

Barely Legal in Web 3

- Jamilia Grier** Today we're talking about token offerings, how to launch one, particularly in Singapore.
- I'm joined by two guests here today, Chris Holland from HM and Boon Tan from CST Advisors.
- Chris, Boon, welcome.
- Boon Tan & Chris Holland** Thank you.
- Thank you.
- Great to be here.
- Jamilia Grier** Yes. So can you both just tell me a little bit about yourself and what you do? Maybe Chris, you can go first.
- Chris Holland** Fantastic. I'm Chris Holland. I'm a New York qualified lawyer but lived in Asia for over 20 years.
- We have a boutique consulting firm, HM, that does strategy compliance and inhouse counsel services and working a lot in the Web3 space, which is how we got interested in this podcast and how I met you many years ago.
- Jamilia Grier** That's right. That's for sure. Boon, tell us about yourself.
- Boon Tan** Yes, I'm Boon Tan, I'm the Managing Director of CST Accountants and Advisors Singapore. We're a boutique international tax and accounting practice.
- We have offices in Singapore, Dubai, London, New York, Los Angeles and Sydney.
- We've been in the international space now for over 30 years and found a natural affinity with Web3 projects, so started a specialist division in digital assets focusing on tax and Web3.
- Jamilia Grier** That's interesting.
- And certainly, when you think about a token offering and how to launch one, compliance, tax, accounting, those are the big risks that people like to focus in on and that they should focus in on quite frankly.
- And for today's discussion, I thought it would be really interesting if we sort of did a role play about having a token offering for Barely Legal in Web3.
- How would we go about it?
What are the things that we should think about?
What are the considerations that we should sort of key into?
So let's kind of think about it guys.
- If we were to do a token offering, as many of your clients probably come to you

and ask for advice about, there's the option of token with equity or just a token offering.

Are there any pros and cons?
How would we shape that and structure it?

Chris Holland

40-40-20 equity, I believe, is what we agreed earlier, right Boon?

You're right, we need to take some of your equity to the public offering.

To me, the decision about whether you're going to offer equity or what is the project and what do your customers want? Right, and how do you see all this?

Does your token have a use case at all or is it purely to invest in the underlying business? If it's purely to invest in the underlying business, that's generally a capital market product. So, for barely legal, I mean it could be a lot of different things that it's ecosystem to further interviews with Boon, right?

Use some of the token to, you know, get to spend some time with them. That's a use case, right?

Or it could be buying into the overall success of the ecosystem. So, you, you know, you'd have to decide despite your 20%, you really are the strategic director of the whole thing. So, you'd have to decide what the drive is.

Jamilia Grier

So, it's based on use case, right?

So, it's really about what you really envision in terms of using the proceeds for and how that works out. And let's say I had no idea. And I'm like, I don't care. I'm just worried about tax.

I have nightmares about taxes and accounting issues. What would you suggest there, Boon? And this is not financial advice.

Boon Tan

Yeah, absolutely. Look, the tax issues really come down to a couple of things.

As Chris pointed out, you know, there's obviously different tax attributes if you're talking about equity and talking about selling of utility tokens.

I think a lot of, you know, you mentioned at the start that a lot of people think about regulations and tax.

Well, you know, from experience, a lot of people actually don't think about those things.

Because they have this misconception of, okay, well, blockchain is something different. There's no rules written about it.

But in essence, you know, if you break it down, a utility token it's kind of like a gift card right so we go to we go into bases we go into you know a department store the concept of putting money down getting a gift card that I can then use on your platform or in your store it's the same same analogy or same concept so they think okay if I do it I you know if I sell utility tokens there won't be any tax because there's this magical thing it's not right and and that's the thing a lot of people forget about because obviously if your capital raise objective is a

million dollars and you don't think about, okay, well, what jurisdiction am I doing it in?

Is it in Australia where a corporate rate is 30%?
Is it in Singapore, 17%?
17%?

Suddenly your plans of, how am I going to spend that million dollars become, oh what do you mean I've only got 700?

