



HM Revenue
& Customs

Consultation outcome

The taxation of decentralised finance (DeFi) involving the lending and staking of cryptoassets

Updated 26 November 2025

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This publication is available at <https://www.gov.uk/government/consultations/the-taxation-of-decentralised-finance-involving-the-lending-and-staking-of-cryptoassets/the-taxation-of-decentralised-finance-defi-involving-the-lending-and-staking-of-cryptoassets--2>

Summary

Subject of this consultation

The government is seeking views on modifying the tax treatment of decentralised finance (DeFi) lending and staking. The intention of the consultation is to create a regime that better aligns the taxation of cryptoassets used in DeFi lending and staking transactions (DeFi transactions) with the underlying economic substance, whilst reducing the administrative burden on users.

Scope of this consultation

This consultation explores a legislative change to the tax treatment of DeFi lending and staking. Under the proposed changes, the use of cryptoassets in DeFi transactions would no longer be treated as giving rise to a disposal for tax purposes. Instead, a tax disposal would arise when the cryptoassets are economically disposed of in a non-DeFi transaction.

Although the focus of this document is on DeFi lending and staking, the proposed tax framework outlined below is also intended to apply to the lending and staking of cryptoassets which is done through an intermediary. Some industry participants refer to these arrangements as Centralised Finance (CeFi).

Who should read this

HMRC would like to hear from investors, professionals and firms engaged in DeFi activities including technology and financial service firms; trade associations and representative bodies; academic institutions and think tanks; and legal, accountancy and tax advisory firms.

Duration

The consultation will run for 8 weeks from 27 April 2023 to 22 June 2023.

Lead official

The lead official is Alex Bosinceanu of HM Revenue and Customs (HMRC).

How to respond or enquire about this consultation

Responses can be made by email to financialproductsbai@hmrc.gov.uk.

Additional ways to be involved

HMRC will consider holding meetings with interested parties to discuss the issues raised in this consultation. The timing, format and venue of meetings will be informed by expressions of interest received.

After the consultation

Following this consultation, the government will publish a summary of responses together with details of its next steps.

Getting to this stage

On 5 July 2022 the government published a Call for Evidence on the taxation of decentralised finance involving the lending and staking of cryptoassets (<https://www.gov.uk/government/consultations/call-for-evidence-the-taxation-of-decentralised-finance-involving-the-lending-and-staking-of-cryptoassets>). The Call for Evidence closed on 31 August 2022 and a summary of responses is published at Annex A.

This consultation represents the next step in the policy making process.

Previous engagement

HMRC has held discussions with some interested stakeholders to identify the key concerns and options for change.

Terminology

This document uses ‘cryptoassets’ and ‘tokens’ interchangeably.

Any reference in this document to ‘DeFi’ is related exclusively to the lending and staking of cryptoassets. References to ‘staking’ do not refer to staking tokens as part of a proof-of-stake transaction verification process.

The definition of ‘cryptoasset’ follows that of ‘crypto-asset’ in the publication ‘OECD (2022), Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard, OECD, Paris’ published by the Organisation for Economic Cooperation and Development (OECD) on 10 October 2022, which reads:

“The term ‘Crypto-Asset’ means a digital representation of value that relies on a cryptographically secured distributed ledger or a similar technology to validate and secure transactions.”

References to ‘DeFi return’ are to the financial return that users of lending and staking services receive. It is often described by the participants as ‘interest’ even though it is not treated as such for tax purposes.

1. Introduction

Financial services have developed rapidly over recent times. This has included the growth in Cryptoassets – digital representations of value or contractual rights that can be used for financial transactions and which could play an increasingly important role in financial innovation. New forms of cryptoassets, and services supported by them, continue to evolve at pace.

The government’s FinTech Sector Strategy

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/692874/Fintech_Sector_Strategy_print.pdf) was introduced by the then Chancellor of the Exchequer in March 2018. It sets out the government’s ambition to work with the UK’s financial services sector to maintain the UK’s position as one of the leading financial centres globally, and the world’s most innovative economy.

The government aims to establish clear tax and regulatory treatment of cryptoassets to place the UK at the forefront of safe, sustainable, and rapid innovation in cryptoasset and blockchain technologies.

The commitment to retain the UK’s global leadership position in fintech was reaffirmed by the Economic Secretary to the Treasury at TheCityUK’s National Conference in Edinburgh (<https://www.gov.uk/government/speeches/speech-by-the-economic-secretary-andrew-griffith-mp-at-thecityuks-national-conference-in-edinburgh>) in December 2022.

One of the measures announced last April was to explore and resolve specific issues regarding the taxation of the DeFi activities of lending and staking. Some stakeholders have highlighted circumstances where the current rules for Capital Gains Tax (CGT), when applied to DeFi, are inconsistent with the substance of the activity.

As part of the review into the application of tax rules to DeFi transactions, the government ran a Call for Evidence

<https://www.gov.uk/government/consultations/call-for-evidence-the-taxation-of-decentralised-finance-involving-the-lending-and-staking-of-cryptoassets/the-taxation-of-decentralised-finance-involving-the-lending-and-staking-of-cryptoassets-call-for-evidence>) from 5 July to 31 August 2022. The Summary of Responses is published at Annex A. Most respondents agreed that a change in the tax rules would be beneficial for the industry and users.

