

PwC Annual Global Crypto Tax Report 2022



Introduction

2022 sent the crypto market on a rollercoaster ride, with total market capitalisation dropping from around US\$3 Trillion in 2021 to just under US\$1 Trillion at the time of writing. This is in part due to a number of high profile crypto business model failures – TerraUSD / Luna, 3AC, Celsius and of course, most recently, FTX. Although 2022 saw heightened regulatory scrutiny and enforcement action, the slowdown of retail crypto exchanges, hedge funds and tokens - as well as decline in valuations - will add fresh impetus for global regulatory attention - which will also include an increased focus on the taxation of the industry.

Despite market pressures, investment, adoption and innovation in the space continues to be strong, and is very much reflective of an industry that is still maturing. One of the primary themes of this year's report is how continued innovation interacts with and, ultimately, shapes the global crypto regulatory and tax environment.

We have seen new jurisdictions such as the UAE, Germany and New Zealand emerge as centers for crypto investment and regulation, adding global breadth to the regulation of the sector with clarity of purpose, while others like India and Turkey address wider challenges. Web3, DeFi and the Metaverse continue to be at the forefront of innovation. Increasingly, important institutional drivers are providing insights into the future of digital assets' interaction with traditional finance and the physical world.

Since the launch of PwC's ("our") report in 2020, PwC ("we") have observed a trend of increasing tax regulation targeting the digital assets sector, as governments and bodies such as the OECD and EU have sought to create tax policy which keeps up with the pace of technological innovation. However, there is still a disparity in the coverage, definition, and tax treatment of digital assets between jurisdictions. We have therefore sought to cover this in the jurisdiction-specific pages that accompany this report.

The sector certainly faces other challenges – not least in the context of a global macroeconomic environment coming out of the COVID-19 pandemic, inflation and the withdrawal of many national stimulus programs. Given unfolding events at the date of this report, it is likely that increased and globally coordinated regulation will follow and that this will almost certainly shape evolving tax policy.



*This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

1. What has happened in tax in 2022?

In terms of key macro trends in tax policy, we have seen a number of key themes emerge over the course of 2022:



1

Tax reporting has become a reality for the industry. Major steps to regulate digital assets at a global level include the OECD's Crypto Asset Reporting Framework (CARF) / and updates to the Common Reporting Standard (CRS), along with DAC8 in the European Union (EU) and tax reporting rules in the US.



2

Tax policy developments are finally emerging with a surprising balance between those likely to encourage or discourage crypto and digital assets.



3

The indirect tax treatment of NFTs is receiving increased attention from governments. This creates operational challenges for NFT marketplaces, which often do not see themselves as financial services companies and often do not collect customer onboarding and KYC information.



4

Early guidance, though still limited, is starting to emerge on DeFi in jurisdictions such as the UK and New Zealand.



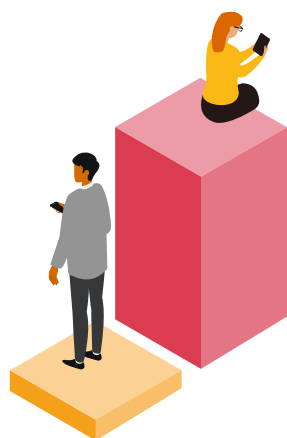
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As the industry continues to grow in terms of users and adoption, we have started to see more software solution companies trying to address the increased need for tax reporting.

The remainder of this report takes a deeper dive into some of these key themes from a global perspective. We then provide a jurisdiction-by-jurisdiction summary that can be used by our readers as a reference point for the available tax guidance in this space.

Finally, we give some thoughts on where we may be going in terms of taxation and look to some of the key industry issues that we expect to emerge in 2023 and beyond:

- I. Regulatory push back on the industry after the bankruptcy of FTX. This has led to public scrutiny and calls, as at the date of this report, by lawmakers and regulatory agencies for clearer guidelines for crypto exchanges to operate under.
- II. The Ethereum Merge is likely to bring increased focus to the taxation of staking income around the world. The recent upgrade to the Ethereum network, shifting from proof of work to proof of stake, will mean more market participants earning staking income. As this is a new form of passive income, the associated tax issues - including how the international taxing rights on staking income are allocated – will need to be considered by policy makers.
- III. Financial regulators are already exploring how to enforce regulation on decentralised systems and decentralised autonomous organisations (DAOs). For example, there are comments on decentralisation within the latest Financial Action Task Force (“FATF”) guidance¹, as well as the recent Commodity Futures Trading Commission (“CFTC”) action against Ooki DAO where token holders participating in governance were deemed to have responsibility over the actions of the DAO. We expect tax authorities to follow the lead of financial regulators in determining who in such organisations is responsible for tax reporting and compliance. Expect more updates in this area in the coming years.



IV. The rise of stablecoins is creating a risk of there being economically equivalent transactions with very different tax treatments between traditional finance and crypto. It will therefore be important for governments to find mechanisms to clearly define whether a stablecoin is or is not treated in the same way as a fiat money transaction for tax purposes

V. Tax enforcement will continue to increase in 2023 and beyond after the recent developments in the industry and therefore taxpayers should be prepared for the likely need to provide accurate and more comprehensive transactional level details to all their activities, as governments obtain more access to data via third-party crypto software providers.

¹ Source: <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/guidance-rba-virtual-assets-2021.html>



2. Crypto-asset tax information reporting

Governments are under significant public pressure to issue robust regulations that apply to crypto-markets in relation to conduct, financial crime and tax evasion. In many ways the evolving tax rules that apply to crypto-assets are going further in scope than other regulatory regimes. The increasing use of crypto-assets for investment and payment purposes has been observed by tax administrators who are focused on closing the tax gap by increasing tax reporting obligations and decreasing the opportunities for tax evasion.

Unlike traditional financial assets, crypto-assets can be issued, recorded, transferred, and stored in a decentralized manner without the intervention of financial intermediaries or central administrators. This could mean that income and gains from the disposal of a crypto-asset is not properly reported on a tax return. This is why the scope of the tax information reporting obligations is broadly drafted.

In general, third party information reporting by financial intermediaries is utilized to improve compliance as tax authorities can match and compare this information to what a taxpayer reports on their income tax return. However, these rules do not currently apply to crypto intermediaries and in cases involving DeFi transactions there may not even be an intermediary to provide such reporting.

The OECD, EU and the United States are creating tax information reporting frameworks for

intermediaries and other service providers involved in crypto-asset transactions to try and close this gap:

1. The OECD [Crypto-Asset Reporting Framework \(CARF\)](#) These rules were published in October 2022². The OECD is expected to shortly publish an implementation package which includes competent authority agreements and IT solutions which will be followed by local legislation and international agreements on cross-border exchange of information.
2. The EU Directive on Administrative Cooperation will be amended to include the exchange of information on crypto assets (the resulting amended Directive being DAC8). This may not be published until January 2023.
3. The US Infrastructure Investment and Jobs Act. This imposes information reporting obligations to service providers who effect transfers of digital assets on behalf of another in return for consideration. This Act is effective from January 2023. The much needed regulations to provide more clarity around these rules are yet to be released as of the writing of this report and therefore we expect a delayed effective date.

The CARF leverages existing tax and regulatory frameworks, such as the [OECD's Common Reporting Standard \(CRS\)](#) and the Financial Action Tax Force (FATF) rules which set the global

standard for Know Your Customer procedures. Crypto Asset Service Providers will need to closely consider whether they are subject to reporting and due diligence obligations, which crypto assets, transactions and users are subject to reporting and to which tax authority reporting is required. This will require an analysis of value chains, related regulatory regimes, operating models (governance, people, process, data, systems) and tax hierarchies when multiple rules apply at the same time.

The CRS is a cornerstone for the CARF. It created a base-line for compliance in the context of traditional assets. However, local variation (scope, reporting requirements, etc.) made implementation across global groups challenging as they managed CRS. Understanding where existing compliance processes can be leveraged for the CARF could deliver quick wins in relation to implementation.

While the customer (Crypto Asset User) due diligence procedures largely follow the approach adopted by the CRS, Reporting Crypto Asset Service Providers will need to take into account tax residency and classification (where look-through rules require entities to provide information on indirect persons with a controlling interest in the entity). Moreover, certain pre-existing accounts will be subject to remediation requirements to obtain these data points and tax confirmations.

² The OECD on 10 October published a much-anticipated two-part document - the Crypto-Asset Reporting Framework (CARF) and Amendments to the Common Reporting Standard (CRS) - setting forth a global tax transparency compliance framework with model rules for the automatic reporting and exchange of taxpayer information between countries relating to financial accounts and crypto-assets.



A significant difference with the CRS is transactional reporting, which means that big transactional data sets will need to be structured, analysed and processed: data provenance, lineage and traceability will likely be important in demonstrating an effective operating model and risk control framework. Moreover, in terms of where reporting (or data collection) is required - it will be important to map out the value chain to understand where other regulatory regimes may apply as this can shift obligations to other parties involved in the transaction.

Establishing CARF as a rule set will require certain milestones to be met. Firstly, the OECD rules need to be enacted into domestic law and exchange agreements reached. The consultation process has already started in New Zealand, with other jurisdictions expected to follow in 2023. Secondly, given the crypto-asset market continues to rapidly evolve the OECD is working to develop further guidance in respect of Reportable Retail Payment Transactions and consistency in relation to the scope of Relevant Crypto Assets.

This will result in future, recursive amendments to the CARF, which then require local enactment. The rules will remain in flux. Crypto Asset Service Providers should actively engage in the consultation process. However, not everything will be defined by the OECD. During a recent webcast

with the drafters of the CARF, a question was asked about the characterisation of Decentralized Autonomous Organizations (DAOs). The drafters noted that this is still an area of ongoing consideration - instead these determinations may be down to local legal definitions, which may not always be explicit. For instance, while DAOs are classified as corporations for U.S. federal income tax purposes, other common law jurisdictions may classify them as partnerships. Civil law classification remains unclear. A requirements register will be critical in managing differences in local implementation and variation across markets.

A. The scope of Crypto Assets to be covered

Crypto-assets subject to reporting are expected to include cryptocurrencies, stablecoins, derivatives, NFTs and other transactions such as lending. The scope of crypto assets subject to the CARF goes beyond the FATF definition, in particular as it relates to NFTs. However, since tax evasion is a predicate offense to money laundering this could mean that AML/KYC monitoring procedures may need to extend further to cover these crypto-assets.

The definitions are broadly drafted and focus on whether the crypto asset can be used for payment or investment purposes. In assessing this standard,

an analysis is required into (i) whether the crypto-assets are subject to regulation under FATF (ii) the nature and function - for instance whether they are traded on an exchange and (iii) whether the exchange of crypto assets for goods or services can be made across a wide network. A detailed inventory of assets and transactions should be created and assessed under these criteria to determine where crypto asset user due diligence and reporting procedures may be required.

B. Intermediaries and services providers subject to tax information reporting

Intermediaries or other service providers that facilitate exchanges between fiat currencies and crypto assets or between crypto-assets are the focus of the CARF. The definition can apply to entities or individuals engaged in a crypto-asset business for or on behalf of customers. These businesses are often, but not always, regulated as "Virtual Asset Service Providers" under the FATF definitions and are seen to have the best information about the value of the assets and visibility over transactions subject to reporting. This definition is broad and could include (i) exchanges (i.e. centralised finance (CeFI) and some DeFi Exchanges; (ii) operators of crypto ATMs; (iii) Crypto-Asset brokers, dealers and market makers, whether acting as intermediary or principal and (iv) asset servicers and managers.



C. Reporting nexus

There are complex rules for determining nexus to a jurisdiction that requires reporting- they go far beyond the requirements of the CRS. These rules consider OECD model tax treaty definitions for determining tax residency, place of formation, whether the business is subject to other tax reporting requirements, the jurisdiction in which the “management and control” of a business is based or where regular business operations are conducted. The term “business” is defined by context in local law (e.g. regular, continuous, profit-oriented activities). This is a broadly drafted definition which is intended to apply to crypto asset service providers that have decentralized operations or are based in locations without robust regulatory oversight. Where more than one rule applies the CARF provides a hierarchy to avoid duplicative reporting. A detailed review of the governance model, location (legal and operational) and tax obligations will need to be conducted to define where and how the CARF applies.

D. Transactions (and related information) subject to reporting

The three types of transactions subject to reporting are;

- I. Exchanges between relevant crypto-assets and fiat currencies,
- II. Exchanges between one or more forms of relevant crypto-assets, and
- III. Transfers of Crypto-Assets, including retail payment transactions

CARF transactional reporting is likely to constitute a big data exercise. Transactions are subject to reporting on an aggregate basis by type and number of relevant crypto asset units. Transactions will need to be

bifurcated between “outward” and “inward” transactions: acquisitions and disposals at fair market value by crypto-asset type and organized user by user. The fair market value of the asset and amount of transaction fees in a the local functional fiat currency will need to be determined. Where a Reporting Crypto Asset Service Provider has knowledge of the type of transaction this should also be reported (e.g.. airdrops, income from staking or a loan). These data points will need to be collected for each Reportable Crypto Asset User. The initial version of the CARF required the reporting of wallet addresses. However, this rule has been modified.

Wallet address reporting is no longer required due to privacy concerns. However, if a transfer is made to an external wallet address that is not associated with a regulated provider the wallet address needs to be maintained by the reporting entity. A tax authority may then request the wallet address, so it will be necessary to maintain this information to respond to post-filing queries. Current systems will need to be configured to filter and aggregate these details. The local implementation of these rules may also require reporting back to the crypto-asset user.

A novel feature of the CARF involves Reportable Retail Payment Transactions, which relate high value transactions (exceeding US\$50,000) involving the purchase of goods and services with Reportable Crypto Assets. These transactions make up a separate reporting category. Where a Reporting Crypto Asset Service Provider is involved in a transaction involving the purchase of goods or services, they report both the customer and the merchant as reportable crypto asset users. If the threshold is satisfied they are obligated to apply KYC rules to the purchaser to facilitate reporting.

E. Due diligence procedures to identify crypto-asset users (directly or indirectly) and to determine the relevant tax jurisdictions for reporting and exchange purposes.

The due diligence procedures under CARF are based on the CRS requirements and existing AML/KYC obligations included in the FATF recommendations. In this respect a Crypto-Asset Service Provider is required to have on file:

(i) self-certification upon establishment of a new account, (ii) the self-certification of pre-existing Crypto-Asset Users is to be obtained within 12 months (after the effective date of CARF); and (iii) an updated self-certification within 90 days of a change in circumstances.

The requirements are intended to ensure that Crypto-Asset Service Providers have a customer's/user's correct name and tax identification number (TIN) on file and can identify the tax jurisdictions of tax residence for a Reportable Crypto-Asset User.

Crypto-asset markets are evolving at a fast pace. Tax policy makers will still need to make gating decisions about the character, source and timing of gains and income from crypto-asset transactions. Efforts should be made to educate the public about how to properly report income and gains from crypto-assets on their tax returns.

CARF reporting will help tax authorities profile the behavior of taxpayers and there is an opportunity to encourage taxpayers to keep detailed digital records to defend compliance (e.g. FX rates used, timing of transactions, etc). Looking forward, there is a lot of potential for eliminating the tax gap through effective use of blockchain technology. For instance, there has recently been discussion in the European Parliament about how the unique features of blockchain could offer a new way to automate tax collection, limit corruption and better identify ownership.

However, more exploratory work must be undertaken to identify the best practices of using technology and where tax administrations need to improve their analytical capacity. To that end, the CARF is a welcome development in relation to the Automatic Exchange of Information.





3. Taxation of crypto finance and DeFi

Background and market developments

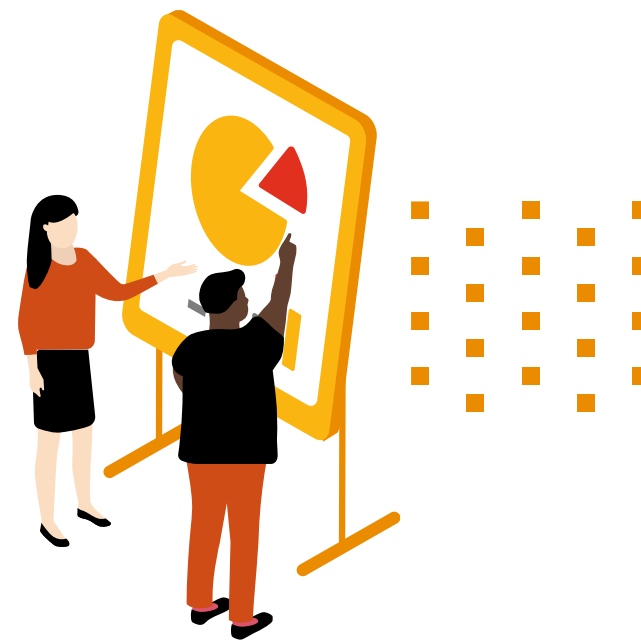
DeFi, or Decentralised Finance, continues to be a growing presence in the market, and continues to give rise to some of the most difficult tax issues in cryptocurrency.

The term DeFi encompasses a large range of ways in which cryptocurrency may be invested or transacted, in ways which resemble conventional financial transactions to a greater or lesser extent.

Since 2020, and as discussed in our report last year, this has included lending and borrowing of cryptocurrency, and more complex transactions executed by smart contract, including derivatives and insurance contracts. The array of financial transactions continues to grow. Common transactions now include the provision of liquidity to trading pools in return for reward – analogous to lending – and “tranche lending” by which the yield on tranches of loans is segregated and redistributed to investors in a defined order of seniority. This resembles debt securitisation in conventional finance: it enables a portfolio of loans to be aggregated, and enables lower risk investors to take senior stakes with a lower, more certain return. This leaves investors with a higher risk appetite to take a greater profit, in return for the risk of first loss.

Two divisions in cryptocurrency finance

A development in cryptocurrency finance which has become very noticeable during 2022 is that the market contains two notable divisions. For reasons set out below, these divisions are becoming increasingly important in the evolution of the taxation of cryptocurrency finance.



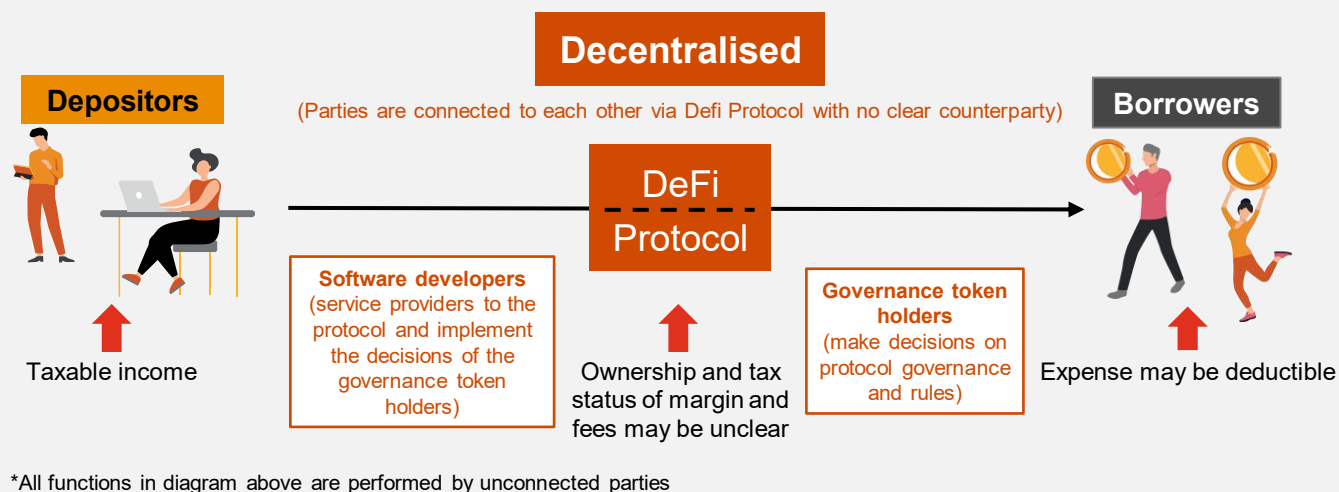
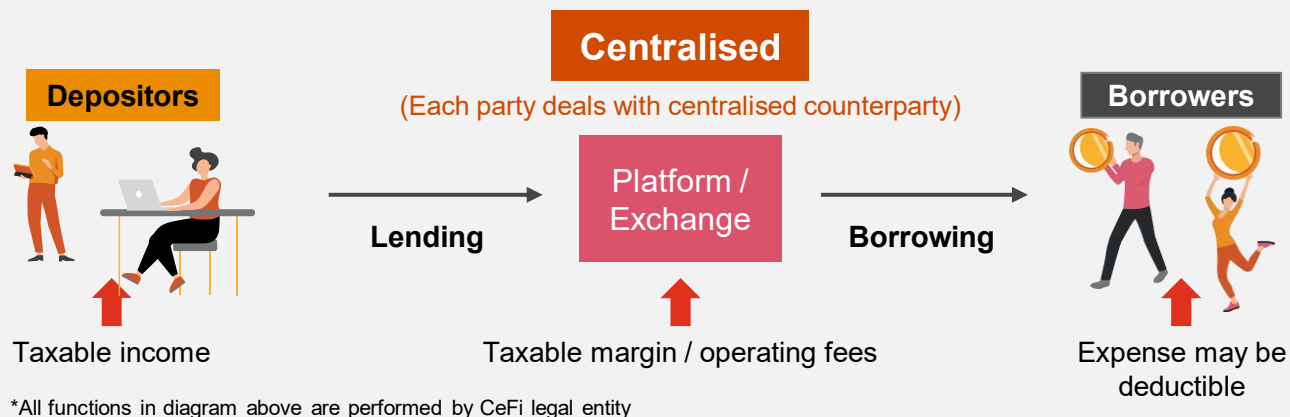
Centralised v Decentralised

Firstly, there is the division between centralised and decentralised financial markets. At the simplest level, this represents the distinction between markets with a central counterparty, and those without. For example, for simple exchanges of coins, the centralised exchanges provide one type of market, and decentralised exchanges present another.

The key distinction is as follows:

A party dealing with a centralised exchange operates via a single known counterparty, and consequently has a level of contractual engagement and protection through engaging with that party. The centralised party, the exchange in this example, has contracts with customers in a manner similar to a conventional financial market maker. It consequently has to consider its regulatory and compliance obligations, including tax.

By contrast, a decentralised exchange operates by smart contract. It may or may not have a legal entity. Consequently, it may or may not have a legal personality, and the ability to enter into conventional legal contracts, or to be subject to regulation. A market participant deals purely in terms of a smart contract, and typically has no visibility over the nature of their counterparty.





A similar distinction between centralised and decentralised operation is now evident in many areas of cryptocurrency finance. Centralised and decentralised forms exist for crypto transactions coin issuance, lending, derivatives and insurance.

This division leads to tax complexity, particularly in decentralised transactions. For instance, a counterparty to an investment transaction may apply a withholding tax, or an overseas tax authority might allege that an investment is subject to local tax or VAT obligations. An investor, not knowing who their counterparty is, may find it difficult to be sure they have complied with all relevant tax laws and will not be able to apply for relief under a double tax treaty (even if this is available).

For investors in tokens which give an element of governance over a decentralised platform,

additional risks may arise. A great unknown is whether the token makes the investor a partner in the DeFi enterprise, or a person with responsibility for the platform's tax affairs. If the token gives participation rights, and there is no separate entity operating the platform, this may become a risk.

This is a controversial area that has been made all the more pressing with the recent novel CFTC action with respect to Ooki DAO where the CFTC asserted that the DAO was an unincorporated association where the actively participating members were liable for the DAO's violations of the regulations. While this issue is still being considered in tax policy circles and we have had no clear guidance, depending on the local legal system, we would expect this to be an appealing precedent for tax authorities to take in the event that a DAO was seen to be facilitating the evasion or non-payment of tax, or where a DAO failed to meet its tax reporting obligations.

These points are discussed further below.

Stablecoins

The second division which influences crypto investments and DeFi is the distinction between stable coins and other crypto currencies. In particular this year the popularity of stable coins, a token which is pegged to a "stable" reserve asset (i.e., fiat currency) has increased due to investors' wariness following large fluctuations in the value of BTC and other cryptocurrencies. The increasing attention paid to cryptocurrency by governments and central banks also indicates a rise in stablecoin activity, as territories move towards creating central bank money in blockchain form (CBDC), this will add an additional dimension to the stablecoin environment.



Financing transactions

In the context of the above market developments, there have been few definitive answers to the questions of how Cryptocurrency financial transactions should be taxed. The questions still remain:

- For investors and borrowers: how are gains and losses categorised for tax purposes? Are they income analogous to interest on loans? Or are they more like capital investment?
- Do decentralised protocols carry out a business which is itself subject to tax? If so, on whom does the tax liability fall?

The UK tax authority (“His Majesty’s Revenue and Customs” or “HMRC”) has attempted to answer the first of these questions, by guidance published in February 2022. Whilst this is indicative of the current UK position, it should be noted that it is itself subject to change (as indicated by a further round of consultation in July 2022). It is also likely to be influential in the consideration being given to the matter by other tax authorities.

The HMRC guidance makes the initial point that the detail of cryptocurrency financing transactions tends to differ in specific cases. It is therefore hard to generalise, as each arrangement has to be looked at in detail. However, it lays down some general principles.

In the hands of an investor, cryptocurrency assets are generally capital assets, taxed on realisation. It is therefore essential to determine whether a financial transaction such as lending or staking results in a disposal. HMRC’s answer to this question is that in general the investor will have ceded control of the crypto asset when it is lent or invested, and therefore will have made a disposal. The investor holds a new right, being a smart contractual right to recover the tokens invested, or a substitute token such as a “wrapped” coin or liquidity pool tokens, and that is regarded as a different asset from the original coin. The redemption transaction, by which the investor disposes of the contractual right or wrapped coin, and regains the original cryptocurrency, is then seen as another disposal, resulting in another taxable event.

This results in an investor having a series of disposal transactions as cryptocurrency is moved in or out of the various forms of investment. For example, an investor with a continuous holding of ETH which is merge-staked, invested or wrapped for a period of time, would crystallise any historic gain in full when the investment occurs, and subsequent gains or losses from then on. This could be contrasted with an investment in securities, where analogous transactions (for example repos or stock lending) would not give rise to taxable disposals.

If there are yields received separately from the lending transaction, likely these would be taxed as income, though again HMRC makes the point that this again depends on the exact contractual terms.

It remains to be seen whether this becomes the standard for taxation in other territories. The consultation by HMRC which followed the publication of this guidance may indicate that further thought is being given to the matter. In particular, the further consultation asks whether it would be appropriate for cryptocurrency lending transactions to be taxed in a similar way to securities repos and stock lending, which are specifically deemed to be loans, and not disposals of assets, for UK tax purposes.

It should also be noted that financial regulators are circling the same territory, and appear to be heading towards similar conclusions. For example, the Crypto Asset Regulatory Framework paper also moves towards aligning the treatment of financing transactions with

their conventional finance equivalents.

The position of decentralised protocols remains unclear. The economic owners of any yield or margin retained by a decentralised protocol can expect suggestions from tax authorities that they are carrying on profitable trade and should be taxed accordingly. By contrast, market providers operating under a centralised model have a much clearer tax status, as they inevitably operate through a legal entity which has an established basis for taxation.

Again, it can be seen that regulatory developments are similar. The US Commodity Futures Trading Commission (“CFTC”) recently filed suits against a decentralised platform and its governance token holders, alleging that they were carrying out an enterprise in common which fell within the CFTC’s jurisdiction. It seems increasingly likely that tax authorities will take a similar approach.

Stablecoins

It is important to consider the role of stablecoins in the development of taxation.

Stablecoins have the capacity to blur the tax and legal boundaries between fiat and cryptocurrency. It could be argued that a stablecoin giving rise to a right to cash on demand is very similar to a bank deposit. The distinction may become further blurred. Stablecoins which are not backed by fiat, or algorithmically linked to fiat are only contingently linked to the value of fiat. Stablecoins demonstrably backed by fiat, or which are issued by the central bank and therefore are economically identical to fiat are harder to categorise as distinct from fiat.

For instance, there is uncertainty whether an investment in a USD-based stablecoin is, in principle, similar to an investment in a USD bank deposit or whether this constitutes something else. Both represent a promise to repay me, or someone else at my request, an amount of USD. But as discussed above, investments in crypto-assets are taxed very differently from fiat cash transactions: the assets are generally treated as capital assets for the investor. Financing transactions are generally not treated as money debts, with the consequence that they do not give rise to interest withholding taxes (or the mitigation from taxes provided by international tax treaties). Losses of

fiat deposits are generally taxed as “bad debts” – whereas losses of crypto-assets are not.

The rise of stablecoins is therefore creating the risk of there being economically equivalent transactions with very different tax treatments. Moreover, the convergence with fiat currency in terms of use cases is likely to result in blurring of the distinction between the two categories, leading to a risk of confusion as and when stablecoins are widely adopted. It is unlikely that users will be willing and able to define easily and clearly which coins are precisely linked to the fiat currencies they represent.