Like, why does that happen?
Well, you created something of value, and you sold it.
Just like a gift card, right?
So there's those issues that You know, really come to light when you stand back and go, okay, well, what are we trying to achieve?

And you know, depending on the market, what kind of product or offering will get us the money, right?

You know, a few months ago, when markets were down, no one wanted to buy tokens.

Those are all safe notes, equity this, equity that.
Now markets are coming out, okay, maybe we do tokens again, not so much equity. But then if that's the case, What's the tax side of things?

Chris Holland

Let's say the token is going to be used to spend an hour with you, right?
So do you receive the token as payment or are they redeeming it with barely legal and then she's paying it in fiat, for example?

So, if you do it the other way, it's almost like a prepayment for your services and so she might account for that differently at the time of the initial raise.

And so, when you think about the structuring and the legal and regulatory side, the accounting and the tax are all incredibly linked.

And in best practices, you're thinking about all that at the beginning.
And tax needs to be up there for me because that's where there's going to be a payment at the end, right?

And nobody wants to have a successful offering and then hear about how much they owe in taxes that ruins it.

So that's why you want to front-load that conversation.

Boon Tan

Absolutely, absolutely.

Jamilia Grier

You see this again and again.
I mean, why do you think the conversation about tax is not in the forefront?
Because you see a lot of, oh, we've, you know, we've minted out.
Okay, you know, you've you've minted out, you've raised X amount of dollars.

Why is there such a, I mean, is it is it just that it's forgotten?
Or do people subconsciously just discount it?

Boon Tan

I think a lot of it is the misconception on what they're doing, because it's not a tangible product. It's not a widget. I'm not interacting with someone for a service, so I'm not actually selling anything.

I'm raising money. This token has these attributes to do these things at some point in the future on this platform.

Again, going back to the gift card analogy, no one has a problem when you give them a gift card. I know exactly what I need to do with that. But if you did it with a token and if you broke it down then you would see okay it's exactly the same thing.

So, I think it's a combination of people just not knowing, not being aware.

There's what I call the Sunday barbecue discussion where oh my mate, my friends did this and they're not paying any tax so I can do this and I won't pay any tax.

And just general you know I think there's that kind of ecosystem that a lot of people get sucked into and then they you know it's only down the track where well an advisor will say hey you really have a tax issue here go and talk to some one about it because if we don't correct this ASAP, you know, what you've raised may not be exactly what you have left to play with or your contravening laws and things like that.

Chris Holland

Cryptocurrency is still relatively new and this idea, like, it's kind of tempting to say, oh, I just didn't know, that's why I didn't pay tax, I didn't know, oh my goodness, I just, oh man, I hope you never get caught, right?

So, I think some element of that is there.

Some element is you know you're going to have to pay costs upfront to get the advice and you want to avoid that.

And I think as crypto becomes more accepted within institutions and you get more institutions participating in token offerings, and the value of cryptocurrency gets more focused from regulators and tax authorities, it's just going to become very clear right what 10 years ago was like sure whatever happens now it's almost automatic that you're gonna have to pay taxes see.

Boon Tan

And the funny thing is um you know you talk about the cash economy right you know you get the contractor over there to fix the thing oh it's 400 okay what if i give you cash would you oh give me 300 it's cash right and no one knows because it's cash interactive between two people.

But what are we talking about?

We're talking about what is blockchain?

It's a ledger that records every single transaction.

So, it's very difficult for you to say, oh no, I didn't raise that money back in March.

Well, hang on, let's go to the blockchain and have a look.

Is that not the wallet addresses you're saying belongs to you?

What's this?

What are these 10,000 transactions where you sold 10,000 NFTs for X dollars? Isn't that yours?

Right?

So, it's, you know, a lot of it I think is educational at the root of it.

Jamilia Grier

Absolutely.

And to your point, I mean, that's, that's such a blind sight.

And most people who work in the space and most people who are on crypto Twitter or who are shilling coins and trying to, you know, is that You know, you're boasting your what you've done, your mint and everything, but everything is public.

And, you know, we had a great conversation with someone who was involved in forensics on the blockchain.