Recent market events – including the failure of FTX – have highlighted vulnerabilities in the broader cryptoasset sector. Within decentralised finance policy-makers and regulators have also highlighted specific risks including cyber risks and other technical risks, as well as increased dependencies between traditional and decentralised financial systems and a lack of backstops in periods of market stress.

The tax policy approach for DeFi lending and staking proposed in this document has been considered in terms of neutrality, fairness and practicality. It is not intended to take the place of the wider regulatory framework for cryptoassets. Further details on the government’s approach to the regulation of cryptoassets can be found in the [Future financial services regulatory regime for cryptoassets – Consultation and call for evidence](https://www.gov.uk/government/consultations/future-financial-services-regulatory-regime-for-cryptoassets) (<https://www.gov.uk/government/consultations/future-financial-services-regulatory-regime-for-cryptoassets>) published on 1 February 2023 by HM Treasury.

This consultation represents the next stage of the policy making process. The government is inviting answers to the questions below on a potential legislative solution which aims at better aligning the taxation of cryptoassets used in DeFi transactions with the underlying economic substance. In addition to the specific questions posed, more general comment on the issues discussed is welcome.

2. Review of the Call for Evidence which ended on 31 August 2022

What is DeFi lending and staking?

DeFi is an umbrella term to describe services akin to traditional financial services that are provided using distributed ledger technology. DeFi is often executed through ‘smart contracts’ which are a codified set of rules that execute transactions on the blockchain when certain parameters are met. For

this reason, DeFi enables the provision of financial services without the use of traditional financial intermediaries.

DeFi lending services allow users to deposit their tokens and receive a financial return in exchange, often described as interest (even though it is not treated as such for tax purposes). Additionally, cryptoasset owners (known in this context as liquidity providers) can provide their tokens to a platform to pool with those of other users (a 'liquidity pool'). This provision of liquidity to a platform is known as 'staking' and allows the platform to perform other DeFi services with the pooled tokens. To encourage cryptoasset owners to provide the platform with this liquidity, they will offer a financial return, typically paid periodically during the term of the arrangements or at the end of the term ('the DeFi return').

Issues with the current tax rules raised by industry representatives and tax professionals

The government has been told the application of the current tax rules, as explained in the HMRC Cryptoassets Manual at CRYPTO6000 (<https://www.gov.uk/hmrc-internal-manuals/cryptoassets-manual/crypto60000>) onwards, can lead to transactions being treated as disposals by the lender or liquidity provider in some situations even though the effective economic ownership of the cryptoassets is retained. This can lead to tax outcomes that do not reflect the underlying economic substance, and to a tax liability from a transaction where no gain has been realised in a form which can be used to meet the liability. The need to determine and record the market value of assets at each step in the transaction may also give rise to a disproportionate administrative burden.

To gain further insight into DeFi lending and staking the government conducted a Call for Evidence which closed on 31 August 2022. Nearly all respondents agreed that the application of current tax rules to this activity causes difficulty and should be changed.

Overview of the Call for Evidence responses

The Call for Evidence invited views on 3 potential options for reform:

- a) Option 1 – legislate to bring DeFi lending and staking within the repo and stock lending rules (ss. 263A and 263B of the Taxation of Chargeable Gains Act 1992) by defining cryptoassets as ‘securities’ for the purpose of those rules. Doing so would exclude from CGT DeFi transactions that meet the specific statutory rules in the repo and/or stock lending legislation
- b) Option 2 – legislate to create separate rules for DeFi lending and staking, similar to those applicable to repos and stock lending. These rules would remove some lending and staking activities from the scope of CGT
- c) Option 3 – apply a ‘no loss no gain’ treatment to DeFi loans and staking, deferring the tax liability until the assets are economically disposed of. The transfer of cryptoassets for lending and staking would be seen as a ‘no gain no loss’ transaction, by treating the disposal value as matching the acquisition cost

Most respondents did not see Option 1 as being able to address comprehensively the concerns related to DeFi transactions because it was seen as too prescriptive and thus potentially a barrier to the development of the DeFi market. At the same time, there were concerns that it could lead to confusion in applying regulatory rules or would not cover some DeFi lending transactions.

Option 2 and Option 3 were favoured by a similar number of respondents expressing a definite preference.

Option 2 was seen as an opportunity for the UK to enact legislation tailored to the distinct nature of the DeFi market. The effects of the repo and stock lending legislation were seen as appropriate to DeFi lending (such as to disregard a strict legal interpretation of beneficial ownership while focusing on economic ownership). Respondents felt that a specific DeFi regime could provide targeted carve outs from general CGT rules that could reduce the administrative burden on participants. At the same time, a DeFi regime could be adapted easily to market developments without an impact on other areas of the tax code. As an example, if DeFi was to be brought within the repo regime, any changes of legislation to account for DeFi developments would impact repo transactions as well.

Option 3 was perceived as providing flexibility through a tax mechanism that could be easily understood by investors. It would be clear that no tax is payable when a token is used in DeFi transactions until there is an economic disposal of the token. There were however concerns about administrative burdens and costs for participants. Further, under the current ‘no gain no loss’ rules, the disposal proceeds still need to be taken into consideration to determine whether taxpayers are required to file a Self-Assessment return even though any gains may be within the Annual Exempt Amount.

Unlike Options 1 and 2, Option 3 follows general CGT principles by focusing on disposals of beneficial ownership. In a DeFi lending scenario this could result in increased administrative difficulty and cost for participants as it would require an analysis of the particular terms and conditions of individual transactions to establish whether they amount to a disposal of beneficial ownership.