It will therefore be important for governments to find mechanisms to clearly define whether a Stablecoin is, or is not, treated in the same way as a fiat transaction.

Conclusions

Given the increasing volumes traded and simply the passage of time, we expect to see tax authorities look more closely at the taxation of cryptocurrency finance. In particular, the distinctions between centralised and decentralised finance are likely to lead to complexity, both for those institutions or providers of services / technology and for market participants. We see differences between taxation of fiat and cryptocurrency transactions but also signs that over

the long run treatments may converge.

In addition, regulatory developments in who is responsible for decentralised technology (e.g. Ooki DAO, etc.) are evolving. We would expect tax policy to track this and follow the regulatory consensus on who has key compliance responsibilities.



5. Non-fungible tokens: Significant and emerging VAT/GST issues

As tax authorities around the world look to grapple with the rapidly developing area of crypto tax, significant questions remain on how to apply various indirect tax rules. This is especially apparent when it comes to the treatment of non-fungible tokens (NFTs).

NFTs are now a huge digital phenomenon and continue to innovate, particularly in the arts and sports space, these tradable digital assets offer significant change for the creative content industries. But, like other evolving blockchain ecosystems, the complexity and speed of development is outstripping common agreement by policy makers on what an NFT is for VAT/GST purposes and how current rules should apply.



The complexity of the NFT ecosystem and impact on tax considerations



Simplified NFT business model and types of transactions, [Non-Fungible Tokens \(NFTs\): Legal, tax and accounting considerations you need to know](#)

From a VAT/GST perspective, the main issue around NFTs is “What” is being supplied when an NFT is created or sold. Early trends are to treat NFTs as a service (not goods), meaning electronically supplied services (ESS) rules are likely to apply in an international context.

ESS are defined under EU VAT law as services delivered over the internet or through an electronic network, the nature of which renders their supply essentially automated involving minimal human intervention and cannot be carried out in the absence of information technology.

There are currently no applicable GST exemptions for outright sales of NFTs, but some countries are considering exempting certain brokerage services. Many countries are still developing the domestic VAT/GST position of NFTs (and we expect most countries will apply the VAT/GST rules applicable for services).

For example, The New Zealand legislation – as an example of an early (and only) adopter – treats NFTs as a service and defines “non-fungible token” as follows: “non-fungible token means a crypto-asset that contains unique distinguishing identification codes or metadata.”

Other important issues have emerged in relation to the ESS (or remote services) rules:

- Location and identity of the consumer - this can be more complicated to identify compared to traditional transactions and is causing issues for marketplaces in particular;
- Seller's commission – how ESS rules apply to a given series of transactions that could involve various commissions for market, valuation, AML and due diligence checks;
- Buyer's premium - this might be paid for payment collection/facilitating/arranging the transfer of NFTs. Is this additional consideration for an ESS service?

Practically speaking, it is always recommended to seek advice, because bar the couple of countries specifically referenced in this article, there is virtually no detailed guidance available. Having said that – taking into account the above important issues – practically you always need to:

- a) Collect info (and preferably evidence) on your customer's location;
- b) Determine what kind of transaction takes place with respect to the NFT (e.g. minting, (re)selling);
- c) Have a global overview of where and how ESS are taxed with VAT/GST to determine any potential registration and compliance obligations.

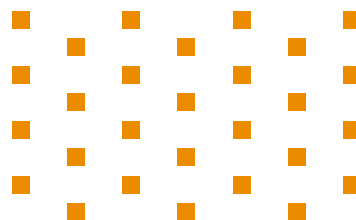
Further considerations must be kept in mind when **a marketplace** is involved. There's a growing trend to have the platform involved in the buying or selling as fully liable for collecting the VAT/GST due from the customer. This means online intermediaries need to decide if they are covered by the relevant marketplace (or facilitator) definition in the country where the consumer is located and make relevant system changes.

Finally, NFTs are typically paid for in other crypto-assets which raises the question of mutual or **barter supplies** for VAT/GST purposes. And although a growing number of countries have tax policies that cover use of cryptocurrency or digital tokens as payment, the majority are still developing their position.

Current GST positions by countries reveal there is no 'one size fits all' approach

New Zealand has one of the most advanced positions on NFTs. They are excluded from the definition of 'cryptocurrency' in the country's Goods and Services Tax (GST) Act. This means that sales of NFTs follow domestic rules and the standard framework for supplies of ESS/remote services. This includes tax liability for facilitating marketplaces. So:

- a) Domestic transactions are subject to standard local GST (the exemptions for brokerage and options over cryptocurrency do not apply to NFTs, as the "cryptocurrency" definition excludes them);
- b) Inbound transactions fall under the ESS/remote services rules for offshore sellers/platforms if sold to New Zealand-resident consumers;
- c) Outbound transactions fall under offshore ESS/remote services obligations (in many countries) for sales to non-residents.



Similar approaches appear in Australia, South Africa and Europe. These views are based on local interpretation of existing law and practice in the digital space and where there is no enacted law or guidance on NFTs. In March 2022 Spain became the first EU country to confirm that NFTs are subject to ESS rules.

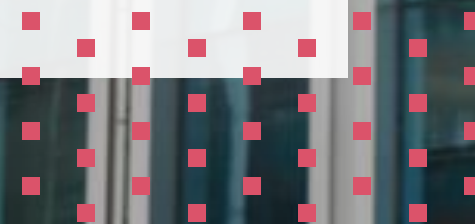
The new GST regimes in the Middle East's GCC Member States generally deal with e-commerce issues including ESS, but crypto-assets are not yet catered for.

In the United States, 2018's Supreme Court decision on *South Dakota v Wayfair Inc* had broad implications for the collection of sales tax for remote sellers. This requires an analysis for NFT sellers of remote seller thresholds for sales tax collection and remittance requirements by state, as well as local tax collection and remittance requirements. In most states, marketplace facilitator laws exist that may encompass NFT marketplace sales.

Furthermore, the analysis of NFT characterisation and taxation is complicated by the historical structure of US state sales and use taxes. Because these taxes originated (in most part) as taxes on retail sales of tangible personal property, states have asymmetrically updated their laws to tax digital goods and services under a variety of imposition frameworks. Some tax digital goods as a form (or equivalent) of tangible personal property; some extend tax treatment under their existing (although limited) service tax imposition; and now over half the states separately define digital products, which may encompass digital goods and/or services.

US state tax authorities have not adopted a uniform definition of NFTs. Various states have provided definitions of NFTs through general tax department guidance. For example, Washington State has defined an NFT as "a unique digital identifier that cannot be copied, substituted, or subdivided, that is recorded in a

blockchain, and that is used to certify authenticity and ownership of a specific type of product." (Interim statement regarding the taxability of non-fungible tokens, Washington Department of Revenue, 7/1/22). A multistate governmental organization, the Multistate Tax Commission, has also begun a project to make uniformity recommendations to the states on the taxation of digital products, including NFTs. In the states that have issued guidance, NFTs are taxed under a variety of approaches. For example, Washington State provides that tax applies if "the object of the purchase represents a standalone digital product. Examples include digital artwork, photographs, video clips, autographs, etc." On the other hand, Pennsylvania merely states that NFTs are taxable. (Pennsylvania Bulletin: Notice of Taxable & Exempt Property, Pennsylvania Department of Revenue, 6/11/22). Other states have not issued guidance and, as such, NFTs may not (yet) be subject to tax.



⁴ e.g., VAT, transactions taxes, or even Digital Services Tax / Equalisation Levy or the like – though these are not regarded as indirect taxes by some

It is evident from the summary table below that a complex and changing environment will create challenges for tax authorities and businesses alike. This high-level overview provides guidance for a number of territories in terms of NFT (indirect) taxation.

	Is there tax authority guidance on cryptocurrency?	Is there tax authority guidance on NFTs?	What is the VAT/GST liability of NFTs?	Do NFTs fall within the definition of ESS/remote services?	If a marketplace is involved, who has the obligation to account for VAT/GST on the sale of NFTs?	Treatment of NFTs sold in exchange for cryptocurrency?
New Zealand	Yes	Yes	Standard rated	Yes	Potentially marketplace	Barter but cryptocurrency payment disregarded
Australia	Yes	No	Standard rated	Yes	Potentially marketplace	Single supply of NFT, cryptocurrency payment disregarded
Germany	Yes	No	Unclear	Unclear, potentially ESS	Potentially seller	Single supply of NFT, cryptocurrency payment disregarded
Ireland	Yes	No	Unclear	Unclear, potentially ESS	Potentially marketplace	Single supply of NFT, cryptocurrency payment disregarded
Netherlands	Yes	No	Unclear, potentially standard rated	Unclear, potentially ESS	Potentially marketplace	Single supply of NFT, cryptocurrency payment disregarded
Middle East	No	No	Unclear	Unclear, potentially ESS	Unclear	Unclear
Singapore	Yes	No	Likely to be taxable	Unclear, potentially ESS/remote services	Potentially marketplace	Barter but digital payment tokens are disregarded
South Africa	Limited	No	Unclear, potentially standard rated	Unclear, potentially ESS	Potentially marketplace	Barter but cryptocurrency payment disregarded
UK	Yes	No	Likely to be standard rated	Unclear, potentially ESS	Unclear	Single supply of NFT, cryptocurrency payment disregarded
US	Limited	No	Unclear, potentially taxable	Unclear, potentially digital goods	Potentially marketplace	Unclear - potentially cryptocurrency payment disregarded



We are already seeing more clarity on indirect tax rules as countries get to grips with aspects such as digital imports and platform economies. However, the speed of innovation around NFTs is outstripping the ability of tax policy makers to keep up.

This makes the international VAT/GST framework an uncertain environment to navigate, in particular for marketplaces where liability can be extended through the use of the marketplace's platform. Regional variations in the tax treatment of NFTs mean that market players cannot simply factor in a standard cost for tax in the transaction to address tax risks. And the potential difficulty in identifying the location of the buyer makes it challenging for both taxpayers and tax authorities to properly administer these transactions and remit or collect such revenues.

Penalties and late payment interest may be imposed in case of a late registration, incorrect VAT/GST treatment where VAT/GST is underpaid, or other non-compliance, e.g. failing to file indirect tax returns on time and completely. So be sure to seek advice to ensure compliance and prevent double (non-)taxation.

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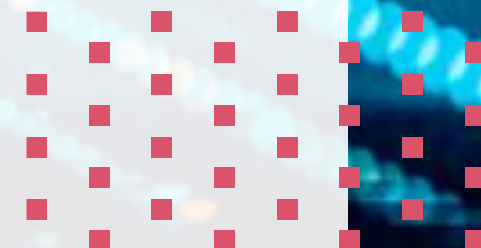
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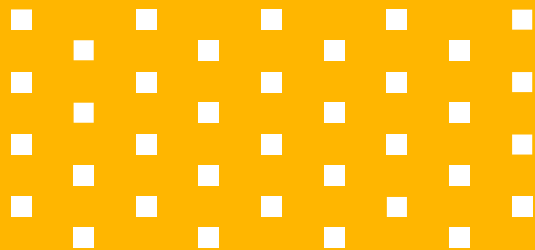
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6. Jurisdiction by jurisdiction summaries



Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>Yes – the Australian Tax Office (ATO) has published general guidance on their website in relation to the tax treatment of cryptocurrency investments. The ATO treats cryptocurrency as property, rather than currency, and considers disposal of cryptocurrency as a taxable capital gains tax (CGT) event.</p> <p>While there has been increased scrutiny from the ATO in recent times in relation to the profits made from cryptocurrency investing and trading, there is no specific income tax legislation in force which applies to cryptocurrency.</p> <p>The ATO has issued a limited number of taxation determinations and public tax rulings which consider either the income tax or GST treatment of cryptocurrency, however these are not binding for taxpayers. Taxpayers may approach the ATO and seek a tax ruling to confirm the tax outcomes of a specific scenario and the ATO's response will be legally binding for the applicant in this circumstance.</p> <p>Proposed legislation</p> <p>While there is no specific income tax legislation in respect of cryptocurrencies year to date, there has been an increasing number of Government consultations and new regulatory proposals in respect of cryptocurrencies. These include:</p> <ul style="list-style-type: none"> - the Treasury's announcement, on 22 June 2022, that it would introduce legislation to exclude cryptocurrency assets such as Bitcoin from being treated as a foreign currency for Australian income tax purposes. The treasury has opened public consultation till 20 September 2022; - the Treasury's commitment, as part of the cryptocurrency asset reforms, to perform a 'token mapping' exercise to identify how crypto-assets and services should be regulated. The Treasury released a consultation paper on 21 March 2022 outlining the licensing requirements for digital currency and custody requirements for digital currency exchanges and entities holding digital assets on behalf of a client; and - Senator Andrew Bragg has, on 21 September 2022, released a draft Digital Assets (Market Regulation) Bill for consultation, to establish disclosure requirements for digital asset exchanges, digital asset custody services, stable coin issuers and facilitator of the e-Yuan in Australia. Consultation is open until 31 October 2022.
2. What is the scope of taxability?	<p>Under the current Australian income tax rules, cryptocurrency is not viewed as money or foreign exchange but rather a CGT asset or as a revenue asset, like shares or property, with the character of the asset depending on the intention of the holder.</p> <p>While a digital wallet can contain different types of cryptocurrencies, each cryptocurrency is a separate asset.</p>
3. What are the direct tax implications?	<p>Where cryptocurrency is held on capital account, a CGT event is triggered when cryptocurrency is sold or exchanged for AUD or other cryptocurrencies or used to obtain goods and services (unless it is considered a personal use asset). In certain circumstances, a 50% discount of the taxable gain can apply where the cryptocurrency has been held by an individual or trust for a period in excess of 12 months.</p> <p>Given the nature of cryptocurrency, the frequency with which it is transacted and the common intention for acquiring cryptocurrency being to resell for a profit, it is likely that the ATO will consider investing and trading in cryptocurrencies to be on revenue account, i.e. for short term gains, rather than long-term growth. Accordingly, any profits from cryptocurrency would be taxed as assessable income at the taxpayer's marginal tax rate and not eligible for the 50% CGT discount.</p> <p>Where a cryptocurrency investor holds cryptocurrency as a hobby, they may not be subject to capital gains tax on the disposal of a cryptocurrency. This will depend on whether it can be demonstrated that the cryptocurrency is a 'personal use asset' valued at AUD10,000 or less.</p> <p>We note that given the nature of the cryptocurrency, it is often difficult to demonstrate intention for long-term investment purposes and it is likely to be assumed that the cryptocurrency is held on revenue account, unless there is clear evidence to substantiate otherwise. In this case, gains or losses realised from cryptocurrency transactions are subject to income tax at the investor's marginal tax rate (and is not subject to discount), or for traders, under the trading stock rules.</p> <p>If an investor is carrying on a business of trading cryptocurrency, then the cryptocurrency will be considered to be held on revenue account. Profits or losses realised from the disposal of cryptocurrency should be included in their taxable income and subject to income tax at the investor's marginal tax rate (and is not subject to discount).</p>

Australia

Direct Tax (Continued)

Question	Response
4. Are there any other relevant/noteworthy tax considerations?	For larger organisations including financial institutions, the taxation of cryptocurrency may fall under the Taxation of Financial Arrangements regime. The precise tax treatment will depend on the nature of the underlying cryptocurrency but would generally be on revenue account, where these rules apply. There are still a number of interpretative issues that need to be resolved in relation to when and how this regime might apply to cryptocurrencies.
5. What are the tax compliance/reporting requirements?	When taxpayers complete their income tax return, they must report gains and losses from cryptocurrency transactions on capital or revenue accounts (subject to the intention of the relevant taxpayer).

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	Yes – A New Tax System (Goods and Services Tax) Act 1999 (the GST Act) covers the positions and sets out the rules.
2. If 'yes', what is the GST position?	<p>The sale of digital currency is an input taxed sale for GST purposes, meaning that:</p> <p>(1) no GST is paid on the sale of digital currency; and</p> <p>(2) GST credits cannot be claimed for the GST included in the price paid for any purchases to make those sales.</p> <p>Digital currency is defined in the GST Act as digital units of value that:</p> <p>(a) are designed to be fungible; and</p> <p>(b) can be provided as *consideration for a supply; and</p> <p>(c) are generally available to members of the public without any substantial restrictions on their use as consideration; and</p> <p>(d) are not denominated in any country's currency; and</p> <p>(e) do not have a value that depends on, or is derived from, the value of anything else; and</p> <p>(f) do not give an entitlement to receive, or to direct the supply of, a particular thing or things, unless the entitlement is incidental to: (i) holding the digital units of value; or (ii) using the digital units of value as consideration;</p> <p>but does not include:</p> <p>(g) *money; or</p> <p>(h) a thing that, if supplied, would be a *financial supply for a reason other than being a supply of one or more digital units of value to which paragraphs (a) to (f) apply.</p>
3. Is there a definition of NFT in the GST law?	No
4. Are NFTs subject to GST?	<p>Under the GST rules, an NFT does not generally fall within the definition of digital currency. Therefore, the GST treatment of an NFT depends on whether the transaction meets the requirements of being a taxable, input taxed or GST-free supply under the GST rules.</p> <p>Ordinarily, the sale of NFTs to Australian buyers should attract GST while the sale of NFTs to overseas buyers is GST-free in most cases.</p>
5. Are there any other applicable exemptions relating to crypto-assets?	Yes, a cryptoasset may be input taxed (exempt) where it falls within the definition of other financial services (for example, a financial derivative)
6. Do NFTs fall within the definition of ESS / remote services?	Yes
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	Where a supply of an NFT is made from outside Australia to an Australian consumer through marketplace (where it meets the definition under section 84-70 of the GST Act), the operator of the market place has the obligation to account for GST on the supply of the NFT.

Indirect Tax (Continued)

Question	Response
8. Is there a definition of marketplace for ESS / remote services purposes?	<p>A New Tax System (Goods and Services Tax) Act 1999 section 84-70.</p> <p>(1) A service (including a website, internet portal, gateway, store or marketplace) is an electronic distribution platform if:</p> <ul style="list-style-type: none"> (a) The service allows entities to make supplies available to end-users; and (b) The service is delivered by means of electric communication; and (c) Any of the supplies that are inbound intangible consumer supplies are to be made by means of electronic communication. <p>(2) However, a service is not an electronic distribution platform solely because it is:</p> <ul style="list-style-type: none"> (a) A carriage service (within the meaning of the Telecommunications Act 1997); or (b) A service consisting of one or more of the following: <ul style="list-style-type: none"> i. Providing access to a payment system; ii. Processing payments; iii. Providing vouchers the supply of which are not taxable supplies because of s 100-5. <p>A New Tax System (Goods and Services Tax) Act 1999 section 84-65.</p> <p>(1) A supply of anything other than goods or real property is an inbound intangible consumer supply if the recipient is an Australian consumer, unless:</p> <ul style="list-style-type: none"> (a) The thing is done wholly in the indirect tax zone; or (b) The supplier makes the supply wholly through an enterprise that the supplier carries on in the indirect tax zone.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Assuming the cryptocurrency qualifies as digital currency for GST purposes, the sale of the NFT will be subject to the normal rules and the cryptocurrency will be treated as consideration for the NFT. However, the provision of the cryptocurrency will not be treated as a supply for GST purposes and no barter transaction arises. This treatment is effectively the same as the sale of NFTs for fiat currency.
10. Are there any specific De-Fi GST rules or tax authority guidance?	Not at this stage.
11. Are there specific rules for virtual events?	Not at this stage.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes – On 14 February 2022 a new act ('Ökosoziales Steuerreformgesetz 2022') was published that provides for specific tax rules for cryptocurrencies for individuals. The new rules that are part of the Austrian Income Tax Act came into force on 1 March 2022.
2. What is the scope of taxability?	<p>A cryptocurrency within the meaning of the Austrian Income Tax Act is defined as a digital representation of value that is not issued or guaranteed by any central bank or public body and is not necessarily linked to a legally established currency and does not have the legal status of currency or money, but is accepted by individuals or entities as a medium of exchange and can be transmitted, stored and traded electronically.</p> <p>A stablecoin is a cryptocurrency within the meaning of this definition. Also, a utility token can qualify as a cryptocurrency, if such a token is accepted as a medium of exchange. Non-fungible tokens (NFT), security tokens and asset-backed tokens do not qualify as cryptocurrencies within the meaning of the Austrian Income Tax Act.</p>
3. What are the direct tax implications?	<p>Since 1 March 2022, income from cryptocurrencies attributable to individuals is considered income from capital assets and is therefore taxed in the same way as income from conventional capital assets (such as shares, bonds, investment funds, etc.). Therefore, the following applies:</p> <ul style="list-style-type: none"> - Capital gains are irrespective of the holding period subject to 27.5% tax. - Income from mining also qualifies as income from capital assets and is therefore subject to 27.5% tax. If, however, the mining activity goes beyond mere asset management, the mining income qualifies as income from trade or business, which is subject to progressive income tax (up to 55%). - Coins and tokens obtained through staking or received in course of a hard fork, an airdrop or as a bounty are not taxable at the time of receipt. Such coins and tokens are to be recognised at acquisitions costs of zero. Therefore, the total sales proceeds are subject to 27.5% tax. - The swap of cryptocurrencies is not a taxable event. Only the exchange in fiat or against goods and services is a taxable event. - Capital losses can be credited against other income from cryptocurrencies and from conventional capital assets (i.e. dividend and interest income, income from investment funds, capital gains, etc.). Conversely, capital losses from classical capital assets can be credited against income from cryptocurrencies. Losses not offset in a calendar year cannot be carried forward. <p>The new rules apply to cryptocurrencies bought after 28 February 2021. For cryptocurrencies bought by individuals before 1 March 2021 (grandfathered cryptocurrencies) the following applies:</p> <ul style="list-style-type: none"> - Capital gains, realised within one year after acquisition of the cryptocurrency (speculative income), are subject to progressive income tax. If the cryptocurrencies are sold after the one Year's holding period. Capital gains are not taxable. - Capital losses realised within one year can only be credited against speculative income. - The swap of cryptocurrencies is a taxable event, if the swaps is carried out within one year after the acquisition of the coins swapped. <p>For corporate investors any income from cryptocurrencies is subject to 25% corporate income tax.</p>
4. Are there any other relevant/noteworthy tax considerations?	Austria is one of the first countries that introduced a withholding tax deduction on income from cryptocurrencies. From 1 January 2024 Austrian services providers, who are involved in the settlement of cryptocurrency-transactions (such as crypto exchanges), are obliged to withhold the 27.5% on income from cryptocurrencies and pay the tax for the investor to the tax office.
5. What are the tax compliance/reporting requirements?	Income from cryptocurrencies that is not subject to withholding tax must be included in the income tax return, which generally has to be filed by 30 June for the previous calendar year. There are no specific reporting and compliance rules for cryptocurrencies.

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Austria

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	Not specifically regulated or defined in VAT Law. Guidance in VAT Guidelines refers to the exchange of the virtual currency 'Bitcoin'. Likely this guidance would apply on other cryptocurrencies as well. No further guidelines on crypto currencies included in VAT Guidelines.
2. If 'yes', what is the VAT position?	Exchange of virtual currency 'Bitcoin' for consideration is within the scope of VAT, but VAT exempt. No further comments on VAT treatment of cryptocurrencies in VAT guidelines.
3. Is there a definition of NFT in the VAT law?	No.
4. Are NFTs subject to VAT?	General VAT principles apply: NFTs transfer digital assets, eg digital artworks. The transfer of NFTs qualifies as supply of services for VAT purposes. VAT exemptions may apply. VAT treatment is not specifically defined in VAT law or official VAT Guidelines.
5. Are there any other applicable exemptions relating to crypto-assets?	Other financial transactions in respect to cryptocurrencies (such as options over cryptocurrencies) should be VAT exempt. There are, however, no legal definitions or other guidelines in this respect.
6. Do NFTs fall within the definition of ESS / remote services?	Yes (but also depending on the specific case how NFTs are transferred).
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	In many cases this would be the marketplace. To be reviewed on a case by case basis.
8. Is there a definition of marketplace for ESS / remote services purposes?	Not specifically defined in VAT law, generally EU definition applies.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Supply of NFT that grants the right to receive certain goods or services could be regarded as supply of service. Use of cryptocurrency as means of payment.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	Other than that laid out above - no.
11. Are there specific rules for virtual events?	General rules on remote services / ESS services have to be considered.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<ul style="list-style-type: none"> Yes; The Canada Revenue Agency (CRA), agency responsible for administering taxes in Canada, published the 'Guide for cryptocurrency users and tax professionals' in 2020 which outlines the expected tax treatment of cryptocurrency. It indicated that CRA generally treats cryptocurrency like a commodity for purposes of the Canadian Income Tax Act (the 'Act'). No; to date, there is no federal or provincial tax direct tax legislation in Canada specific to crypto currencies or transactions involving crypto currencies. However, in the 2022 Canadian Federal Budget, the Minister of Finance announced the government's intention to launch a financial sector legislative review focused on the digitalisation of money and maintaining financial sector stability and security. The first phase of the review will be directed at digital currencies, including cryptocurrencies and stablecoins.
2. What is the scope of taxability?	<p>CRA's administrative guidance remains the only official insight; absent legislation addressing cryptocurrencies. However; it does not necessarily create a legal obligation to the taxpayer to follow these guidelines. CRA has indicated two main area of taxability as follows:</p> <ul style="list-style-type: none"> It will generally treat cryptocurrency like a commodity (e.g. gold and silver bullions) for purposes of the Act. Any income from transactions involving crypto currencies may be treated as business income or as a capital gain, depending on the facts and circumstances. The income tax treatment for cryptocurrency miners depends on the level and nature of activity. If sufficient commercial and businesslike attributes exist, mining can be considered a business activity and will be taxed as such.
3. What are the direct tax implications?	<p>Mining of cryptocurrency may be taxed similar to a business activity subject to the general scheme of the Act.</p> <p>Tax implications of disposition of cryptocurrency would depend on income or capital treatment of the assets itself. The Act generally provides a preferential tax treatment to disposition of capital property by reducing the gain realised on disposition of such property by half.</p>
4. Are there any other relevant/noteworthy tax considerations?	<p>According to the current administrative guidelines and depending on the facts and circumstance; there is a spectrum of possible tax implications that lends itself to ambiguity in this area. Further administrative guidance or legislative intervention may be necessary to provide certainty.</p>
5. What are the tax compliance/ reporting requirements?	<p>Any transactions involving cryptocurrencies should be reported on an annual income tax return.</p> <p>Certain Canadian income tax rules impose a requirement for a 'specified Canadian entity' to disclose its ownership of 'specified foreign property' to CRA via form T1135 ('Foreign Income Verification Statement'). This obligation arises in respect of a taxation year if the total cost of such property exceeds \$100,000 at any time during that taxation year. There are penalties associated with failure to file form T1135: \$25 per day for up to 100 days; or significant 'gross negligence' penalties equal to 5% of value of the assets (this may not apply when there is significant ambiguity in the law).</p> <p>Digital wallets may be described as either 'hot' or 'cold' wallets. Hot wallets are digital wallets that are connected to the Internet. Cold wallets are not connected to the Internet and generally take the form of physical storage.</p> <p>If a cold wallet's geographical location of the physical storage is in Canada, the associated holdings are unlikely to be subject to foreign property reporting requirements under the Act. However, if a hot wallet's primary server location is located outside Canada, it is likely to be subject to foreign property reporting requirements under the Act.</p>

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	<p>Yes - The Excise Tax Act (Part IX of which imposes the Canadian GST/HST) contains a definition of a 'virtual payment instrument' which would apply to cryptocurrencies.</p> <p>On Feb 2, 2022, the Canadian Department of Finance released draft legislation relating to cryptoasset mining activities that, if implemented, would generally deny input tax credit claims by miners but would also deem that any fee, reward or payment for the mining activity received by the miner not to be a supply for GST/HST purposes and therefore not subject to GST/HST.</p> <p>However, mining activities that are not provided to a mining group operator and whose identity is known to the miner would be GST/HST taxable in which case the miner would be entitled to claim input tax credits.</p>
2. If 'yes', what is the GST position?	<p>A 'virtual payment instrument' is included in the definition of a 'financial instrument' and therefore the supply of a cryptocurrency that qualifies as a virtual payment instrument is a GST/HST exempt supply of a financial service.</p> <p>A virtual payment instrument is defined to mean</p> <p>'property that is a digital representation of value, that functions as a medium of exchange and that only exists at a digital address of a publicly distributed ledger, other than property that</p> <ul style="list-style-type: none"> • confers a right, whether immediate or future and whether absolute or contingent, to be exchanged or redeemed for money or specific property or services or to be converted into money or specific property or services, • is primarily for use within, or as part of, a gaming platform, an affinity or rewards program or a similar platform or program, or • is prescribed property.'
3. Is there a definition of NFT in the GST law?	No
4. Are NFTs subject to GST?	Generally yes as the supply of a NFT is considered the supply of an 'intangible personal property' for GST/HST purposes. The rate of tax would depend upon the provincial place of supply rules in the Excise Tax Act and if made to an unregistered non-resident person may qualify for zero-rating when specific conditions are met.
5. Are there any other applicable exemptions relating to crypto-assets?	Yes - options over cryptocurrency and brokerage in respect of cryptocurrency transactions are GST/HST exempt (as long as the cryptocurrency qualifies as a virtual payment instrument).
6. Do NFTs fall within the definition of ESS / remote services?	<p>Yes. A supply of an NFT(that does not qualify as a virtual payment instrument) to an unregistered recipient could constitute a 'specified supply' for GST/HST purposes (which would be conceptually similar to ESS/remote services as defined in other jurisdictions) unless the NFT</p> <ul style="list-style-type: none"> • cannot be used in Canada • relates to real property situated outside Canada, or • relates to tangible personal property ordinarily situated outside Canada
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	Marketplace.