And so when you think about the capabilities of AI.

And you think about forensics in tracing funds, whether it's for money laundering purposes, what about tracing funds for tax purposes?

It's not too long before Boon is going to have an AI tool and trace every single coin that was collected in the wallet.

And I think that's a real risk for people.

Boon Tan

Yeah.

And I think the, you know, this The negative side of people talking about, you know, those government-issued central bank digital coins is, you know, if you think about it holistically, if a government launched a digital coin, you wouldn't have any issue with revenue tax collection.

Because the government's issued the coin, it knows who they paid into what wallet, it can see how it's been spent, what's been moved to where.

You would never have any issues with regards to, well, you underdeclared your income.

No, I know exactly how much your income was, because I can see your wallet in side and out.

Chris Holland

Quick question, what if our podcast goes viral so they create a bunch of meme coins based on our discussions?

Like I punch you in the face or something and that turns viral.

How would that be taxed?

What kind of offering would that be?

Boon Tan That would be an offering that perhaps I want to get a piece of.

Chris Holland Okay.

Boon Tan I think that would go up pretty quickly.

But again, you know, these people like You see, TikTok, social media, oh I minted a NFT, and I sold it for a hundred dollars, right, or ten thousand dollars last night because I was bored.

Yeah, okay, well congratulations, it's taxable income.

No, it's not.

Why?

Why isn't it?

Right, if you go and paint a painting and then sell it for, you don't have any issues with that being taxable income yet You go and create an NFT a digital okay, it's non-fungible. You can't touch it, painting, I could touch it which is why I go back to the education piece of there is nothing magical about it, it's just a different type of ecosystem and platform for us to trade value or perceived value.

Jamilia Grier I don't know if you guys have experienced this, but I've been hearing less and less about DAOs.

They seem to be kind of less popular.
What are your thoughts on why that might be and maybe you haven't even experienced it in that way?

Chris Holland I wrote an article on DAOs, maybe that's why people really got bummed out by the article.

So, I think there's a lot of questioning to be done about the purpose and value of DAOs, right? What are we trying to achieve? And just, you say it's decentralized. Is a regulator or a prosecutor even going to agree that it is decentralized depending on what you're trying to do in that DAO?

If the DAO makes some decision to send money to a corrupt wallet and then the DAO says, no one's responsible, we're a DAO. I don't think that's going to apply. So, where people really believed in decentralization originally, I think there is becoming a tougher and tougher discussion about whether that is real.

Jamilia Grier There is a myth that cryptocurrency has no value.

And just by listening to you talk about value exchange and how the tax system works, you can only tax when there is value, I would assume.

Boon Tan Correct.

Jamilia Grier So what are your thoughts on that idea that there's no value in these, these are fake, they're inflationary, it's all make-believe, but yet there is tax that's impressed on it?

Boon Tan

The fact that you can use these cryptocurrencies to create value and make value, really that comment or that statement that cryptocurrency has no value is not in my view correct, right?

Whether it's at the end of the day, if you're able to generate demand for something with a limited supply, there will always be value created because you have a group of people that want that resource and are prepared to pay a certain price for that resource.

So I think the better comment is These a lot of cryptocurrencies and tokens do not reflect real assets with value okay so this token is a hundred dollars or ten thousand dollars but if you have this token you can't go and get half an ounce of gold for example, I don't know what the gold price is probably, but you know what I mean, like it's not a tangible asset.

So, value is there because it's a perceived value that people have implanted on that token.

Jamilia Grier

How can something exist and not have value?

I mean, let's get really theoretical here.

How can anything exist and not have value?

Chris Holland

We have tangible and intangible assets, right?

So, I generally think of cryptocurrency as an intangible asset.

Boon Tan

Absolutely.

Chris Holland

So now for our purposes, the question would be, all right, we sell a token at \$10 on the sale, and obviously it's going to be successful because we own 80% of it.

So, when it triples in value, what do we recognize as the taxable part and how are we monitoring this on our accounts, right?

So, we raise a million on the initial offering, okay, that's what we collected on the bank day one. Then by year end, it's worth three million, right?

