

HMRC internal manual

Cryptoassets Manual

From: **HM Revenue & Customs**
(/government/organisations/hm-revenue-customs)

Published: 30 March 2021

Updated: 28 November 2025 - **See all updates**
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CRYPTO46000 - Cryptoassets for businesses: venture capital schemes and tax reliefs

Cryptoassets and distributed ledger technology are increasingly being used by innovative early-stage businesses. HMRC has received applications from such companies seeking tax-advantaged investment status under venture capital schemes (<https://www.gov.uk/guidance/venture-capital-schemes-raise-money-by-offering-tax-reliefs-to-investors>) such as the Enterprise Investment Scheme (EIS) or the Seed Enterprise Investment Scheme (SEIS).

The company, investor and proposed investment must meet the conditions of the scheme opted for. The schemes do not include any cryptoasset-specific conditions, and HMRC's approach is to review cryptoasset or distributed ledger technology cases in the same way as any other business.

Meeting the qualifying conditions of a venture capital scheme

Much of the guidance elsewhere in this policy paper will be relevant to whether a company meets the qualifying conditions of the venture capital schemes. For example, a core condition of the schemes is that a company must be carrying on a 'qualifying trade'; that is a trade that is conducted on a commercial basis with a view to the realisation of profits and which is not an excluded activity. In applying this test, HMRC will take the approach outlined in the venture capital scheme guidance

(<https://www.gov.uk/guidance/venture-capital-schemes-raise-money-by-offering-tax-reliefs-to-investors#trades>).

Given the diversity of activities that companies undertake involving exchange tokens and distributed ledger technology, and the rapid pace at which the sector is evolving, HMRC cannot provide detailed guidance on every situation.

None of the following activities will in themselves stop a business from meeting the qualifying conditions:

- providing goods or services to customers that are operating in the exchange tokens sector (for example manufacturing and selling computer hardware that is optimised for exchange token mining)
- accepting exchange tokens as payment for goods or services
- using distributed ledger technology as a means of recording or publishing information

This is because these activities are related to a core business activity such as manufacturing or retailing. If that core activity is a qualifying trade, HMRC would not expect the exchange tokens or distributed ledger technology activity to change that.

On the other hand, the treatment of the following types of activity is less certain:

- dealing in exchange tokens on one's own account
- exchanging or broking exchange token transactions
- mining exchange tokens

These are genuinely novel activities and applicant should carefully consider the circumstances against the scheme conditions, in particular, the trading requirement and the excluded activities list (sections 181 and 192 of the Income Tax Act 2007).

'Mixed' activities should also be considered carefully. For example, a company making and selling furniture might accept bitcoin as payment. Although the core activity is the manufacturing and retail of furniture, if the company acquires a large holding of bitcoin that it does not spend, or convert to fiat currency, then it may also be investing in cryptoassets. That may mean it fails the trading requirement through having a substantial amount of non-trading activity.

Asking for assurance from HMRC in advance

HMRC operates a non-statutory advance assurance service (<https://www.gov.uk/guidance/venture-capital-schemes-apply-for-advance-assurance>) for the venture capital schemes. This allows companies to request HMRC's opinion on whether they qualify for the schemes in advance of an investment being received.

In some circumstances HMRC may decline to give an opinion in response to an advance assurance request because the factual uncertainty involved is too great. Such cases are rare. This is a general feature of the venture capital advance assurance service and is not specific to exchange tokens. However, given the rapid pace of development of the industry, HMRC expects that, early on, there will be a number of exchange tokens cases that fall into this category.

Tax reliefs

A range of tax reliefs are available if certain conditions are met regarding the activities of a particular individual or business. These include:

- enterprise investment scheme
(<https://www.gov.uk/guidance/venture-capital-schemes-apply-for-the-enterprise-investment-scheme>)
- seed enterprise investment scheme
(<https://www.gov.uk/guidance/venture-capital-schemes-apply-to-use-the-seed-enterprise-investment-scheme>)
- venture capital trust scheme
(<https://www.gov.uk/guidance/venture-capital-schemes-raise-money-by-offering-tax-reliefs-to-investors#venture-capital-trust-vct>)
- reliefs for gifts of business assets
(<https://www.gov.uk/gift-holdover-relief>)
- business property relief (<https://www.gov.uk/business-relief-inheritance-tax>)

As with the venture capital schemes discussed above, there are no provisions within the legislation for these reliefs that refer to cryptoassets in particular. HMRC's approach is to review cases that involve cryptoassets in the same way as any other cases. If, after consulting the relevant HMRC guidance, there remains genuine uncertainty as to the availability of a particular relief, clearance can be sought using the Non-Statutory Clearance Notice (<https://www.gov.uk/guidance/non-statutory-clearance-service-guidance>).

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