Indirect Tax (Continued)

Question	Response
8. Is there a definition of marketplace for ESS / remote services purposes?	<p>Yes, the Excise Tax Act contains a definition of a 'specified distribution platform' and a 'distribution platform operator' as follows:</p> <p>Specified distribution platform means a digital platform through which a person facilitates the making of specified supplies by another person that is a specified non-resident supplier or facilitates the making of qualifying tangible personal property supplies by another person that is not registered under Subdivision D of Division V</p> <p>Distribution platform operator, in respect of a supply of property or a service made through a specified distribution platform, means a person (other than the supplier or an excluded operator in respect of the supply) that</p> <ul style="list-style-type: none"> controls or sets the essential elements of the transaction between the supplier and the recipient; if paragraph (a) does not apply to any person, is involved, directly or through arrangements with third parties, in collecting, receiving or charging the consideration for the supply and transmitting all or part of the consideration to the supplier; or is a prescribed person.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Taxable for Canadian GST/HST purposes subject to possible zero-rating for NFTs sold to unregistered non-residents
10. Are there any specific De-Fi GST rules or tax authority guidance?	No. If the cryptocurrency qualifies as a virtual payment instrument, the interest earned on the loaned cryptocurrency should qualify as a GST/HST exempt supply of a financial service.
11. Are there specific rules for virtual events?	No. A fee charged to attend a virtual event would likely be consideration for a supply of intangible personal property for GST/HST purposes (i.e. an admission fee) and would be GST/HST taxable if supplied to a resident of Canada. If the supply was made by a non-resident of Canada, it would likely fall within the definition of a 'specified supply' and would be caught by Canada's version of the ESS/remote services rules.

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Denmark

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	There limited guidance issued by the Danish Tax Authorities and limited case law exist, which mainly concern whether the cryptocurrency is bought for speculative purposes and as such taxable.
2. What is the scope of taxability?	There is not yet a definition of crypto assets in the Danish tax law.
3. What are the direct tax implications?	<p>Crypto assets are currently treated according to the State Tax Act's rules on speculation taxation, which involves a subjective assessment of the crypto owner's intention with the acquisition at the time of purchase. As a main rule, trade with crypto is per default considered speculative.</p> <p>Any transaction which is considered for speculative purposes is taxable on the gain. Gains is taxed as personal income at a marginal rate up to 51%, while losses are deducted with a tax value of approx. 26%.</p> <p>The gain is calculated as the difference between the price of disposal and the acquisitions cost.</p>
4. Are there any other relevant/noteworthy tax considerations?	N/A
5. What are the tax compliance/ reporting requirements?	<p>Capital gain/loss and receiving income is reported in the annual tax return (individual online form).</p> <p>The gain is stated in the annual tax return in box 20 for the individual, while any loss is stated in the annual tax return in box 58 according to DTA guidelines.</p>

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	There is limited practice in the form of the legal guidance from The Danish Tax Authorities as well as few official binding rulings.
2. If 'yes', what is the VAT position?	<p>- Bitcoin transactions are VAT exempt.</p> <p>- Bitcoin mining was in a specific case regarded as falling outside the scope of VAT.</p> <p>- In a specific case from 2016 sale of virtual currency for gaming was regarded as subject to VAT.</p> <p>There is no official practice on other non-traditional currency transactions (e.g. fiat, utility/security tokens/NFT).</p>
3. Is there a definition of NFT in the VAT law?	No
4. Are NFTs subject to VAT?	N/A
5. Are there any other applicable exemptions relating to crypto-assets?	Please see answer in nr 2
6. Do NFTs fall within the definition of ESS / remote services?	N/A
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	N/A
8. Is there a definition of marketplace for ESS / remote services purposes?	N/A
9. Treatment of NFTs sold in exchange for cryptocurrency?	N/A
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No
11. Are there specific rules for virtual events?	No

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El Salvador

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	There is not specific law on direct tax on cryptocurrency, however, the Bitcoin Law establishes Bitcoin as legal tender and therefore not subject to capital gains tax. Please note that only Bitcoin is regulated by the Bitcoin Law; in principle all other cryptocurrencies could be treated as an intangible asset. A complete analysis should be made to conclude.
2. What is the scope of taxability?	N/A – There is no specific provision in Salvadoran tax legislation regarding the scope of taxability of cryptocurrencies except for BTC, which is legal tender and therefore not subject to capital gains tax.
3. What are the direct tax implications?	N/A – A case by case analysis should be made to conclude. Please note that Bitcoin Law only regulates the usage of BTC as legal tender.
4. Are there any other relevant/noteworthy tax considerations?	N/A
5. What are the tax compliance/ reporting requirements?	N/A – According to Bitcoin Law, for accounting purposes, USD will be used as the reference currency. Only BTC is recognised by Salvadoran legislation as legal tender, in principle all other cryptocurrencies could be treated as an intangible assets.

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	No
2. If 'yes', what is the GST position?	N/A
3. Is there a definition of NFT in the GST law?	No
4. Are NFTs subject to GST?	Although there is no GST law on crypto currency, it is important to mention that NFTs are not defined in Salvadoran tax legislation so an analysis should be made on the legal nature of NFTs. In principle, could be treated as an intangible asset, and therefore, no subject to VAT. Salvadoran VAT only applies to tangible goods and provision of services.
5. Are there any other applicable exemptions relating to crypto-assets?	No
6. Do NFTs fall within the definition of ESS / remote services?	N/A
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	Although there is no GST law on crypto currency, it is important to mention that there is no specific provision in Salvadoran tax legislation regarding sale of NFTs, so could be considered under the General Tax Law as an intangible asset, thus, no subject to Salvadoran VAT, since Salvadoran VAT only applies to tangible goods and provision of services.
8. Is there a definition of marketplace for ESS / remote services purposes?	No
9. Treatment of NFTs sold in exchange for cryptocurrency?	Based on the above answers, an analysis should be made on the specific of the operations and the legal nature of the NFTs under Salvadoran Legal framework. However, in principle, could be treated as an intangible asset, and thus, subject to capital gain tax or corporate income tax depending on whether the operation is considered as the ordinary course of business.
10. Are there any specific De-Fi GST rules or tax authority guidance?	No
11. Are there specific rules for virtual events?	No

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	There is nothing specific in the income tax law regarding cryptocurrency, however, there is guidance from the tax authorities.
2. What is the scope of taxability?	<p>The scope of the guidance provided is income generated through cryptocurrency, for example:</p> <ul style="list-style-type: none"> - by a change in the price of cryptocurrency in the event of the sale or exchange of cryptocurrency into regular currency or another cryptocurrency; - when paying for goods or services in cryptocurrency; - while cryptographic mining; - computer data rental (renting out storage capacity); - cryptocurrency received as wages. <p>Taxable income received in cryptocurrency, such as rent, interest, business income, etc., is also subject to income tax.</p>
3. What are the direct tax implications?	<p>Income received in cryptocurrency (gains from the transfer of property, income from employment, business income) is taxed on a similar basis as income received in traditional currency. Income as a result of a stake, often called a bonus, is considered as interest on borrowing cryptocurrency and must be declared respectively.</p> <p>As regards the taxation of virtual income, the purchase or sales price or received income has to be converted into euros at the exchange rate of cryptocurrency (market price) applying on the date of receipt of the income or costs.</p>
4. Are there any other relevant/noteworthy tax considerations?	<p>Within the meaning of § 15(1) of the Income Tax Act, cryptocurrency is considered as property.</p> <p>The transaction of transfer which caused loss can be taken into account for taxation purposes only in the case of transfer of securities on the terms and conditions provided by in § 39 of the Income Tax Act. Cryptocurrency is not considered as a security and, thus, loss suffered upon the exchange of cryptocurrency cannot be taken into account for taxation purposes.</p> <p>In addition, the Estonian tax authorities have emphasised the need to make a distinction between cryptocurrency transactions made on behalf of a person and a company (this is because a person (natural person) and a company (legal person) are subjects to different taxation rules). Therefore, in order to make a cryptocurrency transaction on behalf of a company (or a legal entity), it is mandatory to open an account / wallet on behalf of the company (the legal entity). This means that when a company signs the agency contract with a person (a contract for the provision of an agency-type service), the person, who is acting as an agent (e.g., member of management board), does not make transactions in his own name, but in the name, in the interests and for the benefit of the company that gave him the mandate.</p>
5. What are the tax compliance/reporting requirements?	<p>If a private person receives income from trade, purchase and sale of cryptocurrency or from the exchange of cryptocurrency against another crypto- or traditional (fiat) currency, the received income must be declared in the tables 6.3 or 8.3 of the income tax return as gains from transfer of other property.</p> <p>The gain is calculated based on the transaction as the difference between the selling price and the purchase price, or, in the case of exchange, between the price of received property and the purchase price of the cryptocurrency.</p> <p>Only the transactions that generated income have to be declared. In the taxation of property, each transfer transaction, including exchange, is considered as a separate object of taxation.</p> <p>If a natural person decides to start or to continue investing in cryptocurrency as a company (legal entity), he/she must take into account the corporate taxation rules. A resident company pays income tax on the distribution of profits, i.e. on the payment of a dividend at the rate of 20/80. Benefits granted by the employer (fringe benefits) to employees are subject to income tax at the rate of 20/80 and social tax at the rate of 33%. Expenses or payments made by a resident company, which are not related to the company's business, are subject to income tax at the rate of 20/80.</p>

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Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	There is nothing specific in the VAT law regarding cryptocurrency, however, there is guidance from the tax authorities.
2. If 'yes', what is the VAT position?	<p>Transactions involving non-traditional currencies, i.e. currencies which are not legal tender, are nevertheless to be treated as financial transactions provided that the parties to the transaction accept these currencies as alternatives to legal tender.</p> <p>In general, digital wallet services are software, which allow to store the personal keys of the user of blockchain. In this case, the digital wallet service is merely technological and qualifies as a technological aid. Thereby, the digital wallet service itself does not allow to execute cryptocurrency transactions. Storing personal keys is not the ultimate goal for users.</p> <p>it is important to note that in the case of a paid digital wallet service, VAT taxation depends on the content of the wallet service and, in certain cases, the exemption from VAT for financial services may apply to wallet services.</p> <p>If the digital wallet service enables, in addition to depositing a cryptocurrency considered to be means of payment, transactions with the referred cryptocurrency, which create rights and obligations in relation to that means of payment, and which are regarded as a financial service within the meaning of the § 16 (21) of the Value-Added Tax Act, the exemption from VAT for financial services provided for in § 16 (21) of the VAT Act applies.</p> <p>A paid service which gives access to a software application and the purpose of which is to enable the recipient of the service to use the platform is subject to regular VAT depending on the recipient of the service. The service of using a platform is not a financial service and is therefore not exempt from VAT under the VAT Act.</p> <p>The activities of the miners are sufficiently linked to cryptocurrency and thus exempt from VAT and the input VAT on goods and services acquired for that purpose (e.g. computers, electricity) is not deductible.</p>
3. Is there a definition of NFT in the VAT law?	No
4. Are NFTs subject to VAT?	Not clear, no guidance. In our understanding could be subject to VAT but it depends on the exact contractual object.
5. Are there any other applicable exemptions relating to crypto-assets?	Payment and currency exchange services are exempt from VAT pursuant to the § 16 (21) 4) of the VAT Act.
6. Do NFTs fall within the definition of ESS / remote services?	Could be yes, however, there is no specific guidance in this regard.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	No guidance. In our understanding it could be either the service provider or business recipient.

Indirect Tax (Continued)

Question	Response
8. Is there a definition of marketplace for ESS / remote services purposes?	Yes, there is a definition of online marketplace in the Cybersecurity Act which has a wider ambit than just ESS. <i>Online marketplace (Cybersecurity Act § 2 5):</i> 'online marketplace' means an information society service that allows consumers and traders, for the purposes of the Consumer Protection Act, to conclude online sales or service contracts either on the online marketplace's website or on a trader's website that uses computing services provided by the online marketplace
9. Treatment of NFTs sold in exchange for cryptocurrency?	Cryptocurrency payment leg is the same as payment in legal tender (it is not supply). Supply of NFTs carries its own VAT liability.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No.
11. Are there specific rules for virtual events?	No.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>Yes. Law and guidelines from the French Tax Authorities:</p> <ul style="list-style-type: none"> - Article 150 VH bis of the French tax code ('FTC'), - Article 1649 bis C of the FTC, - Article 41 duovicies J, K and V, Appendix III of the FTC, - Article 344 G decies and undecies, Appendix III of the FTC, - BOI-RPPM-PVBMC-30-30, 02/09/2019.
2. What is the scope of taxability?	<p>Tax regime – Individuals: sale of crypto-assets made on a regular basis or not.</p>
3. What are the direct tax implications?	<p>Tax regime – Individuals</p> <p>The tax treatment applicable to individuals depends on whether or not the sale of crypto-assets is made on a regular basis and qualifies as a professional activity (case-by-case analysis).</p> <p>As from January 1st 2019, sales of crypto-assets made on a purely occasional basis by a French taxpayer are subject to French personal income tax at a global tax rate of 30% (12.8% of income tax and 17.2% of social levies). Taxable transactions include the exchange of crypto assets against FIAT money or goods and services. The exchange of a crypto-asset against another crypto-asset is not subject to tax.</p> <p>On the opposite, the sale of crypto-assets made on a regular basis is treated as a business income ('bénéfices industriels et commerciaux' – 'BIC') and subject to personal income tax at progressive tax rates (from 0% to 45% in 2022) and to social levies (17.2%).</p> <p>As an exception, the sale of crypto-assets obtained as consideration for the taxpayer's participation in a mining activity is subject to personal income tax as non-business income ('bénéfices non commerciaux' – 'BNC').</p> <p>Tax regime - Corporate entities</p> <p>The French Tax Code does not expressly address the situation in which the investor is a corporate entity. Then, in the absence of specific rules, the general tax rules applicable to corporate entities should apply.</p> <p>More precisely, crypto-assets should be treated as intangible assets and, therefore, corporate entities are required to value them at the end of each year. Any asset retirement (disposal of crypto-assets which are therefore removed from the asset side of the balance sheet) is subject to corporate income tax at standard tax rate (in case of capital gain). On the other hand, a buy and hold strategy does not generate any taxable profit during the holding phase. However, changes in the market value of the tokens held should be recorded in the balance sheet and in the event of an unrealised loss, a provision for risk should be recorded (please see after).</p>
4. Are there any other relevant/noteworthy tax considerations?	<p>A French tax ruling dated June 2022 specified for corporate entities that:</p> <ul style="list-style-type: none"> - Cryptocurrencies should be accounted for at their purchase value in the corporates entities' balance sheet (account 522 'tokens held'); - Changes in the market value of such tokens held should be recorded in the balance sheet under transitional accounts: on the assets side of the balance sheet in the case of unrealised losses; on the liabilities side of the balance sheet in the case of unrealised gains. - In the event of an unrealised loss, a provision for risk should be recorded. Such provision should be deductible if the general conditions for deductibility are fulfilled (i.e., the loss or expense must be deductible, probable, clearly specified, valued with sufficient approximation and arise in the current year - art. 39 of the FTC).

France

Direct Tax (Continued)

Question	Response
5. What are the tax compliance/reporting requirements?	<p>For individuals:</p> <ul style="list-style-type: none"> - Annual income tax return n° 2042-C: Taxpayers must include the total amount of their capital gains or losses realised on taxable sales of the previous year on their overall income tax return, i.e., 2022 income tax return to be filed in May 2023. - Form no. 2086-SD: The taxpayers attach to their tax return a schedule, on which they mention and evaluate all the capital gains or losses realised on the occasion of each of the taxable disposals made during the year or the prices of each of the exempt disposals. - At the request of the French tax authorities, taxpayers are required to provide within thirty days the supporting documents related to the transfers mentioned in the form n° 2086-SD. - Form n° 3916-bis: Since January 1, 2020, individuals domiciled in France for tax purposes must also declare, at the same time as their tax return, digital asset accounts opened abroad. More precisely, they have to declare the references of digital asset accounts opened, held, used or closed with companies, legal entities, institutions or organisations established abroad, by means of form n° 3916-bis. <p>For companies: No specific rules (they must make regular CIT tax filings).</p>

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	Yes.
2. If 'yes', what is the GST position?	<p>- As a general principle, the exchange of crypto-assets against FIAT currency or against other crypto-assets is exempt from VAT (CJEU, 10/22/2015, C-264/14 'Hedqvist'), whereas the exchange of crypto-assets against goods and services is subject to VAT.</p> <p>- Concerning the VAT regime applicable to an ICO (BOI-RES-000054): the FTA mentioned that the VAT tax treatment must be defined according to two categories of tokens: (i) security tokens and (ii) utility tokens.</p> <p>(i) Security token: as it gives its beneficiary only the right to receive dividends and to take decisions, it will not be subject to VAT.</p> <p>(ii) Utility token: as it enables future access to the products or services offered by the company, the FTA specified that utility tokens will be subject to VAT only if a direct link exists between the services supplied and the consideration received by the taxable person. It mentioned that during the issue of tokens through an ICO, the service and the corresponding price cannot be clearly identified, because at this stage, issued tokens serve the sole function of funding a start-up company, and not as a payment for any kind of service (no direct link). However, any future use of such tokens as a means of payment and access to products and services may be subject to VAT.</p>
3. Is there a definition of NFT in the GST law?	No tax guidance to date.
4. Are NFTs subject to GST?	The current position on the taxation of NFTs is unclear as no guidance has been published to date from a VAT perspective.
5. Are there any other applicable exemptions relating to crypto-assets?	No.
6. Do NFTs fall within the definition of ESS / remote services?	No tax guidance to date.
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	No tax guidance to date.
8. Is there a definition of marketplace for ESS / remote services purposes?	<p>Yes. According to the article 259 B of the French Tax Code and guidelines from the French Tax Authorities (BOI-TVA-CHAMP-20-50-40-20, 22/12/2021, n° 70) to be qualified as electronic services, the following conditions should be met:</p> <ul style="list-style-type: none"> - The services are provided via Internet or an electronic network; - The service is largely automated by means of machines, in particular computers; - The human intervention is minimal; - The service is impossible to provide in the absence of information technology. <p>If the above conditions for electronic services are met, a presumption of opaque intermediary is established for operators providing such services.</p>

France

Indirect Tax (Continued)

Question	Response
9. Treatment of NFTs sold in exchange for cryptocurrency?	No specific NFT tax guidance to date. However, the exchange of crypto-assets against FIAT currency or against other crypto-assets is exempt from VAT (CJEU, 10/22/2015, C-264/14 'Hedqvist'), whereas the exchange of crypto-assets against goods and services is subject to VAT.
10. Are there any specific De-Fi GST rules or tax authority guidance?	No tax guidance to date.
11. Are there specific rules for virtual events?	No tax guidance related to cryptocurrencies to date.

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Germany

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>There is tax authority guidance in Germany (see below).</p> <p>In Germany, there are no direct tax laws that apply specifically for cryptocurrencies or transactions involving cryptocurrencies. Crypto assets are taxed according to the general taxation rules in Germany.</p> <p>The German Federal Ministry of Finance ('BMF'), which is responsible for the administration of taxes, published a letter on individual questions regarding the income tax treatment of virtual currencies and other tokens to provide participants in administration and business as well as individual taxpayers with a legally secure and easily applicable guide (BMF letter dated 10 May 2022, Ref. IV C 1 – S 2256/19/10003 :001).</p>
2. What is the scope of taxability?	<p>Currently, the BMF letter is the only official document that is intended to support taxpayers in classifying crypto assets for tax purposes.</p> <p>The German tax treatment of income received from, or charges made in connection with, activities involving crypto assets depends on the activities and the parties involved. In principle, crypto assets are subject to the general taxation rules in Germany.</p>
3. What are the direct tax implications?	<p>The German tax treatment of income received from, or charges made in connection with, activities involving crypto assets depends on the activities and the parties involved. When crypto assets are acquired and held by a corporation and subsequently sold at a value above the acquisition cost, this sale is subject to the general taxation principles. Activities such as crypto mining, forging and lending also result in operating income at the level of the company, which is also subject to the general taxation rules. This means that these are also taxable with trade tax and, if applicable, corporate income tax.</p> <p>Different rules apply to private individuals. If crypto assets are acquired and held for longer than 1 year, this sale is not taxable. If the crypto assets are sold within one year, the taxpayer must pay tax on the capital gain at his individual income tax rate. However, there is an exemption limit in the amount of € 600.</p>
4. Are there any other relevant/noteworthy tax considerations?	<p>Not specifically with respect to taxes. However, the accounting for German tax purposes and German GAAP differs, depending on the token class.</p> <p>Currency token: Currency tokens are not recognised in the German tax balance sheet of the issuer. When currency coins are issued, no accruals, liabilities, or deferred income are recognised in the German tax balance sheet. The sale of currency token results in revenue, which increases profit.</p> <p>Utility token with voucher character: At the time of the ICO, a liability can be formed in the tax balance sheet if a concrete promise of performance already exists when the token is issued and the acquirer can insist on this performance.</p> <p>Utility tokens with right to use electronic platforms: If the platform has already been developed, deferred income is to be recognised. If the platform has not yet been developed, a liability is to be recognised in the amount of the income until completion.</p> <p>Security token: Depending on the structure of the token, equity or debt capital needs to be recognised in the balance sheet. If the issuer of a security token enters into an obligation with the issue (e.g., to pay interest or repay principal), a liability has to be recognised in the amount of the fulfillment amount. If the obligation is uncertain, a provision needs to be recognised. In cases where security tokens are used for corporate financing and are contractually structured so that the tokens are treated as equity-like participation right of the issuer, then the representative participation right is to be shown on the liabilities side of the issuer's tax balance sheet.</p>
5. What are the tax compliance/reporting requirements?	<p>There are currently no special tax compliance or reporting requirements associated with Crypto currency.</p> <p>Normal tax reporting and compliance rules apply.</p>

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Germany

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	Yes – Circular Letter published by the German Federal Ministry of Finance covers the position and sets out the rules.
2. If 'yes', what is the VAT position?	The exchange of conventional currencies into cryptocurrencies and vice versa is a taxable supply which is VAT exempt. The use of cryptocurrencies is equated with the use of conventional means of payment insofar as they do not serve any purpose other than that of a pure means of payment. The handing over of cryptocurrencies for the mere payment of a fee is therefore not taxable.
3. Is there a definition of NFT in the VAT law?	No. Currently, there is no definition of NFT in the German VAT law or a legal provision or guideline that deals with the VAT treatment of NFTs.
4. Are NFTs subject to VAT?	Yes, in general standard rated at 19% (domestic transactions). However, reduced VAT rate at 7% might be applicable in specific cases. See further below in relation to cross border NFT transactions and the ESS / remote services rules.
5. Are there any other applicable exemptions relating to crypto-assets?	The services of the miners are non-taxable transactions.
6. Do NFTs fall within the definition of ESS / remote services?	NFTs are likely going to be considered as digital services, especially if we assess the European Union (EU) definition of electronically supplied services.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	In case of a local supply of service (= sale of the NFT) the service provider / seller is liable to pay the VAT. The reverse charge mechanism (liability to pay VAT is shifted to the service recipient/buyer of the NFT) applies in case of cross border B2B supplies.
8. Is there a definition of marketplace for ESS / remote services purposes?	Yes, German VAT Act. For the purposes of this rule, an electronic marketplace is a website or any other means by which information is made available via the Internet that enables a third party that is not the operator of the marketplace to execute transactions.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Single supply of NFT, cryptocurrency payment is disregarded for German VAT purposes.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	Not at this stage.
11. Are there specific rules for virtual events?	Not at this stage. However, an amendment to the European VAT system directive will come into force on 1 January 2025. The EU thus newly regulates the place of supply for virtual events. The national regulations must be adapted accordingly. In a Circular letter of the Federal Ministry of Finance dated 9 February 2021, the German tax authorities stipulated that virtual events in a B2B environment are taxable where the recipient is located; however, due to the fact that this circular letter does not mention anything in regards to the B2C environment, it remains somehow unclear (until the change as of 1 January 2025) where these are taxable.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	There is no specific legislation or published guidance on the tax treatment of cryptocurrency in Gibraltar.
2. What is the scope of taxability?	In the absence of specific legislation or guidance, crypto assets are taxed (if applicable) under the general tax rules.
3. What are the direct tax implications?	Capital gains are not taxable in Gibraltar. Trading income which is accrued in and derived from Gibraltar is taxable at the standard rate (currently 12.5% for corporate tax). Each case needs to be considered on its own merits to determine if the income is taxable or not.
4. Are there any other relevant/noteworthy tax considerations?	Cryptocurrencies, tokens and similar awarded to employees may be subject to tax under the benefit in kind rules. Employers have the option to pay any tax liability on behalf of employees.
5. What are the tax compliance/ reporting requirements?	There are no specific tax compliance/reporting requirements for cryptocurrency. For companies, general rules will apply as follows: - Annual tax returns will need to be filed 9 months after the year end, the tax liability payment deadline will be the same as this. - Two Payments on Accounts to be made, in February and September with any balancing payment of tax due 9 months after year end. Benefits in kind should be declared on the P10 / P10A form. This is an annual return which employers are required to file with the Tax Office. Employees should also declare benefits in kind received in their personal tax return. The P10/10A return needs to be filed by 31 July in relation to the tax year ended 30 June. Personal tax returns are required to be filed by 30 November in relation to the tax year ended 30 June.