The government's response to the Call for Evidence and next steps

Based on the responses received to the Call for Evidence (summarised in detail at Annex A) the government accepts that there could be benefits from a change and intends to explore the feasibility of an option whereby the potential disposal of beneficial ownership for tokens lent or staked in a DeFi transaction is disregarded for tax purposes (Option 2). Instead, a chargeable disposal will arise when the tokens are subsequently transacted in a non-DeFi transaction.

The government agrees that Option 2 would better reflect the economic reality of DeFi lending and would impose a lesser administrative burden than Option 3, while also allowing sufficient flexibility to address future developments in DeFi. Further, it would minimise the difficulty of future legislative changes to accommodate the developing DeFi market.

The DeFi market is continuing to evolve, and new transaction models and products may emerge. This creates a challenge for the targeting of any new legislation covering the taxation of DeFi lending and staking. The definition of DeFi transactions will have to incorporate appropriate flexibility while preventing abuse and unintended outcomes.

The purpose of this consultation is to seek views from interested parties on the viability, scope and policy design of such a legislative change. A final decision on whether to proceed with legislative changes will be made after the consultation.

Although most respondents to the Call for Evidence focused their responses on the application of the tax rules to individuals, similar rules apply to companies. For this reason, the government will also consider the feasibility of applying the option to companies engaged in the lending and staking of cryptoassets. Any reference to CGT in this document is intended to cover chargeable gains subject to Corporation Tax as well as to CGT.

Application of proposed changes to centralised finance (CeFi) which involves the use of cryptoassets

Some lending and staking transactions involve an intermediary (referred to by some as CeFi). In such cases the underlying economic substance of transactions, from the perspective of the lender, is similar to DeFi transactions. Briefly, the lender will lend or stake their tokens with an expectation of a return. During the lending or staking period the lender retains an economic interest in the cryptoassets because any changes in the market value of the tokens are reflected in the value of the assets transferred back at the end of the lending or staking term.

The policy approach outlined below is intended to apply to both DeFi and CeFi lending and staking.

3. Policy approach

Overall principle

The government is consulting on the implementation of a taxation option for DeFi lending and staking that is intended to disregard from CGT any disposal of beneficial ownership that may happen when cryptoassets are staked or lent. Instead, a charge to CGT will arise when the cryptoassets are economically disposed of (such as an outright sale or when they are exchanged for goods and services).

The DeFi transactions intended to be covered are broadly those where participants retain the economic interest in the lent or staked tokens over the duration of the transaction even though there is a transfer of legal or beneficial ownership. This happens when participants transfer a cryptoasset to a different party (the borrower) for a period of time with a legal right to receive the same quantity of cryptoasset back at some point in the future. Participants retain the economic interest in the lent or staked tokens if they benefit in full from changes in the value of the token over the lending or staking term.

There are situations when, during the term of the stake or loan, participants can sell their rights in the staked tokens to another party. These rights are often represented by a liquidity token issued by a platform. The new rules will regard the disposal of the right to the staked or lent tokens as a disposal of the related tokens. CGT will apply as if the user has sold the staked or lent tokens at the time that right is disposed of.

The staking or lending of liquidity tokens or of other tokens representative of rights in staked or lent tokens will not be seen as a disposal.

The buyer of rights of staked or lent tokens will be regarded under these proposals as having acquired the lent or staked tokens. This means that there will be no CGT consequences when those rights are exercised and the staked or lent tokens are withdrawn. For example, there will be no CGT when the buyer of a liquidity token uses it to withdraw cryptoassets that were originally staked by another user.

When tokens are lent or staked, the DeFi return accrues over the period of the transaction. If a participant sells their rights in the staked tokens during the term of the transaction, a proportion of the DeFi return that has accrued prior to the sale will typically be sold together with the rights to the staked or lent tokens. The original owner is seen as realising the DeFi return that has accrued up to the time of the sale (see Example 4 below).

Proposed scope of the rules

Based on the principles above, a transaction is intended to be within the rules if it contains the following elements:

- a) there is an initial transfer of cryptoassets from one party (the lender) to another party (the borrower) and/or there is a transfer of cryptoassets through the use of a smart contract
- b) the borrower has an obligation to return to the lender the borrowed tokens and/or the smart contract allows the lender to withdraw the tokens
- c) the tokens can be returned at the instigation of the lender, at the request of the borrower, or automatically at the end of a pre-determined period
- d) the lender has the right to withdraw at least the same quantity of the same type of tokens that were originally lent or staked

Question 1: Do you consider that the rules above are sufficiently wide to cover most DeFi lending and staking models available in the market? If not, please provide details of the models that would not be covered.

Question 2: Do you consider that the rules above would give rise to any unintended consequences or significantly restrict the development of the DeFi lending and staking market? If so, please provide details.

Question 3: Do you consider that the rules would be open to abuse?

Question 4: Are the rights of the lender to receive the lent or staked tokens of a legal nature? Please respond to this question with reference to any specific DeFi models you have an involvement in, highlighting any legal uncertainties.