So, do we tax the three?

Is it taxing the one?

How does that move?

That goes to the value point.

But it absolutely belongs on your financial statements and once it belongs in your financial statement, it has some value.

Boon Tan

Correct.

Jamilia Grier

Correct.

Yeah, that's just kind of a bone of contention of mine that there could even be a concept that it has no value.

Just want to kind of move it along to this idea of red flags, right?

And so, we were talking about potentially having the barely legal coin, but both of you in your day to day, you advise clients and you work with them on compliance and tax and accounting issues.

What are some red flags or areas where you see like, hey, you know, you're going down the wrong path or you should look into this thing that from a compliance perspective or a tax perspective that you think people should look out for?

Chris Holland

Yeah, I mean you really have to think about your three to five year journey I'd say and if you just have like had a great meeting and it's like one or two conversations and we're go go go go that is red flag to me that it isn't fully baked and they're ignoring a bunch of issues if they can show me.

What they're going to use for the money and why they're going after certain licenses.

That's definitely something people come to me and say, Chris, I want this license in Singapore.

So I talk to them, why do you want that?

Why is Singapore the country versus Dubai versus Seychelles, wherever it is, right?

What is your theory?

Because really, if you don't want to live, In Singapore, like if we both move, for example, to Singapore, there's no nexus to Singapore tax or regulatory with respect to the offering, unless we want to say Barely Legal is headquartered in Singapore, in which case we get that publicity, but if the headquarters is in Singapore, but the token issuer is in Seychelles, suddenly now maybe it isn't a Singapore taxable event.

So, it's all these things like what are your priorities and have you thought it through and if you cannot answer two or three questions in I'd like you to go back and do it again because otherwise you're gonna spend a lot of money on Boon and I and we're just gonna make you address these questions so I'd rather just leave you with that at the initial coffee.

I don't know about you.

Boon Tan

Yeah, I think for me Often I'm brought in a bit later on so okay they've had the legal discussion but the redflag I see a lot on is the I guess the misconception that oh I've got a BVI company, I've got a Seychelles company, I've got a Dubai company.

So, we're sweet, no tax.

Who's director?

Oh, me?

Of course it's me, it's my company, what are you talking about?

Okay, but you're sitting here in Singapore with me.

Did you know that that company is Singaporean?

What are you talking about?

It's a Dubai company, I just told you I incorporate a company in Dubai.

And this is where there's a bit of that Sunday barbecue party.

Oh yeah, my friend set up in Dubai and you know he's now driving he bought the Ferrari last week because he like at the end of the day You know, and I'm sure Chris is saying, our role is to go, okay, what are you trying to achieve?

What do you want to do?

Okay, so this is what you need to do to, in very common, sleep at night without going, okay, well, I'm not going to, you know, I'm going to be splashed on the front page of Forbes.

So, does that mean?

Well, you know what I mean?

Chris Holland

If you're a Singaporean and you're relying on a Dubai company or BVI company to keep the Singapore tax authority and the MAS away from you, right, that is a, there's a lot of risk to doing that.

Moreover, and you would know this better than me, I think there's a potential for tax residency for the Dubai entity.

Boon Tan

100%.

Chris Holland

Singapore, so even though it's not incorporated here, because so many activities are going on here, the Singapore tax authorities will say, no, you've got to pay tax here.

So, it's really a complicated analysis.

And you can try to ring -fence it with another company, but it's not, it doesn't work.

Governments and tax authorities are smart too.

Boon Tan

You know, a red flag for me is, you know, first call talking about, okay, so yeah, I've set up that company.

Oh, you've set it up.

Okay.

Yeah, yeah, so I'll be fine.

Well, but you're, hang on, you're in New York now, right?

Yeah.

Oh, so when are you moving to Dubai?

I'm not moving to Dubai.

Who wants to move there?

Yeah, well, because you're running the company from America.

Sorry, mate, the tax code says.

That Dubai company is a US company.

No, no, no.

I've checked this with my friends.

They know much more about this than you do, I'm sure.

Okay, reply.