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	No – There is currently no VAT/GST regime in Gibraltar.
2. If 'yes', what is the VAT position?	N/A
3. Is there a definition of NFT in the VAT law?	N/A
4. Are NFTs subject to VAT?	N/A
5. Are there any other applicable exemptions relating to crypto-assets?	N/A
6. Do NFTs fall within the definition of ESS / remote services?	N/A
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	N/A
8. Is there a definition of marketplace for ESS / remote services purposes?	N/A
9. Treatment of NFTs sold in exchange for cryptocurrency?	N/A
10. Are there any specific De-Fi VAT rules or tax authority guidance?	N/A
11. Are there specific rules for virtual events?	N/A

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	No
2. What is the scope of taxability?	N/A
3. What are the direct tax implications?	N/A
4. Are there any other relevant/noteworthy tax considerations?	N/A
5. What are the tax compliance/ reporting requirements?	N/A

Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	No – There is currently no GST in Guernsey.
2. If 'yes', what is the GST position?	N/A
3. Is there a definition of NFT in the GST law?	N/A
4. Are NFTs subject to GST?	N/A
5. Are there any other applicable exemptions relating to crypto-assets?	N/A
6. Do NFTs fall within the definition of ESS / remote services?	N/A
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	N/A
8. Is there a definition of marketplace for ESS / remote services purposes?	N/A
9. Treatment of NFTs sold in exchange for cryptocurrency?	N/A
10. Are there any specific De-Fi GST rules or tax authority guidance?	N/A
11. Are there specific rules for virtual events?	N/A

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes – While there is no specific tax provision in the tax law addressing digital assets, the Hong Kong Inland Revenue Department updated the Departmental Interpretation and Practice Notes ('DIPN') No. 39 in March 2020 to include a section on the taxation of digital assets. The guidance does not however cover staking, DeFi, or NFT.
2. What is the scope of taxability?	<p>The scope of taxability remains in line with Hong Kong's territorial regime whereby onshore sourced profits derived by a person (including an individual, a corporation, a partnership, trustee, whether incorporated or unincorporated) carrying on a trade, profession or business in Hong Kong from such trade, profession or business, other than profits of a capital nature, would be subject to Hong Kong profits tax.</p> <p>The DIPN provides certain general guidelines as to how the nature of the profits from a transaction might be determined depending on the type of the digital asset involved (i.e. payment token, utility token or security token) together with the underlying intention surrounding the transaction. For instance:</p> <ul style="list-style-type: none"> - The issuance of a utility token is generally revenue in nature, whereas the issuance of security token is generally capital in nature. - Cryptocurrencies received in the course of a cryptocurrency business (e.g. through airdrops and forks) are generally regarded as business receipts. - The nature (capital vs. revenue) of profits from the disposal of digital assets is determined based on facts and circumstances having regard to established principles. - The broad guiding principle will be applied to determine the source of profits arising from cryptocurrency transactions.
3. What are the direct tax implications?	<p><u>With respect to the transfer of digital assets</u></p> <p>In the hands of seller:</p> <p><u>Income of a revenue nature sourced in Hong Kong</u> taxable generally @ 16.5% where expenses of a revenue nature incurred in the production of assessable profits are generally deductible. Capital expenditures are generally not deductible unless otherwise provided for in the tax law, e.g. expenditures for the acquisition of computer hardware, software or systems are generally deductible outright as prescribed fixed assets; other plant and machinery may generally qualify for depreciation allowances.</p> <p>In the hands of recipient:</p> <p><u>Acquisition of cryptocurrencies</u> should not by itself give rise to any Hong Kong profits tax implications. Subject to the accounting treatment, <u>receipt of cryptocurrencies for free</u> in the course of business may be taxable generally @ 16.5%.</p> <p>Business models of greater complexity (i.e. mining, staking, etc.) should be reviewed based on the businesses' respective value chain and manner of delivery for the direct tax implications.</p> <p>In the hands of Exchanges / Brokers (including Foreign Exchanges / Brokers):</p> <p><u>Withholding tax</u> may be applicable to the extent that the digital asset transactions involve the payment of sums from Hong Kong to non-resident persons for the use (commercial exploitation) of intellectual property rights.</p>
4. Are there any other relevant/noteworthy tax considerations?	<p>Accounting implications considering that Hong Kong profits tax generally follows accounting.</p> <p>Transfer pricing implications since Hong Kong has also implemented transfer pricing rules in line with international standards.</p> <p>Tax treatment of fair value gains / losses, and crypto borrowing and lending are not discussed in the DIPN.</p> <p>Employment income received in digital assets remains subject to salaries tax.</p>
5. What are the tax compliance/reporting requirements?	<p><u>With respect to the transfer of digital assets</u></p> <p>In the hands of seller in the context of those subject to profits tax:</p> <ul style="list-style-type: none"> - Filing annual profits tax returns (and reporting the relevant income therein) <p>In the hands of Exchange / Broker:</p> <ul style="list-style-type: none"> - Filing of annual profits tax returns for non-residents and payment of tax withheld (with regard to sums paid for the use of intellectual property rights) as applicable

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Hong Kong

Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	There is no VAT/GST regime in Hong Kong.
2. If 'yes', what is the GST position?	N/A
3. Is there a definition of NFT in the GST law?	N/A
4. Are NFTs subject to GST?	N/A
5. Are there any other applicable exemptions relating to crypto-assets?	N/A
6. Do NFTs fall within the definition of ESS / remote services?	N/A
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	N/A
8. Is there a definition of marketplace for ESS / remote services purposes?	N/A
9. Treatment of NFTs sold in exchange for cryptocurrency?	N/A
10. Are there any specific De-Fi GST rules or tax authority guidance?	N/A
11. Are there specific rules for virtual events?	N/A

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Hungary

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes, there is a direct tax law on cryptocurrency. The regulation is included under the Act CXVII of 1995 on Personal Income Tax covering the taxation of crypto assets. It is applicable since 1 January 2022.
2. What is the scope of taxability?	The new regulation covers the income from trading and mining of crypto-assets by private individuals. According to the Hungarian regulation income from transactions with crypto-assets shall mean profit realised on any transaction(s) in non-crypto-assets executed by the private individual in respect of crypto-assets during the tax year . Crypto-crypto transactions are not taxable, only fiat-crypto or crypto-fiat transactions. Transaction executed in respect of crypto-assets shall mean any transaction that may be concluded by and available to any person for the transfer, assignment of crypto-assets (including the exercise of rights stemming from crypto-assets) where the private individual acquires a profit by means other than crypto-assets. Profit shall be considered realised (in respect of the excess amount) if the sum of the proceeds from transactions executed in the year is higher than the certified expenditure in that year relating to the acquisition of crypto-assets and transaction fees and commissions, including certified expenses not directly connected to any given transaction, incurred in connection with holding crypto-assets. Loss shall be considered realised (in respect of the excess amount) if the sum of the above-mentioned annual expenditures is higher than the proceeds from transactions executed in the year.
3. What are the direct tax implications?	Income from crypto transactions will be subject to 15% personal income tax in Hungary. When determining the exact amount of the transaction, the acquisition costs and other expenses are deductible. If the crypto asset is acquired in the given year by way of participating in the production of crypto-assets (mining) or in the operation of the related system (validation and other similar activities), the certified expenses incurred in connection with these activities are also deductible (such as the purchase of mining equipment or electricity).
4. Are there any other relevant/noteworthy tax considerations?	If the private individual realised any loss in connection with a transaction executed in respect of crypto-assets during the tax year, the year preceding the current tax year, or in the two years preceding the current tax year, and if this loss is indicated in his tax return filed for the year when the loss was realised, the private individual shall be entitled to tax compensation that may be claimed as tax paid in the tax return. No taxation will arise if the amount of revenue arising on a crypto transaction does not exceed 10% of the minimum wage (HUF 20.000 in 2022), provided that in the tax year the sum total of these revenues does not exceed the minimum wage (HUF 200.000 in 2022). When no income from crypto transactions has been declared by the private individual before 2021, private individuals shall have the option to take these transactions into account as income realised in 2022. (This will result a more favorable tax treatment, because before 2021, this type of income was classified as other income, and as such it was subject to 15% personal income tax and 15.5% social security contribution as well.)
5. What are the tax compliance/reporting requirements?	The realised income and the tax liability should be reported to the Hungarian Tax Authority in the annual Hungarian tax return. The annual tax return is due by the 20th of May in the year following the tax year concerned (i.e., in which the income was realised). The income from crypto transactions shall be reported in Hungarian Forint. In case the income was realised in foreign currency, it shall be converted to HUF at the Hungarian National Bank's official exchange rate in effect on the date of earning the income. The tax liability of the individual must be paid in HUF as well.

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Hungary

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	Act CXXVII of 2007 – on Value Added Tax (hereinafter ' Hungarian VAT Act ') does not contain any specific rule for cryptocurrencies, nor do the official guidance provided by the Hungarian Tax Authority.
2. If 'yes', what is the VAT position?	-
3. Is there a definition of NFT in the VAT law?	No, there isn't any definition provided in the Hungarian VAT Act.
4. Are NFTs subject to VAT?	Please find our standpoint in Point 9.
5. Are there any other applicable exemptions relating to crypto-assets?	There aren't any named exemptions indicated in the Hungarian VAT Act.
6. Do NFTs fall within the definition of ESS / remote services?	In our opinion the supply of NFTs could fall within the definition of 'electronically supplied services' included in the Council Implemented Regulation (EU) no. 282/2011. (i.e. provided via internet or other electronic network, mainly automated, involves minimal human interaction, service cannot be provided without technology).
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	In case the service is provided by a taxpayer, and the taxpayer receives consideration from the users for the use of the platform/marketplace, the service could be considered as a provision of a software in return for consideration, which is subject to VAT from Hungarian VAT point of view.
8. Is there a definition of marketplace for ESS / remote services purposes?	No, there isn't a specific definition for marketplace.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Even though there is no exact indication regarding the transaction of NFTs in the Hungarian VAT Act, we believe that given the fact that the NFTs are incorporating the digital ownership of the underlying asset which is not stored in the blockchain this transaction cannot be considered as an exchange of payment assets. As a conclusion the sale of NFTs can be considered as a transaction subject to VAT however it should be examined on a case-by-case basis.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No, there aren't any specific VAT rules, official guidance for De-Fi.
11. Are there specific rules for virtual events?	The Hungarian VAT Act does not prescribe specific rules for virtual events. Nevertheless, the place of supply of the transactions should be examined individually. In light of the available legal background, the transactions could be subject to the rules 'electronically supplied services' or to the traditional rules, where the place of supply is the place where the services are physically carried out. The above-mentioned rules as regards the place of supply could be interpreted in a cross-border context.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	In 2022 the Indian Income tax law introduced a specific tax framework for Virtual Digital Assets ('VDAs')
2. What is the scope of taxability?	<p>Specified Tax Framework announced under Income-tax law effective from 1 April 2022 covering taxation of VDA:</p> <ul style="list-style-type: none"> - Taxing income from transfer and/ or gift of VDA; and - With effect from 01 July 2022, withholding Tax (WHT) obligation on payment for transfer of VDA to an Indian resident subject to certain minimum threshold. <p>Broadly VDA is defined to cover:</p> <p>any information or code or number or token (not being Indian currency or foreign currency);</p> <ul style="list-style-type: none"> - generated through cryptographic means or otherwise, by whatever name called, - with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme - can be transferred, stored or traded electronically <p>[specifically includes Non-fungible Tokens (NFTs) and other digital assets as may be specified by the Central Government]</p> <p>Specific exclusion provided from definition/ scope of VDA as notified by the Apex Direct Tax administration body:</p> <ul style="list-style-type: none"> - Gift cards or vouchers for purchase/ discount on goods/ services; - Mileage points, reward points or loyalty cards given without direct monetary consideration under a specific program for purchase of or discount on goods or services; - Subscription to websites or platforms or application; - NFT whose transfer results in legally enforceable transfer of ownership of underlying tangible asset <p>Thus, the scope of the definition of VDA is very broad and may extend to cover items not otherwise specifically excluded.</p>
3. What are the direct tax implications?	<p>A. Taxation of income from transfer/ gift of VDAs</p> <ul style="list-style-type: none"> - Capital Gains arising on transfer/ gift of VDA taxable at 30% (plus applicable surcharge and education cess) without any deduction except for cost of acquisition. - Set-off of loss arising on sale of VDA not permissible against any income; no carry forward of loss arising on sale of VDA. - Any loss arising from any other source cannot be set off against income from transfer of VDA. <p>B. WHT provisions</p> <p>Any person (which includes non-residents), who is responsible for paying to any India resident any sum by way of consideration for transfer of VDAs, shall deduct an amount equal to 1% of such sum as income tax. The tax deduction shall be made at the time of credit of such sum to the account of the India resident or at the time of payment, whichever is earlier if the consideration payable exceeds INR 10,000/ INR 50,000 (for specified person) during a Financial Year.</p> <p>i. For transactions carried out on an Exchange:</p> <p>In the hands of Exchanges/ Brokers</p> <p>For transactions taking place on an Exchange, tax may be withheld only by the Exchange/ Broker which is crediting or making payment to the seller (owner of the VDA being transferred).</p> <p>In case consideration is in kind or in exchange of another VDA or partly in kind and cash is not sufficient to meet the WHT liability, the Exchange shall ensure that tax is deducted on both transactions and paid, before releasing the consideration.</p> <p>Tax deduction mechanism has been prescribed when one VDA is exchanged for another VDA on the exchanges</p>

Direct Tax (Continued)

Question	Response
3. What are the direct tax implications? (Continued)	<p>ii. For transactions other than those taking place on or through an Exchange:</p> <p>In the hands of buyer/ recipient:</p> <p>In a peer-to-peer transaction, the buyer (i.e. person paying the consideration) is required to withhold tax.</p> <p>In case consideration is in kind or in exchange of another VDA or partly in kind and cash is not sufficient to meet the WHT liability, the buyer shall ensure that tax required to be deducted has been paid in respect of such consideration, before releasing the consideration.</p>
4. Are there any other relevant/noteworthy tax considerations?	<p>With effect from 1 April 2020, Equalization Levy ('EL') at the rate of 2% shall apply on consideration received/ receivable by any Non-resident that owns/operates/manages a digital/electronic facility/platform from 'online' 'sale of goods' or 'provision of services', made or provided or facilitated to an Indian resident</p> <p>Accordingly, if the crypto/ NFT player/ exchange qualifies as a non resident owning/ operating/ managing platform and crypto currencies/ NFTs qualifies as goods or services then applicability of 2% EL on consideration from India residents needs to be separately evaluated</p>
5. What are the tax compliance/ reporting requirements?	<p>In the hands of seller:</p> <ul style="list-style-type: none"> - Payment of quarterly Advance Tax, if applicable; - Filing annual Income-tax return <p>In the hands of Buyer:</p> <ul style="list-style-type: none"> - Monthly payment/ deposit of WHT collected from India resident into Government treasury. - Quarterly filing of WHT returns <p>In the hands of Exchange/ Broker:</p> <ul style="list-style-type: none"> - Monthly payment/ deposit of WHT collected from India resident into Government treasury; - Quarterly filing of WHT statements - Filing of annual income-tax return as applicable - Quarterly EL payment and Annual EL return filing to foreign exchange or brokers if applicable

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	The Indian GST authorities are yet to issue guidance on taxation of cryptocurrencies. In the absence of any specific guidance, taxation of transactions involving crypto assets remains in the high risk domain, as the existing law does not specifically exclude such transactions as well. The Indian Government is currently deliberating the tax treatment on this and an announcement is expected to be made soon with regards to formation of a committee to give guidance to the Government in this matter.
2. If 'yes', what is the GST position?	Currently, in the absence of guidelines on taxation of cryptocurrencies, GST is collected by the industry players on the commission/ transaction fee charged by the platforms. GST is not collected and paid on the buy and sale of cryptocurrencies.
3. Is there a definition of NFT in the GST law?	No, non-fungible tokens are not defined in the India GST law.
4. Are NFTs subject to GST?	While guidelines on taxation of NFTs are also yet to be issued, NFTs could be treated as Intangible property and could be subjected to GST akin to those of goods. However, such position is dependent on underlying contractual agreements related to such NFTs.
5. Are there any other applicable exemptions relating to crypto-assets?	No exemptions are currently provided in the India GST law.
6. Do NFTs fall within the definition of ESS / remote services?	Currently, clarity is awaited on whether NFTs would get covered under ESS/ remote services. However, given the present definition of ESS, buy and sell of NFTs should not be covered under the scope of ESS/ remote services. Tax implications for any other transactions should be evaluated based on underlying contract.
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	As per the present practice, no GST is collected on sale of NFTs by the marketplaces.
8. Is there a definition of marketplace for ESS / remote services purposes?	There is no specific definition of marketplace for ESS/ remote services in the India GST law. However, the term electronic commerce operator has been defined as 'any person who owns, operates or manages digital products over digital or electronic network.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Guidelines are yet to be issued in this regard
10. Are there any specific De-Fi GST rules or tax authority guidance?	Not at this stage.
11. Are there specific rules for virtual events?	Guidelines are yet to be issued in this regard

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>While there are no specific Irish tax rules in place on the taxation of cryptocurrencies, Irish Revenue have released limited guidance (https://www.revenue.ie/en/tax-professionals/tdm/income-tax-capital-gains-tax-corporation-tax/part-02/02-01-03.pdf) on the taxation of cryptocurrencies which confirms that the treatment of income from/charges made in connection with activities involving cryptocurrencies will depend on the nature of the activities and the parties involved. This guidance covers at a high level the direct and indirect tax implications.</p> <p>There have not been any new developments with regards to the taxation of crypto currency in the past year and to our knowledge there are no developments expected in the coming year.</p>
2. What is the scope of taxability?	Taxed in the same way as any other assets - no special rules apply.
3. What are the direct tax implications?	<p>The Irish tax treatment of income received from, or charges made in connection with, activities involving crypto-assets depends on the activities and the parties involved. Legislation and case law must be applied to determine the correct tax treatment. Each case must be considered on the basis of its own individual facts and circumstances.</p> <p>The sale, transfer, or redemption of crypto-assets is most likely to be a disposal for Irish CGT purposes unless, based on the facts and circumstances, a trade of dealing in crypto-assets being carried on.</p> <p>For businesses which accept payment for goods or services in crypto-assets there is no change to when revenue is recognised or how taxable profits are calculated.</p> <p>Where there is an underlying tax event on a transaction involving the use of a crypto-asset there is a requirement in the tax code for a record to be kept of that transaction which will include any record in relation to the crypto-asset.</p> <p>In summary, no special tax rules for crypto-asset transactions are required.</p>
4. Are there any other relevant/noteworthy tax considerations?	None
5. What are the tax compliance/reporting requirements?	<p>There are currently no special tax compliance or reporting requirements associated with Crypto currency. Normal tax reporting and compliance rules apply.</p> <p>Where Crypto assets are held indirectly, consideration may need to be given as to whether the arrangements give rise to AEOI (FATCA/CRS) reporting obligations.</p>

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	Yes. The Revenue Commissioners in Ireland have issued guidance on the taxation of crypto-asset transactions (including VAT). There is also case law from the Court of Justice of the European Union (CJEU) (<i>Hedqvist</i> , C-264/14) on the VAT treatment of cryptocurrency exchange.
2. If 'yes', what is the VAT position?	<p>According to guidance issued by the Revenue Commissioners and in accordance with the <i>Hedqvist</i> judgment indicated above, the exchange of cryptocurrencies is exempt from VAT in accordance with the exemption contained in Paragraph 6(1)(d) of the VAT Consolidation Act 2010 (issuing, transferring, receiving or otherwise dealing in currency).</p> <p>The guidance from the Revenue Commissioners also indicates that 'income received from cryptocurrency mining activities will generally be outside the scope of VAT on the basis that the activity does not constitute an economic activity for VAT purposes.</p>
3. Is there a definition of NFT in the VAT law?	No
4. Are NFTs subject to VAT?	<p>There is no case law, guidance or VAT legislation in Ireland on this point.</p> <p>NFTs could potentially be subject to subject to GST as an electronically supplied service or could be VAT exempt as a financial service. This has yet to be determined.</p>
5. Are there any other applicable exemptions relating to crypto-assets?	Yes. There is an exemption for issuing, transferring, receiving or otherwise dealing in currency which the CJEU held in the <i>Hedqvist</i> case applies to cryptocurrency.
6. Do NFTs fall within the definition of ESS / remote services?	This has yet to be determined.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	<p>If NFTs were determined to be an electronically supplied service (this has yet to be determined), then the marketplace could be determined to be the person liable to account for the VAT on the sale of the NFTs.</p> <p>EU VAT legislation (Article 9a of Council Implementing Regulation 282/2011) provides that where electronically supplied services are supplied through a telecommunications network, an interface or a portal, that a taxable person taking part in that supply (e.g. a marketplace) is deemed to be acting in his own name but on behalf of the provider of those services (i.e. that person acquires and resells the electronically supplied services in his own name). This is the case unless the actual provider of the services is explicitly indicated as the supplier.</p> <p>Furthermore, where the taxable person (e.g. marketplace) authorises the charge to the customer, the delivery of the service or sets the general terms and conditions of the supply, then it shall not be permitted to explicitly indicate another person as the supplier.</p>
8. Is there a definition of marketplace for ESS / remote services purposes?	The legislation refers to electronically supplied services being supplied through a telecommunications network, an interface or a portal. These terms are not defined in any further detail.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Barter transaction. The transfer of the cryptocurrency is exempt from VAT. The VAT treatment of the exchange of the NFTs is yet to be determined.

Ireland

Indirect Tax (Continued)

Question	Response
10. Are there any specific De-Fi VAT rules or tax authority guidance?	The only guidance issued is that in relation to the taxation of crypto-asset transactions.
11. Are there specific rules for virtual events?	<p>EU Council Directive 2022/541 introduced changes to the place of supply rules for virtual events that are due to be transposed by EU Member States into national law by 31 December 2024 and will take effect from 1 January 2025.</p> <p>The place of supply changes provide that activities, including, events relating to cultural, artistic, sporting, scientific, educational, entertainment or similar activities that are supplied to consumers (B2C) and are streamed or otherwise made available virtually will be taxable at the place where the consumer is established.</p> <p>The place of supply changes also provide that in respect of the supply to a business (B2B) of admission to a cultural, artistic, sporting, scientific, educational, entertainment or similar event that is held virtually, that the general place of supply rule applies and the place of supply is where the customer is established.</p>

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>Italian tax law does not provide specific legislation for cryptocurrencies or related transactions and in the absence of a specific legislation the general rules provided for by Italian Tax Code should be in principle applicable. This is the position taken by the Italian Tax Authority (ITA) in the relevant interpretative rulings issued (not all publicly available) which is also inspired by the judgment C-264/14 of the CJEU.</p> <p>With specific reference to direct income tax purposes the following general rules may be inferred with respect to a taxpayer qualifying either as a legal person (company) or natural person (other than those carrying on an activity that generates business income only).</p> <p>Company</p> <p>In general terms, cryptocurrencies are subject to ordinary corporate income tax rules. In that respect, the intermediation (exchange) activities performed by a company through a platform (sale and purchase of cryptocurrencies on behalf of users) generates positive and negative item of income that are included in the taxable base of the company which is subject to ordinary taxation (i.e. corporate income tax and regional tax).</p> <p>Moreover, with reference to cryptocurrencies held by the company at the end of each fiscal year, the difference between the purchase tax value and the market value at the end of the year is subject to corporate income tax and regional tax regardless of whether the cryptocurrencies are actually disposed i.e. taxation on an accrual basis (ruling no. 72/E/ 2016).</p> <p>Natural person (acting outside the ordinary course of business activity)</p> <p>Based on different ruling (ruling no. 956-39/2018; ruling no. 788/2021, ruling no. 433/2022, and ruling no. 437/2022), the ITA clarified that, in the absence of specific legislation, in case of individuals holding cryptocurrencies, the general tax rules governing transactions involving traditional (foreign) currencies are applicable.</p> <p>Specifically, in case of natural person holding cryptocurrencies:</p> <ul style="list-style-type: none"> - Spot sales of cryptocurrencies give rise to taxable income if the amount disposed derives from withdrawals from wallets for which the average stock exceeds a countervalue of Euro 51,645.69 for at least seven continuous business days in the taxable period. In such a case, the capital gain i.e. the difference between purchase cost (considering cryptocurrencies purchased more recently sold first) and the value of the cryptocurrencies withdrawn from the wallet (equated with divestment) is taxed. <p>In order to define if the countervalue of Euro 51,645.69 is achieved, the Euro's value of the average stock of cryptocurrencies (and foreign currencies) has to be computed based on the exchange rate at the beginning of the tax period (1 January) of the year in which the tax liability arises;</p> <ul style="list-style-type: none"> - Capital gains arising from forward sales of cryptocurrencies are always taxable; - Income deriving from staking is assimilated to investment income and, therefore, subject to withholding tax.
2. What is the scope of taxability?	<p>The only definition of cryptocurrency is contained in the anti-money laundering provisions (Legislative Decree 231/2007), which define cryptocurrency as digital representation of value, neither issued nor guaranteed by a central bank or public authority, not necessarily linked to a fiat money, used as a medium of exchange for the purchase of goods and services or for investment purposes, and transferred, stored and traded electronically.</p> <p>In general terms, a description and classification of cryptocurrencies and crypto-assets is given by specific Bank of Italy reports (i.e. Economic and regulatory aspects of 'crypto-assets' – 2019, and Communication on decentralized technologies in finance and crypto-assets – 2022).</p>
3. What are the direct tax implications?	<p>Company</p> <p>Ordinary tax rules (and tax rates) on business income (i.e. corporate income tax and regional tax) are applicable to exchange activities as well as wallet services and staking (ruling no. 72/E/2016).</p> <p>Natural person (acting outside the ordinary course of business activity)</p> <p>Capital gains realised by a natural person are subject to final substitute tax equal to 26% (ruling no. 956-39/2018, and ruling no. 788/2021).</p> <p>Remuneration in cryptocurrencies received by individuals for staking is assimilated, for tax purposes, to investment capital income (ruling no. 437/2022) and subject to an advance (no final) substitute tax of 26%. In this case, based on the applicable tax bracket for individual additional progressive taxation could arise.</p>

Direct Tax (Continued)

Question	Response
4. Are there any other relevant/noteworthy tax considerations?	<p>Natural person</p> <p>Individuals who transfer their residence to Italy, if certain conditions are met, may opt to be subject to substitute tax (calculated as a lump sum in the amount of Euro 100,000 per year) on income generated abroad. With respect to cryptocurrencies, the general principles governing transactions involving traditional (foreign) currencies apply and, therefore, if qualified, may be included in the scope of the substitute tax on foreign income (ruling no. 397/2022).</p>
5. What are the tax compliance/reporting requirements?	<p>Company</p> <p>Italian and foreign cryptocurrency service providers must register in a special section of the register maintained by the Body for Agents and Brokers (OAM register: https://www.organismo-am.it/elenchi-registri/operatori_valute_virtuali/).</p> <p>Foreign operators must also have a permanent establishment (if from the EU) or a company incorporated in Italy (if from outside the EU) and thus, based on the shared view of practitioners, will no longer be able to operate on a (solely) cross-border basis. Moreover, cryptocurrency service providers have reporting requirements to the OAM register on the identity and operations of Italian clients (ref. Decree of 13 January 2022).</p> <p>Natural person</p> <p>Natural person has to report the Euro countervalue (Euro value as of 31 December of cryptocurrencies held or value as of the date of sale in the case of cryptocurrencies sold during the year) of cryptocurrencies held through a foreign intermediaries or wallet located abroad in the yearly tax return, ref. RW Box (ruling no. 956-39/2018, ruling no. 788/2021, and ruling no. 437/2022).</p>

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Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	There are no provisions in the Italian VAT Law. Yet, the Italian tax authorities ('ITA') have issued certain guidelines from 2018 onwards.
2. If 'yes', what is the VAT position?	<p>The term cryptocurrency itself is not defined but in the above-mentioned documents of the ITA, they have borrowed from the EU guideline the classification and the related interpretation of:</p> <ul style="list-style-type: none"> - payment token; - utility token; - security token. <p>The most consolidated position relates to sale/purchase of Bitcoins (or other traditional cryptocurrencies when they can be considered as 'means of payment') by a companies carrying out exchange services between traditional currency against units of the virtual Bitcoin currency and vice versa (i.e., exchange margin VAT exempt). Recently, the ITA have also published clarifications re mining activities which are considered as out of scope of VAT.</p>
3. Is there a definition of NFT in the VAT law?	No, the concept of NFTs has not been provided for in Italian legislation or in Italian tax authorities' documents to date.
4. Are NFTs subject to VAT?	As noted above, there is currently no guidance on the VAT treatment of NFTs from Italian tax authorities. An analysis on a case by case basis should be carried out in order to define the VAT treatment.
5. Are there any other applicable exemptions relating to crypto-assets?	No other VAT exemptions were confirmed by the ITA. Yet, in a recent reply to a tax ruling, an ICO of utility token has been considered as out of the VAT scope as the tokens at stake - for their specific functions - were comparable to mere entitlement documents.
6. Do NFTs fall within the definition of ESS / remote services?	No ITA's guidelines have been issued so far. NFTs could potentially fall within the definition of an electronically supplied service ('ESS') per Article 7 of Council Implementing Regulation 282/2011 on the basis that they can be 'delivered over the internet' and are 'essentially automated and involving minimal human intervention'. However, the VAT treatment might vary depending on the nature of the underlying VAT treatment of what is actually transferred (e.g. if a physical asset is associated to the NFT, also depending on the type of rights entailed in the NFT, the transfer might not qualify as ESS).
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	Where transfer of NFTs fell within the definition of ESS (which has to be verified on a case by case basis), the marketplace could be seen as the supplier for VAT purposes where the conditions set out by article 9a, EU Regulation no. 282/2011 are met (please also refer to the ' <i>Explanatory notes on the EU VAT changes to the place of supply of telecommunications, broadcasting and electronic services</i> ').
8. Is there a definition of marketplace for ESS / remote services purposes?	No, there is no domestic definition of 'marketplace' in Italian VAT Law. Indeed, the concept of 'marketplace' (i.e. real or virtual space where buying and selling goods and services take place between a plurality of buyers and sellers) in the Italian legislation has been entirely borrowed from the VAT Directive and, consequently, Domestic guidance follows the EU guidelines mentioned above.
9. Treatment of NFTs sold in exchange for cryptocurrency?	No guidance at this stage.

Indirect Tax (Continued)

Question	Response
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No guidance at this stage.
11. Are there specific rules for virtual events?	No specific guidance has been published with reference to events held in the Metaverse.