Application of the rules

- a) the transaction will be disregarded from CGT for both the lender and the borrower
- b) any sale of rights related to the lent or staked tokens is seen as a disposal of the tokens to which those rights relate
- c) any DeFi return which accrued on the tokens prior to the sale of such rights is taxable on the lender at the time the rights are disposed of
- d) the buyer of rights to lent or staked tokens is treated as acquiring the lent or staked tokens
- e) the lender will be treated as having disposed of the staked or lent tokens if the borrower is not able to return the borrowed tokens. This will occur at the point in time the borrower loses the ability to return them

Proposed design of the new taxation framework

The impact of the proposed framework is analysed below following the lifecycle of a DeFi lending or staking transaction. The lending or staking arrangement usually has 3 stages:

1. the transfer of tokens to another party
2. the term of the loan/stake
3. the return of the lent/staked tokens

The first stage of a lending or staking arrangement is represented by the original owner (the lender) transferring cryptoassets to another party (the borrower/liquidity pool) or making the tokens available as liquidity through a smart contract. The borrower has an obligation to transfer back the same number of tokens of the same type at will, on demand and/or at the end of a pre-determined period. In certain scenarios the lender receives another type of cryptoasset which is representative of their right to get their original cryptoassets back.

Under the proposed approach any transfer of beneficial ownership of cryptoassets from the lender to the borrower will be disregarded for CGT. For tax purposes any cryptoassets (or any other form of rights) received from the borrower to represent the rights in the lent or staked tokens are treated as a holding of the original tokens for the lender.

The second stage of the DeFi lending and staking transaction is represented by the term of the loan/stake. This can vary in duration and some arrangements can exceed several years.

For most lenders there will be no expected CGT consequences during this second stage (but note that any receipt of a DeFi return will be taxable when received).

There might, however, be some lenders who, during this stage, sell their rights in the lent or staked cryptoassets. In this case, the rules will regard the disposal of the rights as a disposal of the relevant cryptoassets at the time the rights are sold.

Additionally, there might be some cases where it becomes apparent that the borrower will not return the borrowed tokens, either in part or in whole. In this case, the proportion of cryptoassets that cannot be returned will be seen as having been disposed of by the original lender when the default arises. The

consideration is the amount received from the borrower as compensation for the tokens that cannot be returned.

The third stage of the DeFi lending or staking transactions is represented by the lender receiving the lent tokens back. This happens either because the lending or staking period has come to an end or because the participant has exercised their rights to withdraw the lent/staked tokens (such as by returning the liquidity tokens).

This situation will generally not have any CGT consequences for the participants under the proposed rules.

If the lender receives fewer tokens than originally lent due to, for example, the insolvency of the borrower, the proportion of tokens which were not returned are treated as having been disposed of by the lender when the borrower becomes insolvent.

Question 5: Other than (1) the sale of rights during staking or lending and (2) the borrower not being able to return staked or lent tokens, are there any other situations in which the lender may cease to hold the right to receive back the lent/staked tokens?

Commencement of the rules

If implemented, the tax framework described in this document is intended to apply to transactions that contain all the conditions of the first stage outlined above after the commencement date. DeFi transactions which have started before the implementation date will continue to be taxed under the general CGT rules.

Summary of tax consequences

The table below summarises the tax consequences of the most common DeFi scenarios:

A user lends or stakes tokens and:	CGT event	Taxation of DeFi return
Withdraws the same quantity of the same type of tokens at the end of the term (see example 1 below).	No CGT consequences.	Taxed when it is received by the user.
During the term of the agreement it becomes apparent that the borrower will not be able to return some/all of the tokens at the end of the term.	Disposal of tokens when it becomes known that the borrower will not return them.	Taxed when it is received by the user.
At the end of the agreement the borrower does not return some/all of the tokens.	Disposal of tokens at the end of the agreement.	Taxed when it is received by the user.
During the term of the agreement the user sells the rights to the staked tokens to another party (see examples 3 and 4 below).	Disposal of staked tokens when the rights are sold.	The accrued return on the tokens which were sold is taxed at the time of sale.

Taxation of the DeFi return

Under the current rules explained at HMRC's Cryptoassets Manual at CRYPTO61214 (<https://www.gov.uk/hmrc-internal-manuals/cryptoassets-manual/crypto61214>), the DeFi return can be either taxed as miscellaneous income if it is of a revenue nature, or taxed as a capital gain if it is of a capital nature. Whether the DeFi return is capital or revenue can be a complex tax question which may involve the analysis of case law.

To reduce the administrative burden for participants, the new tax framework could treat all DeFi returns as being revenue in nature and charged to a new miscellaneous income charge specific for cryptoasset transactions.

In cases where the DeFi return is received by the lender during the term of the lending or stake then the return is taxed when it arises.

The amount of the return is the market value of the additional tokens or other assets constituting the return at the time they are received.

Question 6: Do you favour a change in the rules to always treat the DeFi return as being of a revenue nature? What are the pros and cons?

Application of the proposed rules on specific DeFi examples

Example 1 – Transfer of a token to another party for a fixed return

User A transfers one Token1 (T1) to another party, either through a platform or directly (via smart contract) for a year with a fixed return of 30% per annum. There will be no CGT consequences as User A will be treated as still owning T1.

At the end of the lending period of one year, User A gets the one T1 back from the other party, with an additional 30% of T1 (0.3 T1) return on the lending. There will be no CGT consequences arising on User A nor the other party for returning the one T1. The additional 0.3 T1 will be subject to tax as miscellaneous income at the market value at the time when it is paid. This amount will be added to the base cost of User A's pool of T1 tokens, which is otherwise unchanged by the transaction.