Let's finish the call.

So, you know, that's where, you know, for me, it's a pet peeve of, look, someone's told, someone's recommended you come and talk to me because these are issues, they're concerned about but they can't advise on, right?

But, you know, if you're comfortable with doing what you believe is right and you disagree, that's fine, I have feelings, I'll feel good, good luck.

Chris Holland

One more red flag, super innovative, right?

So, when someone says, Chris, I'm changing the game and everything else, oh man, we are so excited and happy and happy to learn.

But not every idea is brilliant and a genius and maybe they've missed some things.

And the minute they've said they found some amazing advantage that nobody else is utilizing and there's no normal structure that works, it's only their special structure, That, unfortunately, is a red flag.

Jamilia Grier

That's a red flag.

Boon Tan:

That's a red flag.

That's a massive red flag.

Jamilia Grier

And if they come in and their energy level is higher than Chris, that is a red flag.

Total red flag.

Just do not engage.

Boon Tan

I'm sorry, what?

Jamilia Grier

How about best practices?

So, we talked about red flags.

There're probably some things that I think that people should do, like on a normal basis.

And it sounds like looking at the founding team, getting clear on who is residing where, where is your citizenship?

Where are you residing?

Where do you plan to move to?

Those are things that should be discussed even before they set up their legal entity.

Boon Tan

Absolutely.

I mean, you know, I've had three or four instances where first time call, oh, meet Jim.

Hey Jim, what's the problem?

Oh, so back in March, well, yeah, four months ago, we sold some AFTs and made five million dollars.

Oh, that's good.

So how can I help you?

Well, we want to incorporate a company to No, but you sold it four months ago, right?

Yeah, okay, I just want to be clear on that because you're asking me can I create something today for something that happened four months ago, right?

So really, you know, the do's in terms of the best practices, you would not go and sign the lease for a Commercial building or commercial shop front and go, okay I've signed the lease today and now I'll do the work to get the McDonald's franchise.

Right?

But a lot of people are doing that when it comes to Web3. Right?

Now it could be, oh that coin did something, so I need to do something quickly to take advantage of it and I get that.

But the risks associated with your actions in a Web3 world are exactly the same risks associated in a Web3 world or any other traditional world you want to talk about, right?

So, you know, yes, have your idea, but then work out who you can talk to, or more importantly, how you engage the right people.

Okay, going back to your money point, right?

You know, we just graduated, so we don't have a lot of money, but how can we best work together with you to at least start to get some of the foundations right so that we can then raise money and then come back to you and go, okay, now we're ready to go, right?

But often, you know, so a lot of people don't do that, not many people do that.

The ones that do get it right, and you know, we've seen it, and then the ones that don't are like, oh yeah, I did that four months ago, or I did that last year and now it's tax filing season, I need a company to say I did that.

What?

No, you didn't.

Chris Holland

What I'd say is aside from tax and regulatory risk, number one, if you are not disclosing adequately what this token offering is and what you're buying into and overhyping and everything else, and especially if you're tracking the retail market, if you're telling me it's all VCs that sign a sophisticated investor letter that they understand the risks, that's one animal.

But if you're talking to people about amazing returns and free weeks or something like that, you only get this interest in a bank but stay here and you get that.

That's not a fair comparison because there's a lot more risk.

I've literally seen that where people talk about here's the bank, here's this.

You cannot compare that one to one without a ton of disclaimers and if you haven't done that, I won't have it.

Now the other thing I'd say is KYC because the regulators, right, if you do an offering and you need the license, I think that's survivable.

You can pay the back taxes, but if you funded criminals or you helped in an AML scheme, right, it's very hard to fix that after the fact.

So, I encourage everybody to really try and get that right if they want to mitigate damage ahead of time.

Jamilia Grier

I think that's a really good point.

I mean, there are some things that you can bounce back from.

You can file, you can amend, you can pay, you can get on a payment plan, but you give money to the wrong person and there's, you know, problems.

I thank you both for your expertise today.

I really think there's a lot of nuggets of learning in this conversation that people really should pay attention to.

