In relation to the above, we submit that a new Division be inserted in the Income Tax Assessment Act 1997 (the 1997 Act) that provides that the proceeds from an "eligible ICO" are "non-assessable, non-exempt income" to the issuer where:*

*I. An "eligible ICO" is an initial coin offering undertaken:*

*A. For purposes of capital raising to develop an innovative business; ICO Tax Report 8 Australia's Blockchain Future*

*B. Where the proceeds of which are reasonably expected to be applied to the development of a blockchain platform or similar platform;*

*C. Where tokens issued under the ICO are reasonably expected to perform a function on the platform;*

*II. An "issuer" of an ICO includes the underlying or related entity if that entity issues through a nominee. Relatedly, it is proposed that the following amendments be made to the capital gains tax regime in Part 3-1 of the 1997 Act: I. A new subsection 104-10(2A) inserted to state:*

*Relatedly, it is proposed that the following amendments be made to the capital gains tax regime in Part 3-1 of the 1997 Act:*

*I. A new subsection 104-10(2A) inserted to state:*

*"for the purpose of this section a disposal does not occur by the issue of tokens under an eligible ICO";*

*II. A new paragraph 104-35(5)(ca) inserted:*

*...."(5) CGT Event D1 does not happen if:....(ca) an entity issues tokens under an eligible ICO." "*

If Australia is serious about its Fintech commitments, the proceeds of a utility token ICO should not be classified as income, but rather as per a capital raising. If applied, this recommendation will undoubtedly improve the FinTech outcomes within Australia.

Ameliorating taxation anomalies such as the one identified by Blockchain Australia & RMIT will be one of the most impactful actions the Australian Government can make in support of Australian FinTech companies.

This change alone will positively impact all projects that raised via ICO in Australia, including Power Ledger (\$32m AUD, 2017), Hawven (now Synthetix) (\$38.6m AUD, 2018), CanYa (\$12m AUD, 2017), and Shping (\$8.5m AUD, 2018). Left unaddressed this taxation anomaly will result in many Australian blockchain companies going offshore.

With UK distracted by Brexit, this is Australia's chance to take a competitive lead by taking decisive action on ICO taxation that others, like the UK and Singapore can follow.

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