Any subsequent disposal of T1 tokens by User A will be subject to CGT as usual.

Example 2 – Transfer of a token to another party for a fixed DeFi return and receipt of a liquidity token

User B transfers one Token2 (T2) to a platform's liquidity pool for a fixed return of 30% per annum. User B received a liquidity token aToken2 (aT2) which is representative of the user's rights in the staked T2.

When User B transfers the T2 token to the platform there will be no CGT consequences as User B will be treated for CGT purposes as still owning T2.

At the end of the staking period User B gets back the staked T2 token by returning the one aT2 to the platform. There will be no CGT consequences arising from this as User B will not be treated as having disposed of aT2. User B will be taxed on the DeFi return of 30% of T2 (0.3 T2) as miscellaneous income. This amount will be added to the base cost of their T2 pool.

Example 3 – Sale of rights related to the lent or staked tokens

User C has provided 4 Token3 (T3) to a liquidity pool for a period of one year for a fixed return of 30% per annum. User C has received 4 aToken3 (aT3) in exchange which represent its rights in the staked T3. After 6 months User C has received all the returns accrued to date and decides to sell one aT3 at its market value of £1,000.

At the time of the sale of one aT3, User C will be treated as having made a disposal of one T3. For the purposes of the CGT computation, the market value of the aT3, £1,000, will be treated as disposal proceeds.

The buyer of that aT3 will be treated as having bought the corresponding T3 token. At the end of the staking term, when the buyer returns the aT3 to the platform for the T3 token, there will be no CGT consequences as the buyer will be treated as having acquired that T3 token when they purchased the aT3 token.

The DeFi return which accrued during the buyer's period of ownership of the aT3 token will be taxable on the buyer as miscellaneous income.

Example 4 – Sale of rights related to the lent or staked tokens and accrued return

User D has provided 4 Token4 (T4) to a liquidity pool for a period of one year for a fixed return of 30% per annum. User D has received 4 aToken4 (aT4) in exchange which represent its rights in the staked T4. After 6 months User D sells one aT4 for £1,150 when the accrued return over the 6 months from one T4 has reached 0.15 T4. This is worth £150 but has not yet been paid to User D.

At the time of the sale of the one aT4, User D will be treated as having made a disposal of one T4. In addition, User D has, at the same time, also effectively sold the return associated to that one T4 accrued to date.

Therefore, for CGT purposes, any potential gain or loss for User D will be calculated using the amount attributable to the capital element of the aT4 at the time of disposal. The capital element of the aT4 is the consideration, £1,150, less the amount attributable to the accrued DeFi return, £150. £1,000 out of the consideration received, will be treated as disposal proceeds for the CGT computation. The amount attributable to the right to the DeFi return, £150, will be taxed as miscellaneous income on User D when the disposal takes place.

The buyer of the one aT4 will be seen as having bought the corresponding T4 token at the cost of £1,000 as well as the additional 0.15 T4 token at £150. The base cost of the buyer's T4 pool will increase by £1,150.

At the end of the staking term, the buyer exchanges the aT4 token for one T4 token from the platform as well as 0.3 T4 as DeFi return. There are no immediate CGT consequences in relation to the 1.15 T4 as the buyer will be treated as having acquired them when they purchased the aT4 token. The additional DeFi return which accrued during the buyer's period of ownership of the aT4 token will be taxable on the buyer as miscellaneous income.

Example 5 – Staking a token in exchange for a non-fungible token (NFT) – the NFT is fractionalised and part of the fractionalised NFT is sold

User E provides Token 5 (T5) to a platform's liquidity pool and in exchange receives a non-fungible token (NFT) that is representative of the staked T5. The NFT is 'fractionalised' to make it more marketable and a part of the fractionalised NFT is sold. When part of the fractionalised NFT is sold this is seen as a part disposal of T5 by User D. The buyers of the fractionalised NFT are seen as acquiring a proportion of T5. The taxation of the DeFi return follows the principles outlined in Example 3 and Example 4.

Question 7:

- a) Do you agree that the proposed treatment of DeFi transactions has been applied correctly in each of Examples 1 to 5?
- b) Do you foresee any practical difficulties applying the proposed treatment to situations similar to those in these examples?
- c) Please provide any further examples of DeFi transactions that you think would be helpful, including an explanation of how the proposed tax treatment would apply.
- d) Please provide examples of any DeFi transactions where you consider it would be problematic to apply the proposed new rules, with an explanation. If you think a different treatment would be easier to apply, while retaining broadly the same level and timing of tax charges, please set this out.

Example 6 – Transfer of a pair of tokens to a platform. The same tokens will be returned but in different amounts and/or proportions.

User F has a portfolio of Token6 (T6) and of Token7 (T7). User F transfers ten T6 and one T7 to a platform. At the end of the term User F receives back 16 T6 and 0.5 T7. Additionally, as a reward for the stake User F has received one T6 and 0.1 T7.

In this case it appears that there has been an economic conversion of 0.5 T7 into 6 T6. This example does not meet some of the conditions outlined above.

User F does not retain full economic ownership over the tokens staked during the period. This is because it is foreseeable, at the beginning of the transaction, that different proportions of tokens will be received.