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Japan

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes - Income Tax Law and Corporation Tax Law prescribe the taxation of cryptocurrencies, and the National Tax Agency in Japan also provides Q&A regarding certain taxations of cryptocurrencies.
2. What is the scope of taxability?	Income from sale, use and exchange of cryptocurrencies and acquisition of cryptocurrencies by mining are covered.
3. What are the direct tax implications?	For individuals, income from cryptocurrencies transactions is subject to income tax as miscellaneous income at the progressive rate. For corporations, income from cryptocurrencies transactions is subject to corporate tax. Also, cryptocurrencies are marked to market at the end the fiscal year if they have markets (*). (*) They have markets if all of the following requirements are met. i) The selling price is continuously published, and the selling price has an important influence on the determination of the sales price of the cryptocurrency. ii) Transactions are being conducted in sufficient quantity and frequency so that the selling price (i) above can be continuously published.
4. Are there any other relevant/noteworthy tax considerations?	Clear guidelines of 'Japan source income' have not yet been provided regarding the cryptocurrencies transactions', so certain taxations are not clear, such as taxations of non-permanent residents, non-Japan source income for foreign tax credits purposes, etc.
5. What are the tax compliance/ reporting requirements?	N/A

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	Yes - Consumption Tax Law were amended in 2017.
2. If 'yes', what is the GST position?	Consumption tax is levied when a business enterprise transfers goods, provides services, or imports goods into Japan. Consumption Tax Law prescribes that the consumption tax is not imposed on cryptocurrency transactions.
3. Is there a definition of NFT in the GST law?	No.
4. Are NFTs subject to GST?	There is no Japanese consumption tax regulation that specifically stipulates NFTs and it is necessary to look into the nature of each NFT to clarify how the transaction is treated for Japanese consumption tax purposes.
5. Are there any other applicable exemptions relating to crypto-assets?	Yes - as described in 2. above, consumption tax is not imposed on cryptocurrency transactions.
6. Do NFTs fall within the definition of ESS / remote services?	Under the Japanese Consumption Tax Law, transfer of copyrighted material and services provided via electronic and telecommunication networks (e.g., internet) such as the provision of e-books, music, and advertisements are regarded as 'provision of electronic services'. Unless the supply of NFTs is a transfer of copyrighted material, it would not be included in 'provision of electronic services' but it is not certain.
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	Not clear.
8. Is there a definition of marketplace for ESS / remote services purposes?	No.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Not clear.
10. Are there any specific De-Fi GST rules or tax authority guidance?	No.
11. Are there specific rules for virtual events?	No.

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Revenue Jersey issued guidance on the tax treatment for cryptocurrencies. There are currently no specific laws regulating the taxation of cryptocurrencies. Link to guidance issued by Revenue Jersey
2. What is the scope of taxability?	<p>Cryptocurrency mining:</p> <ul style="list-style-type: none"> - Where mining activities are accompanied by trading in cryptocurrencies on a sufficiently commercial scale that they would be regarded as trading on application of the 'Badges of Trade' principles, Revenue Jersey recommend to seek professional advice. - Cryptocurrency mining on a small or irregular scale will not generally be regarded as a trading activity. <p>Exchanging cryptocurrencies:</p> <ul style="list-style-type: none"> - Businesses exchanging cryptocurrencies to and from conventional currencies and other cryptocurrencies will be liable to income tax if they are considered to be trading. <p>Using cryptocurrencies:</p> <ul style="list-style-type: none"> - The profits and losses of an incorporated or non-incorporated business engaged in Bitcoin or similar cryptocurrency transactions must be reflected in any accounts and will be taxable under normal income tax rules.
3. What are the direct tax implications?	Where relevant, cryptocurrency activities / transactions will be taxed in accordance with general Jersey taxation principles and provisions. Companies that do not offer financial services are generally taxed at the rate of 0% in Jersey. If this is the case, where relevant, cryptocurrency transactions would be subject to income tax at the rate of 0%.
4. Are there any other relevant/noteworthy tax considerations?	There is no capital gains tax in Jersey.
5. What are the tax compliance/ reporting requirements?	All companies incorporated in Jersey have a requirement to file an annual tax return with Revenue Jersey. There is no separate indication for cryptocurrency transactions within the annual tax return.

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	Revenue Jersey issued guidance on the GST treatment of Bitcoin and similar cryptocurrencies. There are currently no specific GST laws regulating the taxation of cryptocurrencies. Link to guidance issued by Revenue Jersey
2. If 'yes', what is the GST position?	<p>The value of any supply of goods or services which are bought with cryptocurrency must be converted to sterling for GST purposes at the date of transaction.</p> <p>Income received by GST registered entities from cryptocurrency mining activities will generally be regarded as outside the scope of GST on the understanding that the activity does not constitute an activity 'in the course or furtherance of business' (Article 6 of the GST (Jersey) Law 2007).</p> <p>No GST will be due where cryptocurrencies are exchanged for sterling, other foreign currencies or other cryptocurrencies.</p>
3. Is there a definition of NFT in the GST law?	No
4. Are NFTs subject to GST?	N/A
5. Are there any other applicable exemptions relating to crypto-assets?	N/A
6. Do NFTs fall within the definition of ESS / remote services?	N/A
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	N/A
8. Is there a definition of marketplace for ESS / remote services purposes?	N/A
9. Treatment of NFTs sold in exchange for cryptocurrency?	N/A
10. Are there any specific De-Fi GST rules or tax authority guidance?	N/A
11. Are there specific rules for virtual events?	N/A

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes
2. What is the scope of taxability?	Under Article 2(3) of the Act on Reporting and Using Specified Financial Transaction Information (the 'Act') (as referenced by the Korean tax law), the term 'virtual assets' is broadly defined as electronic certificates of economic value which can be traded or transferred electronically (with some exceptions under the Act). There are no other specific provisions for the scope or criteria of virtual assets in the Act.
3. What are the direct tax implications?	<p>In the hands of seller:</p> <ul style="list-style-type: none"> - <u>Korean resident company</u> – subject to income tax at a progressive tax rate of up to 27.5% (including local income tax) on any income or gains from virtual assets (the top marginal rate may be reduced to 24.2% if recent tax reform proposals are approved). - <u>Korean resident individual</u> – subject to individual income tax at a tax rate of 22% (including local income tax) on income from the transfer or lease of virtual assets, effective from 1 January 2023. The effective date may be postponed to 1 January 2025 if the tax reform proposal is approved. - <u>Non-resident individual & foreign corporation</u> – subject to WHT on Korean source other income for income derived from the transfer or lease of virtual assets (including the withdrawal of the assets stored or managed by a virtual asset service provider as defined in the Act), effective from 1 January 2023. The effective date may be postponed to 1 January 2025 if the tax reform proposal is approved. The domestic WHT will be imposed at the lower of 10% of the proceeds received from the transfer, lease or withdrawal of the assets or 20% of the gains from the transfer, etc. (excluding local income tax), which may be exempt under a relevant tax treaty. <p>Note that for the period until the effective date of the amended tax law (potentially 1 January 2025), there is uncertainty over the tax treatment on income earned by non-resident individuals & foreign corporations from virtual assets. This is a matter of on-going dispute with the Korean tax authorities.</p> <p>In the hands of a donee:</p> <ul style="list-style-type: none"> - <u>Korean resident company</u> – subject to income tax at a progressive tax rate of up to 27.5% (including local income tax) on the virtual assets received for free (the top marginal rate may be reduced to 24.2% if the tax reform proposal is approved) - <u>Foreign corporation</u> – subject to WHT at a domestic rate of 22% (including local income tax) on Korean source other income for the virtual assets received for free, which may be exempt under a relevant tax treaty.
4. Are there any other relevant/noteworthy tax considerations?	<p>Valuation rules provide for the valuation for virtual assets and the determination of a fair market value of virtual assets, including:</p> <ul style="list-style-type: none"> - Valuation using the FIFO method for Korean resident companies, effective from 1 January 2022; - Determining the acquisition cost of virtual assets using the moving average method (for specific cases under the tax law) or the FIFO method (for other cases) for Korean resident individuals, non-resident individuals and foreign corporations. With respect to virtual assets held before 1 January 2023, the acquisition cost is determined as the greater of the market price as of 31 December 2022 calculated under the tax law or the acquisition price of the virtual asset, effective from 1 January 2023, which may be postponed to 1 January 2025 if the tax reform proposal is approved.
5. What are the tax compliance/reporting requirements?	<p>The tax compliance/reporting requirements for virtual assets include the following:</p> <p>In the hands of Virtual Asset Service Provider:</p> <ul style="list-style-type: none"> - Submit virtual asset transaction statements necessary for the imposition of income tax, such as transaction details of virtual assets, to the tax office effective from 1 January 2023 - Certain virtual asset service providers (incl. qualified virtual asset service providers whose filing have been accepted according to the Act) should submit a statement of transactions for corporations conducting the transfer or lease of virtual assets, effective from 1 January 2023 if the reform proposal is approved.

Korea

Direct Tax (Continued)

Question	Response
5. What are the tax compliance/ reporting requirements? (Continued)	<p>In the hands of seller:</p> <ul style="list-style-type: none"> - A Korean resident company should report any income from virtual assets in its annual corporate income tax return to be filed with the tax authority within 3 months from the end of a month in which a fiscal year end falls. - A Korean resident individual should report any income from the transfer or lease of virtual assets in their annual income tax return to be filed with the tax authority by 31 May of the following year. - For a non-resident individual or foreign corporation, a withholding agent (e.g. the payer of the Korean source other income or a virtual asset service provider as defined in the Act for the assets stored or managed by itself) should withhold WHT at the time of payment or at the time of the withdrawal of the assets stored or managed by a virtual asset service provider, and it should file the monthly withholding compliance return with the tax authority by the 10th day of the following month. Also, an annual payment statement for income from the transfer or lease of virtual assets should be submitted to the tax authority by the end of February of the following year.

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Korea

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	No clear provision under Korean tax law (VATL), but the Ministry of Economy and Finance (MOEF) has issued a tax ruling, interpreting that a supply of virtual assets is not regarded as a VAT-leviable supply of goods (MOEF VAT Department-145, 2021.03.02)
2. If 'yes', what is the VAT position?	N/A
3. Is there a definition of NFT in the VAT law?	No clear provision for NFT under the VATL.
4. Are NFTs subject to VAT?	Uncertain given the lack of the clear provision for NFT under the VATL.
5. Are there any other applicable exemptions relating to crypto-assets?	None given the lack of the clear provision relating to crypto-assets under the VATL.
6. Do NFTs fall within the definition of ESS / remote services?	Uncertain given the lack of the clear provision for NFT under the VATL.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	Uncertain given the lack of the clear provision for NFT under the VATL.
8. Is there a definition of marketplace for ESS / remote services purposes?	No clear provision under the VATL.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Uncertain given the lack of the clear provision for NFT under the VATL.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No clear provision for De-Fi under the VATL.
11. Are there specific rules for virtual events?	No clear provision for De-Fi under the VATL.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Liechtenstein does not have any specific laws in place regarding the taxation of digital assets or participants in the digital economy and electronic commerce. The tax treatment of income from such activities can be derived from existing tax rules supplemented by guidance in relation to the tax return filing (namely guidance for legal persons and individuals on the tax return). For those taxes of Switzerland that are also applicable in Liechtenstein, such as stamp duty and value added tax, the crypto tax guidelines as published by the Swiss Federal Tax Administration are applicable.
2. What is the scope of taxability?	Generally, to be considered are direct taxes (such as corporate/individual income taxes and wealth tax), stamp duty and value added tax.
3. What are the direct tax implications?	<p>Corporate Tax</p> <p>Corporations (including Foundations and Associations) are generally taxed on their worldwide income at a rate of 12.5% (flat-rate tax). Income attributable to foreign permanent establishments as well as dividends and capital gains are generally tax exempt (anti-abuse rules apply to participation income). With some exceptions, taxable profit generally corresponds to the accounting profit before tax. Liechtenstein does not levy withholding tax on dividends, interest or royalties. Corporations may however be subject to stamp taxes (issuance stamp duty and transfer stamp tax).</p> <p>Individual Tax</p> <p>Individuals are generally taxed based on their worldwide income and wealth. Taxable income consists of all types of employment and pension income while investment income (e.g. dividends, interest, capital gains or rental income) is taxed on a lump-sum basis, i.e. covered by a so-called standardized return on net assets included in the taxable income.</p>
4. Are there any other relevant/noteworthy tax considerations?	<p>Stamp Duty</p> <p>Liechtenstein and Switzerland share the same stamp duty regime, which is enforced by the Swiss Federal Tax Administration.</p> <p>Generally, native token, utility token and asset token without participation rights (as defined by the Swiss Federal Tax Authorities) do not qualify as taxable securities for transfer stamp tax purposes. However, debt token and asset-backed token with participation rights or whose underlying is a taxable security (such as a share, bond etc.) qualify as taxable securities and are therefore subject to transfer stamp tax at 0.15% (Swiss/Liechtenstein securities) or 0.3% (foreign securities), provided that a Swiss/Liechtenstein securities dealer is involved in the transaction.</p> <p>Issuance stamp duty is generally not due if tokens are issued, except the token would contain participation rights in the company issuing the token.</p>
5. What are the tax compliance/reporting requirements?	The general Liechtenstein tax filing requirements are applicable. Companies domiciled in Liechtenstein have to file an annual corporate tax return. Additionally, a company may have to file stamp duty declarations, value added tax declarations etc. Individuals tax resident in Liechtenstein have to file an annual income tax return.

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Luxembourg

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes, the Luxembourg direct tax authorities have issued an Administrative Circular dated 26 Jul 2018 that is specific to virtual currencies.
2. What is the scope of taxability?	In the Circular dated 26 Jul 2018, the Luxembourg direct tax authorities have clarified the direct tax treatment of the mining and transfer of virtual currencies in Luxembourg.
3. What are the direct tax implications?	<p>Virtual currencies and digital assets in general are subject to general tax rules applicable in Luxembourg. The Administrative Circular dated 26 Jul 2018 made certain key clarifications in respect of the tax treatment of virtual currencies, including:</p> <ul style="list-style-type: none"> - virtual currencies are not considered as currencies but as intangible assets for Luxembourg direct tax purposes; - payments made in virtual currencies do not affect the tax treatment of the underlying transactions in Luxembourg; - certain long-term capital gains derived by individual taxpayers from the disposal of virtual currencies are not subject to income tax in Luxembourg.
4. Are there any other relevant/noteworthy tax considerations?	Luxembourg Alternative Investment Funds ('AIFs') holding digital assets are generally not subject to income tax in Luxembourg and therefore, offer a new perspective to asset managers willing to offer cross-border tax neutral digital assets-exposed products to their investors or to high-net worth individuals looking for a stable and transparent jurisdiction to manage their wealth.
5. What are the tax compliance/reporting requirements?	Virtual currencies and digital assets in general are subject to general tax reporting rules applicable in Luxembourg. Individual and corporate taxpayers are generally required to report their taxes based on a self-assessment mechanism through the filing of annual tax returns unless they benefit from an exemption. In some cases, taxes are collected based on a withholding tax mechanism. Taxes are generally paid on an annual or quarterly basis.

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Luxembourg

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	Yes - Circular letter n° 787 dated 11 June 2018.
2. If 'yes', what is the VAT position?	<p>In their circular letter n° 787 dated 11 June 2018, the Luxembourg VAT Authorities have indicated that cryptocurrencies should generally benefit from the same VAT exemption as the one applicable to 'traditional currencies' if the purpose of the cryptocurrencies is to be used as a means of payment and is accepted as such by some operators (article 135.1.e) of the VAT Directive / article 44.1.c) seventh indent of the Luxembourg VAT law). The circular letter from the Luxembourg VAT Authorities is in line with the CJEU case Hedqvist, C-264/14, 22/10/2015).</p> <p>The Luxembourg VAT Authorities did not issue any guidance on the VAT treatment applicable to mining operations nor on the issuance/sale of tokens within the framework of an Initial Coin Offering.</p>
3. Is there a definition of NFT in the VAT law?	No, there is no definition provided in the Luxembourg VAT law.
4. Are NFTs subject to VAT?	The VAT treatment applicable to transactions related to NFTs usually depends on the specific facts and circumstances of the case - as the supply of NFTs could potentially be qualified as supplies of services that could be subject to VAT in Luxembourg. An analysis is usually recommended.
5. Are there any other applicable exemptions relating to crypto-assets?	There is no specific exemption applicable to crypto-assets except the one provided in the circular letter n° 787 from the Luxembourg VAT authorities.
6. Do NFTs fall within the definition of ESS / remote services?	NFTs could potentially fall within the definition of ESS as per Art 7 of the EU Regulation 282/2011.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	<p>The below comments are provided based on the assumption that the sales of NFTs would be made in a B2C context.</p> <p>The marketplace would have the obligation to account for VAT to the extent that (i) the NFTs were to fall within the definition of ESS as per Article 7 of the EU Regulation 282/2011, (ii) that the marketplace would meet the conditions laid down in Article 9a of the EU Regulation 1042/2013 and (iii) no specific exemption would be applicable.</p>
8. Is there a definition of marketplace for ESS / remote services purposes?	Specific rules should apply when a marketplace is involved in the provision of ESS. These rules are laid down in Article 9a of the EU Regulation 1042/2013.
9. Treatment of NFTs sold in exchange for cryptocurrency?	The VAT treatment applicable to transactions related to NFTs usually depends on the specific facts and circumstances of the case - as the supplies of NFTs could potentially be qualified as supplies of services that could be subject to VAT in Luxembourg. An analysis is usually recommended.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No official guidance was published in that respect.
11. Are there specific rules for virtual events?	No. However, there is a need to consider the VAT electronically supplied services rules in a cross border context.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	There are currently no specific provisions or rules in Malaysia that deal with taxation of cryptocurrency or digital currency transactions. The Malaysian tax authorities (i.e. Inland Revenue Board or 'IRB') recently issued the Guidelines on Tax Treatment of Digital Currency Transactions dated 26 August 2022 ('the Guidelines') which provides guidance on the general tax treatment of digital currencies or digital tokens based on the existing income tax rules.
2. What is the scope of taxability?	(i) Income tax The Guidelines issued by the IRB apply the prevailing tax rules under the Income Tax Act 1967 to treat taxation of digital currency transactions in Malaysia. In general, digital currency transactions would fall within the scope of Malaysian income tax if they relate to income accruing in or derived from Malaysia or received in Malaysia from outside Malaysia. The IRB regard such transactions to fall under the scope of Malaysian income tax if:- - the key activities and business operations are performed in Malaysia; or - where there is a business presence in Malaysia. (ii) Capital gains tax Malaysia has a 'limited' form of capital gains tax regime i.e. real property gains tax (RPGT), which is imposed on chargeable gains accruing on the disposal of real properties (i.e. land and buildings) and shares in real property companies. Arguably, gains from disposal of digital currencies should not fall within the scope of RPGT.
3. What are the direct tax implications?	Any gains arising from the digital currency transactions will be subject to income tax if the gains are revenue in nature. In determining whether the gain or loss from the digital currency transaction is capital or revenue in nature, the badges of trade test which is derived from case law precedents (e.g. intention to trade, frequency of transactions, etc) is relevant. No single test under the badges of trade is exhaustive and detailed analysis would need to be carried out for each digital currency activity taking into account the taxpayer's facts and circumstances to determine whether it is capital or revenue in nature. As an example, a person who actively trades in digital currencies may be viewed as generating revenue whilst gains derived by an individual who trades occasionally may be viewed as capital gains. On the other hand, digital currencies obtained from a business transaction (e.g. payment received for sale of goods or provision of services) could also be treated as capital investment, subject to meeting the criteria for capital gains. Where gains from digital currency is regarded as capital gain, then such gain should not be subject to income tax.
4. Are there any other relevant/noteworthy tax considerations?	None.
5. What are the tax compliance/reporting requirements?	There is no separate reporting requirement. Gains arising from the digital transactions that are revenue/income in nature should be declared by taxpayers in their annual income tax return.

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Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	<p>No. Currently, there is no VAT/GST regime currently in Malaysia. There is, however, a Sales Tax and Service Tax (SST) regime in place where Sales Tax applies to the manufacture and importation of taxable goods, and Service Tax applies to the provision of prescribed taxable services.</p> <p>In respect of Sales Tax, cryptocurrency is not classified as goods. Thus, the Sales Tax law does not cover it.</p> <p>In respect of Service Tax, the provision of digital services (including the provision of electronic medium that allows the suppliers to provide supplies to customers) is a prescribed taxable service and is subject to service tax. The definition of 'digital service' is 'any service that is delivered or subscribed over the internet or other electronic network and which cannot be obtained without the use of information technology and where the delivery of the service is essentially automated'.</p> <p>To date, there has not been any guidance issued by the tax authorities on whether the provision of digital assets (such as digital currency, payment tokens, security tokens or utility tokens) would be considered to be the provision of a digital service. It is also not specifically prescribed to be a taxable service under the Service Tax law.</p>
2. If 'yes', what is the VAT position?	N/A
3. Is there a definition of NFT in the VAT law?	Non-Fungible Token (NFT) is not a defined term in any of the Sales Tax and/or Service Tax legislations.
4. Are NFTs subject to VAT?	As mentioned under Item 1, the tax authorities have not provided any guidance on the tax treatment for digital assets, including NFTs.
5. Are there any other applicable exemptions relating to crypto-assets?	The sales tax and service tax legislations provide different exemptions for eligible persons subject to fulfilling the prescribed conditions. However, at this juncture, we consider that the exemptions do not apply to any crypto-assets and the like.
6. Do NFTs fall within the definition of ESS / remote services?	<p>The Service Tax legislation does not use the term Electronically Supplied Services (ESS) per se. However, as indicated under item 1, the provision of digital services is a prescribed taxable service and is subject to service tax.</p> <p>As the tax authorities have not provided any guidance/indications, we consider there is still ambiguity as to whether NFTs fall within the scope of digital services.</p>
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	Generally, the marketplace operator would be liable to account for service tax on the provision of digital service. However, it is not clear on whether NFTs should be considered as a digital service for this case as there is no guidance from the tax authorities.
8. Is there a definition of marketplace for ESS / remote services purposes?	No. However, the Service Tax Regulations 2018 states that any person who operates online platform or market place, who provides digital service, including provision of electronic medium that allows the suppliers to provide supplies to customers or transaction for provision of digital services on behalf of any person, excluding provision such services in relation to matters outside Malaysia.
9. Treatment of NFTs sold in exchange for cryptocurrency?	N/A
10. Are there any specific De-Fi VAT rules or tax authority guidance?	N/A
11. Are there specific rules for virtual events?	N/A

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The Netherlands

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Although there is no legislation specifically addressing the direct taxation on cryptocurrency, a general note was published that the regular Dutch tax rules also apply to cryptocurrency.
2. What is the scope of taxability?	<p>Dutch corporate entities</p> <p>Dutch corporate entities are subject to Dutch taxes for their worldwide income. As a result, any result derived from cryptocurrency activities by a Dutch corporate entity is subject to Dutch corporate income taxes.</p> <p>Dutch natural persons</p> <p>For cryptocurrency activities that are not performed throughout a Dutch corporate entity it should be determined on a case-by-case basis. Dutch natural persons could be subject to taxes for their cryptocurrency activities in two situations. The first is that the activities qualify as an active business. For this, the following three cumulative requirements need to be met:</p> <ol style="list-style-type: none"> 1. It is a sustainable organization of capital and labour; 2. Conducting economic activities; 3. With the intention to make profit. <p>If aforementioned three cumulative requirements are met, the results derived from cryptocurrency activities are subject to Dutch personal income taxes up to 49.50%.</p> <p>The second is that Dutch natural persons have a cryptocurrency position exceeding the threshold for the Dutch wealth tax. Accordingly, the value of the cryptocurrency position based on the fair market value at 00:00 hours January 1st of the fiscal year exceeding the threshold is subject to the Dutch wealth tax.</p>
3. What are the direct tax implications?	<p>For Dutch corporate entities the direct tax implications are that any results derived from cryptocurrency activities is included in the Dutch taxable base.</p> <p>For Dutch natural persons the direct tax implications are that depending on the actual facts and circumstances either the value of the cryptocurrency position could be subject to the Dutch wealth tax, or in case the activities qualify as an active business the results derived from the cryptocurrency activities is subject to Dutch personal income taxes at a maximum rate of 49.50%.</p>
4. Are there any other relevant/noteworthy tax considerations?	<p>The Dutch wealth tax rules are subject to changes. Historically, the value of the wealth of a Dutch natural person was taxed based on a deemed (fictional) return. As a result, in case the actual return deviated from the deemed return, the taxes levied could be either (very) low or excessively high.</p> <p>Following recent case law, the Dutch wealth tax regime will change in the upcoming period and eventually the actual return will be subject to 34% (rate for 2023).</p>
5. What are the tax compliance/reporting requirements?	<p>For Dutch corporate entities, the filing deadline for the Dutch corporate income tax return generally is June 1 of the year following the filing period. However, extensions are generally available for a total period of approximately 1.5 year after the year following the filing period.</p> <p>For Dutch natural persons, the filing deadline for the Dutch personal income tax return is the May 1 of the year following the filing period.</p>

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The Netherlands

Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	<p>The Dutch Tax Authorities have not -yet- published formal guidance on cryptocurrency.</p> <p>There are however several publications which provide insights; such as a ruling by a lower court in the Netherlands dating early October 2021 that a bitcoin miner has a 75% right to recover input VAT. And as part of a freedom of information request, the Dutch tax Authorities have released several documents which provide insights on the tax authorities -internal- view on taxes and crypto assets.</p>
2. If 'yes', what is the GST position?	<p>There is no formal GST position by the Dutch Tax Authorities. As the documents mentioned under 1 only have internal workings.</p>
3. Is there a definition of NFT in the GST law?	<p>NFTs are not defined in the Dutch VAT Act. From a Dutch VAT perspective any transaction that does not constitute a supply of goods, is considered a supply of services for VAT purposes. A supply of goods is the transfer or transmission of the capacity to dispose of goods as owner. Based on this definition, immaterial objects are for Dutch VAT purposes generally labeled as services.</p> <p>Following the concept of NFTs and their intangible nature, we do not consider the sale of NFTs a supply of goods. Hence we regard the sale of NFTs as a supply of services for Dutch VAT purposes.</p>
4. Are NFTs subject to GST?	<p>We distinguish between the scenario that NFTs are traded in the 'real economy' and the scenario where NFTs are traded within -for example- an in-game environment</p> <p>When NFTs are traded in the 'real economy' our understanding is that NFTs are in principle standard rated at 21% Dutch VAT (domestic supply of services).</p> <p>In the scenario where NFTs are traded within a gaming environment, and only serve a purpose within that gaming environment, we don't rule out that the transaction is outside the scope of Dutch VAT entirely.</p>
5. Are there any other applicable exemptions relating to crypto-assets?	<p>Yes. According to CJEU Hedqvist, 'cryptocurrency' as such is categorised as a means of payment. This assessment must be made for each type of token to determine whether that is the case.</p> <p>According to a lower Dutch court, certain cryptocurrencies (i.e. Bitcoin) can be seen as a means of payment because Bitcoins can be used in different places to buy products with. From this the lower court considers it a small step to also consider Bitcoin as a means of payment for the euros received in the transaction where euros are 'exchanged' for cryptos.</p> <p>From this reasoning, we draw the conclusion that if a token or cryptocurrency is considered as a means of payment, the transfer is not taxable for VAT purposes. If cryptocurrency is not considered as a means of payment, then it should be assessed whether there are other VAT exemptions that could apply or whether the exchange results in VAT being charged.</p>
6. Do NFTs fall within the definition of ESS / remote services?	<p>Yes. Given the digital nature of the sale of NFTs, the transaction may qualify as an electronically supplied service.*</p> <p><i>*While we recognise that the design process of NFTs might involve a certain degree of human intervention, the sale process does not. The required human intervention merely reflects the creation of the NFTs. As such the minting of NFTs does in our understanding not reflect a supply.</i></p>

The Netherlands

Indirect Tax (Continued)

Question	Response
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	<p>This depends on the function and involvement of the marketplace within the transaction.</p> <p>In the event the marketplace acts as a commissioner, and intervenes by taking part in the supply, the marketplace has to account for VAT on the sale of NFTs. This follows from a legal presumption that the marketplace is acting on its own name and on behalf of the provider of the NFT.</p> <p>If such intervention occurs, depends on the contractual agreements between the parties (i.e. can the marketplace influence the price, does the marketplace issue an invoice and provide customer service?).</p>
8. Is there a definition of marketplace for ESS / remote services purposes?	<p>The Dutch VAT Act provides for a description of an electronic interface, such as a marketplace, platform, portal, or a similar medium.*</p> <p><i>*In the non-binding explanatory notes the concept of an electronic interface is further explained as; a broad concept which allows two independent systems or a system and the end user to communicate with the help of a device or programme. An electronic interface could encompass a website, portal, gateway, marketplace, application program interface (API), etc.</i></p>
9. Treatment of NFTs sold in exchange for cryptocurrency?	<p>Our understanding is that the remuneration for the NFT in an amount of cryptocurrency has no other purpose than to act as a means of payment. This reasoning is based on the application of CJEU Hedqvist following from which it must be determined whether cryptocurrency acts as a means of payment and that it is accepted for that purpose by both parties involved. In that regard no barter trade would occur. It must be noted that in respect of a number of tokens it is still to be determined whether it acts as a means of payment.</p>
10. Are there any specific De-Fi GST rules or tax authority guidance?	<p>Not at this stage.</p>
11. Are there specific rules for virtual events?	<p>Currently there is a distinction between interactive virtual events which follow the regular place of supply rules and other virtual events which are considered electronically supplied services.</p> <p>As of 1 January 2025 all virtual or live-streamed events will have the same VAT treatment, and are deemed to be supplied in the country of the customer.</p>

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New Zealand

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes
2. What is the scope of taxability?	<p>While no specific laws are in place addressing the taxation of cryptoassets (other than to confirm that cryptoassets are not financial arrangements for New Zealand tax purposes), the New Zealand Inland Revenue Department (IRD) published guidance on the tax treatment of various cryptoasset transactions in September 2020 (https://www.ird.govt.nz/cryptoassets).</p> <p>The IRD has also released a number of binding rulings (which set out IRD's interpretation of how tax law applies to a particular arrangement, person or item of property) in respect of certain cryptoasset transactions.</p> <p>While there is currently no defined term that dictates the scope of taxability, IRD uses the term 'cryptoasset' to cover a broad range of cryptocurrencies, tokens and other assets that are cryptographically secured digital representations of value that can be transferred, stored or traded electronically.</p>
3. What are the direct tax implications?	<p>Some of the key clarifications provided by the IRD with respect to the taxation of cryptoassets are:</p> <ul style="list-style-type: none"> • Cryptoassets are classified as a form of intangible property for direct tax purposes. • While New Zealand does not have a comprehensive capital gains tax regime, in most cases any gains derived from disposing of cryptoassets (including selling for fiat currency, trading for another cryptoasset, using cryptoassets to acquire goods or services and sending cryptoassets as a gift) will be subject to income tax due to a presumption from IRD that the cryptoassets are generally acquired for the purpose of disposal. There appear to be limited circumstances where IRD will accept that a taxpayer did not acquire the relevant cryptoasset for the purpose of disposal. <p>Some of the key clarifications provided by the IRD with respect to the taxation of non-fungible tokens (NFTs) are:</p> <ul style="list-style-type: none"> • Any royalties derived by the creator of an NFT under a smart contract each time the NFT is sold will generally be subject to income tax. • Gains on the sale of NFTs will be subject to income tax if: <ul style="list-style-type: none"> ◦ the taxpayer a business of creating NFTs; ◦ the taxpayer buys and sell NFTs to make a profit; or ◦ the taxpayer acquired NFTs for the purpose of disposal.
4. Are there any other relevant/noteworthy tax considerations?	<ul style="list-style-type: none"> • Cryptoassets are specifically excluded from New Zealand's financial arrangements tax rules (with effect from 1 January 2009). • Employers are required to account for either pay as you earn (PAYE) income tax or fringe benefit tax (FBT) in relation to cryptoassets provided to employees. • In most cases, cryptoassets received from mining will be treated as a form of taxable income (although the IRD accepts that in limited circumstances a taxpayer may be mining cryptoassets as a non-taxable hobby).
5. What are the tax compliance/reporting requirements?	<ul style="list-style-type: none"> • Any cryptocurrency gains and losses should be included in the taxpayer's annual income tax return filed with IRD. • Taxpayers are also required to keep records of their taxable cryptoasset transactions to support the position taken in their income tax return, including the types of cryptoassets, dates of transactions, number of units transacted, and the value of the cryptoassets in NZD. These records are required to be retained for at least 7 years, even once the relevant cryptoassets have been disposed of. • IRD is currently consulting on whether New Zealand should implement the OECD's Crypto-Asset Reporting Framework.