And whether you're looking to launch a token offering or you're looking to do any thing in the space, it's really a matter of understanding the structure first.

There are some things that will happen down the road that you should be aware of and not to just be gung-ho and to mint out with no legal entity and throw everything in a Coinbase wallet.

Boon Tan

Absolutely.

Jamalia Grier

Any other points or advice, words of wisdom that you'd like to share?

Chris Holland

You reach out to Boon.

The guy is super friendly and related.

Crypto tax is a really hard topic, right?

And where do you start?

Do you start with Deloitte?

How do you get that meeting and stuff like that?

So even if there's not a Boon in your jurisdiction, just start to reach out, use Twitter, use LinkedIn, whatever else.

And crypto is pretty friendly.

That's one of my favorite things about Web3 is you can meet people.

I mean, you've met amazing people that way just reaching out as well.

So, I do encourage people to just go out there, extend yourself, try to get the conversation and you can get a lot of advice that way.

Boon Tan

Yeah, don't rush.

Right?

Don't rush.

Like, okay, you know, crypto is all instantaneous light speed technology, but You know, if you're looking at, again, I'm trying to make a sustainable business or income stream that's not just a transactional but long-lasting, I just happen to want to do it on the blockchain platform.

Okay, we'll stop and do the proper planning, thinking, As Chris said reach out to people get some advice and and not maybe just one advice but multiple advice and just gauge and work out what you how to best move forward.

Chris Holland

Can I ask one just question then you can edit it however, so we had to pick a token issuer jurisdiction we're doing a utility token offering yep, I don't know.

I think it might be Panama or Seychelles and depending on your investors and whether your customers care or not, because I don't want a ton of regulation relating to it. Maybe Cayman BVI is also an option.

But that's why I want to know the tax, what is the most tax efficient jurisdiction.

Jamilia Grier

You gain free advice.

Boon Tan

What I see, look, at the end of the day, whether it's Seychelles, BVI, Cayman Islands, the issue of, okay, who's controlling that company and where they're sitting, come into play, right?

So, you know, Jamelia being a tax resident of Dubai, okay, now they've just introduced tax for corporates, but it's only 9%.

So maybe we're both in Singapore, 17% plus potentially MAS regulation.

9%.

Not sure about Dubai if there's any MAS regulation.

If not, then on the basis that we're comfortable that the BVI has no tax.

And in the worst-case scenario, the UAE workout that Jamelia, who's the technical resident, is running that company, 9%, we can kind of live with that, right?

But Ideally, it'd be, okay, Jamelia's there, now let's find a few other independent directors who are living in the right jurisdiction to also be on that board, right, so they can't just go, oh no, that's the jurisdiction, well, hang on, I'm one of three and that one's in, actually in the Cayman Islands and this one's sitting in Hong Kong or something, right?

So again, the plan, the planning piece comes into play.

But then getting that piece right, you know, allowing us to then drip feed the capital in when we need to, to develop the platform and the token.

All right.

So, you know, explaining to I guess founders that this is how it works.

You get this piece right, you raise a hundred cents in the dollar, You then drip feed it in to your jurisdiction where you're running.

That pays tax, yes.

But you've got expenses to offset.

Rather than, oh here's a hundred cents in the dollar, I've got no expenses because I haven't done anything yet.

Pay my tax on a hundred, at least you drip feed it in, use it against your tax, your cost, and then you pay the tax on that.

Chris Holland

That's the thoughtful tax planning that all the fund manager companies and asset manager companies have done forever and also should be done for staying out of jail and properly paying taxes in the crypto world.

Boon Tan

But that's the thing, right?

You have that, again, fund management, traditional, totally acceptable.

But no when it comes to crypto, blockchain, we don't think about that.

Jamilia Grier

There's a disconnect.

Boon Tan

Yeah, and to me the disconnect can only be from a lack of education, right?

And from perception, like it or not, blockchain, digital asset, crypto, still has this negative connotation attached to it.

Look at DoQui and look at Sam Bateman's face.

Chris Holland

Not after this episode.

Boon Tan

Not after this episode though, right?