Question 8:

- a) Do you think that the transaction in Example 6 should be within the scope of the proposed tax rules for DeFi? On what principles have you based your response?
- b) If you think that this transaction should be within the scope of the proposed DeFi rules, how should they treat the economic conversion between the 2 types of token while the tokens are staked as a pair, given that crypto to crypto transactions are taxable?
- c) Noting that this transaction does not meet all the conditions for the proposed rules, how could those rules be modified to provide a fair outcome for this transaction?
- d) Do you foresee any difficulties for users who engage in these and similar transactions to establish the value of the DeFi return? If so, please provide examples where this may be an issue.

Question 9: Do you have any general comments regarding the proposed tax framework for DeFi that you have not included in the previous questions?

Question 10: What impact do you expect the proposals in this document, if implemented, to have on administrative burdens and costs for users of DeFi?

Question 11: Are there any other impacts, benefits or costs arising from the proposals in this document, if implemented?

Question 12: How common is direct lending of tokens between 2 parties

compared to the use of staking?

4. Assessment of impacts

Summary of impacts

Year	2022 to 2023	2023 to 2024	2024 to 2025	2025 to 2026	2026 to 2027	2027 to 2028
Exchequer impact (£m)	Nil	Nil	Nil	Nil	Nil	Nil

Exchequer Impact Assessment

The exchequer impact of the measure has not yet been costed. When produced, any estimates are likely to change over time as they are refined and subject to Office for Budget Responsibility (OBR) scrutiny.

Impacts	Comment
Economic impact	There is no macroeconomic impact expected for this measure. The economic impacts will be identified following consultation and final design of the policy.
Impact on individuals, households and families	This consultation is not expected to have impacts on individuals. Impacts of any decisions made following consultation will be fully examined and detailed.
Equalities impacts	It is not anticipated that there will be impacts for those in groups sharing protected characteristics. A

Impacts	Comment
	full equality impact assessment is not recommended.
Impact on businesses and Civil Society Organisations	This consultation is not expected to have impacts on businesses or civil society organisations. Impacts of any decisions made following consultation will be fully examined and detailed.
Impact on HMRC or other public sector delivery organisations	No impacts anticipated.
Other impacts	No other impacts are anticipated.

5. Summary of consultation questions

Question 1: Do you consider that the rules above are sufficiently wide to cover most DeFi lending and staking models available in the market? If not, please provide details of the models that would not be covered.

Question 2: Do you consider that the rules above would give rise to any unintended consequences or significantly restrict the development of the DeFi lending and staking market? If so, please provide details.

Question 3: Do you consider that the rules would be open to abuse?

Question 4: Are the rights of the lender to receive the lent or staked tokens of a legal nature? Please respond to this question with reference to any specific DeFi models you have an involvement in, highlighting any legal uncertainties.

Question 5: Other than (i) the sale of rights during staking or lending and (ii) the borrower not being able to return staked or lent tokens, are there any other situations in which the lender may cease to hold the right to receive back the lent/staked tokens?

Question 6: Do you favour a change in the rules to always treat the DeFi return as being of a revenue nature? What are the pros and cons?

Question 7:

- a) Do you agree that the proposed treatment of DeFi transactions has been applied correctly in each of Examples 1 to 5?
- b) Do you foresee any practical difficulties applying the proposed treatment to situations similar to those in these examples?
- c) Please provide any further examples of DeFi transactions that you think would be helpful, including an explanation of how the proposed tax treatment would apply.
- d) Please provide examples of any DeFi transactions where you consider it would be problematic to apply the proposed new rules, with an explanation. If you think a different treatment would be easier to apply, while retaining broadly the same level and timing of tax charges, please set this out.

Question 8:

- a) Do you think that the transaction in Example 6 should be within the scope of the proposed tax rules for DeFi? On what principles have you based your response?
- b) If you think that this transaction should be within the scope of the proposed DeFi rules, how should they treat the economic conversion between the 2 types of token while the tokens are staked as a pair, given that crypto to crypto transactions are taxable?
- c) Noting that this transaction does not meet all the conditions for the proposed rules, how could those rules be modified to provide a fair outcome for this transaction?
- d) Do you foresee any difficulties for users who engage in these and similar transactions to establish the value of the DeFi return? If so, please provide examples where this may be an issue.

Question 9: Do you have any general comments regarding the proposed tax framework for DeFi that you have not included in the previous questions?

Question 10: What impact do you expect the proposals in this document, if implemented, to have on administrative burdens and costs for users of DeFi?

Question 11: Are there any other impacts, benefits or costs arising from the proposals in this document, if implemented?

Question 12: How common is direct lending of tokens between 2 parties compared to the use of staking?

6. The consultation process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

Stage 1: Setting out objectives and identifying options.

Stage 2: Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3: Drafting legislation to effect the proposed change.

Stage 4: Implementing and monitoring the change.

Stage 5: Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on the detailed policy design and a framework for implementation of a specific proposal, rather than to seek views on alternative proposals.

How to respond

A summary of the questions in this consultation is included at chapter 6.

Responses should be sent by 22 June 2023 by email to financialproductsbai@hmrc.gov.uk.

Please do not send consultation responses to the Consultation Coordinator.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address.

All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

HMRC is committed to protecting the privacy and security of your personal information. This privacy notice describes how we collect and use personal information about you in accordance with data protection law, including the UK GDPR and the Data Protection Act (DPA) 2018.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the DPA 2018, UK GDPR and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs.

Consultation Privacy Notice

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the UK GDPR.