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New Zealand

Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	Yes – the Goods and Services Tax Act 1985 (NZ) ('GST Act') covers the position and sets out the rules. Inland Revenue issued commentary on the GST changes following the enactment of the GST rules for cryptocurrency in 2022.
2. If 'yes', what is the GST position?	<p>Cryptocurrency (as defined) is excluded from GST - cryptocurrency is neither a taxable supply nor an exempt supply.</p> <p>The relevant definitions are:</p> <p>cryptoasset means a digital representation of value that exists in —</p> <p>(a) a database that is secured cryptographically and contains ledgers, recording transactions and contracts involving digital representations of value, that are maintained in decentralised form and shared across different locations and persons; or</p> <p>(b) another application of the same technology performing an equivalent function</p> <p>cryptocurrency means a cryptoasset that is not a non-fungible token</p>
3. Is there a definition of NFT in the GST law?	<p>Yes, GST Act:</p> <p>non-fungible token means a cryptoasset that contains unique distinguishing identification codes or metadata</p>
4. Are NFTs subject to GST?	Yes, standard rated at 15% (domestic transactions). See further below in relation to cross border NFT transactions and the ESS / remote services rules.
5. Are there any other applicable exemptions relating to crypto-assets?	Yes - options over cryptocurrency and brokerage in respect of cryptocurrency transactions are GST-exempt.
6. Do NFTs fall within the definition of ESS / remote services?	Yes.
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	Marketplace.
8. Is there a definition of marketplace for ESS / remote services purposes?	<p>Yes, GST Act 1985 (NZ).</p> <p>electronic marketplace —</p> <p>(a) means a marketplace that is operated by electronic means through which a person (the underlying supplier) makes a supply of goods, or of remote services by electronic means, through another person (the operator of the marketplace) to a third person (the recipient); and</p> <p>(b) includes a website, internet portal, gateway, store, distribution platform, or other similar marketplace; and</p> <p>(c) does not include a marketplace that solely processes payments</p>
9. Treatment of NFTs sold in exchange for cryptocurrency?	Barter transaction but cryptocurrency payment leg is disregarded for NZ GST.
10. Are there any specific De-Fi GST rules or tax authority guidance?	Not at this stage.
11. Are there specific rules for virtual events?	No. However, there is a need to consider the GST remote services rules in a cross border context.

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Panama

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	No – However there is a Bill in the National Assembly regarding crypto assets, pending for discussion.
2. What is the scope of taxability?	N/A
3. What are the direct tax implications?	N/A
4. Are there any other relevant/noteworthy tax considerations?	<p>There are no restrictions duly established by law. In fact, the activities carried out through this or another instrument of that category do not fall within the competence of the Superintendency of Banks of Panama (SBP) or the Superintendency of the Securities Market of Panama (SMV) (these Regulators only emphasize that cryptocurrencies are not regulated in Panama and that therefore there is a risk in using these cryptocurrencies). However, such Regulators don't prohibit cryptocurrencies and remain currently neutral.</p> <p>In any case, if income is being earned as a result of these activities within Panama, such income could be subject to income tax. Also, if a fee is being charged by a non-resident, the service is related to the generation of taxable income by the recipient in Panama and such recipient wants to consider the payment deductible for income tax purpose, withholding tax could be applicable.</p>
5. What are the tax compliance/ reporting requirements?	N/A

Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	No – However there is a Bill in the National Assembly regarding crypto assets, pending for discussion.
2. If 'yes', what is the GST position?	N/A
3. Is there a definition of NFT in the GST law?	N/A
4. Are NFTs subject to GST?	Not currently regulated but in theory 'no' as it is an intangible.
5. Are there any other applicable exemptions relating to crypto-assets?	N/A
6. Do NFTs fall within the definition of ESS / remote services?	N/A
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	N/A
8. Is there a definition of marketplace for ESS / remote services purposes?	Not regulated.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Not regulated.
10. Are there any specific De-Fi GST rules or tax authority guidance?	Not at this stage.
11. Are there specific rules for virtual events?	Not regulated.

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The Philippines

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	While there is no specialized tax law on cryptocurrencies, income arising from cryptocurrency operations and/or transactions, such as interest income, are taxable under general tax laws and regulations in the Philippines.
2. What is the scope of taxability?	<p>The Tax Code provides that for purposes of computation of tax, gross income means all income derived from whatever source. Therefore, income arising from cryptocurrency transactions are generally included in the income of the taxpayer that will be subjected to income tax.</p> <p>The scope of taxability depends on the taxpayer's classification:</p> <ul style="list-style-type: none"> - A citizen of the Philippines residing therein is taxable on all income derived from sources within and without the Philippines; - A nonresident citizen is taxable only on income derived from sources within the Philippines; - An non-citizen of the Philippines, whether resident or not, is taxable only on income derived from sources within the Philippines; - A Philippine corporation is taxable on all income derived from sources within and without the Philippines; and - A foreign corporation, whether engaged or not in trade or business in the Philippines, is taxable only on income derived from sources within the Philippines. <p>Thus, the income and/or gains of resident Filipino citizens and Philippine corporations from cryptocurrency transactions are taxable in the Philippines regardless of the situs thereof. But for non-resident Filipino citizens, non-citizens of the Philippines, and foreign corporations, it must be established that the situs of the cryptocurrency transaction is in the Philippines in order for the income and/or gains therefrom to be taxed in the country.</p>
3. What are the direct tax implications?	<p>The income covered in the immediately-preceding item are generally subject to the following income tax rates:</p> <ul style="list-style-type: none"> - A graduated rate ranging from 0% to 35% for citizens of the Philippines and resident alien individuals, except for specific items of income such as interest income (subject to final tax rate of 20%); - The same graduated rate ranging from 0% to 35% for non-resident alien individuals doing business in the Philippines (i.e. stayed in the Philippines for an aggregate period of 180 days in a calendar year), except for specific items of income such as interest income (subject to final tax rate of 20%); - 25% for non-resident alien individuals who are not doing business in the Philippines; - 25% for domestic and resident foreign corporations, except for specific items of income such as interests (subject to 20%); and - 25% for non-resident foreign corporations. <p>Please note that these are general tax rates. A different tax rate may apply depending on the nature of the transaction involving cryptocurrency. For example, if the cryptocurrency transaction generates income in the form of royalties, the tax rate would be 20%.</p>

The Philippines

Direct Tax (Continued)

Question	Response
4. Are there any other relevant/noteworthy tax considerations?	<p>Yes. The Philippines also implements a withholding tax system on certain transactions where the applicable income tax, or part thereof, must be collected by the person or juridical entity making a payment, with the concurrent duty to remit the deducted amounts to the Government and file the corresponding return/s.</p> <p>Thus, cryptocurrency transactions involving the following items of income are generally subject to withholding taxes at various rates depending on the nature of income or transaction.</p> <p>Additionally, individuals and companies listed in a published list of top withholding agents are required to withhold income at a rate of 1% for goods and 2% for services. Thus, top withholding agents making payments through a cryptocurrency transaction may be required to deduct 1% withholding tax for goods and 2% withholding tax for services.</p> <p>Just to highlight, cryptocurrency payments made to a non-resident foreign corporation or a non-resident alien individual are generally subject to withholding tax at a rate of 25%.</p> <p>The foregoing rates are just the general rule, and it needs to be emphasized that the Philippines' withholding tax system can be more complex.</p>
5. What are the tax compliance/reporting requirements?	<p>All taxpayers are required to file an income tax return (ITR). Generally, individual taxpayers file their ITR annually, unless they are engaged in business, in which case they will file three (3) quarterly ITR and one (1) annual adjustment return.</p> <p>The ITR must include income arising from cryptocurrency operations and/or transactions.</p> <p>As for withholding taxes, the withholding agent is required to report and/or remit withholding taxes to the Government on a monthly basis except for the third month of each taxable quarter, in which case the withholding taxes are remitted and reported through a quarterly return (which should also include information pertaining to preceding two months of the taxable quarter).</p>

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The Philippines

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	<p>While there is no clear guidance yet from the tax authority, other government agencies, e.g., the Securities and Exchange Commission (SEC), has issued guidance treating cryptocurrencies as securities, while the Bangko Sentral ng Pilipinas (BSP) issued regulations on cryptocurrency exchanges. Also, cryptocurrencies and other digital assets are considered as property within the meaning of Anti-Money Laundering laws and regulations. The SEC has also advised that violators to the registration and disclosure requirements—where the virtual currencies offered are in the nature of a security—would be reported to the BIR so that the appropriate penalties and/or taxes can be assessed.</p> <p>As such, current rules on taxation of properties, e.g. as securities, would likely be applied to cryptocurrencies, in addition to taxation of the underlying transaction(s).</p> <p>Also, there is a pending legislation on the application of a 12% VAT on foreign digital services (i.e., House Bill No. 7425 - An Act Imposing VAT on Digital Transactions in the Philippines).</p>
2. If 'yes', what is the VAT position?	Under the Philippines' National Internal Revenue Code, sales are generally subject to 12% value-added tax ("VAT"). Cryptocurrency transactions may generally be classified as sale of intangible goods, and as such, subject to 12% VAT if the seller is a VAT-registered person, or 3% percentage tax if the seller's annual sale did not exceed Php3,000,000.00 or if the seller is a non-VAT taxpayer.
3. Is there a definition of NFT in the VAT law?	No. The Philippines' tax code does not yet have a formal definition of Non-Fungible Tokens.
4. Are NFTs subject to VAT?	It depends. Under the Philippines' tax laws, if the NFT is an intangible good or right, then the sale thereof is subject to value-added tax at 12% or percentage tax of 3% in appropriate cases. However, if the NFT is sold or transferred as a capital asset and not as goods in the seller's stock in trade which are sold in the ordinary course of business, the applicable tax is capital gains tax, and not VAT or percentage tax.
5. Are there any other applicable exemptions relating to crypto-assets?	There are none.
6. Do NFTs fall within the definition of ESS / remote services?	No. (Philippine tax regulations make reference to ESS [Electronic Storage Systems] but only with respect to accounting records stored electronically.)
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	The seller must generally account for indirect taxes (VAT or percentage tax) on the sale of NFTs.

The Philippines

Indirect Tax (Continued)

Question	Response
8. Is there a definition of marketplace for ESS / remote services purposes?	<p>RMC No. 55-2013 issued by the local tax authority covered the following most common types of online business transactions and their different permutations:</p> <ul style="list-style-type: none"> a. Online shopping or online retailing; b. Online intermediary service; c. Online advertisement/classified ads; and d. Online auction <p>Note that there is a pending bill in the Philippine Congress entitled Digital Economy Taxation Act which defines services rendered electronically as services rendered to a consumer through an electronic means of transmission, typically the internet. This bill intends to expressly impose taxes to the supply by any resident or non-resident person of digital advertising services, subscription-based services, or any services that can be delivered through an information infrastructure, such as the internet.</p>
9. Treatment of NFTs sold in exchange for cryptocurrency?	<p>Since the sale of NFTs and cryptocurrency may be considered sale of properties, and neither are considered currencies, they may be taxed as exchanges of properties on both ends (i.e., barter).</p> <p>As such, on the one hand, if such exchange is part of the regular course of business, it is subject to 12% VAT if the seller is a VAT-registered person, or 3% percentage tax if the seller's annual sale did not exceed Php3,000,000.00 or if the seller is a non-VAT taxpayer.</p> <p>On the other hand, if the exchange is a personal transaction and not made in the regular course of trade in business, it is not subject to taxes.</p>
10. Are there any specific De-Fi VAT rules or tax authority guidance?	There are none.
11. Are there specific rules for virtual events?	There are none.

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Portugal

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes, dated from January 2018 covering personal income taxation on the sale of cryptocurrencies.
2. What is the scope of taxability?	Sale of cryptocurrencies (personal income tax)
3. What are the direct tax implications?	Personal income derived from the sale of cryptocurrencies is only taxable within the scope of a professional activity. No personal income taxation shall occur in case the sale of cryptocurrencies is considered a capital gain.
4. Are there any other relevant/noteworthy tax considerations?	<p>The government created a study group to analyse the topic of taxation of virtual assets. Although amendments and changes are expected, the budget law proposal for 2023 establishes a new tax regime for crypto assets. In a nutshell under the proposal:</p> <ul style="list-style-type: none"> • Transactions involving the issuance of crypto assets, including mining, or the validation of crypto assets transactions through consensus mechanisms, shall be considered commercial and industrial activities. • Gains and losses on the transfer for consideration of crypto assets that do not qualify as securities shall be considered a taxable capital gain/loss. Gains arising from the transfer of crypto assets held for 365 days or more are exempt from taxation. In the case of crypto assets acquired prior to 1 January 2023, on the computation of this period it is relevant the holding period that has already elapsed. • Donations and other transfers not for consideration of crypto assets may be subject to stamp duty. <p>Some amendments to the proposal (that may be passed in the parliament) include a suspension regime in case of exchange of crypto assets for other crypto asset. The exclusion of NFT's from the concept of crypto assets is also being discussed.</p> <p>Although there is no guidance or specific legal provision, profits generated from cryptocurrencies are, as a rule, subject to corporate income tax.</p>
5. What are the tax compliance/reporting requirements?	Currently, if the sale of cryptocurrencies falls within the scope of a professional activity, there are some tax reporting obligations to be followed. On this matter, there may be practical obstacles that should be considered and, as such, a case-by-case analysis is required.

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Portugal

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	Yes
2. If 'yes', what is the VAT position?	The Portuguese Tax Authorities ('PTA') have determined that the exchange of cryptocurrency for 'real currency' constitutes a supply of services exempt under Article 9 (27) (d) of the Portuguese VAT code [Article 135 (1) (e) of the VAT Directive].
3. Is there a definition of NFT in the VAT law?	No.
4. Are NFTs subject to VAT?	In principle, yes.
5. Are there any other applicable exemptions relating to crypto-assets?	Payment and currency exchange services are exempt from VAT.
6. Do NFTs fall within the definition of ESS / remote services?	There is no guidance on this matter but likely to be considered as digital services, especially considering the definition of electronically supplied services.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	As general rule, in case of a local supply of service, the service provider / seller is liable to pay the VAT. Reverse charge mechanism may apply in case of cross border B2B supplies. However, in certain conditions, the Portuguese VAT legislation foresees a joint liability of the marketplace operator.
8. Is there a definition of marketplace for ESS / remote services purposes?	Yes, in the Portuguese VAT Code.
9. Treatment of NFTs sold in exchange for cryptocurrency?	The supply of NFT likely to be subject to VAT. Cryptocurrency payment likely to be exempt.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	Not at this stage.
11. Are there specific rules for virtual events?	Not at this stage.

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Saudi Arabia

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	No
2. What is the scope of taxability?	N/A - Domestic tax rules will apply in respect of income accruing from crypto-currency, source of income (in case of payments to non resident entities - WHT unless non resident has a PE in KSA and subject to tax relief that may be available under DTA's)
3. What are the direct tax implications?	Tax applicable at baseline rate of 20% (corporate tax payers) and 2.5% (Zakat payers) WHT - if payments are classified as interest - 5%, but other rates may apply 15% or 20% depending on the subject matter of the payments
4. Are there any other relevant/noteworthy tax considerations?	N/A
5. What are the tax compliance/ reporting requirements?	KSA resident recipient - part of annual tax filing (120 days after the end of the financial year) Non resident recipient - resident party to file a WHT return 10 days following the month in which the payment was made Other compliance: If contract value likely to exceed SAR 100,000 (c.\$26k), resident party should file an electronic contract information form (prescribed format) disclosing relevant details of the contract

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Saudi Arabia

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	The tax authority has not issued specific guidance on the VAT implications of cryptocurrencies. However, businesses should be aware of the potential related consequences, with examples including potential VAT registration and declaration requirements, although the application of any appropriate reliefs from VAT should be considered (e.g. VAT exemption, with the related impact on input VAT recovery also assessed).
2. If 'yes', what is the VAT position?	<p>Saudi Arabia has a VAT regime. The VAT system was introduced with effect from 1 January 2018. The standard rate was 5%, increasing to 15% with effect from 1 July 2020.</p> <p>Saudi Arabian VAT Law includes relatively narrow exemptions for supplies of financial services made in the KSA in certain circumstances. For example, the issue, transfer or receipt of, or any dealing with money, or securities, notes, or orders for the payment of money is considered a financial service to be exempt from VAT, except in cases where the consideration for the service is in the form of a fee, commission or commercial discount. In general, financial services provided in the KSA should be KSA VAT standard rated where the consideration is payable by way of fees, commissions or similar.</p> <p>The non-VAT implications of undertaking such activities in the KSA should be carefully considered, for instance from the legal and regulatory perspectives and any interaction with the Real Estate Transaction Tax (implemented with effect from 4 October 2021) should be noted.</p>
3. Is there a definition of NFT in the VAT law?	No
4. Are NFTs subject to VAT?	To the extent that the Crypto transactions are treated as financial transactions, they should be exempt supplies for VAT purposes in KSA.
5. Are there any other applicable exemptions relating to crypto-assets?	N/A
6. Do NFTs fall within the definition of ESS / remote services?	N/A
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	N/A
8. Is there a definition of marketplace for ESS / remote services purposes?	N/A
9. Treatment of NFTs sold in exchange for cryptocurrency?	N/A
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No.
11. Are there specific rules for virtual events?	No.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes. The Inland Revenue Authority of Singapore ('IRAS') has published an e-Tax Guides, namely Income Tax Treatment of Digital Tokens on 17 April 2020 (https://www.iras.gov.sg/media/docs/default-source/e-tax/etaxguide_cit_income-tax-treatment-of-digital-tokens_091020.pdf?sfvrsn=91dbe1f7_0).
2. What is the scope of taxability?	<p>The IRAS e-Tax Guide seeks to provide a certain level of clarity on the treatment of digital tokens and the tax implications in connection with income derived from such investments / transactions. The e-Tax Guide is not legally binding on taxpayers, however, it is based on general tax principles and provides an indication of the IRAS's views.</p> <p>Digital Tokens are cryptographically-secured digital representation of value that can be transferred, stored or traded electronically. The IRAS classifies digital tokens into 3 types: (i) payment tokens; (ii) utility tokens; and (iii) security tokens. The general income tax treatment is summarised below.</p>
3. What are the direct tax implications?	<p>(i) Payment tokens</p> <ul style="list-style-type: none"> - Businesses/individuals are subject to normal corporate income tax rules, regardless of whether the payment is in the form payment tokens or cash for goods and services. - The tax treatment of gains or losses derived from disposal of digital tokens will depend on whether it is capital or revenue in nature. - Businesses can claim a tax deduction when it uses payment tokens to pay for goods or services. The value is based on the underlying goods or services when received. Currently, IRAS does not prescribe any methodology to value payment tokens. Taxpayers can use an exchange rate that best reflects the value of tokens received, provided that two conditions are satisfied: (i) the exchange rate must be reasonable and verifiable; (ii) the methodology used to determine the exchange rate should be consistently applied year on year. The valuation method used should be substantiated by supporting documentation. IRAS retains the right to enquire into the valuation method used by taxpayers. - Generally, where the payment tokens are not accounted for under Financial Reporting Standard 109, unrealised changes in the fair value of the payment tokens should not be taxable or deductible. <p>(ii) Utility tokens</p> <ul style="list-style-type: none"> - The acquisition of utility tokens is treated as prepayment for goods or services to be provided in the future. - Issuers are subject to income tax when the goods or services are provided or performed. - Businesses can claim a tax deduction on the amount incurred when a token is used in exchange for goods or services. Subject to tax deduction rules, a deduction should be allowed on the amount incurred at the point the token is used to exchange for the goods or services. <p>(iii) Security tokens</p> <ul style="list-style-type: none"> - The rights and obligations of security tokens will determine whether the token is regarded as debt or equity for tax purposes. This determines the nature of the returns derived from the security token (e.g., interests, dividends, or other distributions) and accordingly, their tax treatment. - Interest or dividend derived by the holder (depending on whether the token is characterised as debt or equity) should be treated according to normal tax rules. Issuer who incurs interest, or other distributions may claim tax deduction on such payments. - Withholding tax obligations may apply to interest and/or other distributions made to non-tax residents. - The tax treatment of gains or losses derived from the disposal of digital tokens will depend on whether the security token is capital or revenue in nature.

Singapore

Direct Tax (Continued)

Question	Response
4. Are there any other relevant/noteworthy tax considerations?	<p>The e-Tax Guide also discusses the tax treatment of initial coin offerings (ICOs) and the taxability of mining activities, airdrop and hard fork.</p> <p>(i) ICOs</p> <p>The taxability of the ICO proceeds in the hands of the issuer depends on the rights and functions of the tokens issued to investors. Besides the initial taxability of the proceeds from the ICO, an issuing entity may also be subject to income tax on subsequent realisation gains.</p> <p>(ii) Receiving payment token through mining.</p> <p>The taxability of a miner's profits from the disposal of payment tokens (including those obtained from a mining pool) depends on whether the miner performs the mining activity with an intention to profit.</p> <p>(iii) Receiving payment token through airdrop</p> <p>The taxability of receipt of a payment token through airdrop depends on whether the payment token was received in return for any goods or services performed. If it is, it could be viewed as income subject to tax. On the other hand, if it is not, it should not be regarded as income of the recipient and hence is not taxable.</p> <p>(iv) Receiving payment token through hardfork</p> <p>This can be viewed as a windfall to the recipient as he had received the additional token without doing anything in return. As this is not an income, it should not be taxable for the recipient at the point of receipt. Where the recipient is trading in payment tokens, the gains from the subsequent disposal of the tokens (including tokens received through hard fork or through airdrop) should be taxable.</p>
5. What are the tax compliance/reporting requirements?	<p>Taxpayers are subject to the normal compliance / reporting requirements on crypto transactions.</p> <p>IRAS has stipulated that taxpayers should keep proper records of transactions and provide them to IRAS upon request. These supporting records should include information such as:</p> <ol style="list-style-type: none"> (1) Date of transaction (2) Number of units of digital tokens received or sold (3) Value of digital token at the time of the transaction (4) Exchange rate used (5) Purpose of the transaction (6) Details of customers/suppliers (for buy-sell transactions) (7) Details of the ICO (8) Receipts/invoices of business expenses.

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	Yes - Goods and Services Tax Act 1993 and e-tax guide GST: Digital Payment Tokens (Second Edition) https://www.iras.gov.sg/media/docs/default-source/e-tax/e-tax-guide_gst_digital-payment-tokens.pdf?sfvrsn=da8cafda_22
2. If 'yes', what is the GST position?	Prior to 1 January 2020, supplies of digital tokens/virtual currencies/cryptocurrencies were treated as a taxable supply of service and subject to GST at either the standard rate of 7% or zero-rated. With effect from 1 Jan 2020, supplies of 'digital payment tokens' ('DPT') is treated as follows : (i) The use of DPTs as payment for goods or services will no longer give rise to a supply of those tokens. (ii) A supply of DPTs in exchange for fiat currency or other DPTs, and the provision of any loan, advance or credit of DPTs will be exempt from GST. The GST treatment for digital tokens/virtual currencies/cryptocurrencies that do not qualify as 'DPTs' remain unchanged. The definition of DPT is legislated in the GST Act.
3. Is there a definition of NFT in the GST law?	No. Currently, only the term 'digital payment token' is defined in the GST Act.
4. Are NFTs subject to GST?	Yes, standard rated at 7% (to be increased to 8% with effect from 1 January 2023 and to 9% with effect from 1 January 2024) unless zero-rating can apply. NFTs do not qualify as DPTs based on the legislative definition of DPT.
5. Are there any other applicable exemptions relating to crypto-assets?	Generally no although certain crypto-assets such as tokens which grant the holder shares in the issuer's company would qualify for exemption under another legislative provision in the GST Act.
6. Do NFTs fall within the definition of ESS / remote services?	Yes.
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	Usually the marketplace, subject to the marketplace meeting the conditions to be regarded as supplier. The obligation applies to supply of NFTs made on behalf of the overseas suppliers listed on its platform to non-GST registered customers ('B2C') in Singapore. This is unless the marketplace opt to (and have obtained approval from the tax authority) to charge and account for GST on all B2C digital services made by both local and overseas suppliers through the marketplace.

Singapore

Indirect Tax (Continued)

Question	Response
8. Is there a definition of marketplace for ESS / remote services purposes?	<p>Yes. Under the Seventh Schedule to the Singapore GST Act 1993.</p> <p>The term 'electronic marketplace' is defined as a medium that:</p> <ul style="list-style-type: none"> (i) allows the suppliers to make supplies available to customers by electronic means; and (ii) is operated by electronic means. <p>The definition excludes any medium that is solely for processing any payment for any supply.</p> <p>The operator of the electronic marketplace will be regarded as the supplier, if any of the following conditions are met:</p> <ul style="list-style-type: none"> - Marketplace authorizes the charge to the customer - Marketplace authorizes the delivery of supply to the customer (e.g. sends approval to commence delivery, delivers the service itself or instructs developer / third party to make delivery etc) - Marketplace sets the terms and conditions under which the supply is made (e.g. having control over pricing etc) - There are documentation provided to the customer identifying the supply as made by the marketplace and not the developer - Marketplace and developer contractually agree that marketplace is liable for GST
9. Treatment of NFTs sold in exchange for cryptocurrency?	<p>Barter transaction if the cryptocurrency which is used as payment is not a DPT (i.e. Seller of NFT making a supply to customer; Customer making a supply of cryptocurrency to Seller).</p> <p>If the cryptocurrency is a DPT, the customer will not be regarded as making a supply of cryptocurrency to the Seller as the use of DPT as a form of payment will not give rise to a supply.</p>
10. Are there any specific De-Fi GST rules or tax authority guidance?	Not at this stage.
11. Are there specific rules for virtual events?	<p>No. However, there is a need to consider the GST digital services rule (which is effective on 1 January 2020) and GST remote services rules (which will come into effect from 1 January 2023) in a cross border context. Such rules will require overseas vendors supplying 'digital services'/'remote services' to non-GST registered persons in Singapore to register for GST if certain thresholds are exceeded.</p> <p>Digital services are defined as any services supplied over the Internet or other electronic network and the nature of which renders its supply essentially automated with minimal or no human intervention, and impossible without the use of information technology.</p> <p>Remote services (which include both digital and non-digital services) are services which do not require the customer to be physically located where the services are performed.</p>

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South Africa

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes
2. What is the scope of taxability?	In terms of South African income tax law, cryptocurrencies are considered to be financial instruments. As cryptocurrencies are neither official South African tender nor widely used and accepted in South Africa as a medium of payment or exchange, cryptocurrencies are not regarded by the South African Revenue Service (SARS) as a currency for income tax purposes or capital gains tax.
3. What are the direct tax implications?	The tax treatment of any transaction must be considered on a case-by-case basis, e.g. the income tax treatment of gains or losses derived from mining or trading of cryptocurrencies, as opposed to holding these assets for long term capital appreciation, will be determined based on the general revenue vs capital considerations. Goods or services purchased (or rather traded) for cryptocurrency will be considered to be barter transactions and will be taxed accordingly.
4. Are there any other relevant/noteworthy tax considerations?	<p>It is worth noting that another important consideration is the existence of stringent exchange control regulations in South Africa which regulate cross border flows of funds into and out of South Africa. As a cryptocurrency and virtual currency is not considered legal tender in SA, in terms of the SA exchange control regulations which regulate cross border flows of funds into and out of SA, cryptocurrency and virtual currency is not recognised as a legitimate payment method nor electronic money. Cross border transactions must therefore occur through the physical flow of funds and any such payments in the form of cryptocurrencies will thus not be allowed under the exchange control regulations.</p> <p>The South African Reserve Bank has recently mentioned that it is working on introducing a regulatory framework to govern crypto transactions / crypto assets in South Africa. We understand that will likely be implemented in a phased approach over the next year and a half or so.</p>
5. What are the tax compliance/reporting requirements?	There is a proposal to have crypto assets included as 'financial products' in South Africa. If crypto assets are to be included as a financial product as defined in the Financial Advisory and Intermediary Services Act 37 of 2002 (FAIS), service providers in respect of crypto assets (including exchanges, brokers, platforms and advisors) will be required to register as registered service providers under the FAIS. We note that if this amendment is to be implemented that crypto asset service providers will be required to submit third party returns in accordance with section 26 of the Tax Administration Act No. 28 of 2011.

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South Africa

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	Yes – Value-Added Tax Act 89 of 1991 ('VAT Act') covers the position and sets out the rules.
2. If 'yes', what is the VAT position?	Section 12 of the VAT Act provides for the exemption of financial services as defined. Section 2 of the VAT Act defines financial services and includes the issue, acquisition, collection, buying or selling or transfer of ownership of any cryptocurrency. Therefore, cryptocurrency is exempt from VAT.
3. Is there a definition of NFT in the VAT law?	No.
4. Are NFTs subject to VAT?	The current position on the taxation of NFTs is unclear as no guidance has been published to date from a VAT perspective. In the absence of specific guidance on the taxability of NFTs the ESS rules need to be applied. Generally, NFTs are considered to fall within the ambit of the ESS rules and are thus subject to VAT.
5. Are there any other applicable exemptions relating to crypto-assets?	No.
6. Do NFTs fall within the definition of ESS / remote services?	The definition of ESS is fairly broad and includes any service supplied by means of an electronic agent, electronic communication or the internet for any consideration. In the absence of specific guidance on the taxability of NFTs the ESS rules need to be applied. Generally, NFTs are considered to fall within the ambit of the ESS rules.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	The intermediary accounts for VAT if the principal supplier is a non-resident of South Africa and is not registered for VAT. If the principal supplier has an obligation to register for VAT, the principal supplier will need to account for the VAT.
8. Is there a definition of marketplace for ESS / remote services purposes?	No definition in legislation but the guidance issued in respect of ESS refers to an 'intermediary' as a person who facilitates the supply of electronic services on behalf of a supplier and who is responsible for issuing the invoices and collecting payment for the supply.
9. Treatment of NFTs sold in exchange for cryptocurrency?	No specific guidance has been published to date from a VAT perspective.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No.
11. Are there specific rules for virtual events?	No, in practice, the ESS rules must be considered for applicability.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	There are specific rules in connection with reporting of operations with crypto currencies, released in July 2021. However, the Regulations of such rules are still pending of approval, which are expected to be approved by the the end of 2022 and to be effectively applied as from January 1st, 2023. In connection with any other tax field, no specific rules but only bidding rulings issued by the tax administration.
2. What is the scope of taxability?	Those binding rulings have been issued regarding VAT, Personal Income Tax, Non-Resident Tax, Wealth Tax and Tax on Economic Activities (local tax).
3. What are the direct tax implications?	Broadly speaking, cryptocurrency trading implies capital gains/losses for Personal Income Tax purposes. Regarding Corporate Income Tax, the applicable taxation will depend on the accounting treatment.
4. Are there any other relevant/noteworthy tax considerations?	Losses have to be well supported and documented in order to obtain the corresponding tax deductibility in the Personal Income Tax.
5. What are the tax compliance/ reporting requirements?	<p>Be aware that the material execution of the reporting requirements are still pending on the approval of the corresponding Regulations, as well as the tax forms.</p> <p>Tax reporting for exchangers and custodians</p> <p>Widely speaking, the information to be provided relates to the operations on virtual currencies (acquisition, transmission, exchange, transfer collection and payments, and balances): (i) the nominal relationship of subjects involved in the operations, with indication of their address and tax identification number, (ii) class and number of virtual currencies transmitted, and (iii) price and date of the operation.</p> <p>The persons obliged to report the relevant information are:</p> <ol style="list-style-type: none"> 1. Persons and entities resident in Spain and establishments permanent in Spanish territory of resident person or entities abroad, providing services on behalf of third parties for safeguard private cryptographic keys and to maintain, store and transfer virtual currencies, whether said service is provided on a principal or in connection with another activity. 2. The following persons and entities resident in Spain and the permanent establishments in Spanish territory: (i) those who provide exchange services between virtual currencies and legal tender or between different virtual currencies, or intervene in any way in the realization of said operations, (ii) those who make initial offers of new virtual currencies (called ICOs), with respect to those that they deliver in exchange for contribution of other virtual currencies or legal tender <p>Tax reporting for Spanish investors / owners</p> <p>Spanish taxpayers will have the obligation to report on cryptocurrencies located abroad of which they are the owner, or in respect of which they have the status of beneficiary or authorized or otherwise held power of disposal, guarded by persons or entities that provide services to safeguard keys private cryptographic information on behalf of third parties, to maintain, store and transfer virtual currencies.</p> <p>This obligation will extend to those who have the consideration of beneficial owners in accordance with the provisions of the section 2 of article 4 of Law 10/2010, of April 28, on the prevention of money laundering and the financing of terrorism.</p>

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Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	<p>There is not a guidance nor particular regulation on the VAT treatment for cryptocurrencies.</p> <p>Up to the moment, in Spain, it is the Spanish General Directorate of Taxation ('SGDT') who is interpreting through Binding tax rulings, what is the VAT treatment to be applied for income accrued from this kind of assets.</p> <p>Notwithstanding the above, the European Union has recently approved (just pending the final voting in the European Parliament) the cryptoassets Regulation (so-called 'MiCA') common for all EU territories, probably in force in 2024, by which the Spanish legislation may possibly regulate the taxation of all services related with cryptocurrencies.</p>
2. If 'yes', what is the VAT position?	<p>According to Article 1.5 of Spanish Law 10/2010 on anti-money laundering and terrorist financing, 'virtual currency' is defined as a digital representation of value that is neither issued nor guaranteed by a central bank or public authority, not necessarily associated with a legally established currency and does not have the legal status of currency or money but is accepted as a exchange consideration and could be electronically transferred, stored or traded.</p> <p>For VAT purposes, according to the Judgement of the ECJ C-264/14, <i>Skatteverket v David Hedqvist</i>, cryptocurrencies are identified as currencies as such, used as a payment method in consideration exchange.</p> <p>Based on this definition, the SGDT has analysed the VAT treatment that should be given to different activities related with cryptocurrencies in Binding tax rulings as V2034-18, of July 9, 2018.</p> <p>In connection with all financial and trading (over the counter) services, and intermediation in those one, linked to cryptoassets, the SGDT considers that these one should be treated as subject but exempt from VAT under Article 20.One.18º of Spanish VAT Law.</p> <p>However, in relation to the safekeeping of cryptocurrencies through a platform not connected to Internet (so-called 'cold wallet'), the SGDT considers that its treatment should be similar to the rental of deposits and, thus, subject and not exempt from VAT.</p>
3. Is there a definition of NFT in the VAT law?	<p>Again, there is not a definition in the VAT Law about the NFTs and it is the SGDT who has defined its nature for tax purposes.</p> <p>In Binding tax ruling V486-22, of March 10, 2022, NFTs are defined as digital certificates that, through blockchain technology, are associated with a single digital file.</p> <p>Therefore, NFTs are single digital assets that cannot be exchanged with each other -each one is different to the others-, and whose underlying asset can be anything that can be digitally represented such as an image, a graphic, a video, music or any other digital content.</p>
4. Are NFTs subject to VAT?	<p>NFTs are not considered as cryptocurrencies according to the doctrine stated by the SGDT, as long as they are not configured as currencies nor fungible goods.</p> <p>In accordance with the above, the sale of a NFT that has been transformed to be considered as a single and original digital asset, should be included within the nature of electronically supplied services, subject and not exempt from VAT.</p>
5. Are there any other applicable exemptions relating to crypto-assets?	<p>Yes. The SGDT has analysed some other services related with cryptocurrencies, excluded from the VAT taxation (Binding tax ruling V2679-21, of November 5, 2021).</p> <p>Firstly, it should be noted that crypto mining services do not imply a service in which two parties have an economic relationship, as the new cryptos are generated by the network automatically. Therefore, these transactions would be treated as out of scope of VAT.</p> <p>In the case of the income obtained by holders of cryptocurrencies by staking, this constitutes a transaction subject but exempt from VAT since such income comes from crypto stocked in a 'wallet' with non-disposal of the assets. Notwithstanding this, the 'smart contract' staking, which allows users to participate in staking operations without an intermediary, is not considered by the SGDT as a financial activity, due to the direct disposal of assets, being treated as subject and not exempt from Spanish VAT.</p>
6. Do NFTs fall within the definition of ESS / remote services?	<p>Yes – please see our comments in question 4.</p>

Spain

Indirect Tax (Continued)

Question	Response
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	According to the mentioned Binding tax ruling V486-22, it depends on the condition in which the platform is acting. In case acting with an undisclosed agent role, the intermediary marketplace would have the obligation to account for VAT.
8. Is there a definition of marketplace for ESS / remote services purposes?	There is not definition as such, but may be understood as any marketplace that is operated by electronic means through which a person (the underlying supplier) makes a supply of goods or of remote services, by electronic means, through another person (the operator of the marketplace) to a third person (the recipient).
9. Treatment of NFTs sold in exchange for cryptocurrency?	According to the ECJ and SGDT, cryptocurrencies are treated as normal currencies as such, so the VAT treatment should be the same as the payment through any other method.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	As anticipated over our comments to previous questions, not at this stage.
11. Are there specific rules for virtual events?	Note that Article 54.1 of EU VAT Directive (to be transposed within Spanish VAT legislation before the following December 31, 2024), the service would be located in the territory where the person (with a non-taxpayer condition) is based.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes, guidance only. The Swedish Tax Agency ('STA') has issued general guidance on how crypto is taxed and how to declare income from crypto. The STA has also released some official opinions on the following subjects: 1. Taxation of mining of bitcoin and other virtual currencies. 2. Taxation when transferring crypto assets to a platform for lending, trading and custody.
2. What is the scope of taxability?	According to the Supreme Administrative Court of Sweden ('SAC'), bitcoin does not qualify as shares, securities or foreign currency. Instead, bitcoin should be taxed according to the rules on 'other income'. While the SAC's verdict applied to bitcoin, we assume that most crypto currencies should be treated as 'other income' as well. The STA has issued guidance as to which events involving bitcoin are deemed to be taxable. While the guidance specifies bitcoin, it can be assumed that the guidance applies to other types of crypto currencies. The following situations are seen as taxable events according to the STA: <ul style="list-style-type: none"> • Payment of goods and services using bitcoin is seen as a trade and is therefore subject to capital gains taxation. • Lending of bitcoin, assuming that the lender has a right to sell, or otherwise freely dispose of the asset, is deemed to be a sale for the lender. • Transfer of crypto to a liquidity pool in exchange for a receivable (token) which gives a right to a future withdrawal of assets from the pool is seen as a trade (capital gains taxation). • Transfer of crypto to a custodian or pledging the crypto asset against a commitment is not a taxable event. • For individuals, mining of bitcoin is taxed as salary income, and in some cases as business income (if certain criteria are fulfilled). • Sale of bitcoin is subject to capital gains taxation. • Staking of Ethereum in Ethereum 2.0 is not subject to tax. <p>When calculating the capital gain, the average method should be used when determining the acquisition value. I.e. the acquisition cost of all purchased bitcoin is added together, and then divided by the number of bitcoin. When mining bitcoin, the acquisition cost will be the market value of the bitcoin at the time of the completed mining (for the purposes of capital gains taxation. If bitcoin is mined by an individual, the market value at the time of the completed mining will be treated as salary or business income.</p>
3. What are the direct tax implications?	<p>Individuals</p> <ul style="list-style-type: none"> • If subject to capital gains taxation, 30% tax will apply to the gain. • If treated as salary/business income, subject to progressive tax rate depending on annual salary/business income and where the individual lives (municipality tax). Tax rate varies between ~27% to ~53%. <p>Corporates (limited liability companies)</p> <ul style="list-style-type: none"> • Subject to corporate income tax, currently 20.6%.
4. Are there any other relevant/noteworthy tax considerations?	N/A
5. What are the tax compliance/reporting requirements?	Income from the sale (or other events treated as a sale for tax purposes) must be included in the individual's/company's income tax return.

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Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	No law – The Swedish Tax Agency has published two guidelines on cryptocurrency. The guidelines are to some extent based on the ECJ case C-264/14, <i>Hedqvist</i> . https://www4.skatteverket.se/rattsligvagledning/372981.html?date=2018-11-29 https://www4.skatteverket.se/rattsligvagledning/338713.html?date=2015-04-24
2. If 'yes', what is the VAT position?	<p>The VAT treatment of cryptocurrency business depends on the actual activities conducted. Typically, cryptocurrency related business activities could be divided into mining of cryptocurrencies and exchange services in relation to cryptocurrency.</p> <p>Exchange of fiat currency for units of cryptocurrency that qualifies as legal tender, e.g. bitcoin, and vice versa qualifies as financial services that are exempted from VAT.</p> <p>The VAT treatment of exchange services connected to other types of cryptocurrencies should be assessed on a case by case basis and could be subject to VAT.</p> <p>In the Swedish Tax Agency's view, a cryptocurrency qualifies as legal tender if the cryptocurrency have no other purpose than to be means of payment and be accepted as such by several independent parties. The phrase 'several parties' means that there are at least some parties, other than the issuer of the cryptocurrency, which accepts the cryptocurrency as payment. The phrase 'independent parties' means that the parties shall not be financially, economically or organizationally connected to each other.</p> <p>Currently, the Swedish Tax Agency consider cryptocurrencies which can be exchanged to a fiat currency and vice versa to be a legal tender.</p> <p>The Swedish Tax Agency does not consider all cryptocurrencies as legal tender. Furthermore, the Swedish Tax Agency divides cryptocurrencies that cannot be deemed as legal tender into three main categories dependent of area of use.</p> <ol style="list-style-type: none"> 1. Cryptocurrencies with a limited area of use which cannot be exchanged to other currencies, e.g. World of Warcraft Gold. 2. Cryptocurrencies which can be exchanged to a legal payment, but cannot be changed back, e.g. Nintendo Points. 3. Cryptocurrencies which can be exchanged with a legal tender and vice versa by the issuer of the cryptocurrency, and sometimes by users of the cryptocurrency, but not by other persons, e.g. Linden Dollars (Second Life) <p>According to the Swedish Tax Agency cryptocurrencies that cannot be deemed as legal tender may in many cases be classified as vouchers. If so, the VAT treatment is dependent on a numerous factors, e.g. whether the voucher qualifies as a single- or multi-purpose voucher, what the voucher regards and the status of the customer.</p> <p>Currently, the Swedish Tax Agency consider mining of cryptocurrencies and payment with cryptocurrencies to be outside the scope of VAT. Also, in the Swedish Tax Agency's view, mining of cryptocurrencies does not allow for input VAT recovery right.</p>
3. Is there a definition of NFT in the VAT law?	No definition of NFTs in the Swedish VAT Act.
4. Are NFTs subject to VAT?	A supply of a NFT as well as a supply of the underlying asset should in general be subject to VAT
5. Are there any other applicable exemptions relating to crypto-assets?	No specific exemptions applicable for crypto-assets
6. Do NFTs fall within the definition of ESS / remote services?	Yes

Sweden

Indirect Tax (Continued)

Question	Response
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	<p>The obligation to report VAT on a supply of a NFT is dependent on (i) whether the customer is a taxable or non-taxable person, (ii) whether the marketplace should be deemed to mediate the supply in its own name or not, and (iii) where the marketplace and customer is established.</p> <p>The marketplace would not be obliged to report VAT on the supply if it is not deemed to mediate the supply in its own name.</p> <p>The customer would be obliged to report Swedish VAT if it is established in Sweden and the seller/marketplace (depending on whether the marketplace mediates the NFT in its own name or not) is not established in Sweden.</p> <p>The marketplace would be obliged to report Swedish VAT if it mediates the supply in its own name and the buyer is a non-taxable person established in Sweden.</p>
8. Is there a definition of marketplace for ESS / remote services purposes?	<p>No exact definition in the Swedish VAT Act.</p> <p>According to the European Commission's Explanatory notes on the EU VAT changes to the place of supply of telecommunications, broadcasting and electronic services that enter into force in 2015 (Council Implementing Regulation (EU) No 1042/2013), article 1.6, a portal is defined as 'any type of electronic shop, website or similar environment that offers electronic services directly to the consumer without diverting them to another supplier's website, portal etc. to conclude the transaction. Common examples of this include app stores, electronic marketplaces and websites offering e-services for sale.'</p>
9. Treatment of NFTs sold in exchange for cryptocurrency?	<p>Should the cryptocurrency qualify as legal tender, the NFT would be subject to VAT while the payment with the cryptocurrency would be disregarded.</p> <p>Should the cryptocurrency not qualify as a legal tender, the transaction would likely be deemed as a barter transaction where the NFT would be subject to VAT. Whether the cryptocurrency would be subject to VAT depends on the nature of the cryptocurrency.</p>
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No such guidance.
11. Are there specific rules for virtual events?	No specific rules on virtual events. Currently not considered as an electronically supplied service. B2C supplied education via the internet would have the place of supply in Sweden if the tutor is broadcasting from Sweden.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>The Federal Tax Authorities have issued guidance regarding the taxation of crypto assets. This guidance covers a categorization of tokens (native token, utility token, asset backed token) and how they are treated from a Swiss tax perspective. Specifically, the guideline covers (amongst others) the taxation of ICOs, payments made to token holders, taxation of staking/airdrops, trading of tokens as intermediary, taxation of individuals holding crypto assets and the allocation of token to employees as part of the compensation.</p> <p>Tax administrations are generally friendly towards the crypto industry and open for discussions. It is possible to file a tax ruling in Switzerland to get the expected tax consequences confirmed.</p>
2. What is the scope of taxability?	<p>Switzerland does not have any specific laws in place regarding the taxation of cryptocurrencies. The existing tax law is applicable to the crypto industry. Generally, to be considered are direct taxes (such as income taxes and wealth/capital tax) and withholding tax, stamp duty and value added tax.</p>
3. What are the direct tax implications?	<p>Corporate Tax</p> <p>Capital gains on the sale of tokens as well as income from staking and mining activities are subject to corporate income tax at the ordinary income tax rates. The effective corporate income tax rate for federal, cantonal and communal taxes is between 11.9% and 21%, depending on the canton where the company is domiciled.</p> <p>The taxable equity (incl. token holdings) is subject to annual capital tax on a cantonal and communal level. The effective capital tax rate is between 0.0010% and 0.50%, depending on the canton where the company is domiciled.</p> <p>Individual Tax</p> <p>Private capital gains on movable assets (e.g. shares / tokens) are normally not subject to income tax in Switzerland as long as an individual does not qualify as a professional securities dealer.</p> <p>All gross remuneration from employment, whether in cash or tokens, is subject to taxation at the time the employee has received the remuneration or has received an irrevocable right to the remuneration. It is irrelevant whether the remuneration results from a Swiss or foreign employment.</p> <p>All cantons levy a net wealth tax based on the balance of the worldwide gross assets (including token holdings) minus liabilities.</p>
4. Are there any other relevant/noteworthy tax considerations?	<p><u>Taxability of income from ICO</u></p> <p>The proceeds of an ICO are generally subject to income tax at the level of the Swiss issuer. However, it may be possible to build a provision in the corresponding amount, if certain conditions are fulfilled.</p> <p><u>Withholding tax</u></p> <p>Distributions to investors of native token and utility token are generally not subject to Swiss withholding tax. Payments on debt tokens qualify as interest payments and are subject to withholding tax of 35%. For equity and participation token, a case-by-case analysis has to be made (safe harbour rules available).</p> <p><u>Stamp duty</u></p> <p>Generally, native token, utility token and asset token without participation rights (as defined by the Swiss Federal Tax Authorities) do not qualify as taxable securities for transfer stamp tax purposes. However, debt token and asset-backed token with participation rights or whose underlying is a taxable security (such as a share, bond etc.) qualify as taxable securities and are therefore subject to transfer stamp tax at 0.15% (Swiss/Liechtenstein securities) or 0.3% (foreign securities), provided that a Swiss securities dealer is involved in the transaction.</p> <p>Issuance stamp tax is generally not due if tokens are issued, except the token would contain participation rights in the company issuing the token.</p>
5. What are the tax compliance/reporting requirements?	<p>The general Swiss tax filing requirements are applicable. Companies domiciled in Switzerland have to file an annual corporate tax return. Additionally, a company may have to file withholding tax forms, stamp duty declarations, value added tax declarations etc. Individuals tax resident in Switzerland have to file an annual income tax return.</p>

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Switzerland

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	Yes – in the published practice in VAT Info 4.
2. If 'yes', what is the VAT position?	<p>It depends on the qualification of the token between:</p> <ol style="list-style-type: none"> 1. Payment token (PT); 2. Utility token (UT); 3. Security (asset backed) token (ST) <p>Hybrid token might embed function from the above categories. Moreover, the VAT treatment also depends on the supply related to the crypto itself. For example:</p> <p>Sale and acquisition of token:</p> <ul style="list-style-type: none"> • PT: not relevant from a VAT perspective • UT: taxable at the place of recipient • ST: depends on the underlying asset <p>Trading fees:</p> <ul style="list-style-type: none"> • PT: exempt without credit • UT: taxable at the place of recipient • ST: depends on the underlying asset
3. Is there a definition of NFT in the VAT law?	No
4. Are NFTs subject to VAT?	Not confirmed, but very probably yes (taxable at the place of the recipient).
5. Are there any other applicable exemptions relating to crypto-assets?	Yes, but it depends on the qualification of the crypto and the services. For example trading fees related to payment tokens are exempt without credit.
6. Do NFTs fall within the definition of ESS / remote services?	Not defined.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	Not clear, but assuming that the marketplace appears as the provider vis-à-vis the third party (buyer), the market place might likely have to account for VAT.
8. Is there a definition of marketplace for ESS / remote services purposes?	No.

Switzerland

Indirect Tax (Continued)

Question	Response
9. Treatment of NFTs sold in exchange for cryptocurrency?	If the crypto currency qualifies as a means of payment (payment token), then it is a standard supply (cryptocurrency = consideration). If the cryptocurrency qualifies as utility or security token it is a barter transaction and the cryptocurrency leg must be analyzed to determine the VAT impact.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No.
11. Are there specific rules for virtual events?	No. However, unless this concerns learning and teaching, this would very probably be considered as a supply of services taxable at the place of the recipient.