Your data

We will process the following personal data:

Name
Email address
Postal address
Phone number

Purpose

The purposes for which we are processing your personal data is: Policy consultation on the taxation of decentralised finance (DeFi) involving the lending and staking of cryptoassets.

Legal basis of processing

The legal basis for processing your personal data is that the processing is necessary for the exercise of a function of a government department.

Recipients

Your personal data will be shared by us with HM Treasury.

Retention

Your personal data will be kept by us for 6 years and will then be deleted.

Your rights

You have the right to request information about how your personal data are processed, and to request a copy of that personal data.

You have the right to request that any inaccuracies in your personal data are rectified without delay.

You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.

You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.

You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

Complaints

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

0303 123 1113 casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Contact details

The data controller for your personal data is HMRC. The contact details for the data controller are:

HMRC
100 Parliament Street
Westminster
London
SW1A 2BQ

The contact details for HMRC's Data Protection Officer are:

The Data Protection Officer
HMRC
14 Westfield Avenue
Stratford
London
E20 1HZ

advice.dpa@hmrc.gov.uk

Consultation principles

This call for evidence is being run in accordance with the government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website (<https://www.gov.uk/government/publications/consultation-principles-guidance>).

If you have any comments or complaints about the consultation process, please contact the Consultation Coordinator (<https://www.tax.service.gov.uk/submissions/new-form/make-a-comment-or-complaint-about-hmrc-consultations>).

Please do not send responses to the consultation to this link.

Annex A: Summary of Call for Evidence responses

Call for evidence: The taxation of decentralised finance involving the lending and staking of cryptoassets.

Summary of Responses

This annex summarises the responses received to the Call for Evidence.

The government received 47 written responses from businesses, individuals, agents and representative bodies. These responses provided a valuable insight into the DeFi sector and concerns about tax treatment of DeFi transactions. They have helped the government to decide on the most appropriate next steps. The government is grateful to all those that responded to the Call for Evidence and appreciates the time and effort involved in doing so.

The responses were overwhelmingly supportive of the government's consideration of amendments to the tax rules as they apply to DeFi lending and staking.

General

A recurring theme in the respondents' answers was that any changes to the taxation of DeFi need to consider the large number of transactions that users undertake. For this reason, administrative ease as well as a taxation framework better aligned with economic reality is needed.

Question 1: HMRC would like more information about the UK DeFi lending and staking sector. Please provide any information you hold that is relevant to the following questions. Where appropriate, please summarise data using appropriate ranges or categories, rather than providing only totals or minima and maxima.

- How many DeFi lending and staking platforms are you aware of that are based in the UK? What is the approximate value of their assets?

- Approximately how many UK-based individuals engage in DeFi lending and staking, and how much do they lend/stake?
- How many non-UK-based individuals are served by UK platforms and what amounts do they invest?
- How frequently do individuals transact, and what is the duration of each lending or staking transaction?
- Approximately what percentage of UK-based individuals engaging in DeFi are serviced wholly or mainly by UK platforms? Where else are the platforms UK individuals use commonly based?

There were 8 responses to this question.

Most respondents did not have access to data to provide an informed response to this question.

Respondents highlighted that the UK is a leading country for cryptoasset trading generally and that this is likely to be reflected in the level of DeFi transactions as well.

The duration of the staking periods was said to be variable, but generally staking is seen as a long-term activity.

Question 2: Bearing in mind that UK individuals are subject to the same tax treatment for DeFi lending and staking wherever the platforms they use are located, does the current tax treatment make the UK less attractive to platforms as a place to do business? If so, which jurisdictions are favoured and why?

There were 15 responses to this question.

Some respondents explained that a country's regulatory framework could generally have a bigger impact than tax on business decisions. For this reason, most platforms are located in countries with a business-friendly regulatory environment. Some of the countries which are favoured by platforms include Dubai, Singapore, and Portugal.

Respondents indicated there is some uncertainty on how VAT is applied to cryptoasset businesses, and this is seen as an important obstacle for setting up platforms in the UK.

Respondents commented that a lack of legal certainty about the situs of cryptoassets sometimes results in remittance basis users preferring not to interact with UK based platforms, thus decreasing the competitiveness of UK platforms.

Question 3: Approximately what proportion of DeFi lending and staking transactions give rise to disposals for tax purposes under the current rules?

There were 13 responses to this question.

Most respondents believed that the majority of DeFi lending and staking transactions would result in a disposal of beneficial ownership under the current rules.

There were a few participants who consider truly decentralised DeFi transactions will not give rise to a disposal. Nonetheless, they viewed the change of taxation rules for DeFi as an opportunity for the government to provide clarity in this area.

Question 4: Of the transactions giving rise to the disposals, what proportion would fall within the (1) repo rules and (2) stock lending rules, if cryptoassets were treated as securities?

There were 11 responses to this question.

The responses were mixed. Some respondents believed that most of the DeFi transaction would be covered by the repo and stock lending rules while others believed the opposite.

Repo rules were seen as unsuitable by some respondents because generally there is no requirement for the counterparty to repurchase the cryptoassets. Stock lending rules were seen as unsuitable because the smart contract acts as the intermediary, with no direct contact between the lender and the borrower.

Question 5: Do you favour changes to the current rules?

Virtually all respondents favoured a change of tax rules applying to DeFi transactions.

Question 6: Do you consider Option 1 (Legislate to bring DeFi lending and staking within the repo and stock lending rules by defining cryptoassets as 'securities') to be a suitable model for DeFi lending and staking transactions? What are the pros and cons?