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Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	The regulator Financial Supervisory Committee ('FSC') and Taiwan Exchange have announced the regulations for security tokens ('ST Rules'). Tokens issued in Taiwan in accordance with the ST Rules would therefore be viewed as 'security'. The trade of such security token would be subject to securities transaction tax ('STT') but the capital gain would be exempt from income tax. There is no guidance or income tax laws on cryptocurrency except for security tokens issued under ST Rules.
2. What is the scope of taxability?	No guidance
3. What are the direct tax implications?	No guidance
4. Are there any other relevant/noteworthy tax considerations?	No guidance
5. What are the tax compliance/ reporting requirements?	No guidance

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Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	The regulator Financial Supervisory Committee ('FSC') and Taiwan Exchange have announced the regulations for security tokens ('ST Rules'). Tokens issued in Taiwan in accordance with the ST Rules would therefore be viewed as 'security'. The trade of such a security token would not be subject to VAT but subject to security transaction tax ('STT'). There is no guidance or GST laws on cryptocurrency other than security tokens issued under ST Rules.
2. If 'yes', what is the GST position?	No guidance
3. Is there a definition of NFT in the GST law?	No guidance
4. Are NFTs subject to GST?	No guidance
5. Are there any other applicable exemptions relating to crypto-assets?	No guidance
6. Do NFTs fall within the definition of ESS / remote services?	No guidance
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	No guidance
8. Is there a definition of marketplace for ESS / remote services purposes?	No guidance
9. Treatment of NFTs sold in exchange for cryptocurrency?	No guidance
10. Are there any specific De-Fi GST rules or tax authority guidance?	No guidance
11. Are there specific rules for virtual events?	No guidance

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>Yes – Since May 2018, Thailand's Revenue Code was amended to include assessable income derived from</p> <ul style="list-style-type: none"> - share of profits or any benefits of a similar nature derived from holding or possessing digital tokens; and - benefits derived from the transfer of cryptocurrency or digital tokens which exceeds the cost of the investment; <p>as well as withholding tax to be deducted by payers on the two types of income above (subject to types of recipients of income).</p> <p>Furthermore, in January of 2022, Thailand's Revenue Department issued a manual for taxpayers outlining its guidance on cryptocurrency as it relates to five main sources of income:</p> <ol style="list-style-type: none"> 1. Employment income in the form of cryptocurrency and digital tokens, 2. Income derived from trading cryptocurrency and digital tokens, 3. Mining income, 4. Staking income, and 5. Gifts or other benefits in the form of cryptocurrency and digital tokens. <p>In March of 2022, Thailand has issued ministerial regulation to govern capital losses from cryptocurrency and digital tokens for personal income tax purposes.</p>
2. What is the scope of taxability?	<p>While Thailand's Revenue Code itself does not provide for the definitions of cryptocurrency or digital tokens, in 2018, along with the amendment to the Revenue Code, Thailand also enacted the Royal Decree on Digital Asset Businesses, which sets definitions for both terms as follows:</p> <p>Definition of cryptocurrency means electronic data units that have been created on an electronic system or network with the intention to be used as a medium of exchange for goods, services, any other rights, or to trade other digital assets. The definition shall also include any other electronic data units as prescribed by Thailand's Securities and Exchange Commission ('SEC').</p> <p>Definition of Digital token means electronic data units that have been created on an electronic system or network with the intention to</p> <ul style="list-style-type: none"> - Determine the rights of an individual to participate in certain investment projects or undertakings. - Determine the rights to acquire goods and services, or other specific rights as agreed upon between the issuer and the holder of the token. This meaning shall cover any right as prescribed by the Securities and Exchange Commission. <p>Relying on these definitions, the scope of the taxation in Thailand based on the amendment to the Revenue Code where the two additional categories of income have been included therefore remains quite broad.</p>
3. What are the direct tax implications?	<p>From a Thai tax perspective, cryptocurrencies and digital tokens are treated as properties and thus are to be assessed based on the current trading value at each transaction. Any gains or benefits derived from cryptocurrencies or digital tokens are assessable income subject to tax normally.</p> <p>It should be noted that per the guidance from the Revenue Department, cryptocurrency or digital tokens received from mining activities are not taxable until the point in which the cryptocurrency or digital token is disposed of; however, there is no legislative or regulatory updates that have codified this.</p>

Thailand

Direct Tax (Continued)

Question	Response
4. Are there any other relevant/noteworthy tax considerations?	<p>Valuation: Thailand's existing regulatory framework on cryptocurrency and digital tokens require taxpayers to assess the value of income or benefits derived from cryptocurrencies or digital tokens using prices prescribed on digital asset exchanges permitted under the law governing digital asset business operation in Thailand. There is no specific guidance on digital assets which may not be commonly traded or traded in large volumes that taxpayers, such as for NFTs or unlisted tokens or specifically that touches on trading of digital assets on exchanges not governed under Thai law.</p> <p>Withholding tax: As mentioned, in 2018 the Revenue Code was amended to also include withholding tax at the rate of 15% to be deducted by payers on payments made to individuals or non-residents who earn profits or benefits from holding or possessing digital tokens and gains from the transfer of cryptocurrency or digital tokens.</p>
5. What are the tax compliance/reporting requirements?	<p>Taxpayers who derive all types of all assessable income from cryptocurrencies or digital currencies will need to include the income or benefit as part of their annual tax return filing.</p> <p>In addition, individual taxpayers who derive income from selling of cryptocurrency that is mined, receiving cryptocurrency or digital tokens as gifts or rewards, and other benefits from the possession of cryptocurrencies such as from staking, will need to file half year tax returns.</p>

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Thailand

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	<p>Yes – On May 24, 2022, two new Royal Decrees were enacted into force in Thailand with retroactive effect to transactions from 1 April 2022 to exempt Value Added Tax (VAT) on</p> <ul style="list-style-type: none"> - the transfer of cryptocurrencies or digital tokens in the digital asset exchanges approved by the Securities and Exchange Commission of Thailand; and - the transfer of cryptocurrencies, specifically the Retail Central Bank Digital Currency or Retail CBDC, issued by the Bank of Thailand. <p>The exemption is to apply until December 31, 2023.</p>
2. If 'yes', what is the VAT position?	<p>Relying solely on the definitions of cryptocurrency and digital tokens from the Royal Decree on Digital Asset Businesses, cryptocurrencies and digital tokens would fall under the definition of 'goods' under the definition of goods in the Revenue Code as a corporeal or incorporeal property susceptible of having a value and of being appropriated whether or not for sale, use or any purposes.</p> <p>As such, the enactment of the two new Royal Decrees provides an exemption to the transfer of cryptocurrencies and digital tokens; however, specifically limits the exemption only to the transfer on digital asset exchanges approved by Thailand's SEC.</p> <p>Taxpayers who transfer on other platforms or exchanges would not qualify for the exemption but would have to assess still on whether they would be subject to the 7% VAT or 0% VAT whereby the transfer of cryptocurrency or digital token can be regarded as export.</p>
3. Is there a definition of NFT in the VAT law?	No
4. Are NFTs subject to VAT?	<p>Generally, yes as the supply of a NFT would similarly be considered the supply of an 'intangible personal property' for VAT purposes. However, should it be the transfer of NFTs under exchanges approved by Thailand's SEC, the transfer of the NFT itself may be exempt.</p> <p>However, NFTs representing an underlying service or good as well should be properly assessed as the underlying service or goods supplied would not qualify for VAT exemption.</p>
5. Are there any other applicable exemptions relating to crypto-assets?	No
6. Do NFTs fall within the definition of ESS / remote services?	No
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	<p>In 2021, a regulation was issued requiring providers of electronic services to recipients who are non-VAT registrants to register for and pay VAT in Thailand. The regulation has come into effect as of September 2021.</p> <p>If a service provider in Thailand has provided electronic services through an electronic platform that has been registered in Thailand, the service provider will be responsible for paying the VAT; however, where a service provider outside of Thailand has provided electronic services through an electronic platform, then the platform will be responsible for the Thai VAT, regardless of whether the platform is Thai. If a foreign platform is responsible for paying the VAT, it would need to register for VAT in Thailand.</p> <p>Though the regulation makes no reference to the application of cryptocurrency and digital tokens, we would consider that if a token such as an NFT is linked to the provision of electronic services, then the same may need to be considered for NFT platforms and marketplaces.</p>

Thailand

Indirect Tax (Continued)

Question	Response
8. Is there a definition of marketplace for ESS / remote services purposes?	Yes. Electronic platform is defined under the Revenue Code to mean a market, a channel, or any other processes used by several service providers in providing electronic services to service receivers.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Provided that the NFTs are traded for cryptocurrency on exchanges approved by the Thai SEC, the transaction should be exempt from VAT purely on the exchange of cryptocurrency against the Token. As mentioned, if an underlying service is provided as a part of the NFT, then further consideration would be needed. Additionally, the royal decrees enacted also do not exempt the exchange of tokens or cryptocurrency from VAT if they are traded on exchanges or marketplaces outside of the Thai SEC approved exchanges.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No.
11. Are there specific rules for virtual events?	No. A fee charged to attend a virtual event would likely be consideration for a supply of intangible personal property for VAT purposes (i.e. an admission fee) and could be subject to VAT if supplied to a resident of Thailand. If the supply was made by a non-resident of Thailand, it would still fit under the supply of electronic services under the Revenue Code.

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Turkey

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Currently, there is no regulatory guidance available in Turkey on the classification of crypto-assets and/or VAT treatment on sale of such assets. However, legislative changes are expected to be enacted after the elections that is normally scheduled in the second half of 2023.
2. What is the scope of taxability?	<p>Based on our quite recent 'unofficial' conversations with the Turkish tax administration, our understanding is that the intention of the Ministry is to propose a law to the Parliament defining such assets as 'intangible assets' for tax purposes. Thus, gains from their disposals shall thus be considered as 'capital gains', in principle subject to annual income tax declaration and shall be taxed at standard progressive income tax rates. The term 'disposal' shall probably include exchange of a virtual currency for fiat currency, exchange of a virtual currency for other virtual currencies or crypto-assets, or exchange of a virtual currency in payment for goods and services, or wages. Yet transfers of a virtual currency from the wallet of a person to another wallet the same person is the beneficial owner shall not be considered as disposal giving rise to a taxable event. (However, for trades made through domestic platforms, the Ministry is considering imposing a different tax treatment, whereby the gains shall be taxed through a withholding (the rate of which is yet to be determined) to be applied by the platforms, which shall be the final income taxation, meaning that investors shall not need to include such gains in their income tax returns.</p> <p>Alternative option of the Ministry is imposing a special transaction tax in lieu of income taxation/withholding. Yet these (withholding taxation/transaction tax) are only thought for purchases and sales made through platforms operating in Turkey. Not for non-residents.</p>
3. What are the direct tax implications?	-
4. Are there any other relevant/noteworthy tax considerations?	Under the current domestic law and most of the double tax treaties signed by Turkey (which are normally based on the OECD model) commissions/trading fees and such alike of non-residents are treated as business profit and are subject to income taxation in Turkey only in case they have a PE in Turkey. There is no clear rule for the digital PE concept. Lately, we have observed that the Turkish tax inspectors have started to focus on this and scrutinize digital service platforms on the grounds that they have digital PEs and there are ongoing court cases for which no clear precedent has been established yet.
5. What are the tax compliance/reporting requirements?	<p>The Ministry seems to be planning to impose certain reporting requirements on the platforms the details of which are yet to be determined. However, we expect such reporting requirements to be brought for domestically operating platforms, not non-residents.</p> <p>If a non-resident entity provides services within the scope of VAT-3 mechanism (mentioned above) for both non-taxpayer individuals in TR (B2C) and resident taxpayer companies in TR (B2B), it is obliged to declare B2B electronic service sales invoices monthly in an XML formatted list. There are not currently any reporting requirements with respect to proceeds/volume of the transactions. The required reporting just includes information of the issued B2B invoices e.g. date, invoice number, TAX ID of the seller and buyer, invoice amount, etc.</p>

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Turkey

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	As for VAT purposes, currently, there is no regulatory guidance. The prevailing market view is that exchanges of virtual currencies for fiat currency or other virtual currencies, should not be treated as a VAT event (unlike the commission charges of platforms operating in Turkey, which are subject to 18% VAT) and based on our unofficial conversations with the Turkish tax administration our understanding is that the intention of the Ministry is to propose a specific VAT exemption to be brought into the VAT law.
2. If 'yes', what is the VAT position?	-
3. Is there a definition of NFT in the VAT law?	Not yet but probably will
4. Are NFTs subject to VAT?	Yes, standard rated at 18% (domestic transactions).
5. Are there any other applicable exemptions relating to crypto-assets?	Not yet but probably will
6. Do NFTs fall within the definition of ESS / remote services?	Not yet but probably will
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	Marketplace is only responsible for VAT to be calculated on its revenues obtained from exchange commissions and the sale of its own crypto assets. Marketplaces are not responsible for VAT withholding. (In other words, there is no reverse VAT obligation.)
8. Is there a definition of marketplace for ESS / remote services purposes?	Yes. Electronic commerce marketplace: The electronic commerce environment in which the electronic commerce intermediary service provider offers its brokerage services. (PS: The legislation in which this definition is included will enter into force as of 01.01.2023.)
9. Treatment of NFTs sold in exchange for cryptocurrency?	In accordance with the regulation published by the Central Bank, the use of crypto assets in the purchase / sale of any goods or services is prohibited.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	Not yet but probably will

Turkey

Indirect Tax (Continued)

Question	Response
11. Are there specific rules for virtual events?	<p>Apart from the VAT, there is a Digital Service Tax (DST) in Turkey. The revenue earned from following services provided in Turkey are subject to DST at the rate of 7.5%:</p> <ul style="list-style-type: none"> a) All types of advertisement services provided through digital platforms (including advertisement control and performance measurement services, as well as data transmission and management services concerning users, and technical services for providing advertisements) b) The sale of all types of auditory, visual or digital contents on digital platforms (including computer programs, applications, music, videos, games, in-game applications, etc.) and services provided on digital platforms for listening, watching, playing of these content or downloading of the content to the electronic devices or using of the content in these electronic devices c) Services related to the provision and operation services of digital platforms where users can interact with each other (including services relating to the sale or facilitation of the sale of goods or services among users). <p>Intermediary services of digital service providers on digital platforms subject to digital service tax, as well.</p> <p>The revenue less than TRY 20 million earned in Turkey or less than EUR 750 million earned globally during the relevant accounting period are exempted from DST. Like the VAT-3 mechanism, there is also an uncertainty for DST treatment of crypto operations in Turkey especially because the prong (c) above is drafted quite broadly.</p>

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United Arab Emirates

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>No. Currently, the United Arab Emirates does not have a federal direct tax regime. However, on January 31 2022 the Ministry of Finance of the United Arab Emirates ('UAE') announced the introduction of a federal corporate direct tax on business profits, effective from the financial year beginning June 1, 2023, at a standard rate of 9%. However, the law has not been published yet.</p> <p>Based on the preliminary limited information available at this stage, the current position on taxation of cryptocurrencies is unclear as there is no guidance from a corporate tax perspective and there is no reference to a specific cryptocurrency direct tax regime.</p> <p>It is worth noting that the general principle that has been laid down in the public consultation document is that (in order to keep the tax law as simple as possible) tax should follow accounting (with some minor adjustments - currently expected to include limitation on deductibility of interest, and on unproductive expenditure).</p> <p>It is noted that unrealized gains and losses on trading stock are expected to be to be subject to tax (i.e. not adjusted for tax) and capital items (i.e. 'items that have a long term impact on the business'- no further clarity available at this time) will not be taxed. Any such unrealised gains that are treated as non-taxable are expected to be subject to tax on a realization basis, subject to any exemptions that may otherwise arise.</p>
2. What is the scope of taxability?	No guidance is available to date in respect to a specific direct tax cryptocurrency regime.
3. What are the direct tax implications?	No guidance is available to date in respect to a specific direct tax cryptocurrency regime.
4. Are there any other relevant/noteworthy tax considerations?	No guidance is available to date in respect to a specific direct tax cryptocurrency regime.
5. What are the tax compliance/reporting requirements?	No guidance is available to date in respect to a specific direct tax cryptocurrency regime.

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United Arab Emirates

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	No. Value added tax ('VAT') was introduced in the UAE on 1 January 2018 with a general standard rate of 5%. The current position on taxation of cryptocurrencies is unclear as there is no guidance that has been published to date from a VAT perspective and it will depend on the view the UAE Federal Tax Authority ('FTA') takes on cryptocurrencies pursuant to the Federal Law No. 8 of 2017 ('VAT Law') and the Executive Regulations.
2. If 'yes', what is the VAT position?	-
3. Is there a definition of NFT in the VAT law?	No.
4. Are NFTs subject to VAT?	The current position on taxation of NFTs is unclear as there is no guidance that has been published to date from a VAT perspective and it will depend on the view the UAE Federal Tax Authority ('FTA') takes on cryptocurrencies pursuant to the Federal Law No. 8 of 2017 ('VAT Law') and the Executive Regulations.
5. Are there any other applicable exemptions relating to crypto-assets?	-
6. Do NFTs fall within the definition of ESS / remote services?	No guidance is available to date.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	No guidance is available to date.
8. Is there a definition of marketplace for ESS / remote services purposes?	Yes. As follows: 'Electronic marketplace' means a distribution service which is operated by electronic means, including by a website, internet portal, gateway, store, or distribution platform, and meets the following conditions: 1. Which allows suppliers to make supplies of electronic services to customers. 2. The supplies made by the marketplace must be made by electronic means. (Executive Regulations to the VAT Law)
9. Treatment of NFTs sold in exchange for cryptocurrency?	No guidance is available to date.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	No guidance is available to date.
11. Are there specific rules for virtual events?	No. However, there is a need to consider the place of supply rules applicable to the electronically supplied services. Guidance on the electronically supplied services is available in the E-commerce Guide published by the FTA.

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United Kingdom

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	Yes. While no specific tax legislation is in place regarding the taxation of cryptocurrencies, His Majesty's Revenue and Customs ('HMRC') issued Cryptoassets Manual ('CM') on 30 March 2021, which provides guidance on how HMRC is going to treat a transaction by corporation or individuals vis-à-vis crypto assets. However, the CM is not legally binding on taxpayers, but it indicates the position likely to be taken by the HMRC concerning the crypto assets. In 2022 the CM was extended to provide guidance on Decentralised Finance transactions.
2. What is the scope of taxability?	In general, any profit or gain arising from a token would be expected to be taxable. The exact taxing provision will be dependent on the nature and use of the token. Importantly HMRC does not consider crypto assets as currency or money but a separate class of asset. However, every token needs to be considered on a standalone basis based on its characteristics. Whilst crypto assets are, legally, intangible assets, they do not generally fall in the intangible asset tax regime for companies because they are not for 'enduring use' within a business. They are therefore usually chargeable assets (i.e. subject to the capital gains tax regime) for companies and individuals.
3. What are the direct tax implications?	Profits of a company or a business are taxed as income from trading crypto assets if certain conditions/factors are met; otherwise, any gains arising will be taxed as capital gains. In general, purchases and sales of crypto assets would only be trading transactions if they form an integral part of a conventional trade (for example selling tokens linked to the company's physical product). Investment and speculative activities will not be treated as trading unless they are done with the level of systematic activity and frequency comparable to professional financial instrument dealing. Companies holding crypto assets for speculative dealing or as an investment are subject to pay corporation tax under the capital gains rules on any gains on the sale of the crypto asset. In HMRC view, individuals will be considered trading in crypto assets only in exceptional circumstances. However, if the taxpayer's activity is considered to be trading in the crypto assets, then the income will be subject to income tax. Otherwise, capital gain tax is payable on the gains arising from the sale of the crypto assets. Crypto assets received as employment income are treated as 'money's worth' and are subject to Income Tax and National Insurance contribution based on the value of Assets. Where crypto assets are held via a partnership, the normal rules apply by which the activities of the partnership are taxed on the partners. It should be noted that the guidance on Decentralised Finance transactions states that in general the transfer of tokens to another party (for example as a loan, or a 'wrapping' investment) is a disposal of the original tokens, crystallizing capital gains accordingly for the lender. There is a corresponding acquisition by the borrower. These positions reverse when the loan is repaid (i.e. the borrower disposes of the tokens, and the lender reacquires them). Further consultation is taking place on this topic, and HMRC are considering whether the rules should be aligned with rules for analogous stock transactions such as repos and stock lending, where no taxable disposal occurs.
4. Are there any other relevant/noteworthy tax considerations?	HMRC continues to look very closely at crypto transactions, and we have seen a growing number of tax audits. In addition, HMRC is sending letters to taxpayers believed to hold crypto, encouraging them to disclose all taxable gains relating to their crypto holding otherwise face penalties.
5. What are the tax compliance/reporting requirements?	Companies and individuals are required to file annual tax returns. There are no special reporting requirements for crypto transactions.

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United Kingdom

Indirect Tax

Question	Response
1. Is there tax authority guidance or VAT law on cryptocurrency?	Yes – there is nothing in VAT law on cryptocurrency but HMRC has produced some limited guidance on the issue.
2. If 'yes', what is the VAT position?	Trading in cryptocurrency (as defined) is treated as exempt from UK VAT. VATFINW233O covers what supplies are considered to fall within the exemption although this is caveated to the extent that HMRC may change their view with any change being applied prospectively. This guidance is not comprehensive.
3. Is there a definition of NFT in the VAT law?	No
4. Are NFTs subject to VAT?	Yes, standard rated at 20% (domestic transactions).
5. Are there any other applicable exemptions relating to crypto-assets?	Yes – intermediary services in respect to the buying and selling of cryptocurrency may also be exempt if it falls within the intermediary definition.
6. Do NFTs fall within the definition of ESS / remote services?	Yes.
7. If a marketplace is involved, who has the obligation to account for VAT on the sale of NFTs?	This will depend on how the marketplace acts but the marketplace may have the obligation to account for VAT.
8. Is there a definition of marketplace for ESS / remote services purposes?	No definitive definition but guidance published by HMRC referred to as 'VAT rules for supplies of digital services to customers' does give some assistance on this.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Barter transaction but cryptocurrency payment leg is disregarded for UK VAT.
10. Are there any specific De-Fi VAT rules or tax authority guidance?	Not at this stage.
11. Are there specific rules for virtual events?	No however proposed changes from the EU may affect the UK position on B2C supplies

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United States

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>Yes. There is very limited guidance on the treatment of cryptocurrency:</p> <ul style="list-style-type: none"> • Notice 2014-21 providing limited guidance on certain convertible virtual currencies; • Infrastructure Investment and Jobs Act of 2021 addressing digital asset information reporting for brokers; • Rev. Rul. 2019-24 addressing hard forks and air drops; • Informal advice (in the form of general legal advice memoranda); and • 'Frequently Asked Questions' posted on the IRS website.
2. What is the scope of taxability?	<p>In general, the sale or disposition of cryptocurrency is subject to US tax. Whether the gain is capital or ordinary depends on the nature of the asset in the hands of the taxpayer (inventory, capital asset, etc.).</p> <p>Periodic income generated from activities with respect to cryptocurrency (like lending, mining, staking, etc.) is also subject to tax generally at ordinary income rates.</p>
3. What are the direct tax implications?	<p>A number of relevant direct tax considerations. We highlight here:</p> <ol style="list-style-type: none"> 1. Income Tax characterizations for different types of digital assets (cryptocurrency, utility tokens, stablecoins, or NFTs) by use case by taxpayer profile 2. Timing of income recognition and deductions (available elections) 3. Tax basis determinations (permissible methods and valuations) 4. Sourcing and jurisdictional allocations 5. Tax treatment for lending, staking, and other common activities (e.g. DeFi) 6. Consequences to foreign corporations owned directly or indirectly by a U.S. shareholder. <p>See above</p>
4. Are there any other relevant/noteworthy tax considerations?	<p>There are a number of other relevant considerations for funds (asset managers) that should be analyzed carefully- for example: Trade or Business activities, ECI, and UBTI. Other considerations around cross-border implications such as nexus, PE, and withholding obligations when transacting cross-border.</p>
5. What are the tax compliance/reporting requirements?	<p>Individuals need to specifically disclose whether they had sales of cryptocurrency during the course of the tax year, in addition to reporting any income, deduction, gain or loss relating to such activities</p> <p>Business entities:</p> <p>In general, taxpayers are required to follow the reporting requirements for assets of similar classes with respect to cryptocurrency transactions.</p>

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United States

Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	Yes, various US states have provided sales and use tax guidance.
2. If 'yes', what is the GST position?	States that have provided guidance generally treat cryptocurrency as intangible property or a medium of exchange, with no sales tax due on cryptocurrency exchanges. However, sales tax is due when cryptocurrency is used to purchase taxable property and services. State guidance varies as to how to compute the tax base (e.g., advertised selling price of the product (CA), cryptocurrency value at the time of the transaction (NY), or cryptocurrency value as of the date of payment (NJ)).
3. Is there a definition of NFT in the GST law?	State taxing authorities have not adopted a uniform definition of NFTs. Various states have provided definitions of NFTs through general tax department guidance. For example, Washington State has defined an NFT as 'a unique digital identifier that cannot be copied, substituted, or subdivided, that is recorded in a blockchain, and that is used to certify authenticity and ownership of a specific type of product.' (Interim statement regarding the taxability of non-fungible tokens, Washington Department of Revenue, 7/1/22) Further, a multistate governmental organization, the Multistate Tax Commission, has begun a project to make uniformity recommendations to the states on the taxation of digital products, including NFTs.
4. Are NFTs subject to GST?	It depends. In the states that have issued guidance, these states tax NFTs under a variety of approaches. For example, Washington State provides that tax applies if 'the object of the purchase represents a standalone digital product. Examples include digital artwork, photographs, video clips, autographs, etc.' On the other hand, Pennsylvania, however, merely states that NFTs are taxable. (Pennsylvania Bulletin: Notice of Taxable & Exempt Property, Pennsylvania Department of Revenue, 6/11/22). Other states have not issued guidance, and as such, NFTs may not (yet) be subject to tax.
5. Are there any other applicable exemptions relating to crypto-assets?	It depends. Sales tax exemptions generally will not apply unless the exemption is based on an exempt purchaser or an exempt use.
6. Do NFTs fall within the definition of ESS / remote services?	N/A for the United States. Please see above for how states have defined NFTs.
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	Generally, the marketplace is required to collect tax on sales made through the marketplace with limited exceptions. In certain states, sellers may also be liable for the tax. However, peer-to-peer online marketplaces for exchanging NFTs may not fall within the states' definitions of 'marketplace facilitator' (which vary by state). Additionally, even if the marketplace is not obligated to collect tax on the sale of the NFT, certain marketplace fees may be taxable.
8. Is there a definition of marketplace for ESS / remote services purposes?	Yes, all 46 states that impose a statewide sales tax define 'marketplace facilitator' for purposes of requiring tax collection. Laws are not uniform, but states generally define a 'marketplace facilitator' as having two components: (1) perform one or more of a set of activities related to the sale of property or services, such as listing taxable property for sale at retail, in a forum it owns or controls; and (2) directly or indirectly, through agreements or arrangements with third parties, collect the payment from the purchaser and transmit the payment to the person selling the products or services, or otherwise provide payment processing services. As noted above, peer-to-peer online marketplaces for exchanging NFTs may not fall within these definitions.
9. Treatment of NFTs sold in exchange for cryptocurrency?	Please see above for how states may treat the sale of NFTs in exchange for cryptocurrency.

United States

Indirect Tax (Continued)

Question	Response
10. Are there any specific De-Fi GST rules or tax authority guidance?	Not at this stage. Financial instruments and financial services generally are not subject to US sales tax. However, businesses who sell the technology used to render those services, including software and digitally automated services, may be taxable.
11. Are there specific rules for virtual events?	Certain states impose sales tax on 'amusements,' admissions, or other event-based charges that may apply to virtual events.

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Vietnam

Direct Tax

Question	Response
1. Is there tax authority guidance or direct tax law on cryptocurrency?	<p>No - Cryptocurrency is not yet legally recognised as a payment instrument in Vietnam. Thus, there are no tax regulations concerning cryptocurrency. Below are some developments so far for reference.</p> <p>The Prime Ministry issued Directive No. 10/CT-TTg dated 11 April 2018 ('Directive No. 10') requiring the State Bank of Vietnam ('SBV'), Ministry of Finance ('MOF') together with other competent authorities to develop a policy and issue regulatory framework governing crypto currencies.</p> <p>Following Directive No. 10, the SBV has issued Directive No. 02/CT-NHNN ('Directive No.02') on measures to enhance the control of transactions in relation to virtual currencies. Accordingly, the State Bank Governor requires the SBV's head office and its provincial branches, credit institutions, and other organizations providing payment intermediary services to apply measures to control and handle transactions in relation to virtual currencies. Directive No.02 specifically indicates that credit institutions and payment intermediary service providers are not allowed to provide payment services, perform card transactions, provide credit via cards, support processing, payment, money transfer, clearing and settlement, currency conversion, payment transactions, cross-border money transfer relating to virtual currencies for customers because of potential risks of money laundering, terrorist financing, fraud and tax evasion.</p> <p>Recently, the Government has issued Decision 942 dated 15 June 2021 which stipulates the strategy on development of the e-government toward digital government in the period from 2021-2025. In the decision, it is proposed that the research, development and trial use of crypto currency based on blockchain technology will be conducted by the State Bank of Vietnam for the period in 2021-2023. Thus, there may be more development on this topic in the near future.</p> <p>In Decision 2146 dated 12 November 2021, it is proposed that the Ministry of Finance would cooperate with the Ministry of Justice and the State Bank of Vietnam to build legal framework to control virtual currency in accordance with international practice to mitigate tax evasion and money laundering but the timeline is uncertain.</p> <p>The Government of Vietnam has instructed the Ministry of Finance, the State Bank of Vietnam and relevant authorities to study and develop the legal framework for crypto currencies and crypto assets. However, no official guidance has been issued until now.</p>
2. What is the scope of taxability?	Not applicable
3. What are the direct tax implications?	Not applicable
4. Are there any other relevant/noteworthy tax considerations?	Not applicable
5. What are the tax compliance/reporting requirements?	Not applicable

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Vietnam

Indirect Tax

Question	Response
1. Is there tax authority guidance or GST law on cryptocurrency?	<p>No - Cryptocurrency is not yet legally recognised as a payment instrument in Vietnam. Thus, there are no tax regulations concerning cryptocurrency. Below are some developments so far for reference.</p> <p>The Prime Ministry issued Directive No. 10/CT-TTg dated 11 April 2018 ('Directive No. 10') requiring the State Bank of Vietnam ('SBV'), Ministry of Finance ('MOF') together with other competent authorities to develop a policy and issue regulatory framework governing crypto currencies.</p> <p>Following Directive No. 10, the SBV has issued Directive No. 02/CT-NHNN ('Directive No.02) on measures to enhance the control of transactions in relation to virtual currencies. Accordingly, the State Bank Governor requires the SBV's head office and its provincial branches, credit institutions, and other organizations providing payment intermediary services to apply measures to control and handle transactions in relation to virtual currencies. Directive No.02 specifically indicates that credit institutions and payment intermediary service providers are not allowed to provide payment services, perform card transactions, provide credit via cards, support processing, payment, money transfer, clearing and settlement, currency conversion, payment transactions, cross-border money transfer relating to virtual currencies for customers because of potential risks of money laundering, terrorist financing, fraud and tax evasion.</p> <p>Recently, the Government has issued Decision 942 dated 15 June 2021 which stipulates the strategy on development of the e-government toward digital government in the period from 2021-2025. In the decision, it is proposed that the research, development and trial use of crypto currency based on blockchain technology will be conducted by the State Bank of Vietnam for the period in 2021-2023. Thus, there may be more development on this topic in the near future.</p> <p>In Decision 2146 dated 12 November 2021, it is proposed that the Ministry of Finance would cooperate with the Ministry of Justice and the State Bank of Vietnam to build legal framework to control virtual currency in accordance with international practice to mitigate tax evasion and money laundering but the timeline is uncertain.</p> <p>The Government of Vietnam has instructed the Ministry of Finance, the State Bank of Vietnam and relevant authorities to study and develop the legal framework for crypto currencies and crypto assets. However, no official guidance has been issued until now.</p>
2. If 'yes', what is the GST position?	Not applicable
3. Is there a definition of NFT in the GST law?	Not applicable
4. Are NFTs subject to GST?	Not applicable
5. Are there any other applicable exemptions relating to crypto assets?	Not applicable
6. Do NFTs fall within the definition of ESS / remote services?	Not applicable
7. If a marketplace is involved, who has the obligation to account for GST on the sale of NFTs?	Not applicable

Vietnam

Indirect Tax (Continued)

Question	Response
8. Is there a definition of marketplace for ESS / remote services purposes?	Not applicable
9. Treatment of NFTs sold in exchange for cryptocurrency?	Not applicable
10. Are there any specific De-Fi GST rules or tax authority guidance?	Not applicable
11. Are there specific rules for virtual events?	Not applicable

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