If appropriate, should the repo, the stock lending or both regimes be expanded to apply to DeFi transactions?

There were 30 responses to this question.

Some respondents regarded this option as the fastest way to achieve tax neutrality for certain DeFi transactions. Most respondents however highlighted that this option may not work well in practice.

Several respondents were concerned that there may be unintended consequences if cryptoassets are classified as securities. Some acknowledged that these unintended consequences relate mainly to regulatory issues and that there will be less (if any) unintended consequences if they are classified as securities only for the purposes of the repo and stock lending rules.

A significant downside for some participants was a requirement to analyse each DeFi contract in order to decide if they meet the repo/stock lending rules.

Some expressed concern that Option 1 might hinder the development of the innovative and expanding cryptoasset market, and the DeFi market in particular.

Overall, most participants highlighted that the repo and stock lending rules are designed to apply to well established markets and financial instruments and are therefore unsuitable to be applied to the DeFi market. Users of repos and stock lending are generally businesses or financial institutions with access to professional legal and tax advice. In comparison, DeFi investors can sometimes be inexperienced, and some would not be able to afford professional advice to determine their correct tax position.

Question 7: Do you consider Option 2 (Legislate to create separate rules for DeFi lending and staking, along the lines of those applicable to repos and stock lending) to be a suitable option? What are its pros and cons?

Should the new rules be modelled on the repo rules, or the stock lending rules, or would both sets of rules be needed to cater for different contractual arrangements?

There were 22 responses to this question.

A significant number of respondents believed that Option 2 would address the current issues regarding the taxation of DeFi.

Respondents favouring this approach saw Option 2 as an opportunity for the introduction of specific tax rules tailored to the DeFi industry. The effects of the repo and stock lending legislation were seen as appropriate to DeFi lending (such as to disregard a strict legal interpretation of beneficial ownership while focusing on economic ownership). A specific DeFi regime built on the principles of the repo and stock lending rules was seen as allowing the flexibility needed for DeFi while ensuring economic parity between DeFi and traditional finance.

A specific DeFi regime would allow the legislation to consider all the permutations available for DeFi transactions while also enabling the government to introduce specific reporting carve outs to reduce the disproportionate administrative burden that some participants experience.

It would be significantly easier for the legislation to be amended to keep pace with industry developments if the tax rules are designed specifically for DeFi without affecting other areas of the tax code. As an example, if DeFi was included in the repo regime, any changes of legislation to account for DeFi developments would automatically apply to traditional repo transactions as well.

Question 8: Do you consider Option 3 (Apply a 'no loss no gain' treatment to DeFi loans and staking, deferring the tax liability until the assets are economically disposed of) to be a suitable option? What are its pros and cons?

There were 29 responses to this question.

Most respondents believed that Option 3 would address the current issues regarding the taxation of DeFi.

Some respondents suggested that Option 3 offers flexibility and would be easy to understand by DeFi participants. At the same time, if the no gain no loss rule

is applied to DeFi on the same basis as in other parts of the tax code, it would result in administrative complexity for participants. This is because participants may need to keep records from a multitude of transactions where disposals have been made but tax has been deferred.

One respondent highlighted that the no gain no loss requires a disposal to apply. This could lead to technical difficulty as participants would be required to decide if the terms of individual transactions amount to a disposal of beneficial ownership of cryptoassets. This means that there could be apparently similar situations where tokens used in DeFi are taxed under different provisions, which will lead to complexity and potential confusion.

Question 9: Are there alternative approaches to the taxation of DeFi lending and staking that have been adopted by other jurisdictions that the government could consider? If so, please provide more details and reasons.

There were 10 responses to this question.

It was outlined that DeFi is a reasonably new industry and jurisdictions do not generally have tax rules specific for DeFi. There are some countries where the general taxation rules for capital assets make it easier for participants to engage in DeFi. These include countries which have no tax on capital disposals.

It was pointed out that some jurisdictions which have a tax on disposal of capital assets do not see the lending of tokens as a taxable event.

Question 10: Besides the options outlined above, are there any further options for change that the government could consider?

There were 10 responses to this question.

Several respondents suggested that the government should tax only disposals where holdings of cryptoassets are exchanged into fiat currency. This was seen as being a simple system, providing administrative ease and which DeFi participants can understand with transactions involving only cryptoassets not subject to tax.

Some respondents considered that, due to the volatility in the value of cryptoassets, the government should allow losses on cryptoassets to be

carried back.

Several participants made similar proposals which in effect involve considering that no disposal has happened when cryptoassets are used in a DeFi transaction.

While the government keeps the tax system under review, it does not have any current plans to change the tax treatment of cryptoassets beyond addressing the specific issues regarding DeFi, as summarised in this consultation.

Question 11: How could the government be confident that any proposed rules would not discriminate in favour of users of DeFi services?

There were 12 responses to this question.

Most respondents believed that the current system discriminates against DeFi compared to traditional financial services.

Many encouraged the government to create rules which follow the economic reality of transactions for Defi lending and staking. In this way there can be certainty that DeFi is taxed fairly and on a similar basis compared to other financial services.

A few respondents considered that a blanket exemption from tax on cryptoassets or the specific re-categorisation of the nature of returns from DeFi transactions for tax purposes could provide an unfair advantage to cryptoasset users by overriding general tax principles.





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